

Report of the Director of Customer and Corporate Services

Schools Information Governance – Internal Audit Report Update

1. This report provides Members with an update following the internal audit report for schools information governance presented at the meeting held on 20th December 2016. A copy of the internal audit report is at Annex 1
2. The council has statutory responsibilities for maintained schools related to the employment of staff, the oversight of the quality of school standards, the management of admissions and the sufficiency of school places in the local area. The council has no statutory responsibilities for the employment of staff, school improvement and management of admissions in academies or voluntary aided schools.
3. However for the purposes of the Data Protection Act (DPA) all schools are their own “data controllers” – see below for the definition from the Information Commissioner’s Office (ICO) website

Data controller means ... a person who (either alone or jointly or in common with other persons) determines the purposes for which and the manner in which any personal data are, or are to be, processed.

A data controller must be a “person” recognised in law, that is to say:

- individuals;
- organisations; and
- other corporate and unincorporated bodies of persons.

Data controllers will usually be organisations, but can be individuals, for example self-employed consultants. Even if an individual is given responsibility for data protection in an organisation, they will be acting on behalf of the organisation, which will be the data controller.

and as data controllers, they are all required by the DPA to register with the ICO – “requires every data controller (eg organisation, sole trader) who is processing personal information to register with the ICO, unless they are exempt.”

4. This means the council is not accountable or responsible for compliance by schools, with the DPA and other information governance, transparency

and privacy legislation and so, the council would not incur any sanctions or penalties from the ICO if there was a breach or failure by schools to comply with the DPA, FOI, etc. As all schools are their own registered data controller, they are accountable and responsible for their own compliance with the different legislation and would incur directly any sanctions or penalties from the ICO if they were found to have breached or failed to comply with the DPA, FOI, etc.

5. Schools can purchase information governance advice and support through the council's Service for Schools offer or can choose to get this from other providers. In 2016/2017, 15 schools bought 30 days of information governance advice, support and training.
6. However the council team has provided free of charge and open to all schools (both maintained and academies) and Heads, awareness raising training sessions following the audit report. These were aimed at supporting schools to identify where the recommendations and actions from the audit applied in their school and raising awareness of information governance and legislation e.g. DPA, FOI etc.
7. The sessions were well attended by various school staff e.g. Heads, school business managers etc and feedback to the council team has been positive. The council team has also published on the York Education website, proforma, templates, guidance, toolkits and links to other useful sites, to enable individual schools and Heads, to put in place robust, compliant and useful processes to improve and evidence their practices in relation to personal data and against their own progress with the audit recommendations.
8. The council team will deliver FOI training sessions to the school business managers' team in May and DPA awareness raising training sessions for school governors in June.
9. The council team where requested as part of the Service to Schools offer, has also provided one to one support and advice in a number of areas e.g. onsite/bespoke training; responding to FOI enquiries; data protection risk assessment and management; subject access requests to records; data breaches; privacy notices and consents; ICO registration.

10. **Consultation**

Not relevant for the purpose of this report.

11. **Options**

Not relevant for the purpose of this report.

12. **Analysis**

Not relevant for the purpose of this report.

13. **Council Plan**

13.1 The council's information governance framework offers assurance to its customers, employees, contractors, partners and other stakeholders that all information, including confidential and personal information, is dealt with in accordance with legislation and regulations and its confidentiality, integrity and availability is appropriately protected.

14. **Implications**

14.1 Relevant implications are set out in the body of the report

15. **Risk Management**

15.1 Data controllers may face financial and reputational risks if the information it holds is not managed and protected effectively. For example, the ICO can impose civil monetary penalties up to £500k for serious data security breaches (this may be increased following the signing of the General Data Protection Regulation (GDPR)). The failure to identify and manage information risks may diminish data controller's overall effectiveness. Individual(s) may be at risk of committing criminal offences. For example, under section 55 and/or section 61 of the Data Protection Act (DPA) 1998

16. **Recommendations**

Members are asked:

- To note the work undertaken by the council team to support schools and Heads to meet their information governance responsibilities
- To note the work undertaken and still required by schools to meet their information governance responsibilities.

Reason: To update the Committee, following the recent internal audit report on schools information governance.

Annexes

Annex 1 – Information Governance Themed Audit – Schools

Contact Details

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**Report
Approved**

Date 21 March 2017

Wards Affected: List wards or tick box to indicate all

All

For further information please contact the author of the report

Background Information

Not applicable