WEST MIDLANDS POLICE AND CRIME COMMISSIONER

NON-CONFIDENTIAL

NOTICE OF DECISION

[013/2018]

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To appoint a Data Protection Officer and approve an Information and Records Management Policy

EXECUTIVE SUMMARY

In accordance with the General Data Protection Regulation, a decision to appoint a Data Protection Officer and approve an Information and Records Management Policy.

DECISION

1. To appoint the Head of Business Services to the role of Data Protection Officer (this role is currently filled on a job share basis by Polly Reed and Andrea Gabbitas).
2. To approve the Information and Records Management Policy attached at the annex.

Police and Crime Commissioner for the West Midlands

I confirm that I do not have any disclosable pecuniary interests in this decision and take the decision in compliance with the Code of Conduct for the Police and Crime Commissioner of the West Midlands. Any interests are indicated below.

Signature.....

Date.....22.6.18.

NON - CONFIDENTIAL FACTS AND ADVICE TO THE POLICE AND CRIME COMMISSIONER

INTRODUCTION AND BACKGROUND

1. EU Regulation the 'General Data Protection Regulation' strengthens and builds upon the data protection legislation currently in force. The regulation will be enshrined into UK law by means of the Data Protection Bill, due to be enacted on 25 May 2018.
2. Many of the requirements are similar to those already covered by the Data Protection Act 1998, but there are some new requirements, and this report describes the steps that have been taken to prepare for these new requirements:
   - A data audit of all the information, systems and processes has been completed, and as a result of this a number of actions have been identified in order to ensure we are compliant with the GDPR requirements
   - Working with West Midlands Police to ensure that the information management processes used by our organisations are coterminous, and examining the way we share information between our organisations to ensure compliance.
   - Development of a new Records and Information Management Policy which clearly illustrates our approach to data protection, including our processes for dealing with subject access requests and our processes for dealing with data breaches.
   - Appointment of a Data Protection Officer (DPO). The GDPR introduces a requirement for public authorities to appoint a DPO. The DPO must be independent, an expert in data protection, adequately resourced, and report to the highest management level. The most suitable role within the PCC's office has been identified as being the Head of Business Services. The following key tasks form the role profile for the DPO:

     - Monitoring compliance with the GDPR and other data protection laws, our data protection policies, awareness-raising, training, and audits.
     - Providing advice and information on data protection obligations.
     - Provide advice when required on data protection impact assessments.
     - Act as a contact point for the ICO and co-operate with the ICO.
     - have due regard to the risk associated with processing operations, and takes into account the nature, scope, context and purposes of processing.
     - Be easily accessible as a point of contact for employees, individuals and the ICO.

LEGAL IMPLICATIONS

We are following a programme of activity to help us ensure we are compliant with the GDPR and with the Data Protection Act 2018.

EQUALITY IMPLICATIONS

Schedule of Background Papers

Public Access to Information

Information contained in this decision is subject to the Freedom of Information Act 2000 and other legislation. This decision will be made available on the Commissioner's website.

west midlands police and crime commissioner

Policy: Information and Records Management

Equality Statement

The Office of the Police and Crime Commissioner (OPCC) is committed to the principles of equality and diversity. No member of the public, member of staff, contractor, volunteer or job applicant shall be discriminated against on the grounds of age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; or sexual orientation.

Introduction

1. The policy covers the management of all records and information, regardless of medium or format, including electronic records, and it is applicable to all employees of the Police and Crime Commissioner for the West Midlands as well as the Police and Crime Commissioner, Assistant Police and Crime Commissioners, volunteers, consultants and partner organisations. This policy should be read in conjunction with the Freedom of Information Act Policy and the Redaction Policy

2. Records shared with other organisations or held on behalf of the Commissioner by other organisations should be managed in accordance with this policy.

3. The Commissioner recognises that having accurate and relevant information is essential to effective decision making and quality customer service. As an important public asset, records require careful management.

