

# AGENDA SUPPLEMENT



- Committee - **POLICY DEVELOPMENT PANEL**
- Date & Time - Tuesday, 5 March 2019 at 6.30 pm
- Venue - Meeting Room 1, Council Offices, Priory Road,  
Spalding

## **Membership of the Policy Development Panel:**

Councillors: D Ashby, J R Astill, F Biggadike, M D Booth, H Drury, L J Eldridge, P C Foyster, A Harrison, J L King, J D McLean (Vice-Chairman), A M Newton, J L Reynolds, S-A Slade, E J Sneath, J Tyrrell and A R Woolf (Chairman)

**Substitute members on the Policy Development Panel may be appointed only from members who are not on the Cabinet. Substitutions apply for individual meetings.**

**Quorum: 6**

Persons attending the meeting are requested to turn mobile telephones to silent mode

Democratic Services  
Council Offices, Priory Road  
Spalding, Lincs PE11 2XE

Date: 5 March 2019

## **AGENDA**

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| 9. | Records Management Policy -<br>To consider a shared Records Management Policy (report of Executive<br>Manager – Governance enclosed) | (Pages<br>91 -<br>100) |
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## SOUTH HOLLAND DISTRICT COUNCIL

**Report of:** Tracey Carter – Portfolio Holder for Governance and Customer  
**To:** Policy Development Panel – 5 March 2019  
Cabinet – 12 March 2019  
**Author:** Kirsty Mallett - Information Governance Officer  
**Subject:** Records Management Policy  
**Purpose:** To consider the Records Management Policy for the Council

### **Recommendation(s):**

That the Records Management Policy be considered.

#### **1.0 BACKGROUND**

- 1.1 Section 224 of the Local Government Act 1972 requires the Council to make proper arrangements with respect to any documents that belong to or are in the custody of the Council or any of its officers.
- 1.2 The Records Management Policy has been prepared as part of the work to implement the requirements of the General Data Protection Regulation 2016/679, the Data Protection Act 2018 and associated statutory requirements and guidance.
- 1.3 The Policy outlines how the Council manages its records, which includes retention and disposal.
- 1.4 The Records Management Policy attached to this report has been prepared in consultation with the Executive Manager for Governance/Data Protection Officer and the Executive Manager for Information/Senior Information Risk Officer. The draft policy has also been considered by the Data Protection and Data Retention Task Group where it was supported.

#### **2.0 OPTIONS**

- 2.1 To approve the Records Management Policy with or without delegated authority to make minor amendments to the Policy.
- 2.2 Do nothing.

#### **3.0 REASONS FOR RECOMMENDATION(S)**

- 3.1 The Council is required to have a Records Management Policy and Retention Policy in place in order to show transparency and to comply with Data Protection legislation.

#### **4.0 EXPECTED BENEFITS**

4.1 A Records Management Policy will help to ensure compliance with the requirements of the General Data Protection Regulation 2016/679 and Data Protection Act 2018 and associated statutory requirements and guidance.

## 5.0 **IMPLICATIONS**

In preparing this report, the report author has considered the likely implications of the decision - particularly in terms of Carbon Footprint / Environmental Issues; Constitutional & Legal; Contracts; Corporate Priorities; Crime & Disorder; Data Protection; Equality & Diversity/Human Rights; Financial; Health & Wellbeing; Reputation; Risk Management; Safeguarding; Staffing; Stakeholders/Consultation/Timescales; Transformation Programme; Other. Where the report author considers that there may be implications under one or more of these headings, these are identified below.

### 5.1 **Constitution & Legal**

5.1.1 Implementation of the Records Management Policy will ensure compliance with the Council's constitutional and Legal requirements.

### 5.2 **Contracts**

5.2.1 Transparency is a central principle in the GDPR and this policy will ensure that its contractors are aware how the Council manages its records.

### 5.3 **Financial**

5.3.1 Adoption of the Policy does not of itself have any financial implications. Clearly, compliance with GDPR does have financial implications.

### 5.4 **Corporate Priorities**

5.4.1 To provide the right services, at the right time and in the right way.

### 5.5 **Data Protection**

5.5.1 A Records Management Policy is required to show transparency under GDPR and the Data Protection Act.

### 5.6 **Risk Management**

5.6.1 Having a robust Records Management Policy and associated procedures helps the Council to evidence compliance (the 'accountability principle' under GDPR). This, together with proper use of the policy and procedures, will ensure that our data practices improve and our level of risk reduces.

## 6.0 **WARDS/COMMUNITIES AFFECTED**

6.1 All

## 7.0 **ACRONYMS**

7.1 GDPR – General Data Protection Regulation 2016/679

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Background papers:- None

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**Lead Contact Officer**

Name and Post: Kirsty Mallett, Information Governance Officer  
Telephone Number: 07970 814444  
Email: kirsty.mallett@breckland-sholland.gov.uk

**Key Decision:** No

**Exempt Decision:** No

**This report refers to a Mandatory Service**

**Appendices attached to this report:**

Appendix A Records Management Policy

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## RECORDS MANAGEMENT POLICY

### 1.0 Introduction

Good records management is at the heart of the Modernising Government agenda. Section 224 of the Local Government Act 1972 requires the Council to make proper arrangements with respect to any documents that belong to or are in the custody of the Council or any of its officers.

