



Rutland County Council

Catmose, Oakham, Rutland, LE15 6HP.

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Meeting: CABINET

Date and Time: Tuesday, 19 June 2018 at 10.00 am

Venue: COUNCIL CHAMBER, CATMOSE

Governance Officer to contact: Natasha Taylor 01572 720991
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A G E N D A

1) APOLOGIES FOR ABSENCE

2) ANNOUNCEMENTS FROM THE CHAIRMAN AND/OR HEAD OF THE PAID SERVICE

3) DECLARATIONS OF INTEREST

In accordance with the Regulations, Members are required to declare any personal or prejudicial interests they may have and the nature of those interests in respect of items on this Agenda and/or indicate if Section 106 of the Local Government Finance Act 1992 applies to them.

4) RECORD OF DECISIONS

To confirm the Record of Decisions made at the meeting of the Cabinet held on 22 May 2018.

5) ITEMS RAISED BY SCRUTINY

To receive items raised by members of scrutiny which have been submitted to the Leader (copied to Chief Executive and Governance Officer) by 4.30 pm on Friday, 15 June 2018.

REPORT OF THE DIRECTOR OF PUBLIC HEALTH

6) DEVELOPMENT OF RUTLAND HEALTHY GRANTS SCHEME UTILISING PUBLIC HEALTH RESERVES

Report No. 96/2018
(Pages 3 - 12)

REPORT OF THE DIRECTOR FOR PEOPLE

7) HOMECARE RECOMMISSIONING (KEY DECISION)

Report No. 97/2018
(Pages 13 - 28)

REPORT OF THE DIRECTOR FOR RESOURCES

8) DATA PROTECTION POLICIES AND UPDATE

Report No. 95/2018
(Pages 29 - 66)

9) ANY ITEMS OF URGENT BUSINESS

To receive items of urgent business which have previously been notified to the person presiding.

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MEMBERS OF THE CABINET: Mr O Hemsley (Chairman)

Mr N Begy
Mr G Brown
Mr R Foster
Mr A Walters
Mr D Wilby

SCRUTINY COMMISSION:

Note: Scrutiny Members may attend Cabinet meetings but may only speak at the prior invitation of the person presiding at the meeting.

**ALL CHIEF OFFICERS
PUBLIC NOTICEBOARD AT CATMOSE
GOVERNANCE TEAM**

CABINET

19 JUNE 2018

DEVELOPMENT OF RUTLAND HEALTHY GRANTS SCHEME UTILISING PUBLIC HEALTH RESERVES

Report of the Director of Public Health

Strategic Aim:	Meeting the health and wellbeing needs of the community	
Key Decision: No	Forward Plan Reference:120118	
Cabinet Member(s) Responsible:	Mr A Walters, Portfolio Holder for Safeguarding – Adults, Public Health, Health Commissioning, Community Safety & Road Safety	
Contact Officer(s):	Mike Sandys, Director of Public Health	0116 305 4239 Mike.Sandys@leics.gov.uk
	Zaheera Chatra, Interim Public Health Manager	0116 305 3590 Zaheera.chatra@leics.gov.uk

DECISION RECOMMENDATIONS

That Cabinet:

1. Approves the use of the Public Health Grant and Better Care Fund Programme funding to establish a Healthy Rutland Small Grants Scheme to improve health and wellbeing within local communities.
2. Approves the proposed option for managing the awarding of grants under the Healthy Rutland Small Grants Scheme as set out in Section 2.
3. Approves that the scheme is administered by Rutland Access Partnership (RAP) on behalf of the Council, and that the Council provide a proportion of the funding (approximately 9% of the total allocated funding) for RAP to recruit a worker to support communities in applying and making the best use of all the monies.

1 PURPOSE OF THE REPORT

This report outlines proposals to bring together funding from both the Public Health Grant and the BCF (Better Care Fund) to establish a Healthy Rutland Small Grants Scheme.

2 BACKGROUND AND MAIN CONSIDERATIONS

- 2.1 Public Health services in Rutland are funded by way of a ring fenced grant from the Department of Health. The Public Health Grant has been managed within a reducing envelope with proactive work undertaken to reduce recurrent costs, and consequently a level of reserves has been built up. The Healthy Grant scheme set out in this paper will enable the Council to make use of the reserves during 2018/19 in a constructive manner which meets local health and wellbeing priorities. This is part of wider planned spend of the reserves and will avoid the potential 'clawback' of reserves by the Department of Health.
- 2.2 It is proposed to combine funding from the public health grant reserves with that of the Better Care Fund (BCF) to resource the grants scheme. This allows some flexibility on the types of projects to be funded. In bringing together funding from both the Public Health Grant and the BCF (Better Care Fund) to establish a Healthy Rutland Small Grants Scheme, it will pump-prime health and wellbeing activity within local communities and prompt tangible local action, support people in their own communities as close to home as possible, and help boost community activity in local areas and villages
- 2.3 The scheme is proposed for making best use of the reserves available to fund one-off programmes of activity or capital spend that will contribute to improving health and wellbeing in Rutland. As this is one-off spend, proposals will focus on purchase of equipment, or projects that will increase capability of local services or enable local community capacity building. Projects will be tailored to specific communities and build on existing community assets.
- 2.4 The grants scheme will help meet a number of key priorities for Rutland. These include the priorities set out in Rutland's Joint Health and Wellbeing Strategy (JH&WS):
- Extending healthy life expectancy (the years lived in good health) and particularly targeting those aged 45 to 65 to help ensure they enter older life healthier and stay healthier for longer. We will also assist our communities in supporting one another.
 - Reduce inequalities as some groups in our community have poorer health or are likely to have poorer health than the majority. Limiting long term conditions are for example more common amongst our routine and manual workers
 - Health and Social Care Integration - to make sure that those who are most at risk are provided with the right combination of care and support in the right place at the right time. This also helps us use limited resources to the best effect.
- 2.5 The scheme will invite applications from local community groups and organisations against a clear set of outcomes and criteria specifically to improve health and

wellbeing within their communities. The criteria will be set to ensure that funding meets the wider requirements of Public Health Grant and/or the BCF funding and that projects are truly community-based.

- 2.6 Projects would need to be evidence-based or innovative and demonstrate community support for their proposal. It is proposed that there are two levels of grant: small grants up to one thousand pounds; and larger grants up to ten thousand pounds.
- 2.7 All applications for grant funding must be able to demonstrate how they will meet grant criteria and how they will measure the impact of their project. Proposals will be more likely to be funded if they can demonstrate working in partnership, match or plans for future funding, and scope for sustainability beyond the lifetime of the scheme or have an exit strategy. The scheme provides an opportunity to test and pilot innovative projects which local groups and parishes may wish to extend through Parish funds where they provide benefit to local parishioners.
- 2.8 A number of options have been considered for the awarding and administration of the scheme, all of which would include, for the awarding of grant: a simple application form; set of criteria and outcomes to be met; and the establishment of an Award Panel comprising of representatives from RCC at both officer and Member level, and if possible community representation. Details of the assessment criteria for scoring and eligibility criteria are attached as Appendix 1.
- 2.9 The preferred option would be to devolve management, administration and promotion of the grants scheme to Rutland Access Partnership (RAP) as the contracted voluntary sector infrastructure organisation. This would include both administering the scheme, and supporting community organisations to develop and submit applications.
- 2.10 It is proposed that a small proportion of the funding would be used for RAP to recruit a part-time officer on a fixed term basis to offer additional capacity to community organisations to develop projects in their local area, thus supporting the ability of local community groups both to bid and to sustain the projects on a longer-term basis.
- 2.11 RAP have already established links with the Parish Councils and a number of smaller community organisations to promote community-based wellbeing activity, and this scheme would align with that.

3 CONSULTATION

- 3.1 This proposal is made following consultation with the portfolio holder and tabled at the Adults and Health Scrutiny Panel in April 2018 for discussion. Scrutiny members requested that further detail be provided in respect of the award criteria and scoring process for grant applications. Informal engagement with RAP has also been undertaken to ensure that they would be able to fulfil the requirements of managing the scheme.

4 ALTERNATIVE OPTIONS

- 4.1 To site the funding and administration of the grants scheme with the Leicestershire and Rutland Association of Local Councils (LRALC) for them to administer for a fee.

This would then move the funding via the Parish Councils to local community organisations.

- 4.2 To devolve the grant fund to those parish councils with a General Power of Competence to hold and manage funds on behalf of other Parish Councils to administer in their own areas.
- 4.3 The above two options were discounted due to the complexity of ensuring the adherence to grant conditions if the grant 'pot' were devolved in such a way. Additionally, not all Parish Councils have the general power of competence.
- 4.4 To oversee the grants scheme within the Council, requiring additional officer capacity to manage and administer the scheme, and working with RAP and the Parish Councils to access local community organisations. This was discounted due to the higher cost of officer time compared with RAP in administration. Additionally, RAP have already established links with the Parish Councils and a number of smaller community organisations to promote community-based wellbeing activity, and this scheme would align with that.

5 FINANCIAL IMPLICATIONS

- 5.1 The Public Health Grant has been managed within a reducing envelope with proactive work undertaken to reduce recurrent costs, and consequently a level of ring fenced reserves has been built up. This scheme will enable the Council to make use of the reserves during 2018/19 in a constructive manner which meets local health and wellbeing priorities. This is part of wider planned spend of the reserves.
- 5.2 The BCF funding allocation includes a small amount to support the delivery of health and wellbeing activity in local communities and the addition of this to the Public Health funding enables a wider scope of projects to be considered for the grants, given the restrictions in place on Public Health spend.
- 5.3 The proposed allocation for this scheme is £100,000, including the costs of a fixed-term post (approximately £9000) to support the scheme.

6 LEGAL AND GOVERNANCE CONSIDERATIONS

- 6.1 The Department of Health's presumption is that the public health grant will be spent in-year. If at the end of the financial year there is any underspend local authorities may carry these over, as part of a public health reserve, into the next financial year. In using those funds the next year, local authorities will still need to comply with the grant conditions. However, the Department may consider reducing future grant amounts to local authorities that report significant and repeated underspends.
- 6.2 The grant must be used only for meeting eligible expenditure incurred, or to be incurred, by local authorities for the purposes of their public health functions as specified in Section 73B(2) of the National Health Service Act 2006 ("the 2006 Act").
- 6.3 The Section 151 Officer and the Director of Public Health must sign an assurance letter that the grant has been spent in accordance with the conditions of the grant, at the end of the financial year.

