




DECISION PAPER

DECISION: 17/2022	DATE: 10 AUGUST 2022
TITLE: Data Protection Officer Annual Report 2020/21	
REPORT BY: Carl Melling, Data Protection Officer, Office of the Police and Crime Commissioner	
Executive Summary The Office of the Police and Crime Commissioner (OPCC) is a separate legal entity to Lancashire Constabulary and as such has its own responsibilities under the Data Protection Act (DPA) 2018 and the UK General Data Protection Regulation (UK GDPR) and must appoint its own Data Protection Officer (DPO). This report evidences the work undertaken to meet these statutory duties as well as identifying any areas of concern.	
Recommendation The Police and Crime Commissioner is asked to consider the first Data Protection Annual Report for his office and to provide feedback as necessary.	
Signature	
Police and Crime Commissioner	
Date	24/8/22

PART II

1. Background and Advice

The Police and Crime Commissioner (as “Controller”) is accountable for compliance with UK data protection legislation (UK General Data Protection Regulation (UK GDPR) and the Data Protection Act 2018). One of the requirements placed upon the Controller, to help ensure that compliance is achieved, is to appoint a suitably qualified Data Protection Officer to fulfil, amongst other duties, various tasks set out within UK data protection legislation as follows:

- to inform and advise the Controller and the employees who carry out their processing of their obligations
- to monitor compliance with the legislation
- to provide advice in relation to a data protection impact assessment and to monitor compliance
- to co-operate with a supervisory authority
- to act as the contact point for the supervisory authority

This report provides a summary of the data protection activities undertaken during the period ending 1 April 2021 - 31 March 2022.

It also sets out details of any incidents or environmental issues which might be of note or relevance to the Lancashire Police and Crime Commissioner (OPCC).

Following an independent data protection audit conducted by Forbes Solicitors in 2020, an action plan was established to address the recommendations arising. During the period 2021/22 significant progress has been made in addressing a number of the recommendations.

Governance

Reporting and Engagement

Arrangements are in place for the DPO to meet with the Chief Executive for the OPCC on a monthly basis to review compliance, receive updates on progress against identified actions, and to receive a briefing on any relevant matters arising. The DPO also regularly attends the Office of the Police and Crime Commissioner (OPCC) team meetings, providing a briefing on data protection matters as appropriate.

Resources

The role of DPO for the OPCC is undertaken by the Head of Data Protection for Lancashire Constabulary. A Service Level Agreement between the OPCC and the Force sets out the services that the DPO provides outside of the statutory duties required of the role. This includes providing advice in other information law matters.

Support to the DPO is provided from the Constabulary’s Data Protection Department. Management of day-to-day compliance tasks, such as handling of subject right of access requests, is undertaken by the OPCC’s Governance and Accountability Team.

The DPO is sufficiently supported. However, the Constabulary's Data Protection Department has continued to carry a number of vacancies throughout this period. This is as a consequence of a number of factors. Changes are to be made to the structure of the Data Protection Office, which it is hoped will assist in the future recruitment and retention of staff in what is a specialised area of demand.

Policies and Procedures

A number of PCC policies/ procedures and staff guidance documents have been established or reviewed and updated during the period, including:

- The Data Protection Policy
- Appropriate Policy Document
- Information Security Policy
- Working from Home Policy
- Acceptable Use Policy
- Confidentiality Policy
- Government Security Classification Policy
- Data Protection Impact Assessment Guidance (including procedures, screening form, and template)

New and revised policies have been communicated to the OPCC and the DPO has attended OPCC staff team meetings to provide briefings where appropriate. Where appropriate Policies are published externally on the PCC's website.

The PCC's Publication Scheme and FOIA Complaints Policy have also been reviewed and updated.

Data Protection Impact Assessments (DPIA)

Within the Period a DPIA was initiated for the OPCC's new case management system. A register of DPIAs has been established to enable monitoring to be undertaken.

Record of Processing Activities (ROPA)

UK GDPR requires that a "record of processing activities" is maintained. Accordingly, the OPCC keeps a record of processing and the lawful basis under which the processing is undertaken. This will be reviewed in 2022/23.

Privacy Notice

The OPCC Privacy Notice has been reviewed, updated, and is published on the PCC's website.

The Child Specific Privacy Notice will be reviewed and updated in 2022/23.

Data Subject Right of Access Requests

The number of requests received 10
Compliance with Statutory timescales for response 10
Internal Reviews/ Complaints Received 2
ICO Complaints 0

Data Subject Right of Deletion Requests

No requests were received during the reporting period.

Freedom of Information (FOI) Requests

The number of requests received 42
Compliance with Statutory timescales for response 42
Internal Reviews/ Complaints Received - 4
ICO Complaints – 0

Personal Data Breaches/ Security Incidents

During the period there were no personal data breaches which were required to be reported to the Information Commissioner. No significant procedural issues were identified as a consequence of the one incident recorded that related to emails/ individual error and was of a low level/ low-impact on the subjects.

Training

Over the 12 months training was delivered to staff within the PCC's office on the following subjects:

- Privacy Notices
- Data Protection Impact Assessments
- Government Security Classification
- Data Protection Refresher (covering subject rights, information sharing)

Staff from the Governance and Accountability Team have also commenced/ undertaken formal information management training/ qualifications.