4. Good records management is essential to ensure that the Commissioner can comply with his legislative responsibilities and can act as a driver for business efficiency.

Approach

5. We keep records for as long as required to:
   - comply with relevant legislation such as the Public Records Act, General Data Protection Regulation and Data Protection Act 2018, Freedom of Information Act 2000
   - conduct business in an orderly, efficient and accountable manner
   - deliver core functions in a consistent and equitable manner
   - support and document policy formulation and managerial decision-making
   - provide consistency, continuity and productivity in management and administration
   - provide continuity in the event of disaster
   - meet legislative and regulatory requirements
   - provide protection and support in litigation, and in the management of risks
   - protect the interests of the organisation and the rights of employees, students, clients and present and future stakeholders
   - support and document current and future research and development activities developments and achievements, as well as historical research
   - provide evidence of business, personal and cultural identity, and
   - maintain corporate, personal or collective memory

6. Our records management principles:

   - records and information are owned by the Police and Crime Commissioner not by the individual or team
   - keeping records is an integral part of all business activities
   - a complete record of all activities must be securely stored in a shared location, easily identified and accessible to those who need to see it
   - adequate storage accommodation is provided for the records
   - tracking and monitoring the movement and location of records should take place so that they can be easily retrieved
   - the complete record may be in any format, but preferably electronic – significant emails are held alongside other information and must not be stored solely in personal mailboxes or hard drives
   - information will be held only as long as required, and disposed of in accordance with the record retention schedule (at Appendix 1)
   - information should be available to all unless there is a valid reason to restrict access. A large amount of the information held is placed on the website and available for public inspection
   - records of historical and administrative importance should be identified as archives and transferred to Birmingham City Council's Archives & Heritage section for permanent retention

7. The Commissioner has appointed the Head of Business Services as the Data Protection Officer (Decision reference number 013/2018)

8. The Office of the Police and Crime Commissioner is registered with the Information Commissioner's Office as a data controller. The registration number is ZA002898.

9. The Freedom of Information Act 2000 and the GDPR provide members of the public with the right to request information held by public authorities. The Commissioner is fully committed to the provisions of these Acts, and supports the underlying principles of openness and transparency. The Freedom of Information Policy is available on the Police and Crime Commissioner's website.

Subject Access Requests

10. The Commissioner will respond properly to any request for personal data. Individuals can make a subject access request to find out what information is held about them and are encouraged to use the form provided for this purpose and should note that the Commissioner will need to satisfy himself of the identity of the individual. On arrival the request will be assessed and a copy of the privacy notice will be made available to enable the individual to understand how their data is used. Once identity has been verified the information will be provided within a month from the working day following the request and sooner where possible. If it is going to take longer, the individual will be notified.

11. There will be no charge for this service unless the request is manifestly unfounded, excessive or a duplicated request, in which case a reasonable fee to cover the cost of processing may be charged, in advance of the records being released. The Commissioner may exercise his right to refuse to comply with a request, and if so will state:
    - the reasons for not taking action;
    - their right to make a complaint to the ICO or another supervisory authority; and
    - their ability to seek to enforce this right through a judicial remedy.

Retention of Records

12. With increasing public access to our records, it is important that disposal of records happens as part of a managed process and is adequately documented. Therefore the document retention schedule in Appendix A sets out guidelines on how long we will retain documents. The retention schedule may be updated when the need arises, to reflect the types of documents held by the Commissioner, and also to reflect current best practice. Disposal will take place in a secure manner to ensure that confidentiality and security is maintained.

13. Aside from the standard procedure set out below, whenever there is a possibility of litigation following a:-
    - Request under the Freedom of Information Act 2000 or
    - A Subject Access Request under the GDPR

    records likely to be affected should not be amended or disposed of until:
    - the threat of litigation has ended,
    - the Subject Access Request has been actioned, or
    - the appeal processes under the Freedom of Information Act have been exhausted.

    In these circumstances this decision should be recorded on the record.

