



AUDIT AND GOVERNANCE COMMITTEE	AGENDA ITEM No: 6
16 DECEMBER 2019	PUBLIC REPORT

REVIEW OF THE DATA PROTECTION POLICY

1.0 PURPOSE

- 1.1 At its meeting on 18 December 2017 the Audit and Governance Committee reviewed the Combined Authority's Data Protection Policy which was then adopted by the Combined Authority Board at its meeting on 31 January 2018. As set out in more detail in the report, the Data Protection Act 1998 requires the Data Protection Policy to be reviewed and, if appropriate updated, from time to time. This report invites the Committee to review a proposed revised Data Protection Policy and to recommend its adoption to the Combined Authority Board.

RECOMMENDATIONS

Lead Officer: Dermot Pearson, Interim Legal Counsel and Monitoring Officer

The Audit and Governance Committee are recommended to:

- (a) Review the proposed revised Data Protection Policy and recommend to the Combined Authority Board that the revised Data Protection Policy be adopted. [The revised Data Protection Policy forms Appendix 2 to this report].

2.0 BACKGROUND

- 2.1. The current Data Protection Policy forms Appendix 1 to this report and was reviewed by the Committee at its meeting on 18 December 2017 before being adopted by the Combined Authority Board at its meeting on 31 January 2018.
- 2.2. The Data Protection Act 1998 [the Act] requires the Combined Authority to have an "appropriate policy document in place" when certain types of processing of personal data are carried out. The document must:

- 2.2.1 Explain the Authority's procedures for securing compliance with the principles in the General Data Protection Regulation relating to the processing of personal data in reliance on specified conditions; and
 - 2.2.2 Explain the Authority's policies as regards the retention and erasure of personal data processed in reliance on the conditions, giving an indication of how long such personal data is likely to be retained.
- 2.3. The specified conditions which can only be relied upon when there is an appropriate policy document in place include:
 - 2.3.1 Where the processing is necessary for the purposes of performing or exercising obligations or rights which are imposed or conferred by law on the controller or the data subject in connection with employment, social security or social protection;
 - 2.3.2 Where the processing is for the purpose of the exercise of a function conferred on a person by an enactment or rule of law;
 - 2.3.3 Where the processing is necessary for the administration of justice;
 - 2.3.4 Where the processing is of personal data revealing racial or ethnic origin, revealing religious or philosophical beliefs, concerning health or an individual's sexual orientation;
 - 2.3.5 Where the processing is necessary for the purposes of the prevention or detection of an unlawful act;
 - 2.3.6 Where the processing is necessary for the purposes of protecting the public against dishonesty;
 - 2.3.7 Where the processing is necessary for the purposes of preventing fraud; and
 - 2.3.8 Where the processing is necessary for the purposes of is necessary for the purpose of, or in connection with, any legal proceedings (including prospective legal proceedings);
- 2.4. The Act also requires the document to be retained for the period of 6 months after the Authority ceased to carry out the processing, to be reviewed and (if appropriate) updated from time to time and made available to the Information Commissioner, on request, without charge. The purpose of this report is to review and update the Data Protection Policy.
- 2.5. Officers have reviewed the policies of other combined authorities to help identify best practice on data protection policies. The policy of the West Midlands Combined Authority has been identified as a good example and, with their consent, has been adapted for use by the Combined Authority. The proposed revised Data Protection Policy forms Appendix 2 to this report.

- 2.6. The proposed revised Data Protection Policy addresses the principles relating to processing of personal data set out in the General Data Protection Regulation and clearly sets out the rights of data subjects.

3.0 FINANCIAL IMPLICATIONS

- 3.1. All the work has been carried out in-house, therefore there are no significant financial implications to this activity.

4.0 LEGAL IMPLICATIONS

- 4.1 As set out in the body of the report, if the Combined Authority is to rely on conditions for processing set out in the Data Protection Act 1998, it must have an appropriate policy document in place and that document must be kept under review. The proposed revised Data Protection Policy is intended to be that policy.

5.0 APPENDICES

- 5.1. Appendix 1 – Data Protection Policy adopted in January 2018.
Appendix 2 - The Proposed Revised Data Protection Policy.

<u>Background Documents</u>	<u>Location</u>
West Midlands Combined Authority Privacy Policy	https://www.wmca.org.uk/policies