7 EQUALITY IMPACT ASSESSMENT

- 7.1 Projects should target people who have low levels of activity (sedentary) and/or who are at risk of social isolation and will support people to sustain their mental and/or physical health and wellbeing.
- 7.2 The scheme will have a positive impact on the health of the population.

8 COMMUNITY SAFETY IMPLICATIONS

- 8.1 None

9 HEALTH AND WELLBEING IMPLICATIONS

- 9.1 The central aim of the Healthy Rutland Grant Scheme is to improve health and wellbeing for the people of Rutland by enabling them to have a healthy life; schemes will enable people to be more active, to improve diet and nutrition and be a healthy weight, have good mental wellbeing and offer opportunities for social connection, with a view to both improving wellbeing and preventing or postponing ill health.
- 9.2 Potential beneficiaries of the grant scheme will be sedentary people living inactive lifestyles, families with pre-school children in a given village, people diagnosed with a given condition, older people, particularly those who are frail and or socially isolated, people with long-term conditions or at risk of developing those conditions, carers and or people with caring responsibilities, older men, and people with disabilities or those who are disadvantaged or experiencing hardship.

10 CONCLUSION AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

- 10.1 The Public Health Grant must be spent improving the health of the population, in line with the conditions set out in the Public Health Grant Agreement. Any underspend may be 'clawed back' by Public Health England. By establishing a time limited grant scheme, the Council will ensure that the full amount of grant due to Rutland is used to improve the health and well-being of the population.
- 10.2 The use of RAP will provide a cost effective way of administering the scheme.

11 BACKGROUND PAPERS

There are no additional background papers to the report.

12 APPENDICES

Appendix A- Eligibility Criteria

Appendix B- Proposed Criteria for Scoring

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Appendix A. Eligibility Criteria

The central aim is to encourage projects which are designed to improve health and wellbeing for the people of Rutland by enabling people to have a healthy life; schemes should enable people to be more active, to improve diet and nutrition and be a healthy weight, have good mental health and offer opportunities for social connection, with a view to improving wellbeing for Rutland residents and prevention or postponing ill health.

- Projects should target people who have low levels of activity (sedentary) and/or who at risk of social isolation and will support people to sustain their mental and/or physical health and wellbeing. Providing information and support programmes which help and enable people to improve their general wellbeing.
- Be evidence based or innovative
- Projects should contribute to the aims of the Rutland Better Care Fund programme:
 - Reducing hospital admissions (through avoidance of ill health)
 - Reducing injuries due to falls
 - Reducing delays to hospital discharge
 - Enabling people to remain living independently at home as they get older, if this is their wish
 - Overcoming the barriers to people becoming more active or making social connections

Projects may focus on:

- Encouraging motivation
- All ages - Multigenerational participation and benefit
- Improving accessibility
- Transport (e.g. by increasing activities in the villages reducing the need for travel).
- Use of proven national frameworks – e.g. Mental Health First Aid and Five Ways to Wellbeing
- Projects tailored to specific communities, building on existing community assets - village halls and greens, playing fields, paths, allotments, local organisations, village shops and venues (pubs and cafes), workshops, bus services, allotments, local businesses, skills and knowledge of local people, veterans, care homes.

Projects must be able to demonstrate:

- Community support

Projects **will score more highly** if they demonstrate:

- Scope for sustainability beyond the lifetime of the grant or an exit strategy
- How they are working in partnership.
- Co-funded projects.

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Appendix B. Proposed Criteria for Scoring

All projects will be assessed and scored by a Decision Making Panel. Details of the assessment criteria for scoring and decision making are given below and should be read by those submitting Project Proposals.

Health and Wellbeing Impact		
Score	5	Clear and robust evidence can be shown that the project has the capacity to deliver significant improvements to health (including mental health) or personal wellbeing, and contribute towards the achievement of Public Health Outcome Indicators or ONS National Wellbeing Measures specified in guidance notes
	4	Case study information and participation data has been referenced to show that similar projects have contributed in some way towards the achievement of Public Health Outcome Indicators or ONS National Wellbeing Measures specified in the guidance notes. Plans are in place to work with public health or other professionals to gather robust evidence as part of future development
	3	Anecdotal references are made within the application to highlight how the project might contribute towards improved health and wellbeing
	2	Limited reference to health and wellbeing within the application. A commitment is made to give this future consideration
	1	No reference to health and wellbeing within the application
Sliding scale from 5 – 1 for each criteria depending on how far the project is deemed to meet the following:		
5 high – 1 low	Projects that meet the Better Care Fund priorities listed above	
	Are able to demonstrate community need / describes the target audience	
	Are able to demonstrate community support	
	Are sustainable or have an robust exit strategy	
	Bids developed in partnership	
	Have contributions of funding from elsewhere (co or joint funded) or significant 'in-kind' support	
	The difference / impact the project will have. Delivering measureable outputs / outcomes. Clear description of outputs (activities carried out) and a good description of health outcomes and how these will be achieved	
	Demonstrates value for money – with clear and concise breakdown of costs	
	Provides a clear narrative description of how the project will be delivered, what will be included and timescales for delivery	
	Clear engagement / publicity to ensure participant numbers remain consistent or improve over the course of the project	

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CABINET

19 JUNE 2018

HEMECARE RECOMMISSIONING

Report of the Director for People

Strategic Aim:	Meeting the health and wellbeing needs of the community	
Key Decision: Yes	Forward Plan Reference: FP/140218	
Cabinet Member(s) Responsible:	Mr A Walters, Portfolio Holder for Health and Adult Social Care	
Contact Officer(s):	Mark Andrews, Deputy Director for People	01572 758339 mandrews@rutland.gov.uk
	Karen Kibblewhite, Head of Commissioning	01572 758127 kkibblewhite@rutland.gov.uk

DECISION RECOMMENDATIONS

That Cabinet:

1. Receives an update on work undertaken for the recommissioning of homecare services in Rutland.
2. Approves the procurement model for homecare services as set out in Section 6 of this report.
3. Authorises the Director for People, in consultation with the Cabinet Member with Portfolio for Health and Adult Social Care to award the contract(s) for homecare resulting from this procurement in line with the Award Criteria as set out in Appendix B.
4. Supports the continuation of the in-house complex care support service trial as set out in Sections 8 -10 of this report.

1 PURPOSE OF THE REPORT

- 1.1 This report sets out the outcome of the work to review existing provision and inform the recommissioning of homecare services. It requests approval to commence procurement of homecare contracts, and to continue the trial of the Complex Care Support Service.

2 BACKGROUND AND MAIN CONSIDERATIONS

- 2.1 In May 2016, Cabinet received a report in relation to the current homecare contracts and approved the re-commissioning for the provision of homecare in Rutland.
- 2.2 The recommissioning has been informed by two strategic drivers:
- a) The Council's Adult Social Care Strategy sets out the vision for social care services in Rutland. The primary aim is to enable and encourage people and communities to live healthier and more independent lives, with less reliance on services enabling individuals and families within our community to achieve their full potential and be safe from harm.
 - b) The Rutland Better Care Fund programme aims to shape more integrated, efficient and effective health and care services which work well for the people of Rutland. This is so that people receive the right care and support at the right time to maintain their health and wellbeing, staying well for as long as possible then preventing, delaying or reducing their need for care.
- 2.3 The Council needs to ensure that homecare services are able to meet future demands and are fit for purpose.

3 CURRENT PROVISION OF HOMECARE

- 3.1 The Council tendered older people's homecare provision in 2013 to establish a framework of providers. There has been significant change on the framework contract during its lifetime thus far – from the original eight providers, six have withdrawn either due to the low volume of work or to difficulties of staffing calls in Rutland, whilst a further seven agencies have requested to provide services in Rutland. The Council currently has contracts in place with nine domiciliary care agencies to provide care packages to older people.
- 3.2 Currently the Council commissions over 62,000 hours of homecare support per year to approximately 79 people. This figure is set to rise given the ageing population in Rutland, the increase in people living with more complex conditions, and the increase in people continuing to live at home.

4 CONSULTATION TO INFORM RUTLAND'S FUTURE APPROACH

- 4.1 The consultation undertaken and the areas needing to be addressed through the recommissioning were outlined in Cabinet Paper 69/2018. The 5 specific areas were:
- i. Standard of care: The quality of care and support provided.
 - ii. Consistency of call times: The times required to support and whether these are at a regular time each day, to which the service user has agreed.
 - iii. Consistency of carers: Carers who are regularly visiting the same service

- user, and having an understanding of their support needs.
- iv. Rate of pay: The fees paid to the provider and the pay received by a carer.
 - v. Communication: How relevant information is shared between carers, providers and social care to ensure services provided are effective and ensure the safety and wellbeing of the service user is maintained.

4.2 Soft Market Testing

4.2.1 A Soft Market Testing exercise was undertaken in 2017. Five providers responded giving their views:

- Providers felt the current style of commissioning was no longer fit for purpose or person-centred.
- Relationship-based approaches were seen as a positive move to integrated care.
- Frameworks failed to address some of the key challenges in social care such as recruitment and retention of staff, fluctuating service user needs and quality of service
- Availability of numerous providers supports local businesses and allows for a mix of service providers across Rutland, but can cause difficulty due to low volumes of work and competition from other providers.
- Some providers are already developing relationship- based approaches Providers would support the need for improved terms and conditions for care staff
- The skill set and training of care staff would be paramount were care tasks to be extended beyond traditional roles, though this may improve recruitment and retention.
- Providers welcome more opportunities to work collaboratively.

4.3 Officers have also looked at how homecare is commissioned in other local authorities, the benefits and challenges of these approaches. Consideration has been given as to how the best elements of these can be brought into Rutland's model.

5 FUTURE PROVISION

5.1 It is proposed that the future provision should be comprised of two elements, both of which have been designed to address the concerns and challenges raised during the review and consultation exercises:

- i) External contracts with homecare providers using revised specifications which drive a relationship-based, outcomes-focussed approach for service users;
- ii) Further development of the current Complex Care Support Service trial which supports adults who would benefit from a preventive intervention through intensive support.