14. Partnership working – where records are created as a result of partnership working there needs to be clearly defined responsibilities between the Commissioner and the partner organisation for the creation and management of records. Where the Commissioner is the lead partner this Information and Records Management policy will be applicable, and the Commissioner will be responsible for the custody and ownership of the records.

    Where another organisation is the lead partner:
    - the records management policy and procedures of the lead organisation are applicable;
    - the lead partner organisation will be responsible for custody and ownership of records;
    - the Commissioner should identify and retain records relating to its role in partnership required for it's own business purposes. They should be retained in line with the Commissioner's records management policy.

    Where there is no identified lead partner the Commissioner should ensure that provisions are made for one of the partners to assume responsibility for the management of the records.

15. Commissioned services and suppliers - the Commissioner will comply with the requirements of the Specified Information Order regarding publicising details of contracts. The Commissioner will ensure contracts place clear obligations on suppliers to manage records created or held by external agencies.

16. Project records - Where records, such as project records, are created as a result of an activity of a temporary nature the senior manager with responsibility for the activity is responsible for:
    - ensuring appropriate records are created and managed in accordance with this policy;
    - ensuring there are appropriate resources assigned to fulfil the responsibility for managing records;
    - ensuring ownership for the records transfer(s) to the Commissioner once the activity has ended.

17. Individuals - The Commissioner and APCCs, employees, contractors, consultants and volunteers employed to undertake PCC business, have a responsibility to document actions and decisions by creating and filing appropriate records and subsequently to maintain and dispose of those records in accordance with the principles set out in this policy.

Data Breaches

18. A personal data breach means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data. This includes breaches that are the result of both accidental and deliberate causes. It also means that a breach is more than just about losing personal data. When a personal data breach has occurred, the Commissioner will need to establish the likelihood and severity of the resulting risk to people's rights and freedoms.

19. The Commissioner has a responsibility to report a serious data breach to the ICO. If a member of staff, contractor, volunteer loses, mislays or has any information stolen from them they must notify the Data Protection Officer (Head of Business Services) immediately. If it is out of hours the staff member can contact the Out of Hours emergency media enquiries telephone in the first instance – (telephone number on the website), who will contact the Head of Business Services.

20. The Head of Business Services will assess the severity of the breach and make a decision on whether to notify the ICO. It may be that the individuals to whom the information relates will also need to be notified. Even if the ICO is not notified every breach will be logged on the Breach Log document, and where appropriate the information will be aggregated to identify patterns or risks. The individual concerned must also follow West Midlands Police processes where IT equipment is concerned so that equipment can be made safe appropriately. Other policies such as capability and disciplinary may be invoked to mitigate against further losses and support improvement of processes.

Version Control

Version No	Date	Author	Post	Reason for issue	Date agreed by PCC	Review Schedule
1.0	May 2018	Polly Reed	Head of Business Services	New policy for GDPR		Annual

Appendix A: Retention Schedule

1. Board and Committee

Information and description	**Timescale**
Strategic Policing and Crime Board Agenda, Minutes and reports, and briefing notes	Permanently for historical interest
Audit Committee Agenda, Minutes and reports, and briefing notes	Permanently for historical interest
Annual Reports For reasons of historical interest	Permanently for historical interest
Other meetings and committees	6 years plus current financial year

2. Corporate Governance and Business Activity

Information and description	**Timescale**
Strategic Police and Crime Plan	Permanently for historical interest
Election of the Police and Crime Commissioner Documents relating to election process	Permanently for historical interest (information is held by PARO)
Correspondence Enquiries and correspondence from members of the public	6 years from the date of the last contact with the member of the public
Risks Risk records, Risk register	Current financial year + 6
Business Continuity Plans Plans for business continuity-people/places etc.	Once new plans are finalized, previous versions can be disposed
Declarations of interests Made by PCC Made by APCC and SPCB members	 End of term of office + 6 Current financial year + 6
Gifts and Hospitality Register Made by PCC Made by APCCs and SPCB members	 End of term of office + 6 Current financial year + 6
Freedom of Information FOI Disclosures	6 Years from date of disclosure
Subject Access Requests	6 years from date of request
Complaints Made against the Chief Constable Made against staff or contractors	 Current financial year + 6 Current financial year + 6
Press releases and media statements Copies taken from media	Items of historical interest - permanent, Other items term of office plus six years.

