
DATA PROTECTION ACT (1998) – POLICY & PROCEDURES

To: **Cabinet Meeting - 23 June 2011**

Portfolio Area: **Regulatory Services**

By: **Gary Cordes, Legal Services Manager**

Classification: **Unrestricted**

Summary: **To consider and approve Policy & Procedures for a new Council-wide data protection strategy in accordance with the Data Protection Act 1998.**

For Decision

1.0 Introduction and Background - The Data Protection Act (1998) - What is it?

1.1 The DPA prevents organisations from using personal information for purposes an individual might lawfully object to. It does so by specifying how these organisations can use, store and share the personal data they collect. It also gives individuals the right to see any personal data held about them, and to have inaccurate information corrected. The Act calls anyone who holds personal data a 'data controller' and the individual whose personal data is held the 'data subject'. Sometimes the data controller will arrange for a third party 'data processor' to handle personal data on its behalf. In those circumstances (perhaps under shared service arrangements or through an ALMO) a data processor contract must be put in place to comply with the Act. Where data is shared, for example, with DWP for investigation purposes, appropriate data sharing protocols need to be in place.

The Act refers to the 'data protection principles' which are as follows:

- Processing must be fair and lawful
- Data will be obtained only for specified and lawful purposes
- The data process shall be adequate, relevant and not excessive
- It will be accurate and up-to-date
- It will be kept no longer than necessary
- Processing shall be in accordance with the rights of data subjects and
- Data will be held securely

These principles are key to ensuring that the council is fully compliant with the Act.

2.0 Council Inspection and Report

2.1 A Final Audit Report Assurance Statement dated August 2010 provided "limited assurance with regards to compliance to the requirements of the DPA 1998 generally...". Audit recommendations were made, as a result of which the Corporate and Regulatory Services Manager has been tasked with ensuring that the Council fully meets its obligations under the Act as soon as possible. The Legal Services Manager was appointed to project manage the implementation of the measures required to ensure full compliance with the Act, as outlined within the audit recommendations. The project is well under way and Cabinet approval and endorsement is now sought for the items detailed below to ensure that all staff and other users of personal data under Thanet District Council's control embrace the new policies and procedures and other listed requirements, so as to provide full compliance with the DPA and, in turn, to keep business risk to a minimum.

3.0 Cabinet endorsement is requested for the following:

3.1 Approval of the annexed draft policies, procedures and appendices (1-9)

3.2 Publication of Forms and Documents

- 3.2.1 Approval for the above forms and documents to be published on appropriate sections of TOM and/or the internet, for public use
- 3.2.2 Estimated completion date: July/August 2011

3.3 Appointment of a nominated Data Protection Officer for Thanet District Council

- 3.3.1 The Corporate and Regulatory Services Manager to be appointed as the Council's Data Protection Officer (DPO).
- 3.3.2 The Legal Services Manager to be appointed as the Council's Deputy DPO.
- 3.3.3 Approval for the DPO to be responsible officer for the annual DPA Notification.

3.4 Awareness & Training

- 3.4.1 Approval of a Council wide 'Data Protection Awareness Week' to be devised in conjunction with the Communications team (estimated date of completion: July/Aug 2011).
- 3.4.2 A requirement that all relevant managers ensure that staff who control/process personal data undertake the EKHR partnership's 'Ivysoft' data protection training module.
- 3.4.3 Such training to be organised by the DPO and completed within a timescale to be set by the DPO
- 3.4.4 Estimated completion date: July-Sept 2011

4.0 Service Compliance

- 4.1 Statement requiring all Tier 2 Managers and above to ensure all DPA policies, procedures, training (including induction training), individual service plans and risk registers are fully complied with/maintained up to date and embedded within their individual service areas,
- 4.2 Including the need to provide the Data Protection Officer with prompt responses to any questionnaire/checklist required to enable him to check that all service areas are properly complying with the DPA. These responses may include providing the DPO with copies of relevant forms, notices, and protocols/data sharing agreements, where relevant to individual service areas
- 4.3 Estimated date for circulation of questionnaire/checklist: July 2011;
- 4.4 For review of checklist: Sept 2011;
- 4.5 For management compliance with remainder of above requirements: December 2011

