

Wem Town Council Data Protection Working Party – Meeting Report 29.1.18

General Data Protection Regulation Background

The Town Council holds and processes data and as a result is required to be compliant with the relevant legislation.

Currently the Data Protection Act (1998 Act) is the governing legislation. With Effect from 25 May 2018 the law will change when the implementation of the EU directive known as the General Data Protection Regulation (GDPR) taking effect and in effect replaces the 1988 Act.

The Town Council has its own Data Protection Policy (based on the requirements of the 1988 Act).

The General Principles of GDPR are much the same as the DPA 1988 Act. The Council is therefore familiar with the legislation and its intentions. However, GDPR requires some additional provisions and safeguarding measures, mostly due to the digital age of data processing. Furthermore, the penalties for non-compliance increase significantly.

The Town Council has been provided with advice through a series of NALC legal Briefings most recently L10-17 dated 21 December 2017.

The Information Commissioner's Office (ICO) is the UK's independent body set up to uphold information rights. It has a website that provides guidance.

Impact on the Town Council

The Town Council will need to ensure that it is compliant.

- An initial in-house check sheet, has been produced to monitor and demonstrate measures taken towards compliance.
- There are 2 competing pieces of legislation, Data Protection and Freedom of Information. Much of the data held by the Council is public record; distinguishing the different purposes of data held is essential. GDPR relates to personal data. The Current Data Protection Policy will need to be updated. It will need to bring references up to date and identify the different roles (and who fills them) within the Council, e.g. Data Controller, Data Processor; Data Protection Officer.
- The Council will need to identify a Data Protection Officer. There is currently conflicting advice from NALC as to whether the Clerk can carry out this role due to conflicts of interest (see NALC L10-17 on subject). **However recent information received is that there is a proposed change to the legislation which is currently being considered during the reading of the regulations in the Houses of Parliament which will enable the Town and Parish Clerks to act as Data Protection Officers.**
- The amount of personal data held by and/or processed by the Town Council is relatively small and is generally retained for the management of the services that the Council provides or the routine administration of staffing matters.
- The ability to demonstrate compliance is the key. The Council and staff have been handling personal data for many years and know that sharing of personal data with

others is not generally appropriate – documenting more obviously those procedures will focus the mind, provide assurances to the Council and direction for the staff.

- Some Town Council forms that gather personal data will need to be reviewed and assessed for the need or amendment to privacy statements.
- Processing and or maintaining data is probably a relatively simple task on its own. The risk of personal data being shared inappropriately (i.e. a data breach) needs some further evaluation and some standard procedures need documenting if we do have a data breach, (e.g. assess the risk and identify immediate actions, know how to report a breach and have a review procedure).
- The Town Council's IT is protected through a standard business security package and therefore external hacks are defended against.
- New or existing changes to service will need to consider the requirement to produce a Data Protection Impact Assessment (DPIA), e.g. new technology and how it handles data.
- Publicising the Council's ability to comply and how/who to approach within the Council needs to be undertaken.
- The Town Council currently handles the occasional Subject Access Request (SAR) and so has working knowledge of the procedures.
- Non-compliance carries with it the risk of severe financial penalties.

Conclusion

Bringing the Council up to speed and appropriately compliant is not seen as an overly complicated task provided sufficient time and resources are dedicated to it.

- **Internal Data** – This is primarily data held on staff and councillors. Much of the data is kept to manage the HR function of the Town Council surrounding terms and conditions of employment. The data (personal information such as addresses, dates of birth and bank details held for the processing of payments) is held both electronically and/or in hard copy and is available to those employees who necessarily have the need through their job description to view and process the data.
- **External Data** – This is primarily data held to manage requests relating to the services of the Town Council e.g. allotments, interments as well as the reporting of street lighting faults. Some data (e.g. the burial register and the electoral roll are a matter of open public record).
- Staff training is required to inform staff of the types of data held and how that data should be handled and or shared.
- Where data (personal information) is held to deliver services then staff should be made aware of why the data has been collected and held e.g. data provided as a result of being an applicant for or tenant of an allotment that data should not be used for a different purpose.
- Where personal data is provided by a member of the public it should not normally be shared with another body.
- Systems will need to be in place that ensure 'the right to be forgotten'. E.g. details of attendees/ticket purchasers to civic events should be similarly deleted after an event.
- Some application forms might need to include a privacy statement e.g. allotments.
- Provision has been made in the 2018-19 budget to cover the cost of appointing a Data Protection Officer and associated staff training. The Council must decide whether they

wish to outsource this service. The table provides details of quotes received to run the service on the Town Council's behalf.