3. Financial Information

Information and description	**Timescale**
Accounts Statement of accounts rendered and payable accounts, outstanding accounts and orders	Permanently
Budgets Information relating to annual budgeting process	Current financial year + 6
Revenue Outturn Revenue outturn	Current financial year + 6
Details of Credit Card Expenditure PCC Credit Card	 End of term of office + 6

For office credit cards	Current financial year + 6
Equipment and supplies Stationery etc	Current financial year + 6
Audit information Audit reports	10 years, destroy any personal details in working papers after 6 years

4. Grants and Commissioning

Information and description	Timescale
Grants Information relating to grant expenditure processes including applications, monitoring, approvals, decisions and evaluations	End of Contract + 6y
Contracts Contracts with external organisations and suppliers	End of Contract + 6y

5. HR Information – Staff

Information and description	**Timescale**
Recruitment process information (internal and external candidates) All application information relating to unsuccessful candidates.	6 months
Recruitment process information Adverts, shortlisting and interview details. Scoresheets from shortlisting and interviews for successful applicants. Letters relating to appointment, assessments and selection	Until successful applicant leaves service
Vetting (inc temporary staff) Personnel vetting, local intelligence checks, references, referees checks, counter terrorist checks etc.	Length of employment + 1 year
Time sheets and Flexi Time Time sheet registers	Current financial year + 1
Personal details Personal details update	Current financial year + 3
Discipline /complaints Records Misconduct and Complaints records and procedures	Length of employment + 6 years
Employment Tribunals Employment Tribunal Records and Files	Length of employment + 6 years
Grievances Equal opportunities & sexual/racial harassment etc. reports and statements-not just about people	Length of employment + 6 years
PDR forms Performance indicators and individual progress record forms	6 Years
Sickness and health Records Sickness Forms, Doctors Notes, Occupational Health records	Until age 100
Acting up payments Temporary salary payments/Acting up payments	Until age 100
Change of circumstances	Until age 100

Change of circumstance e.g. marriage/divorced etc., impacts on Pensions	
Pay variation Supporting documents-E.g. Maternity application, maternity certificate/change of hours/pay increase/decrease	Until age 100
Pay variation Change in hours	Until age 100

6. HR Information – Contractors

Information and description	**Timescale**
Contracts	Current financial year + 6
Expenses	Current financial year + 6
Invoices	Current financial year + 6
Vetting (inc temporary staff) Personnel vetting, local intelligence checks, references, referees checks, counter terrorist checks etc.	Current financial year + 6

7. HR Information – Volunteers

Information and description	**Timescale**
Custody Visiting Details of rota, reports submitted by custody visitors, Panel meetings and other miscellaneous information	Current financial year + 6
Volunteer Personnel information Details of the volunteer recruitment and HR records	Same retention periods as used for OPCC staff
Work Experience or placement Personal details of individual who spent time with OPCC	Current financial year + 1
Work Experience or placement Admin details and correspondence to arrange the placement	Current financial year + 1

8. Health and Safety

Information and description	**Timescale**
Accidents at work PCC Accident at work Accident Report Forms, Reportable injuries, diseases and dangerous occurrence	End of term of office + 6 Current financial year + 6
Accidents at work- Employers Employers Liability Claims	Current financial year + 6
Health & Safety Records – Inspections Reports Inspection Reports	Current financial year + 6
Health & Safety Records – Risk Assessments Risk Assessments	Current financial year + 6

West Midlands Police Force hold the following data for us and will dispose of it in line with their own retention policies:

- Diary entries
- HR records including payroll data and pension information