

Report To: Council

Date of Meeting: 7 May 2013

Lead Member / Officer: Alan Smith, Head of Business Planning & Performance

Report Author: Lisa Jones, Deputy Monitoring Officer.

Title: Information Legislation Policies

1. What is the report about?

To provide the Council with the reviewed Freedom of Information and Data Protection Policies and Procedures.

2. What is the reason for making this report?

The Council was subject to a Wales Audit Office report in relation to its Information Management governance and more recently in 2012 in relation to Data Protection, Freedom of Information and access to Environmental Information by the Council's internal Audit team. One of the recommendations emanating from both reports was that the Council can improve policies in this area.

3. What are the Recommendations?

That the Council :-

- (1) Approve both policy and procedure documents.
- (2) Approve the amendments to the officer scheme of delegation in relation to the Access to Information Exemptions Panel.
- (3) Delegate the Senior Information Risk Officer role to the Head of Business Planning and Performance and the Data Protection Officer role to the Deputy Monitoring Officer.
- (4) Authorise the Monitoring Officer to amend the Constitution in respect of recommendations 2 and 3.

4. Report details.

The aim of the revised policies is to provide a clear policy statement, where this is possible, in relation to Freedom of Information and Data Protection, acknowledged at the highest level by the 'Personal Information Promise'. The policies go further than pure policy however, and provide a procedural guide to officers, members and the public on the Councils handling of requests for information and the processing of personal data.

Officers involved in drafting the policies had considered having one overarching policy, however, the two regimes to some extent pull in opposite directions. One is a measure to safeguard personal privacy, the other is designed to secure open access to information. They do overlap in parts, for example, some personal information of public facing figures such as elected members or senior executives is disclosed.

This interface between the two areas of law, is a thread that flows through both policies, however their application is easier to understand in separate policies.

The implications of breaching this area of the law are significant; not only in relation to the public's confidence in this Council and how it processes personal information, but also the heavy fines (maximum of £500,000 in serious cases) that the Information Commissioner now has power to hand down.

A parallel regime to Freedom of Information is the Environmental Information Regulations 2004 and the revision of that policy will not be concluded until later in the year, due in part to litigation that is in progress surrounding access to land charges information and a group action that is being brought by personal search companies against the majority of local authorities in England and Wales.

As part of the strategy to improve our information management and move towards greater electronic records management and streamlined data flows, members will note from perusal of the policies, the role of the Information Management Team and the roles of the Senior Information Risk Officer and Data Protection Officer.

The Council is required to have in place a Senior Information Risk Officer who is expected to understand how the strategic business goals of the Council may be impacted by information risks. It is therefore logical that this role could sit within the department already holding the corporate risk register and being responsible for information governance. This Officer will contribute to the Council's Annual Statement of Corporate Governance in respect of information risks, develop further the strategy on information risk and the required framework.

In addition, throughout 2012 the European Commission has been conducting a comprehensive reform of data protection rules (draft General Data Protection Regulation 2012/0011) and one of the many recommendations is that all public bodies will be required from 2014 to formally appoint one 'suitably qualified' officer to act as the Council's Data Protection Officer. It is proposed that as this can be accommodated for within existing resources and that this Council should start planning for the new regime now, whilst it is undergoing a strategic review of information governance processes. Both the Senior Information Risk Officer and the Data Protection Officer will be

expected to work together to develop the strategy in order to give effect to policy.

The revised policies appended to this report, also take into consideration the existence and value of the recently formalised Access to Information Exemptions Panel. This Panel now has the delegated authority to make decisions on whether an Exemption from disclosure is appropriate, rather than leaving such decisions to individual officers within the Council. This decision making is made with the support of at least one legally qualified officer. The starting point will always be open government, unless there is a very good reason not to disclose information requested. This reflects the legal approach in the legislation and provides consistency and proportionality to decision making. The Panel received Full council approval in April 2012 as part of the review of the Constitution.

Open government is good government and the traditional culture of unnecessary secrecy is starting to erode at a local and central government level. It is essential therefore that we have robust processes in place that facilitate this, whilst respecting personal privacy rights.

5. How does the decision contribute to the Corporate Priorities?

Improved practices and governance will contribute to the priority of becoming a high performing Council.

6. What will it cost and how will it affect other services?

Those services who process sensitive personal data will benefit from further specialist support, expertise and training from the recently formed Corporate Information Unit in order to ensure they comply with their obligations to our customers.

The costs will be met from existing budgets. It is anticipated that training and specialist support from the Corporate Information Team will be delivered in-house rather than sourced from any external consultants.

7. What consultations have been carried out?

Consultation has taken place with the following :

The Information Management Officers within each service/area.
Information Management Unit team.
CET
Internal Audit

The Corporate Governance Committee has received a report on the policies in advance of Full Council considering this item.

8. Chief Finance Officer Statement

There are no direct cost implications as a result of the recommendations in this report. Effective information policies enhance the Council's overall governance framework.

9. What risks are there and is there anything we can do to reduce them?

There is a greater risk in not improving our practices in this area.

10. Power to make the Decision

Local Government Act 1972.
Freedom of Information Act 2000
Data Protection Act 1998