Data Protection Officer Quotes

Company	Cost	Service Offered
DM Payroll Services	£900 / annum	Annual data audit Annual refresher training Sign off data impact assessments Advising on compliance Liaison with ICO
JDH Business Services	£1200/ annum of £1000 for 2 years	Support completion of data audit Internally audit compliance Guidance in completing privacy impact assessments Liaison with ICO Share best practice
Hatchers	£600 (3 hours work)	Undertake data audit, staff training

Recommendation

The GDPR Working Group recommend that

- **The Finance and Corporate Governance Committee is delegated to oversee the Town Council's compliance with GDPR.**
- **No decision is made on the outsourcing of the Data Protection Officer's role until NALC issue further guidance.**

General Data Protection Regulation – Wem Town Council Check Sheet for Review and Compliance

AIM: This document is based on the ICO's "Preparing for the GDPR 12 Steps to take" guidance and seeks to document the work being undertaken for the Town Council to be compliant

	Action Taken	Comments	<div style="background-color: #90EE90; padding: 2px;">Status – Green – complete</div> <div style="background-color: #FFD700; padding: 2px;">Amber - partially complete</div> <div style="background-color: #FF0000; padding: 2px;">Red – not started</div>
1	Awareness		
	Source Legislation read https://gdpr-info.eu/ Clerk took part in SLCC webinar on 27.6.17 on GDPR NALC Legal Briefings read by Clerk and sent to councillors ICO website viewed regularly for updates 8.11.17 Clerk attended Unitary Authority presentation 16.11.17 Clerk attended presentation by Hatchers on GDPR and its impact on charities NALC Advice presented to Town Council at Finance and Corporate Governance committee on 10.10.17. and reviewed on 4.1.18	Data Protection Working Group established to support Clerk met 29.1.18 to report to February meeting of the Town Council Brief to all Shropshire Councils by T&W Council Data Controller at Shirehall Specific information relevant to WSSA	ongoing
2	Information you hold		
	Town Clerk and staff to undertake Data Audit to identify data held	Initial review undertaken late Jan/ Feb to be reviewed by Data Protection Working Party Discuss with Data Protection Officer when appointed.	
3	Communicating Privacy Information		
	Produce Privacy Statement information	Review privacy notices - CCTV / website/ emails Awaiting templates of notices to be produced by NALC. Discuss with Data Protection Officer (DPO) once appointed	
4	Individuals Rights		
	Procedures on how to delete personal data How data is provided electronically	Seek advice from DPO once appointed	

5	Subject Access Requests		
	Make plans to handle request to take account of new rules	Staff training although staff aware of SAR requests obligations	
6	Lawful Basis for Processing Data		
	Identify lawful basis for processing activities (part of data audit).	Document as part of data audit	
7	Consent		
	Town Council must seek, record and manage consent e.g allotment applications and interment applications	Consents must be specific, clear, prominent and opt in – awaiting examples/advice from NALC DPO	
8	Children		
	No data currently held on children	Town Council needs to be aware of legislation in relation to future Mayor's awards / competitions etc.	
9	Data Breaches		
	Procedures required to detect/report and investigate	Amend data protection policy to include how the Council will deal with data breaches	
10	Data Protection Impact Assessments		
	Data Protection Impact Assessments (DPIA) need to be written for items held Process for the Council to identify the most effective way to comply with their data protection obligations and meet individuals' expectations of privacy.	Advice required from NALC/DPO – unclear what data held requires and awaiting templates.	
11	Data Protection Officers		
	Requirement to Appoint / Identify Data Processing Officer Current confusion as to whether Clerk can be Data Officer guidance issued by NALC circulated via email to all Councillors and considered by committee on 4.1.18 Quotes received from 3 organisations offering outsourced DPO	Awaiting further guidance from NALC although provision to be placed in budget to cover cost of either training or outsourcing of role dependant on advice from NALC.	
12	International		
	No international work carried out by Town Council		