6 EXTERNAL HOMECARE PROVISION

- 6.1 Under the Care Act 2014, the Council have a duty to support the provider market locally. By continuing to commission a level of care from external providers, the Council will be supporting the sustainability of care providers to ensure that there remains provision for self-funders.
- 6.2 It is proposed that a framework of providers continues to be used to maximise available capacity in the county. A framework ensures that sufficient support is available across the county, as well as offering service user choice. It also reduces the risks should there be any issues with a provider by ensuring there is alternative provision available.
- 6.3 The service model will shift from commissioning for 'time and task', to an outcome-focussed service which supports people to maximise their independence. The specification will set out three key aims:
- iii) To support individuals to regain and retain their independence
 - iv) To reduce the need for on-going homecare services through reablement and enablement
 - v) To support Service Users to exercise choice and control
- 6.4 The revised specification will be designed to address the issues raised within the consultation, and include requirements in relation to quality of service delivery; standards of support; minimum training requirements for staff; and expectation of providers. Providers applying for a position on the framework will need to evidence that they have in place:
- a) a means of ensuring consistency of carers (as far as possible) for individual service users;
 - b) a sustainable wage that is competitive with other service industries, promotes employment, attracts staff who can deliver quality and addresses issues such as payment for travel and training time;
 - c) an hourly rate that includes good quality mandatory training across a range of care areas, and inclusive of travel time;
 - d) training and career progression that is aligned to the national Skills for Care programme for this sector;
 - e) values-based recruitment practice for all care workers and agency staff to ensure that they recruit caring people.
- 6.5 It is also proposed that within the new contracts there is opportunity for care providers to have some autonomy over the number of hours of support they provide to an individual service user – this will enable flexibility in the delivery of support according to service users' wishes. At the point of commissioning the care package a set number of expected hours per week will be agreed, providers will then be able to agree with the service user how these hours are split over each day, and can adjust this level either up or down within set parameters according to the individual's needs.
- 6.6 In addition, talks have begun with East Leicestershire and Rutland CCG (ELRCCG)

concerning the opportunity to jointly commission homecare within Rutland, to ensure a coordinated and consistent approach. Currently ELRCCG hold separate contracts for Rutland service users and these are due to expire on 31st March 2019. It is proposed that the tender allows for the CCG to call-off of the framework to commission care packages.

6.7 Proposed Contract

- 6.7.1 The proposed contract length is 3 years, with the option to extend for a further year, in line with the maximum term for frameworks.
- 6.7.2 The contract value will be set at up to £1.074million per annum, a total of £3.2million over the initial life of the contract. As the service is demand-led the actual annual cost may fluctuate.
- 6.7.3 The total number of providers awarded contracts on the framework will depend on the level of interest and number who meet the selection criteria. Providers will be required to indicate within their tender submission how they will be able to meet service requirements and provide support across Rutland, including rural areas.

7 PROCUREMENT PROCESS

- 7.1 The procurement process will follow a single-stage open process in line with the Council's Contract Procedure Rules.
- 7.2 The value of the contract is above EU procurement thresholds for goods and services and as such will be subject to the full OJEU process as set out in the Public Contracts Regulations 2015.
- 7.3 The timetable for the process is set out in Appendix A and the proposed award criteria are set out in Appendix B.

8 THE COMPLEX CARE SUPPORT SERVICE

- 8.1 The Complex Care Support Service (CCSS) is currently being trialled in-house to deliver outcome-focussed support for those service users with the most complex care needs, including those funded by Continuing Healthcare (CHC), and those who would not fit with traditional homecare services but would benefit from additional support, for example: where previous service engagement has been declined; where providers have been unable to support due to complexity of needs; or where multiple people within the same household have care needs. The support is tailored to meet physical health and care, and also social and emotional needs of both the individual and any informal carer(s). It aims to reduce the need for ongoing and acute services and improve individuals' quality of life.
- 8.2 The criteria during the trial have been kept deliberately broad to enable a range of service users to be included to ascertain how different groups of service users may benefit.
- 8.3 The trial was started in September 2017 with a small multi-disciplinary self-managing team. Twelve service users have so far received support; aged between 18 and 90 years old with varying conditions, including: mental health issues; learning disabilities; terminal illnesses; and Alzheimer's. It was originally set up to cover Oakham only but has extended to include villages within a 3 mile radius, and has

more recently been extended to Uppingham.

- 8.4 The team size allows consistency of support to service users by staff who are able to build positive relationships and get to know and understand their needs and wishes. The service also benefits from a level of flexibility: staff are encouraged to take a more proactive approach to assisting someone to live independently in their own home. Should a service user need more support than usual then the carer can do so without needing to request permission, and can make onward referral decisions to reduce risk or deterioration in health;
- 8.5 The focus of staff training and development has been based on reducing the need for several services visiting a particular individual: for example staff have been trained to carry out specific healthcare tasks under clinical supervision thereby reducing the need for community health services to visit.

9 OUTCOMES FROM THE COMPLEX CARE SUPPORT SERVICE TRIAL

- 9.1 A review of the trial has highlighted a number of key areas.

9.2 Individual Outcomes

Whilst it is not possible to state unequivocally that the service alone has led to specific outcomes, case reviews indicate that:

- 4 service users would have been prevented from entering, or been transferred home from, residential care;
- 2 service users no longer require ongoing support from community nursing;
- 3 service users were able to receive end of life care at home as per their and their families wishes;
- 3 service users who previously disengaged with health and social care services now engage regularly;
- 3 service users now have significantly increased independence.

9.3 Impact on Health Services

- 9.3.1 During the trial, the support provided has led both to increased and decreased need for health interventions in individual cases, but overall has resulted in a slight reduction in use of primary care and community nurse services. In addition, the number of ambulance callouts and the number of admissions to hospital has reduced, along with length of stay following hospital admission.
- 9.3.2 Feedback from health professionals has indicated that the level of engagement by service users within the CCSS, has led to increased engagement in other services as well, leading to improved health outcomes.
- 9.3.3 There is opportunity to build on and develop the model by extending the range of low level healthcare tasks undertaken and increasing the joint working with community health teams.

9.4 Staffing

- 9.4.1 Capacity to increase the number of service users within the model has been challenging. There have, at times, been capacity issues due to the small numbers of staff within the team. This has caused some difficulties in covering annual leave and sickness whilst ensuring service users receive consistent and appropriate support. This should be mitigated as the service grows.

9.5 Service User and Staff Views

- 9.5.1 Service user, family and carer feedback has been very positive, particularly in relation to the standard of care, trust built, and improved quality of life for individuals and their families.
- 9.5.2 Initially workers found the shift being individually responsible for decision making regarding support for individuals difficult, however they have latterly reported that the quality of time spent with service users and the flexibility allows them to build positive, trusting relationships, and that they feel empowered and have greater job satisfaction.

9.6 Potential Cost Savings and Cost Avoidance

- 9.6.1 The trial monitored the level of hours which would have been commissioned from an external provider to meet the service user's needs against the actual hours delivered by the CCSS service. Thus far, on average only 50% of the commissioned hours were used; for those service users who required end of life support, 87% of the commissioned hours per week have been used.
- 9.6.2 There are potential costs savings in the future from enabling service users to remain at home as a result of the support received, rather than move into residential care.
- 9.6.3 In addition, working within smaller localities should lead to saved travel time and mileage costs which can be reinvested back into the service.

10 NEXT STEPS FOR THE COMPLEX CARE SUPPORT SERVICE TRIAL

- 10.1.1 Early indications show a positive impact from the model and opportunities for both savings and future cost avoidance, however there are still a number of areas which need further exploration. It is proposed to continue the trial, gradually extending it within the county, in order to fully evaluate longer-term sustainability, particularly in more rural areas, and undertake detailed evaluation of financial viability.
- 10.1.2 One of the continuing challenges will be to balance the continued flexibility within the service as it is extended to cover more rural areas of the county, against the staffing levels required to meet differing service user needs.
- 10.1.3 Further discussions are required with health commissioners to understand the level of input from health services and the impact which having a nurse within the team has in real terms on integrated provision across health and social care.

11 CONSULTATION

- 11.1 The plans for homecare recommissioning, including an update on the Complex Care Support Service trial, were tabled at Adults and Health Scrutiny Panel. The Panel were supportive of the proposed changes in the procurement of the external homecare contracts.
- 11.2 The Panel were supportive of the Complex Care Support Service trial, and noted the outcomes achieved so far on a small scale. Members noted caution in understanding how the model could be extended to rural areas and suggested that it may need to be altered slightly to achieve similar outcomes.

12 FINANCIAL IMPLICATIONS

- 12.1 The overall gross expenditure budget for homecare is £2.032million per annum, offset by income from service users who are recharged under the Fairer Charging Policy; the actual cost of the services to the Council is currently £1.52million per annum. Within this, the budget for older people's homecare is set for £1.15million in 2018/19.

12.2 Financial implications for external commissioned homecare

- 12.2.1 Fee negotiations are currently being undertaken with homecare providers on the existing framework. The Consumer Price Inflation rate as of February 2018 was 2.6% and if this level of uplift were awarded, it would increase the current hourly rate paid to external providers from £16.46 to £16.90. As the homecare fee paid by Rutland is already one of the highest in the region, the negotiations will take this into account.
- 12.2.2 Based on the current level of hours commissioned to external providers, the annual cost of external homecare provision in Rutland would be £1.18million per annum for older people's homecare should the full inflationary uplift of 2.6% be given. Were the Council to use the UK Homecare Association costing model which uses a UK average cost of delivering care, the fee would increase £18.00 per hour, bringing the annual cost of external homecare provision to £1.26million per annum, costing the Council in excess of an additional £320,000 over a four year period.
- 12.2.3 The contract value for the external provision has been set slightly lower at £1.074million per annum, to allow for a number of future care packages to be held by the CCSS rather than be commissioned out to external providers.

12.3 Financial implications for the Complex Care Service

- 12.3.1 The trial has used Better Care Fund Programme funding to enable it to be 'twin-tracked' whilst the model and viability of the service is tested. This is time-limited and the funding will need to be mainstreamed in the future if the service continues.
- 12.3.2 When care packages are held by CCSS, rather than commissioned from external homecare providers, the funding will be moved across accordingly to enable the further roll-out to be funded from the budget allocation set within the MTFP.
- 12.3.3 Detailed financial viability will be undertaken as the trial is expanded to ensure that the costs would not go beyond the MTFP.

