

REPORT TO PICKMERE PARISH COUNCIL

7th November 2017

AGENDA ITEM 9.1 – General Data Protection Regulation

1 Background

1.1 The Government intends to replace UK Data Protection Act 1998 with a new Data Protection Bill, which was announced in the Queen’s Speech on 21 June 2017. However, in the meantime the General Data Protection Regulation (GDPR) will come into force in the UK on 25 May 2018. This Regulation has been introduced by the EU to strengthen and unify data protection laws and it will apply in the UK until such time as we leave the EU.

2. Report

2.1 The GDPR is intended to strengthen citizens’ rights in relation to their personal data. It will introduce new individual rights and new obligations on data controllers and processors working for public bodies as well as for private enterprises. It covers organisations such as major supermarket companies, who hold immense amounts of personal data, down to organisations as small as parish councils. If the organisation, including the Parish Council, retains or processes anyone’s personal data then action needs to be taken. Data includes any information that can be identifiable to a living person, including photographs, CCTV recordings, names, addresses, etc. The size and amount of data processed will impact the extent to which organisations have to demonstrate compliance.

2.2 The consequences of ignoring the GDPR include fines of up to £20m, and /or the ability of data subjects to take legal action and claim compensation, with no cap on the amount that can be claimed.

2.3 In particular, a public authority which is processing personal data will need to designate someone as its Data Protection Officer (DPO). It is important that the person is designated on “the basis of professional qualities and, in particular, expert knowledge of data protection law and practices and the ability to fulfil the (requisite) tasks.” It is conceivable that a DPO could be shared with a Parish Council’s principal authority, or with a group of other local councils.

2.4 The role of a DPO is predominantly to implement a framework for compliance with GDPR, continually monitor compliance and be a point of contact for others.

2.5 Personal data, as mentioned above, is data that can be identified to a living individual; if data is held but an individual cannot be identified from it then it is no longer considered personal data and will be outside the scope of GDPR. Online identifiers such as IP addresses are considered personal data.

2.6 In terms of this Council, the types of personal data that are held are relatively few but might include:

- A copy of the Electoral Register for the Parish;
- Email correspondence generally, mainly on the Council’s own laptop (held by the Clerk) but possibly including email correspondence on Councillors’ own computers/devices;
- The Clerk’s email Address Book, and similarly email addresses held by members of Council that relate solely to Parish Council functions;
- Other correspondence held on the Clerk’s laptop/devices;

- Correspondence and other documents in paper form in various files at the Clerk's home, at the Village Hall, and also potentially at the homes of Councillors;
- Other data collected and retained by Councillors, e.g. information relating to local organisations held for the current purpose of organising our 'Parish Meeting';
- Data relating to the Clerk's employment;
- CCTV recordings taken around and held at the Pavilion.

2.7 The six principles of GDPR are:

- Data should be processed lawfully, fairly and in a transparent manner;
- Data should be collected for specific, explicit and legitimate purposes;
- Data should be adequate, relevant and limited to what is necessary;
- Data should be accurate and up to date;
- Data should be retained only for as long as necessary;
- Data should be processed in an appropriate manner to maintain security.

2.8 The implications for the Council's operation after May 2018 are as follows.

2.9 The Council must approve a policy in relation to how personal data is handled and stored, and must implement the necessary safeguards to protect such data. Such a policy will include how personal data is transmitted – for instance between Clerk and Councillors – and how it is stored in secure conditions – one implication will be to ensure that the Council's filing cabinets are lockable. A DPO needs to be appointed. Other implications include how personal consent is requested when personal data is collected – though this is a relatively small aspect for the Parish Council – the actions to be taken in the case of a data breach, and how any subject access requests are to be handled.

2.10 The Parish Council will have to take some actions as a result of the Regulation. Being such a small body reduces the implications but also perhaps makes it more difficult to assess what action is required. Consultancy advice is available to carry out an initial assessment of what the Council needs to do to ensure compliance, if the Council that this may be appropriate. However the cost of an initial assessment of the Council's needs, carried out by the company who recently gave a presentation on the topic to parish council clerks, would be £495 excl. VAT.

2.11 It is anticipated that as May 2018 approaches, organisations such as Chalc and the Society for Local Council Clerks will be producing guidance as to the implications of the Regulation for small councils.

3. Recommendation

3.1 That members consider the issues raised and decide on any future action to be taken, including on the questions of whether CEC should be approached to ascertain its view on the possible sharing of a Data Protection Officer, and whether a quotation(s) should be requested for the provision of an assessment of the Council's GDPR needs.