

## Registration of Councillors as Data Controllers

|  |                     |
|--|---------------------|
| <b><u>Report of the:</u></b>                         | Chief Legal Officer |
| <b><u>Contact:</u></b>                               | Amardip Healy       |
| <b>Urgent Decision?(yes/no)</b>                      | No                  |
| <b>If yes, reason urgent decision required:</b>      | N/A                 |
| <b><u>Annexes/Appendices (attached):</u></b>         | <b>Annexe 1</b>     |
| <b><u>Other available papers (not attached):</u></b> | None                |

### Report summary

The Information Commissioner's Office (ICO) has advised that the nature of work undertaken by Councillors is such that they need consider whether they should be registered individually as Data Controllers. This report is recommending registration for all Councillors and for the Council to meet the cost of such registration as appropriate.

### Recommendation (s)

- (1) That all Councillors should register as Data Controllers;
- (2) The registration fee for individual registration should be met from Council funds if a Councillor is not already registered as a Data Controller in a capacity other than as a Councillor or if they cease being a dual hatted member.

## 1 Implications for the Council's Key Priorities, Service Plans and Sustainable Community Strategy

- 1.1 N/A as a decision is required to comply with legislation.

## 2 Background

- 2.1 The Council is registered in its own right as a Data Controller and this protects Councillors in relation to work they carry in relation to the Council.
- 2.2 In the course of their work, Councillors may process personal information on behalf of their constituents. It is an offence under the Data Protection Act 1988 to process personal data without being registered to do so with the Information Commissioner's Office (the 'ICO')

# Strategy and Resources Committee

## 17 April 2018

- 2.3 As a result of the heightened awareness and profile of public data and its use, Councillors are now increasingly registered with ICO as Data Controllers.
- 2.4 The ICO's "Advice for elected and prospective councillors" (Annexe 1) (<https://ico.org.uk/media/for-organisations/documents/1432067/advice-for-elected-and-prospective-councillors.pdf>) provides guidance on how best they should manage information which comes into their possession during the course of their duties.

### 3 Proposals

- 3.1 It is therefore felt that all Councillors should be registered as Data Controllers to mitigate any risk of a data breach, in relation to work they undertake on behalf of their Wards.
- 3.2 There are four dual hatted Borough and County Councillors and the costs and responsibility for registration are met by the County. Some Councillors may be registered individually as data controllers for their work outside the Council. In these cases, those Councillors will need to add to their Nature of Work details to include 'Councillor'. It is not proposed the fees of those in this category will be met by the Council, as the fees are dependent on the nature of their main registration. Should anything change which no longer requires such Councillors to be registered as data controllers in their own right, the Council will meet the costs of such registration.
- 3.3 It is proposed that a block application for those Councillors who are not registered is undertaken. For those Councillors who are already registered as data controllers, assistance will be provided to ensure their registration covers their role as a Councillor.
- 3.4 The current fee for individual registration is £35.00. This is an annual fee. It appears this fee is likely to increase to £40.00 next year as a result of GDPR. There was an intention in 2015, following a ministerial statement by Kris Hopkins on 'cutting red tape on councillors', to take steps to remove the annual fee that many councillors were required to pay to register as data controllers. Instead, it was suggested "local authorities will undertake the notification process itself as part of their local authority-wide registration, and individual councillors will be exempt from the fee. This will remove an effective 'tax on volunteering' setting up a notification process". (<https://www.gov.uk/government/speeches/local-government-update--2>) However, these recommendations appear never to have been implemented.

### 4 Financial and Manpower Implications

- 4.1 The financial implications arising from this report are limited to the registration fee, which will be met from within the council's budget envelope.

# Strategy and Resources Committee

## 17 April 2018

4.2 **Chief Finance Officer's comments:** Based on a £40 annual fee for 38 councillors, the maximum, annual cost to the Council would be £1,520, which can be met from existing budgets.

### **5 Legal Implications (including implications for matters relating to equality)**

5.1 The Legal implications are contained in the body of this report.

### **6 Sustainability Policy and Community Safety Implications**

6.1 Not applicable for the purposes of this report.

### **7 Partnerships**

7.1 Not applicable for the purposes of this report.

### **8 Risk Assessment**

8.1 Registration will address the risk of potentially unlawfully processing personal data.

### **9 Conclusion and Recommendations**

9.1 All Councillors are registered as Data Controllers and the costs of such are met by the Council as appropriate depending on individual circumstances.

**Ward(s) affected:** (All Wards);