13 ALTERNATIVE OPTIONS

- 13.1 To not re-procure domiciliary care services would leave insufficient services for vulnerable people requiring care and support in the community.
- 13.2 To continue with how care packages are currently commissioned and supported would mean that services were not fit for purpose now or in the future. This would impact on how effective providers were in supporting individuals, and on future capacity as demand for services increases.
- 13.3 The complex care support service is not sufficiently rigorously tested to roll-out fully at this point, and is not designed to replace all homecare services. Given the outcomes achieved so far, to not continue to develop this service would leave a gap for those service users with complex needs for whom homecare packages are difficult to commission.
- 13.4 Under the Public Contract Regulations 2015, Award Criteria must be set prior to procurement starting. There is no alternative to setting these in advance.
- 13.5 The approval of award of the contracts could be brought back to Cabinet for approval rather than delegated to the Portfolio Holder and Director for People, however the award will be made in line with the award criteria Cabinet approve and therefore the only alternative to not approving the award would be if there were reasonable grounds to not award at all.

14 LEGAL AND GOVERNANCE CONSIDERATIONS

- 14.1 The Council has duties under the Care Act 2014 to “*provide or arrange services that help prevent people developing needs for care and support or delay people deteriorating such that they would need ongoing care and support*” and manage the market to ensure that there is sufficient provision for both local authority funded individuals and self-funders.
- 14.2 The split between continuing to contract external providers and the development of in-house provision enables the Council to support a mixed market within Rutland which provides choice to self-funders.
- 14.3 The Care Act also stipulates that local authorities should have arrangements in place to identify and support individuals with particular types of preventative support which support, reduce or delay the need for ongoing care and support from the local authority. This model meets that requirement.
- 14.4 The procurement process for the homecare contracts has been drawn up by Welland Procurement Unit, in line with the requirements of the Public Contracts Regulations 2015 and the Council’s Contract Procedure Rules.
- 14.5 Legal advice on the procurement process has been sought.
- 14.6 The Complex Care Support Service has been added to the Council’s Community Support Services Care Quality Commission (CQC) registration.

15 EQUALITY IMPACT ASSESSMENT

- 15.1 The intention behind the procurement and the rollout of an internal complex care support service is to ensure better outcomes, better choices and availability of support for Rutland residents would need support. An Equality Impact Assessment will be undertaken against the new service structure developed.

16 COMMUNITY SAFETY IMPLICATIONS

- 16.1 Any development of services needs to take into account community safety implications as per Section 17 of the Crime & Disorder Act 1998. The commissioning of high quality services should contribute to the safety and reduction of risk of vulnerable people.

17 HEALTH AND WELLBEING IMPLICATIONS

- 17.1 The proposed model will improve the Council's response for people living in their own home who require care and support services. This supports the health and wellbeing of Rutland residents.

18 ORGANISATIONAL IMPLICATIONS

- 18.1 Under the homecare procurement, TUPE (Transfer of Undertakings (Protection of Employment) Regulations) may apply to a number of staff employed by homecare providers currently holding contracts with the Council. All current providers will be obliged to submit information for staff whom they believe will be subject to TUPE to support potential providers in understanding staffing implications and undertaking due diligence.
- 18.2 TUPE will not apply to the complex care support service trial as the service is taking new packages of care only and so there are staff currently delivering that care who will need to transfer across.

19 SOCIAL VALUE IMPLICATIONS

- 19.1 Under the provisions of the Public Services (Social Value) Act 2012 local authorities are required to consider how economic, social, and environmental well-being may be improved by services that are to be procured, and how procurement may secure those improvements.
- 19.2 The award criteria include specific reference to Social Value and require demonstration of the additional value gained by Rutland through the delivery of the contracts.

20 CONCLUSION AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

- 20.1 Both elements of provision have been developed to take into account the feedback from service users, providers and commissioners of the current services, and meet the future needs of Rutland service users in line with our strategies and priorities.
- 20.2 In order for the procurement process to commence the award criteria needs to be approved by Cabinet. The criteria have been carefully considered to ensure that providers successful in the process are capable of meeting the requirements and can deliver appropriate quality services in Rutland.

20.3 It is recommended that once the award criteria are approved, approval of the award of contracts is delegated to the Director for Peoples in consultation with the Portfolio Holder. Decisions will only be taken in line with Cabinet approved criteria.

20.4 Cabinet approval is required to continue and gradually extend the Complex Care Support Service. The model has been developed to meet complex needs with quality care and support, an extension will enable it to be further developed and the longer-term viability of the model evaluated.

21 BACKGROUND PAPERS

21.1 Report No: 106/2016 – Residential and Domiciliary Care Fees and Future Planning requested Cabinet approves the recommissioning of domiciliary care in Rutland.

21.2 Report No: 131/2016 Home (Domiciliary) Care tabled at People (Adults & Health) Scrutiny Panel July 2016 sets out background detail on the provision of home care in Rutland.

21.3 Report No: 69/2018 – Homecare Recommissioning Cabinet requested extension of the current homecare contracts.

22 APPENDICES

22.1 Appendix A: Indicative Procurement Timetable

22.2 Appendix B: Proposed Award Criteria

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Appendix A. Indicative Procurement Timetable

Action	By When
Cabinet Approval for Award Criteria	19 th June 2018
OJEU Notice/ Contracts Finder and Source Rutland published	29 th June 2018
Invitation to Tender published	2 nd July 2018
Deadline for questions from bidders	30 th July 2018
Deadline for responses to questions	6 th August 2018
Tender submissions deadline	24 th August 2018
Evaluation of Tenders	14 th September 2018
Clarification meetings (where required)	w/c 17 th or w/c 24 th September 2018
Approval of preferred bidders	By 12 th October 2018
Notification of award/start of standstill and due diligence	15 th October 2018
End of standstill	25 th October 2018
Contract award	26 th October 2018
Contract start date	1 st April 2019

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Appendix B. Proposed Award Criteria

1. Suitability Questionnaire

Pass/fail

1.1 There will be an additional Service specific criteria included within the mandatory suitability questionnaire:

The following requirements are service specific for this procurement:

- Current CQC registration

Pass/fail

2. Evaluation Criteria

Criteria	Weighting
1) Outline your experience of delivering these types of services and how that will translate into the delivery of an effective service within Rutland, demonstrating your understanding of Rutland's communities and its health and social care issues.	10%
2) Outline your planned delivery model for the service, including: <ul style="list-style-type: none">• Staffing• Capacity• Organisational structure inc governance arrangements• Visibility within the county• Implementation by 1st April	12%
3) How will you meet local needs of those across the county, ensuring there is sufficient cover of support across Rutland	9%
4) Explain how you would ensure you will meet the outcomes set out in the service specification. You should include what you will measure to demonstrate this, and how.	9%
5) How will you ensure that your staff have appropriate levels of knowledge, understanding and experience of services and policy to deliver effective services? What action will you take to ensure that staff are trained and upskilled as the health and care landscape develops?	9%
6) Provide evidence of your compliance against national quality and clinical guidelines.	7%
7) Provide evidence of how you gather and use service user and carer feedback – including complaints and Serious Incidents – and use these to influence service development and practice.	8%

8) Detail your organisation's policies in place regarding safeguarding and avoidance of abuse, including investigation of allegations of abuse.	8%
9) Provide examples of service development and innovation you have undertaken to ensure services meet service users' needs, and continuously develop in line with those needs.	5%
10) Detail the social value your service will deliver across at least two of the three areas of: <ul style="list-style-type: none"> - supporting the local economy; - reducing demand for public services; and - looking after the local environment. This should be additional value above and beyond the specified service and at no additional cost.	3%

Price Criteria

Bidders will be expected to agree to deliver at the fee rate stated in the tender.

The quality: price ratio will be 80:20; with 20% of the overall weighting awarded for price.

CABINET

19 JUNE 2018

DATA PROTECTION POLICIES AND UPDATE

Report of the Director for Resources

Strategic Aim:	Sound Financial and Workforce Planning	
Key Decision: No	Forward Plan Reference: 240518	
Exempt Information	No	
Cabinet Member(s) Responsible:	Mr O Hemsley, Leader and Portfolio Holder for Rutland One Public Estate & Growth, Tourism & Economic Development, Resources (other than Finance and Communications)	
Contact Officer(s):	Debbie Mogg, Director for Resources	01572 758358 dmogg@rutland.gov.uk
	Adele Wylie, Head of Legal and Corporate Governance	01572758154 awylie@rutland.gov.uk
Ward Councillors	N/A	

DECISION RECOMMENDATIONS

That Cabinet:

1. Approves the Data Protection Policies and Procedures as set out in Appendices 1, 2 and 3

1 PURPOSE OF THE REPORT

- 1.1 This report outlines the new data protection laws which came into force on 25 May 2018. It sets out the steps which the Council has taken to prepare for the new data protection regime and it seeks Cabinet's approval to the new policies which have been introduced as part of the preparatory work.

2 BACKGROUND AND MAIN CONSIDERATIONS

- 2.1 The General Data Protection Regulation (GDPR) is a European Directive which came into force on 25 May 2018. It creates a new data protection standard that applies to all Member States in the European Union.
- 2.2 In very broad terms, the GDPR sets out the respective responsibilities of data controllers, such as the Council, data processors who are responsible for processing personal data on behalf of the Council and data subjects who are individuals whose personal data is being processed.
- 2.3 The GDPR defines 'personal data' as any information relating to an identified or identifiable natural person; an identifiable natural person is one who can be identified directly or indirectly.
- 2.4 The most common examples of personal data are individuals' names, addresses, dates of birth etc.
- 2.5 A number of very significant changes have been introduced by the GDPR which are summarised in the report.
- 2.6 The UK Government has introduced a Data Protection Bill which is intended to give domestic effect to the GDPR. The GDPR provides an overall data protection framework and the Bill, once enacted, will fill in a number of gaps in the framework and provide a much more detailed set of statutory provisions which will take effect in the UK. The new Act will have to be read together with the GDPR on the basis that some provisions within the Act will apply where the GDPR is silent and vice versa.

Summary of changes introduced by the GDPR

The Requirement of the Council to appoint a Statutory Data Protection Officer (DPO)

- 2.7 The DPO is responsible for ensuring that the Council fully complies with the GDPR and the new Data Protection Act (DPA). The DPO is required to have a direct reporting line to the Chief Executive and the Information Governance Officer has assumed this role for the Council. Her statutory duties include:
- informing and advising the Council and its Members and Officers who process individuals' personal data;
 - monitoring compliance with the GDPR and DPA and the Council's data protection policies and procedures;
 - providing advice in relation to Data Protection Impact Assessments and monitoring their performance;

- acting as the Council's contact point for the Information Commissioner's Office

2.8 The DPO has drafted a Data Protection Policy, a Data Breach Policy and a Retention Policy which are respectively attached as Appendices one, two and three to the report.