Information Sharing

A review of the Information Sharing Policy will be undertaken 2022/23. There have been no new information sharing agreements instigated by the OPCC within the year.

Information Audit

No information audits have been undertaken by the Data Protection Officer during the period.

Information Management Risks

No new or significant areas of risk were identified during the period. It is noted that staff turnover may present some risk and new staff will be required to complete mandatory data protection training and familiarise themselves with all relevant policies during their induction.

Cyber threat remains a growing risk that needs to be considered within new technological developments and ongoing protection of the OPCC's systems and network. ICT services to the OPCC are provided by Lancashire County Council.

The advances in the development of technology to facilitate the use and sharing of information for secondary purposes, development of AI, etc also presents risks to the privacy of individuals. The policies and procedures described above, together with the training delivered, should ensure that appropriate consideration is given to data protection by design and default being considered for any new initiative.

Summary and Future Priorities

Over the twelve-month period, good progress was made against a number of areas identified as priorities, following the Forbes audit in 2020.

Some of the outstanding areas which require review have been highlighted within this report and it is envisaged these will be completed within the first quarter of 2022/23. Demand from information access requests remained consistent with that from previous years and performance in meeting the statutory timescales was excellent; it met the Information Commissioner's guidance that suggests 90% of all requests should be handled within the respective statutory timescales.

No matters of complaint were made to the Information Commissioner (ICO) and there were no matters which arose which required reporting to the ICO. Whilst there is still some work to do, overall, this report helps presents a positive picture in demonstrating that the PCC is achieving a sound level of compliance with the requirements of the data protection legislation.

Over the next 12 months, consideration will be given to the areas where an audit might be undertaken as part of the on-going monitoring obligations of the DPO. Due consideration will also be given to the development of specific training or guidance around the increasing cyber threat and the review/ development of the OPCC's business continuity plan in relation to information management risks.

Consideration will also be given to the impact of any legislative change, following the proposals published by the Government to effect further legislative reform ([Data: A New Direction](#)). The steps taken over the reporting period will place the PCC in a good position to be able to demonstrate accountability within any new Privacy Management Framework that might be introduced.

2. Links to the Police and Crime Plan

This report evidences the work undertaken to meet the Commissioner's statutory duties.

3. Consultations

None

4. Implications:

a. Legal

Data Protection Act 2018 & UK General Data Protection Legislation

The DPA 2018 sets out the framework for data protection law in the UK. It updates and replaces the DPA 1998 and came into effect on 25th May 2018. It was amended on 1st January 2021 by regulations under the European Union (Withdrawal) Act 2018, to reflect the UK's status outside of the EU. The DPA sits alongside and supplements the UK GDPR - for example by providing exemptions. It also sets out separate data protection rules for law enforcement authorities, extends data protection to some other areas such as 7 national security and defence, and sets out the Information Commissioner's functions and powers.

The UK GDPR is the UK General Data Protection Regulation.

It is a UK law which came into effect on 1st January 2021. It sets out the key principles, rights and obligations for most processing of personal data in the UK, except for law enforcement and intelligence agencies.

It is based on the EU GDPR (General Data Protection Regulation (EU) 2016/679) which applied in the UK before that date but has some changes to make it work more effectively in a UK context.

The DPO is not personally liable for data protection compliance. As the controller, it remains the OPCC's responsibility to comply with the UK GDPR. Nevertheless, the DPO clearly plays a crucial role in helping to fulfil the OPCC's data protection obligations.

b. Financial

There are no specific financial considerations to report for 2021/22 although it must be noted that non-compliance can result in fines being imposed by the ICO of up to £17.5million or 4% of turnover based on the preceding financial year, whichever is higher. This indicates the importance of the resourcing issue in this area.

c. Equality Impact Assessment

This report has been considered against the general duty to promote equality, as stipulated under the Strategic Equality Plan and has been assessed not to discriminate against any particular group.

Consideration has been given to requirements of the Articles contained in the European Convention on Human Rights and the Human Rights Act 1998 in preparing this report.

d. Data Protection Impact Assessment

As set out in the report now presented

5 Risk Management



None

6. Background Papers

None

7. Public access to information

Information in this form is subject to the Freedom of Information Act 2000 and other legislation. Part 1 of this form will be made available on the PCC website within 3 working days of approval. Any facts/advice/recommendations that should not be made available on request should not be included in Part 1 but instead on the separate Part 2 form.

Officer declaration	Date
LEGAL IMPLICATIONS – As above	
FINANCIAL IMPLICATIONS – As above	 22/08/2022
EQUALITIES IMPLICATIONS – As above	
CONSULTATION – As above	
<p>Chief Executive to the Office of the Police and Crime Commissioner (Monitoring Officer)</p> <p>I have been informed about the proposal and confirm that financial, legal and equalities advice has been taken into account in the preparation of this report. I am satisfied that this is an appropriate request to be submitted to the Police and Crime Commissioner for Lancashire.</p> <p>Signature  Date 22/8/22</p>	