

Committee(s)	Dated:
Establishment Committee	22 May 2018
Subject: Data Protection: i. Employee Data Protection Policy; ii. Revised statement of particulars of employment clauses; and iii. Approval for amendments to HR policies and procedures for GDPR compliance.	Public
Report of: Director of Human Resources	For Information
Report author: Carol Simpson – Human Resources, Town Clerk's Department	

Summary

This report presents for consideration and adoption a revised Employee Data Protection Policy for the City Corporation. This policy applies to all prospective, current and former employees and workers at the City Corporation, including teaching and support staff in the three City Schools and support staff in the City of London Police.

In addition, this report proposes updates to clauses within the statement of particulars of employment and delegated authority to the Director of Human Resources to approve necessary amendments to HR policies and procedures to reflect legislative changes ahead of the implementation of the General Data Protection Regulation on 25 May this year.

Recommendation

Members are asked to approve and adopt:

- i. the revised Employee Data Protection Policy set out in Appendix 1;
- ii. updates to the employment contract clauses with effect from 25 May 2018; and
- iii. delegated authority to the Director of Human Resources to approve necessary amendments to HR policies and procedures to ensure their compliance with the legislation.

Main Report

Background

1. The current data protection regime is based on an EU Directive from 1995 and implemented in the UK by the Data Protection Act 1998. Since then there have obviously been significant advances in IT and fundamental changes to the ways in which organisations and individuals communicate and share information.

2. As a result, the EU has introduced updated and harmonised data protection regulations known as the General Data Protection Regulation (“GDPR”) which is due to come into effect on 25 May 2018.
3. We are currently reviewing HR policies and procedures to ensure compliance with the requirements of GDPR. Members are asked to delegate authority to the Director of Human Resources to approve necessary amendments to HR policies and procedures to ensure their compliance with the new legislation. Such amendments will be subject to appropriate trade union consultation.

The Employee Data Protection Policy

4. The proposed revised policy is set out in Appendix 1.
5. GDPR builds on and strengthens the current data protection requirements and introduces a number of new concepts.
6. The Employee Data Protection Policy complements the Corporate Data Protection Policy approved by this Committee in April and provides employees with a framework that outlines appropriate use of personal data in accordance with the GDPR; whilst protecting the City Corporation against liability for the actions of its employees, other workers, former employees and former other workers.
7. The revised Employee Data Protection Policy sets out the roles and responsibilities of managers and employees with access to and responsibility for personal data. The policy references the expanded rights of data subjects for greater transparency in handling personal data, including the carrying out of Privacy Impact Assessments (PIA).
8. Appended within the revised policy is the Employee Privacy Notice, this describes how the City Corporation as a data controller collects and uses personal information about employees during and after their employment.
9. Once in effect the policy will be made available on the Intranet and supported by a series of Employee Frequently Asked Questions (FAQs), a list of questions and answers for the most common questions around employment practices and data protection. These questions will be routinely reviewed and added to. Where employees may have more detailed queries, the appropriate list of contacts is provided.
11. All staff must complete mandatory data protection eLearning and the completion of this training will be monitored by Learning and Development in Corporate HR.
12. The City Corporation will review and ensure compliance of this policy at regular intervals in conjunction with the Data Protection Officer who will make appropriate recommendations for change.

Statement of particulars of employment

13. An employee's main terms and conditions are contained in a written statement of particulars of employment which must be given to all employees on joining or when changing roles; it sets out the main employment terms such as: pay, hours of work and employee related policies and procedures.
14. It is proposed to update the existing Code of Conduct and Data Protection clauses to reflect the data protection legislation changes (subject to Royal Assent) as follows:

Clause 6: Code of Conduct

The Code of Conduct outlines the standards of conduct expected of all employees in key matters and is included in the Employee Handbook. Failure to comply with the Code of Conduct may lead to disciplinary action being taken against you which may result in your dismissal. Further information on the standards of conduct required when handling the personal data of others is set out in the Employee and Corporate Data Protection Policies. There are also separate policies in the Employee Handbook relating to Communications and Information Systems Use and Whistleblowing.

Clause 26: Data Protection

The Data Protection Act 2018 applies both to personal data that you handle during the course of employment (see clause 6 above) and to your own personal data that the City of London Corporation needs to hold and process, including special categories of data. The term "special categories of data" means personal data consisting of information as to racial or ethnic origin; political opinions; religious or philosophical beliefs; membership of a trade union; physical or mental health or condition; genetic data; biometric data; sex life or sexual orientation. The legal basis for processing your data is set out in the Employee Privacy Notice (attached). In the limited circumstances in which your written consent is required for specific processing, you signify your consent by signing this contract and, where necessary, any separate consent clauses. Your rights in relation to your personal data are set out in the Employee Privacy Notice.

15. In accordance with legal advice there is no need to amend statements of particulars of employment for existing staff. However, all staff are to be referred to a new Employee Privacy Notice appended to the Employee Data Protection Policy which provides information on the processing of personal data and the updated main body of the policy itself.

Proposal

The revised policy and updated clauses to the statement of particulars of employment are part of the City Corporation's commitment to GDPR compliance and are recommended for adoption.

Conclusion

As an employer the City Corporation must ensure it is able to demonstrate compliance with the new legislation this includes making sure our policies, procedures and contractual terms are accordingly revised.

Appendices

Appendix 1 – Proposed Employee Data Protection Policy and Employee Privacy Notice

Background Papers

Data Protection Report, Establishment Committee, 9 April 2018.

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