Individual Rights

2.9 A key feature of the GDPR is that data controllers such as the Council are required to process individuals' personal data in a transparent manner and therefore it has provided for the following rights for individuals:

- Right to be informed about the collection and use of their personal data;
- Right to request that their inaccurate personal data is rectified;
- Right to request that their personal data is erased. This is also known as
- Right to be forgotten';
- Right to request that the processing of their personal data is restricted;
- Right to data portability which allows individuals to obtain and reuse their personal data across different Council services;
- Right to object to the processing of their personal data;
- Right not to be subject to automated decision making including profiling

2.10 The GDPR has also shortened the right for a person to access their data this timescale to one calendar month and the requirement to pay a fee has been dispensed with. This will place an additional burden on the Council as it is anticipated that there will be an increase in the number of subject access requests made to it.

2.11 Guidance on the Individual Rights has been produced and can be found on the Council's website.

Data Protection Impact Assessments

2.12 Both the GDPR and the DPA require that carrying out a Data Protection Impact Assessment (DPIA) is mandatory in certain circumstances. A DPIA is a process to help identify and minimise the data protection risks of a particular Council project when the processing of personal data is likely to result in a high risk to individuals' interests.

2.13 A Procedure for undertaking a DPIA has been drafted which includes a template for the use of Officers and can be found on the Council's Website. Officers will also have to consider whether there is a need for a DPIA as part of the formal report writing process.

Data Protection Privacy Notices

- 2.14 The Council is required by law to publish a Privacy Notice. Individuals have the right to be informed about the collection and use of their personal data. This is a key transparency requirement under the GDPR.
- 2.15 The DPO has drafted a Generic Data Protection Privacy Notice for the Council which can be found on the Council Website. In addition service areas have been provided with privacy notices which they can amend depending on the how they are using the data.
- 2.16 The DPO has also added Privacy Notices to members profiles on the Council's website so that the public know how they are using their data.

Reporting Data Protection Breaches

- 2.17 Two very significant changes have been introduced by the GDPR in relation to data protection breaches. The first imposes an obligation on the Council to notify the ICO of a breach within 72 hours of it occurring. Failure to do so may result in a fine of up to 10 million Euros [£8.8m] being imposed on the Council.
- 2.18 The second change is that the ICO has the power to impose a fine of up to 20 million Euros [£17.6m] if a data protection breach occurs within the Council. A Data Incident Response Policy is attached at Appendix Two of this report.

Document Retention and Destruction Policy

- 2.19 The Council has a statutory responsibility to retain and destroy all of its records in accordance with the requirements of the GDPR, the DPA and indeed other relevant legislation. 'Data minimisation' lies at the heart of the new data protection regime and both the GDPR and the DPA stipulate that personal data shall not be kept longer by a data controller than is necessary for its purpose. Therefore, a Records and Retention Policy has been devised with the objective of providing guidance in this respect. A copy of this Policy is attached as Appendix Three to the report.

Data Mapping

- 2.20 A data mapping exercise was conducted throughout the Council. The purpose of this was to try to capture, by categories, details of as much of the personal data that the Council handles and processes as possible. The information which has been obtained has been translated into an Information Asset Register. This register provides comprehensive overview of the personal data which the Council holds which will further evidence the Council's overall compliance with the new data protection regime.

Forms and Contracts

- 2.21 All forms within the Council have been updated to ensure compliance with the GDPR.
- 2.22 A process is currently underway to update all supplier contracts. The GDPR specifies that controllers of data must specify how processors of their data use it.

Training and Awareness

- 2.23 The Council has introduced an e-learning module on the GDPR which is mandatory for all officers in the Council to complete.
- 2.24 The DPO has also attended a number of staff and management meetings across the Council for the purpose of raising awareness of the requirements of the new data protection regime.
- 2.25 The DPO also conducted training for elected members and small/medium businesses.

3 CONSULTATION

- 3.1 Internal services have been consulted with throughout the preparatory work to ensure compliance.
- 3.2 External suppliers have been consulted with in relation to existing contracts which are required to be varied in accordance with the new legislation.
- 3.3 A Project Board was established with representatives from all Directorates which has driven the work plan to achieve compliance.

4 ALTERNATIVE OPTIONS

- 4.1 The GDPR and the Data Protection Bill, will introduce a new data protection regime and standard and the Council, in its capacity as a data controller, has no option other than to fully comply with the new set of laws.

5 FINANCIAL IMPLICATIONS

- 5.1 There are no direct financial implications arising from the report. However, as set out in the report there are two changes being introduced as part of GDPR, which will potentially have significant financial implications. Failure to report a breach to the ICO will carry a fine of up to £10 million Euros (£8.8m) and data breach fines will be up to 20 million Euros (£17.6m). These are significantly higher than fines under the current regime.

6 LEGAL AND GOVERNANCE CONSIDERATIONS

- 6.1 Legal implications are contained within the body of the report.

7 EQUALITY IMPACT ASSESSMENT

- 7.1 An Equality Impact has not been completed and it is not envisaged that there are an equality implications.

8 COMMUNITY SAFETY IMPLICATIONS

- 8.1 None identified

9 HEALTH AND WELLBEING IMPLICATIONS

- 9.1 None identified

10 ORGANISATIONAL IMPLICATIONS HUMAN RESOURCE IMPLICATIONS

10.1 None identified

11 CONCLUSION AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

11.1 The laws on data protection have been overhauled by European and Domestic Legislation and the Council needs to ensure that it is fully compliant with them and to evidence its compliance by having a set of robust policies and procedures in place.

12 BACKGROUND PAPERS

12.1 There are no additional background papers to the report

13 APPENDICES

13.1 Appendix One - Data Protection Policy

13.2 Appendix Two - Data Incident Response Policy

13.3 Appendix Three - Retention and Records Disposal Policy

A Large Print or Braille Version of this Report is available upon request – Contact 01572 722577.



Rutland County Council

Data Protection Policy

Version & Policy Number	Version one
Guardian	Data Protection Officer
Date Produced	May 2018
Next Review Date	

Approved by Cabinet	PENDING APPROVAL
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SUMMARY OF DOCUMENT

Rutland County Council is committed to a policy of protecting the rights and privacy of individuals, including service users, staff and others, in accordance with the General Data Protection Regulation (GDPR) May 2018.

The new regulatory environment demands higher transparency and accountability in how the Council manage and use personal data. It also accords new and stronger rights for individuals to understand and control that use.

The GDPR contains provisions that we will need to be aware of as data controllers, including provisions intended to enhance the protection of service users' personal data. For example, the GDPR requires that:

We must ensure that the Council has privacy notices that are written in a clear, plain way that staff and service users will understand.

Rutland County Council needs to process certain information about its staff, service users and other individuals with whom it has a relationship for various purposes such as, but not limited to:

- The recruitment and payment of staff.
- The administration of services.
- Collecting payments and fees.
- Complying with legal obligations.

To comply with various legal obligations, including the obligations imposed on it by the General Data Protection Regulation (GDPR) Rutland County Council must ensure that all this information about individuals is collected and used fairly, stored safely and securely, and not disclosed to any third party unlawfully.

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1. COMPLIANCE

- 1.1 This policy applies to all staff and service users of Rutland County Council. Any breach of this policy or of the Regulation itself will be considered an offence and the Council's disciplinary procedures will be invoked.
- 1.2 As a matter of best practice, other agencies and individuals working with Rutland County Council and who have access to personal information, will be expected to read and comply with this policy. It is expected that departments who are responsible for dealing with external bodies will take the responsibility for ensuring that such bodies sign a contract which among other things will include an agreement to abide by this policy.
- 1.3 This policy will be updated as necessary to reflect best practice in data management, security and control and to ensure compliance with any changes or amendments to the GDPR and other relevant legislation.

2. GENERAL DATA PROTECTION REGULATION (GDPR)

- 2.1 This piece of legislation comes in to force on the 25 May 2018. The GDPR regulates the processing of personal data, and protects the rights and privacy of all living individuals (including children), for example by giving all individuals who are the subject of personal data a general right of access to the personal data which relates to them. Individuals can exercise the right to gain access to their information by means of a 'subject access request'. Personal data is information relating to an individual and may be in hard or soft copy (paper/manual files; electronic records; photographs; CCTV images), and may include facts or opinions about a person.

3. RESPONSIBILITIES UNDER THE GDPR

- 3.1 Rutland County Council will be the 'data controller' under the terms of the legislation – this means it is ultimately responsible for controlling the use and processing of the personal data. The council appoints a Data Protection Officer (DPO), who is available to address any concerns regarding the data held by the council and how it is processed, held and used.
- 3.2 The Senior Management Team is responsible for all day-to-day data protection matters, and will be responsible for ensuring that all members of staff and relevant individuals abide by this policy, and for developing and encouraging good information handling within the council.
- 3.3 The DPO is also responsible for ensuring that the council's registrations is kept accurate. Details of the council's registrations can be found on the Office of the Information Commissioner's website. Compliance with the legislation is the personal responsibility of all staff who process personal information.

- 3.4 Individuals who provide personal data to the Council are responsible for ensuring that the information is accurate and up-to-date.

4. DATA PROTECTION PRINCIPLES

- 4.1 The legislation places a responsibility on every data controller to process any personal data in accordance with the eight principles. More detailed guidance on how to comply with these principles can be found on the Information Commissioners website (www.ico.gov.uk).

- 4.2 In order to comply with its obligations, Rutland County Council undertakes to adhere to the eight principles:

- 1) **Process personal data fairly and lawfully** - Rutland County Council will make all reasonable efforts to ensure that individuals who are the focus of the personal data (data subjects) are informed of the identity of the data controller, the purposes of the processing, any disclosures to third parties that are envisaged; given an indication of the period for which the data will be kept, and any other information which may be relevant.
- 2) **Process the data for the specific and lawful purpose for which it collected that data and not further process the data in a manner incompatible with this purpose** - Rutland County Council will ensure that the reason for which it collected the data originally is the only reason for which it processes those data, unless the individual is informed of any additional processing before it takes place.
- 3) **Ensure that the data is adequate, relevant and not excessive in relation to the purpose for which it is processed** - Rutland County Council will not seek to collect any personal data which is not strictly necessary for the purpose for which it was obtained. Forms for collecting data will always be drafted with this mind. If any irrelevant data are given by individuals, they will be destroyed immediately.
- 4) **Keep personal data accurate and, where necessary, up to date** - Rutland County Council will review and update all data on a regular basis. It is the responsibility of the individuals giving their personal data to ensure that this is accurate, and each individual should notify the Council if, for example, a change in circumstances mean that the data needs to be updated. It is the responsibility of the Council to ensure that any notification regarding the change is noted and acted on.
- 5) **Only keep personal data for as long as is necessary** - Rutland County Council undertakes not to retain personal data for longer than is necessary to ensure compliance with the legislation, and any other statutory requirements. This means Rutland County Council will undertake a regular review of the information held and implement a weeding process.

