

Committee(s)	Dated:
Establishment Committee	26 July 2017
Subject: Revised Employee Data Protection Policy	Public
Report of: Director of Human Resources	For Decision
Report author: Bijel Thakrar, Town Clerks Human Resources	

Summary

The purpose of this report is to update Members on changes to the Employee Data Protection Policy. The policy reinforces the City of London Corporation's commitment to protect personal data and implement that commitment with regards to the collection and use of data both fairly and lawfully, which ensures our compliance with the Data Protection Act (DPA) 1998.

The policy has been updated to advise employees of their roles and responsibilities in relation to data protection, data processing, accessing personal data and responding to Subject Access Requests on behalf of the City Corporation. The revised policy provides a good foundation for the incorporation of further changes that may arise in the lead up to the implementation of the General Data Protection Regulation (GDPR) in 2018.

Recommendation

Establishment Committee is asked to approve the revised Employee Data Protection Policy attached at Appendix 1.

Main Report

Background

1. The processing of personal data should strike a balance between the needs of the organisation being able to function effectively and efficiently, whilst respecting the rights and freedoms of the individual. This policy sets out how the City Corporation intends to safeguard those rights and summarises the appropriate use of personal data.
2. The policy has been updated on an ongoing basis with minor changes where appropriate. The last change was recorded in December 2014 and the policy was updated with links to external websites and training materials.

3. The policy has been refreshed and updated in its entirety as part of the City Corporation's commitment to provide employment policies that are relevant for a modern workforce. The format now aligns with the suite of existing policies in the City Corporation's Employee Handbook.
4. The policy reinforces the responsibilities of all employees when processing and using personal data in accordance with the DPA and protects the City Corporation against liability for the actions of its employees.
5. Data Protection should not be seen as a barrier to sharing information, instead it provides a framework to ensure that personal information is shared, protected and used appropriately. The policy includes information regarding reporting and addressing breaches.

Current Position

6. The current policy focuses on the subject of Data Protection and related principles rather than the responsibilities placed on the City Corporation and our employees. Consultation indicated that this can lead to a lack of transparency for employees and the way in which they manage data.
7. Due to the ongoing challenges related to Data Protection and security, the City Corporation has a duty of care to ensure that all of its employees take reasonable steps to follow procedures in relation to appropriate use of personal data especially in relation to accessing and processing data.
8. To ensure that employees are fully aware of the expectations placed on them, more detail about responsibilities has been added, including information about accessing personal data and managing Subject Access Requests.
9. An online data protection module is provided via City Learning for all employees. This is a mandatory course as it is essential for employees to understand how to recognise information covered by the DPA and how to ensure it is processed in accordance with the Act. Additional information is also available on City Learning relating to data protection.

Key Changes

10. The main areas of change include:
 - the introduction of additional sections such as; statement of intent, scope, purpose, responsibilities, accessing personal data, Subject Access Requests, data protection breaches, monitoring, training and compliance;
 - the scope of user groups covered under this policy has been clarified and broadened, specifically to include contractors, volunteers and agency workers;

- the Data Protection Principles provide additional information and clarity around the responsibilities placed on the City Corporation, line managers and employees;
- the responsibilities section outlines the expectations placed on the employee and line manager.

Corporate & Strategic Implications

11. The City Corporation is a data controller and has publicly registered its general purposes for processing personal data. Should there be a breach in data protection there are a number of tools available to the Information Commissioner's Office for taking action to change the behaviour of organisations and individuals that collect, use and keep personal information. They include criminal prosecution, non-criminal enforcement and audit. The Information Commissioner's Office (ICO) also has the power to serve a monetary penalty notice on a data controller.
12. The revised policy demonstrates the City Corporation's ongoing commitment to data protection and acts as a reminder of the appropriate use of personal data. The policy aligns to the Using IT Policy and supports all employees that handle and manage personal data.
13. Colleagues from Town Clerks, Chamberlain's, Comptroller and City Solicitor's division, including the Information Officer and the Trade Unions have been consulted on the changes to this policy. Chief Officers and managers within the business were also consulted on its development.
14. The test of relevance did not identify any significant relevance for equality. Protected characteristics such as race, religion and gender are classified as sensitive personal data and would be treated with even greater care than other personal data.
15. The General Data Protection Regulation (GDPR) will apply in the UK from 25 May 2018. Like the DPA the GDPR applies to personal data, however the GDPR's definition is considered more detailed. We will await further information, once available, on the GDPR and review the Employee Data Protection Policy in light of this and any significant changes will be reported back to this committee.

Risks

16. The City Corporation processes a multitude of data about individuals we serve and there is a risk of causing damage and distress to them if the DPA is not complied with. Non-compliance may result in the City Corporation facing significant penalties and damage to our reputation.
17. Since 2010 the ICO has had the power to issue Monetary Penalty Notices (MPNs) requiring data controllers to pay up to £500,000 where serious breaches of the DPA have occurred as a result of their actions. The ICO has exercised this on a number of occasions and the average MPN amount is £115,000. Local

authorities have received the highest number and amount of fines for DPA breaches.

18. The City Corporation has not been subject to any enforcement action as a result of breaching the Data Protection Act, largely due to the amount of effort and time put into raising awareness, implementing training and keeping policies up-to-date. Enforcement action taken by the ICO against other organisations for breaching the Data Protection Act is also regularly reviewed, and, where necessary, information is circulated to City Corporation departments in an effort to learn from breaches which have occurred elsewhere, and to improve our own systems if required. This proactive approach helps to improve compliance.

19. The City Corporation has suffered from lower level data protection breaches and near misses, all of which are reported and investigated with the responsible department. Recommendations are then made to improve future compliance and these are reported to committee when required.

Communications Plan

20. The policy will be publicised through the use of internal communication and will form part of the Employee Handbook and referenced as an updated policy on the intranet. The policy will also be publicised through the use of posters and reinforced via City Learning.

Conclusion

21. The City of London Corporation has a commitment to provide employment policies that are relevant and compliant and this policy reinforces how personal data can be used and provides a useful framework for employees to follow.

Appendices

- Appendix 1 – Employee Data Protection Policy and Notice for Employees

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