5.0 Corporate Implications

5.1 Financial

- 5.1.1 Approval for expenditure up to £1,750 for the hire of a specialist training consultant for 'higher level' DPA training to all Tier 1 and Tier 2 Managers and above with data control/processing responsibilities (estimated completion date: Sept 2011).
- 5.1.2 Approval for expenditure up to £1,100 for purchase of the Encyclopaedia of Data Protection & Privacy, plus annual update fees payable every September of c. £850.
- 5.1.3 Approval for payment of the council's annual registration ('Notification') fee by standing order or direct debit (reduces risk of failure to Notify with resultant fines/bad publicity).

5.2 Legal

- 5.2.1 Failure to comply with the Data Protection Act could result in the council being liable to fines of up to **£500,000**. Failure to comply with the DPA also risks claims from individuals seeking compensation for alleged breaches of the Act.

5.3 Corporate

- 5.3.1 Approval for inclusion in staff induction manual of section on DPA compliance and responsibilities of individual employees handling personal data in accordance with the Act.
- 5.3.2 Failure to adopt a robust DPA strategy could result in reputational and financial damage to the Council

5.4 Equity and Equalities

- 5.4.1 Training of all TDC staff handling personal data will be provided. Both staff and the public will be provided with full details of TDC's commitment to protecting individuals' personal data, and to allowing appropriate access to such data, primarily via TOM and the Council's internet site. There will be ongoing consideration of the impact of DPA policies and procedures and these will be amended if/when it is found necessary so as to ensure full ongoing compliance with our equality obligations.

6.0 Recommendations

- 6.1 That Cabinet approves the DPA Policy and Procedures Guidance Note
- 6.2 That the draft DPA Policy and Procedures Guidance Note be submitted to the Cabinet for final approval
- 6.3 That the draft DPA Policy and Procedures Guidance Note be published on the internet and intranet pages
- 6.4 The Corporate and Regulatory Services Manager to be appointed as the Council's Data Protection Officer (DPO).
- 6.5 The Legal Services Manager to be appointed Deputy DPO.
- 6.6 That expenditure of up to £1,750 for the hire of a specialist training consultant for "higher level" DPA training to Managers with data control/processing responsibilities (estimated completion date: September 2011) be approved, and that funding be provided by means of a priority draw on the training budget.
- 6.7 That expenditure of up to £1,100 for the purchase of the Encyclopaedia of Data Protection & Privacy, plus annual update fees payable every September of c. £850 be approved, subject to virement funding within the Corporate & Regulatory Services' budget;
- 6.8 That payment of the Council's annual registration ("Notification") fee by standing order or direct order or direct debit be approved;
- 6.9 That Cabinet supports a council-wide officer training programme, subject to the findings of the questionnaire referred to in the report and a pragmatic approach being adopted.
- 6.10 That Cabinet supports a Data Protection Awareness Week.

7.0 Decision Making Process

- 7.1 This is a Policy framework document for SMT and then Cabinet approval.

Contact Officer:	Gary Cordes, Legal Services Manager
Reporting to:	Harvey Patterson, Corporate & Regulatory Services Manager

Background Information

Title	Where to Access Information
	www.ico.gov.uk

Annex List

Annex 1	DPA Policy for Officers and Members and appendices (1-9)
Annex 2	Subject Access Request Form
Annex 3	Data Security Breach Policy
Annex 4	Notes on Data Protection Act
Annex 5	Flowchart
Annex 6	Checklist Final Data Protection
Annex 7	Data Protection External Page
Annex 8	How we use your information
Annex 9	Privacy Statement for webpage

Corporate Consultation Undertaken

Finance	N/A
Legal	Harvey Patterson, Corporate & Regulatory Services Manager