Rutland County Council will dispose of any personal data in a way that protects the rights and privacy of the individual concerned (e.g. secure electronic deletion, shredding and disposal of hard copy files as confidential waste).

6) **Process personal data in accordance with the rights of the data subject under the legislation** - Individuals have various rights under the legislation including a right to:

- be told the nature of the information the Council holds and any parties to whom this may be disclosed.
- prevent processing likely to cause damage or distress.
- prevent processing for purposes of direct marketing.
- be informed about the mechanics of any automated decision taking process that will significantly affect them.
- not have significant decisions that will affect them taken solely by automated process.
- sue for compensation if they suffer damage by any contravention of the legislation.
- take action to rectify, block, erase or destroy inaccurate data.
- request that the Information Commissioner Office assess whether any provision of the Regulations has been contravened.

Rutland County Council will only process personal data in accordance with individuals' rights.

7) **Put appropriate technical and organisational measures in place against unauthorised or unlawful processing of personal data, and against accidental loss or destruction of data** - All members of staff are responsible for ensuring that any personal data which they hold is kept securely and not disclosed to any unauthorised third parties.

Rutland County Council will ensure that all personal data is accessible only to those who have a valid reason for using it.

Rutland County Council will have in place appropriate security measures e.g. ensuring that hard copy personal data is kept in lockable filing cabinets/cupboards with controlled access (with the keys then held securely in a key cabinet with controlled access):

- keeping all personal data in a lockable cabinet with key-controlled access.
- password protecting personal data held electronically.
- archiving personal data which are then kept securely (lockable cabinet).
- placing any PCs or terminals, CCTV camera screens etc. that show personal data so that they are not visible except to authorised staff.
- ensuring that PC screens are not left unattended without a password protected screen-saver being used.

In addition, Rutland County Council will put in place appropriate measures for the deletion of personal data - manual records will be shredded or disposed of as 'confidential waste' and appropriate contract terms will be put in place with any third parties undertaking this work. Hard drives of redundant PCs will be wiped clean before disposal or if that is not possible, destroyed physically.

This policy also applies to all staff who process personal data 'off-site', e.g. when working at home, and in circumstances additional care must be taken regarding the security of the data.

- 8) **Ensure that no personal data is transferred to a country or a territory outside the European Economic Area (EEA) unless that country or territory ensures adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data** - Rutland County Council will not transfer data to such territories without the explicit consent of the individual.

This also applies to publishing information on the Internet - because transfer of data can include placing data on a website that can be accessed from outside the EEA - so Rutland County Council will always seek the consent of individuals before placing any personal data (including photographs) on its website.

If the Council collects personal data in any form via its website, it will provide a clear and detailed privacy statement prominently on the website, and wherever else personal data is collected.

5. CONSENT AS A BASIS FOR PROCESSING

- 5.1 Although it is not always necessary to gain consent from individuals before processing their data, it is often the best way to ensure that data is collected and processed in an open and transparent manner. Consent is especially important when Rutland County Council is processing any sensitive data, as defined by the legislation.
- 5.2 Rutland County Council understands consent to mean that the individual has been fully informed of the intended processing and has signified their agreement (e.g. via a form) whilst being of a sound mind and without having any undue influence exerted upon them. Consent obtained on the basis of misleading information will not be a valid basis for processing. Consent cannot be inferred from the non-response to a communication.

Personal Details

- For the purposes of the General Data Protection Regulation (GDPR) (Regulation (EU) 2016/679) you consent to the Council holding and processing personal data including sensitive personal data of which you are the subject, details of which are specified in the Council's data protection policy.
- This will include marketing images and the Council CCTV.

- 5.3 Rutland County Council will ensure that any forms used to gather data on an individual will contain a statement (Privacy Notice) explaining the use of that data, how the data may be disclosed and also indicate whether or not the individual needs to consent to the processing.
- 5.4 Rutland County Council will ensure that if the individual does not give his/her consent for the processing, and there is no other lawful basis on which to process the data, then steps will be taken to ensure that processing of that data does not take place.

6. SUBJECT ACCESS RIGHTS (SARS)

- 6.1 Individuals have a right to access any personal data relating to them which are held by the Council. Any individual wishing to exercise this right should apply in writing to the Data Protection Officer. Any member of staff receiving a SAR should forward this to the Data Protection Officer.
- 6.2 Under the terms of the legislation, any such requests must be complied with within one month of receipt.
- 6.3 For detailed guidance on responding to SARs, see the Rutland County Council website (rutland@rutland.gov.uk).

7. DISCLOSURE OF DATA

- 7.1 Only disclosures which have been notified under the Council's Data Protection process must be made and therefore staff should exercise caution when asked to disclose personal data held on another individual or third party.
- 7.2 Rutland County Council undertakes not to disclose personal data to unauthorised third parties, including family members, friends, government bodies and in some circumstances, the police.

Legitimate disclosures may occur in the following instances:

- the individual has given their consent to the disclosure.
 - the disclosure is required for the performance of a contract.
- 7.2 There are other instances when the legislation permits disclosure without the consent of the individual. For detailed guidance on disclosures see the Information Commissioners Office website (ico.org.uk).
- 7.3 In no circumstances will Rutland County Council sell any of its databases to a third party.

8. PUBLICATION OF COUNCIL INFORMATION

8.1 Rutland County Council publishes various items which will include some personal data, e.g.

- event information.
- photos and information in marketing materials.

9. EMAIL

9.1 It is the policy of Rutland County Council to ensure that senders and recipients of email are made aware that under the GDPR, and Freedom of Information Legislation, the contents of email may have to be disclosed in response to a request for information. One means by which this will be communicated will be by a disclaimer on the Council's email.

9.2 Under the Regulation of Investigatory Powers Act 2000, Lawful Business Practice Regulations, any email sent to or from the Council may be accessed by someone other than the recipient for system management and security purposes.

10. CCTV

10.1 There are some CCTV systems operating within Rutland County Council for the purpose of protecting people and property. Rutland County Council will only process personal data obtained by the CCTV system in a manner which ensures compliance with the GDPR.

11. PROCEDURE FOR REVIEW

11.1 This policy will be updated as necessary to reflect best practice or future amendments made to the General Data Protection Regulation (GDPR) May 2018.

11.2 Please follow this link to the ICO's website (www.ico.gov.uk) which provides further detailed guidance on a range of topics including individuals' rights, exemptions from the Act, dealing with subject access requests, how to handle requests from third parties for personal data to be disclosed etc.

For help or advice on any data protection or freedom of information issues, please do not hesitate to contact:

The Data Protection Officer (DPO): Sue Bingham

**A large print version of this document is available on
request**



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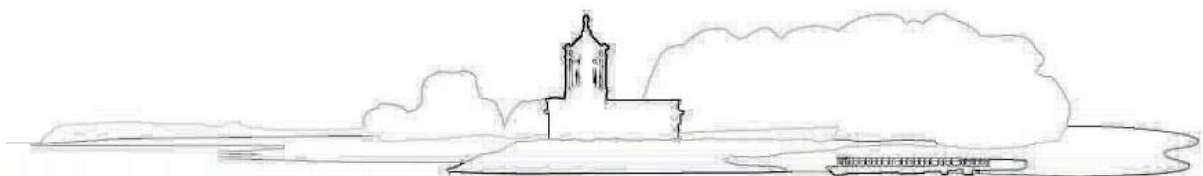


Rutland County Council

DATA INCIDENT RESPONSE POLICY

Version & Policy Number	Version one
Guardian	Data Protection Officer
Date Produced	May 2018
Next Review Date	

Approved by Cabinet	PENDING APPROVAL
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Summary of document

This Policy provides a clear framework in which Members and Officers should operate in the event of a data incident. This Policy should be read in conjunction with other policies and procedures that support the Council's commitment to information governance.

DRAFT

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DATA INCIDENT RESPONSE POLICY

1.1. Policy Statement

Rutland County Council holds large amounts of personal and special data. Every care is taken to protect personal data and to avoid a data protection breach. In the unlikely event of data being lost or shared inappropriately, it is vital that appropriate action is taken to minimise any associated risk as soon as possible.

1.2. Purpose

This Policy sets out the procedure to be followed by all Rutland County Council Members and Officers if a data protection breach takes place.

1.3. Scope

This Policy applies to all personal and special data held by Rutland County Council (see below).

1.4. Legal Context

The General Data Protection Regulations makes provision for the regulation of the processing (use) of information relating to individuals, including the obtaining, holding, use or disclosure of such information.

Principle 6 of the General Data Protection Regulations states that organisations which process personal data must take “process in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures”.

1.4.1. Data

Data means information which applies to both automated personal data and to manual filing systems where personal data are accessible according to specific criteria. This could include chronologically ordered sets of manual records containing personal data.

Personal data that has been pseudonymised (for example; key-coded)

1.4.2. Personal Data

Personal data means data which relates to a living individual who can be identified directly or indirectly by reference to an identifier. This definition provides for a wide range of personal identifiers to constitute personal data, including name, identification number, location data or online identifier, reflecting changes in technology and the way organisations collect information about people.

1.4.3. Special/Sensitive Personal Data

Special/Sensitive personal data means personal data consisting of information as to The General Data Protection Regulation refers to sensitive personal data as “special categories of personal data” (Article 9 of the General Data Protection Regulations).-

- (a) the racial or ethnic origin of the data subject,
- (b) his/her political opinions,
- (c) his/her religious beliefs or other beliefs of a similar nature,
- (d) whether he/she is a member of a trade union (within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992),
- (e) his/her physical or mental health or condition,
- (f) his/her sexual life,
- (g) genetic data,
- (h) biometric data

Personal data relating to criminal convictions and offences are not included, but similar extra safeguards apply to its processing (Article 10 of the General Data Protection Regulations).

1.5. Types of Breach

Data protection breaches could be caused by a number of factors. Some examples are (this list is not definitive):

- Loss or theft of data or equipment on which data is stored
- Inappropriate access controls allowing unauthorised use
- Equipment failure
- Human error
- Unforeseen circumstances such as fire or flood
- Hacking
- ‘Blagging’ offences where information is obtained by deception

2. Breach Management

As soon as the data breach occurs or is discovered, it must be reported by whoever has committed or discovered the breach to their manager and the Data Protection Officer (DPO). The DPO will notify the appropriate senior officers, including the Chief Executive (who will notify the relevant Members) and then launch an investigation into the data breach including appointing a designated Investigation Lead Officer (ILO) who will be responsible for all aspects of the breach investigation process.

2.1. Containment and Recovery

The DPO will coordinate with departmental managers to:

- Establish if the breach is ongoing and take immediate action to stop the breach and to minimise the impact and effect of the breach;
- Establish who needs to be made aware of the breach and inform them of what they are expected to do to assist in the containment exercise;

- Establish whether there is anything the Council can do to recover any losses and limit the damage the breach can cause;
- Instigate the recovery of physical equipment, where appropriate;
- As far as is practically possible, ensure that Council staff recognise and take action to avoid anyone trying to use the lost or stolen data to access accounts;
- Inform the police, where appropriate;
- Inform the banks/building societies and card providers if appropriate: and
- Inform the Strategic Communications Advisor so that a press statement can be prepared in the event of a media enquiry; depending on the extent and nature of the breach.

If the breach occurs or is discovered outside normal working hours, the investigation and notification of relevant officers should begin as soon as is practicable.

Records must be kept of all actions taken in line with Rutland County Councils Draft Retention and Records Management Policy. The DPO is responsible for collating all records.

2.2. Assessment of an Ongoing Breach

The nature of the breach will determine what steps are necessary in addition to immediate containment. This will be done by an assessment of the risks associated with the breach. This risk assessment will be undertaken by the DPO.

The most important aspect is an assessment of potential adverse consequences for the subject(s) of the data breach, how serious or substantial these are and how likely they are to happen. This will be based on:

- What type of data is involved?
- How sensitive is the data?
- If data has been lost or stolen, are there any protections in place such as encryption?
- What has happened to the data?
- Regardless of what has happened to the data, what could the data tell a third party about the individual?
- How many individuals' personal data are affected by the breach?
- Who are the individuals whose data has been breached?
- What harm can come to those individuals and/or to the Council?

2.3. Notification of the Breach

The DPO, in conjunction the Head of Legal and Corporate Governance and the relevant Director or Assistant Director shall determine who will be notified, the information the notification will contain and how they will be notified. In determining the extent of the notification the following should be considered (this is not an exhaustive list and each breach must be assessed on its own circumstances):

- Which individuals and/or groups, including Council staff, need to be notified?
- What are the dangers of 'over notifying'?
- Any contractual or operational requirements?
- Which regulatory bodies require notification?

- Can notification help the Council to meet its security obligations with regard to the 6 data protection principle?
- Can notification help the subject(s) of the data breach? Bearing in mind the potential effects of the breach, could the subject(s) act on the notification to mitigate personal risks?
- How many people are affected?
- How serious are the consequences?
- How the notification can be made appropriate for particular groups of individuals.

2.3.1 Determining Serious Breaches

The presumption is that all breaches are 'serious' breaches unless the facts of the breach indicate otherwise.

The DPO must determine if the breach is a serious breach that needs to be notified to the Information Commissioner's Office (ICO). This must be done without undue delay and where feasible no later than 72 hours after the breach occurring.

In order to establish the seriousness of a breach the following must be considered:

- The potential harm to the data subject as a result of the breach, including any distress the data subject may suffer as a result of the breach, which is dependent on the volume and the sensitivity of the data involved.
- The volume of the data involved - this must be determined by the facts and extent of the breach.
- The sensitivity of the data involved - where the data is classed as special personal data and the release of that data can lead to the data subject suffering substantial harm.

Serious breaches should be notified to the ICO and the notification should include details of:

- The type of information and number of records
- The circumstances of the loss / release / corruption
- Actions taken to minimise / mitigate effect on individuals involved including whether they have been informed
- Details of how the breach is being investigated
- Whether any other regulatory body has been informed and their response
- Remedial action taken to prevent future occurrence
- Any other information that may assist the ICO in making an assessment

2.4. Evaluation and Response

Once the breach has been dealt with the ILO should evaluate and report to the DPO the effectiveness of the Council's response to the breach.

Where the breach was caused, even in part, by systemic and ongoing problems, then simply containing the breach and continuing 'business as usual' is not acceptable; similarly, if the Council's response to the breach was hampered by inadequate policies or a lack of a clear allocation of responsibility then any response must review and update these policies and lines responsibility accordingly.

The evaluation must consider, although not limited to:

- Ensuring those who need to be aware know what personal data is held and where and how it is stored.
- Establishing where the biggest risks lie.
- Ensuring that where data is shared, either internally to the Council or externally, the method of transmission is secure and that only relevant data is shared or disclosed.
- Identifying weak points in existing security measures.
- Monitoring staff awareness of security issues and looking to fill any gaps through training or tailored advice

2.5 Employment Considerations

This Policy should be read in conjunction with the Data Protection Policy and ICT Security Policy and the Code of Conduct.

Where a breach of this Policy has occurred it may result in action being taken in accordance with the Council's Disciplinary Policy.

3.0 Monitoring and Review

This Policy shall be reviewed every 12 months after implementation.

3.1. Implementation

This protocol was implemented on August 2014

4.0. Contacts

Sue Bingham	Data Protection Officer 01572 758165
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Appendix 1

DATA BREACH REPORTING FORM

SECTION 1: TO BE COMPLETED BY OFFICER REPORTING BREACH

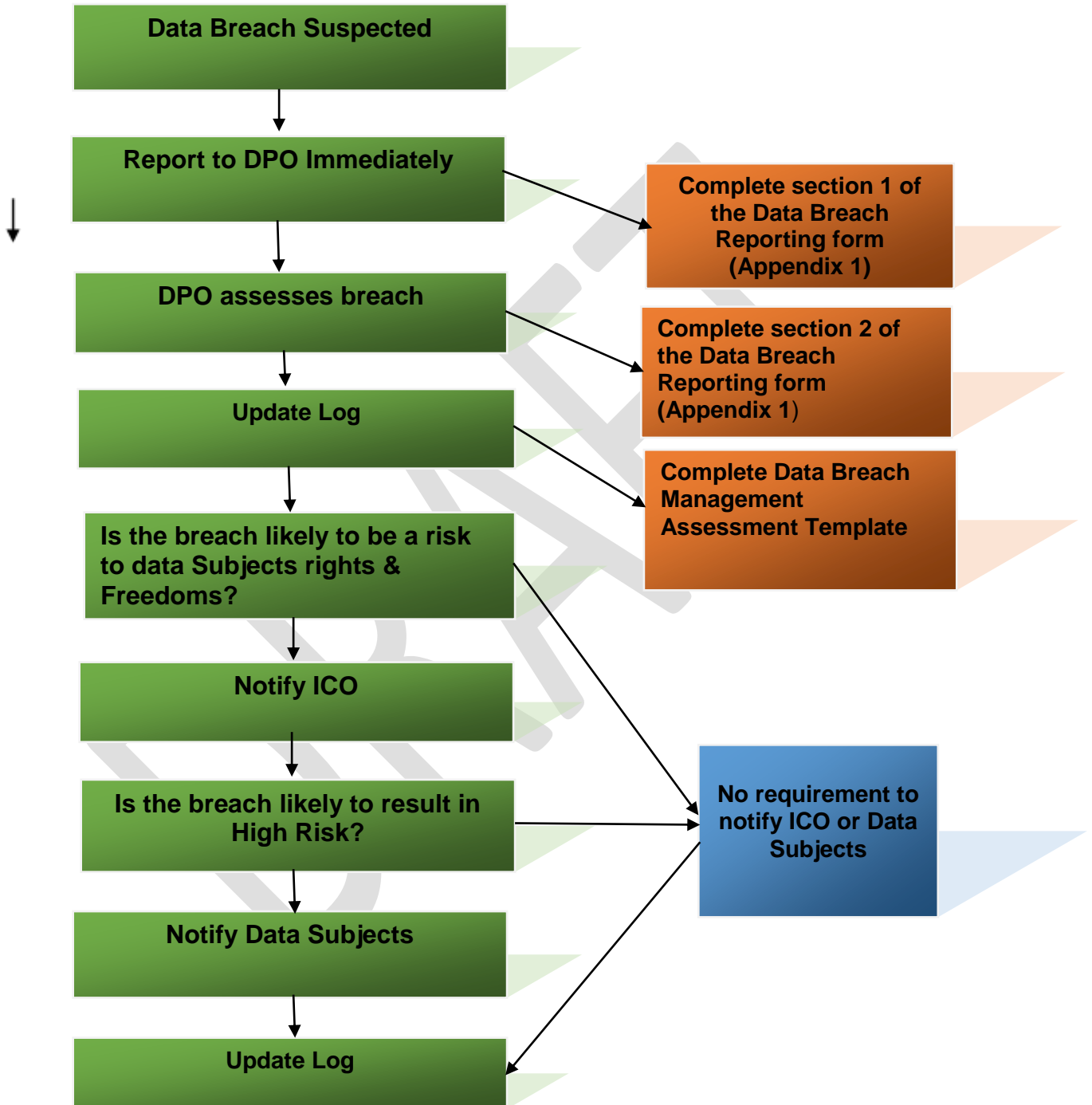
Name of person reporting breach	
Contact details	
The nature of the personal data breach (e.g. alteration or deletion of personal data, transfer to third part not entitled to it, Memory stick lost, etc.)	
When did this occur?	
How did it occur?	
Which individuals are affected by the personal data breach (include categories and approximate number of individuals concerned)	
How many personal data records are concerned?	
How are the individuals likely to be affected by the personal data breach?	
Have any measures been taken or proposed to be taken to deal with the personal data breach?	
Have any measures been taken or proposed to be taken to mitigate any possible adverse effects?	
Signature (of the person reporting the breach)	

SECTION 2: TO BE COMPLETED BY DATA PROTECTION OFFICER

Date and time received	
Is the information complete?	Yes/No. If no, what further information is required?
Details of personal data breach reported to: a) Data Protection Officer (DPO) b) Senior Information Risk Officer (SIRO) c) Senior Management Team	Yes/No When: Yes/No When: Yes/No When:
What measures have been agreed should be taken to deal with the data breach?	
What measures have been agreed should be taken to mitigate harm caused by the personal data breach?	
Personal data breach reported to ICO?	Yes/No When:
Is the personal data breach likely to result in a high risk to the rights and freedoms of the individuals concerned? If Yes individual must be notified directly.	Yes/No When:

Appendix 2

FLOW CHART



A large print version of this document is available on request.



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Rutland County Council

RUTLAND COUNTY COUNCIL DRAFT DOCUMENT RETENTION AND RECORDS MANAGEMENT POLICY AND PROCEDURES

Version & Policy Number	Version one
Guardian	Data Protection Officer
Date Produced	May 2018
Next Review Date	

Approved by Cabinet	PENDING APPROVAL
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Summary of document

Rutland County Council has reviewed the way in which it manages its data. This document sets out the Council's commitment to records management and advises on the procedures to be adopted regarding document retention and disposals.

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4 Roles and Responsibilities	5
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6 Data Protection Legislation – obligation to dispose of certain data	6
7 Standard Operating Procedure (SOP)	6
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1. INTRODUCTION

- 1.1 Rutland County Council recognises that its records are an important public asset, and are a key resource to accountability and effective operation. They require careful management and this Policy sets out the Council's responsibilities and activities in regard to the management and retention of its records.
- 1.2 In the course of carrying out its functions and activities, the Council collects information from individuals and external organisations and generates a wide range of data and information. This can be retained as hard copies or in electronic form.
- 1.3 Retention of specific documents may be necessary to fulfil statutory or other regulatory requirements, evidence events in the case of a dispute and preserve documents of historic and other value.
- 1.4 The untimely destruction of documents could cause the Council to face difficulties in defending litigious claims, meet operational requirements or fail to comply with the Freedom of Information or Data protection legislation.
- 1.5 Conversely, the permanent retention of data and information is unfeasible and appropriate disposal is necessary to allow for adequate storage space and compliance with Data Protection legislation.
- 1.6 The effective management of records in all formats depends as much on their efficient disposal as well as their long-term preservation. As a Local Authority we must be consistent in the way we handle and dispose of our information. These guidelines will assist the Council in meeting local needs whilst providing a consistent approach to record keeping across the organisation.

2. SCOPE AND PURPOSE

- 2.1 The purpose of this policy is to provide a corporate framework to govern how particular documents (or sets of documents) should be:
 - Retained – and if so, in what format, and for what period of time; or
 - Disposed of – and if so, when and by what method.

Additionally this policy seeks to clarify the roles and responsibilities of designated officers in the decision-making process.

- 2.2 This policy is not concerned with the disposal/retention of unused materials (e.g. stocks of paper, unused forms, duplicated documents).

3. THE RETENTION/DISPOSAL PROTOCOL

- 3.1 Any decision whether to retain or dispose of a document should be taken in accordance with the retention/disposal protocol. This Policy consists of the key disposal/retention considerations criteria checklist, set out in Appendix 1. No document should be disposed of unless considered against this criterion.
- This Policy should be used in conjunction with the the Retention Schedules (taken from the Asset Register). These provide guidance on recommended and mandatory minimum retention periods for specific classes of documents/records.

4. ROLES AND RESPONSIBILITIES

- 4.1 Responsibility for determining (in accordance with the Retention/Disposal checklist and schedule) whether to retain or dispose of specific documents rests with the Head of Service.
- 4.2 The Data Protection Officer can advise on whether minimum retention periods are prescribed by law. However, they cannot be expected to possess the operational or background knowledge required to assess whether a particular document may be required by the department concerned for operational need. This is the responsibility of the relevant Head of Service.
- 4.3 The Data Protection Officer is available to provide guidance on effective records management practices.
- 4.4 The Lead responsibility for records management has been assigned to the Data Protection Officer, who is also the Statutory Data Protection Officer for the Council.
- 4.5 Nominated Information Champions have been allocated within each area to act as a communication point and to support the implementation of the corporate records management programme in their respective areas.

5. DISPOSAL

- 5.1 Disposal can be achieved by a range of processes:
- Confidential waste;
 - Physical destruction onsite (shredding);
 - Deletion – where computer files are concerned;
 - Migration of documents to an external body.
- 5.3 The following considerations should be taken into account when selecting any method of disposal:
- Under no circumstances should paper documents containing personal data or confidential information be simply deposited in non-confidential bins.

- If steps are taken to make data virtually impossible to retrieve then this will be regarded as equivalent to deletion.
- Migration of documents to a third party (other than for destruction or recycling) will be relevant where documents or records are of historic interest and/or have intrinsic value. Migration can include the transfer of data to a third party service provider.

6. General Data Protection Regulations

- 6.1 All staff need to be aware that under the General Data Protection Regulations personal data processed for any purpose must not be kept for any longer than is necessary for that purpose. In other words, retaining documents or records that contain personal data beyond the length of time necessary for the purpose for which that data was obtained is unlawful. If legislation is silent on this provision; it is a matter for reasonable judgement and common sense as to how long personal data (which falls outside legislative guidance) should be retained.

7. STANDARD OPERATION PRACTICE (SOP)

- 7.1 There are some records that do not need to be kept at all; SOP defines types of records which staff may routinely destroy in the normal course of business.
- 7.2 SOP usually applies to information that is duplicated, unimportant or only short-term facilitative value. Some examples are:
- Compliment slips
 - Catalogues and trade journals
 - Telephone message slips
 - Non-acceptance of invitations
 - Requests for stock information such as maps, plans or advertising material
 - Out of date distribution lists
 - Duplicate copies of documents (see below)
- 7.3 Duplicated and superseded material such as stationery, manuals, drafts, forms, address books and reference copies of annual reports maybe destroyed as being unimportant. This includes electronic copies of such.

8. FORMAT OF RECORDS

- 8.1 This Document Retention and Records Management Policy is relevant to records which are electronic, paper or record which have been transferred to another format such as microfiche.

9. REVIEWING THE SCHEDULE

- 9.1 These guidelines prescribe minimum and permanent retention periods. The guidance will be reviewed at regular intervals to ensure it is still fit for purpose.

Key Disposal/Retention Considerations

Introduction

No document should be earmarked for disposal unless due regard has been given to five Key Disposal/Retention considerations detailed in this Appendix and with reference to the Retention Schedule Document.

KEY CONSIDERATION 1

Has the document been appraised?

1. As a first step, the nature/contents of any document being considered for disposal should be ascertained. No document(s) should be earmarked or designated for disposal unless this has been done. Insofar as existing documents are concerned it follows that the above can only be achieved by the carrying out of physical inspection and appraisal. The process may only take a few minutes – perhaps even seconds. Nonetheless it can be a skilled task – depending on the complexity of the document(s) concerned – and should only be undertaken by officers who possess the sufficient operational knowledge to enable them to identify the document concerned and its function within both the individual Department and corporate frameworks. Any decision to the effect that future documents of a specified description be disposed of on expiry of a specified retention period should be an informed one i.e. taken with a full appreciation and understanding of the nature and function of such documents.
2. The above is largely common-sense, and hardly needs to be stated. However, if appraisal is inadvertently overlooked or carried out negligently, or by an employee who lacks the necessary background operational knowledge, the Council runs the risk of important documents being destroyed in error.

Key Consideration 2

Is retention required to fulfil statutory or other regulatory requirements?

There is, in fact, very little specific legislation that stipulates mandatory retention periods for documents in Local Government.

The pieces of legislation which do, either directly or indirectly, impose minimum retention periods are as follows:

Tax Legislation: Minimum retention period for certain financial records are imposed by statutes such as the VAT Act 1994, and the Taxes Management Act 1970. The relevant retention periods are identified in the Retention Schedules Document.

Statutory Register: Various Local Government statutes require to be kept of certain events, notifications, or transactions. It is implicit with such legislative requirement that these records be maintained on a permanent basis, unless the legislation concerned stipulates otherwise.

The Audit Commission Act 1998: This provides auditors with a right of access to every document relating to the Council that appears necessary for the purpose of carrying out the auditor's function under the Act.

The Local Government Act 1972, s.225: Any document deposited with "the proper officer" of the Council in accordance with Statute should be retained permanently.

Part VA of the Local Government Act 1972: This governs public access to certain documents relating to Council and Committee meetings. Certain documents that form part of the public part of the agenda are required to be available for inspection by members of the public.

Key Consideration 3

Is retention required to evidence events in the case of dispute?

On occasions, the Council becomes involved in disputes with third parties. Such disputes, if not satisfactorily resolved, can result in the dissatisfied party bringing legal proceedings against the Council, usually (but not always) with a view to obtaining monetary compensation. Conversely, the Council may wish to institute legal proceedings against an individual or organisation e.g. to recover an unpaid debt, or in respect of faulty workmanship. Where a dispute arises, or litigation has been commenced it is important that the Council has access to all correspondence and other documentation that is relevant to the matter. Without such, there is the danger that the Council's position will be compromised, and the possibility that an unmeritorious claim might succeed, or that the Council may be unable to assert legal entitlements.

The Limitations Act 1980 specifies time limits for commencing litigation. The starting point therefore, is that the retention period is the length of time that has to elapse before a claim is barred.

The six-year retention period and risk assessment: As stated above the majority of potential legal claims are statute barred on the expiry of 6 years. For this reason many organisations consider it prudent to retain files/records for a period of 6 years from the date when the subject matter was completed.

Heads of Service (or designated officers) should be prepared to carry out a risk analysis, with a view to disposal of such documents within a shorter period of than the 6 year time frame.

Key Consideration 4

Is retention required to meet the operational needs of the department?

In some cases retention may be desirable (whether permanent or otherwise) even though no minimum retention period applies. Heads of Service (or designated officers) should be open to the danger of discarding documents or records that might be useful for future reference purposes (e.g. training), as precedence, or for performance management (performance indicators, benchmarking and comparison exercises). A professional judgement needs to be made as to the usefulness of a particular document.

Key Consideration 5

Is retention required because the document or record is of historical interest or intrinsic value?

In most cases this consideration will not be applicable. However, it is certainly possible that some documents currently in Council storage may be of historic interest and/or even have some monetary value.

Illustration

A Local Authority may have in its possession records of damage to property caused by air raids during WWII. These records may well be of interest to museums and local history societies.

Where it is suspected that the document falls within this description, appropriate enquires should always be made before taking any further action.

Even if the document is of historical or monetary value, disposal rather than retention by the Council may well be the appropriate option.

A large print version of this document is available on request.



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