One of the priorities identified in the Council's Corporate Plan is to "Ensure that our regulatory services are consistent and effective and that the Council is legally compliant".

The Freedom of Information Act 2000 (FOIA) creates a legislative framework for access to all public sector information and places a duty on public authorities to publish information in accordance with 'publication schemes'. The FOIA also amends the Public Records Act 1958 and places obligations on public authorities to maintain their records in accordance with the provisions of a Code of Practice on Records Management, issued by the Lord Chancellor under Section 46 of the Act. The Code can be found here:

<https://ico.org.uk/media/for-organisations/research-and-reports/1432475/foi-section-46-code-of-practice-1.pdf>

ICO Guidance on the Code can be found here:

<https://ico.org.uk/media/for-organisations/documents/1624142/section-46-code-of-practice-records-management-foia-and-eir.pdf>

In order for the Council to respond to a request for information in compliance with the Code, it is necessary to have effective records management procedures in place.

The General Data Protection Regulation and Data Protection Act 2018 provide greater rights to individuals regarding their personal data, including the right to make Data Subject Requests.

This policy should be read in conjunction with the Council's ICT policies, Data Protection Policy and Freedom of Information Policy.

### 2.0 Aim

The aim of this policy is to support the objectives of the Freedom of Information and Data Protection legislation by setting out the practices the Council will follow in relation to recorded information which is created, stored, managed, retained and/or disposed of.

This policy will be available to all internal and external stakeholders and will be on the Council's website [www.sholland.gov.uk](http://www.sholland.gov.uk).

### 3.0 Scope

Records covered by this policy include all records (irrespective of the medium on or in which the information is carried) which belong to or are in the custody of the Council or any of its officers and members. This policy will apply to all Council officers, members, contractors, partners, consultants and service providers who have access to the Council's records.

The Council's archives include:

- records created by the authority and its predecessors in the course of its business;
- 'public records' held on behalf of central government (eg register of electors); and
- records given to or purchased by the authority, or deposited with the authority on indefinite loan.

Failure of a contractor/partner/consultant/service provider to comply could lead to legal action including the cancellation of a contract.

#### **4.0 Objectives**

The Council will ensure that information is created, stored, managed, retained and/or disposed of in conformity with the law and the Lord Chancellor's Code of Practice on Records Management, as follows:

- secure a coordinated approach to the management of information
- ensure relevant staff understand their responsibilities and hold the necessary skills
- ensure business information is managed effectively throughout the organisation by providing an authoritative statement on the management of records
- ensure staff are appropriately qualified, trained or experienced and that all staff understand the need for record management
- ensure information can be identified and retrieved when required by providing a well-structured record keeping system
- ensure authentic records are maintained over time by providing appropriate protection of records throughout their life cycle
- ensure selection and disposal decisions can be explained by careful documentation of the appraisal and disposal of records
- ensure access decisions are documented so that they are consistent, and can be explained and referred to
- identify whether information is being managed effectively through monitoring of compliance with record management policies and procedures

#### **5.0 Policy Statement**

The Council will promote openness and transparency of decision making by the Council, by ensuring that information is easily retrievable and properly documented. In accordance with all statutory requirements, the appropriate technical, organisational and human resource elements will be made available so the right information is:

- captured, stored, retrieved, and destroyed or preserved according to need;
- fully exploited to meet current and future needs, and to support change; and
- accessible to those who need to make use of it.

#### **6.0 Records Management**

Records created or received by the Council in the transaction of business are the property of the Council, regardless of the physical location of the record. Such records shall be used solely for the conduct of the Council's business and not for any other purpose, unless otherwise agreed by the Monitoring Officer. The provisions of the Data Protection Act 2018 (DPA) and the General Data Protection Regulations (GDPR) will be adhered to in relation to personal data.

Any corporate records management systems will be implemented taking account of the Lord Chancellor's Code of Practice under Section 46 of the Freedom of Information Act 2000, which focuses on how information is acquired and how it should be organised and retrieved so that responses to FOI requests can be dealt with quickly and efficiently.

The Council will hold information as long as necessary to enable it to perform its functions. Every effort will be made to ensure that the information is accurate and up-to-date and that inaccuracies are corrected quickly.

## 7.0 Record Retention

In certain circumstances it is necessary to retain records in order to fulfil statutory or regulatory requirements and also to meet operational needs. Retention of specific records may also be useful to evidence events or agreements in the case of disputes, and also to preserve information which has historic value.

A record retention schedule is incorporated into the Council's Information Assets Register and is an essential component of an efficient and effective records management function. The record retention schedule ensures council records are kept for as long as they are needed to meet business needs and to comply with legal requirements, and are then disposed of securely.

Service managers, or officers with delegated information management responsibilities (Data Protection Leads), hold and maintain the record retention schedule for their area within their service's Information Asset Register. The Council's Legal Services Team will also hold a copy centrally and any changes to a retention schedule must be communicated to Legal Services.

Retention schedules should be reviewed annually to consider the need for any new information management technology, for example, new IT, devices or storage capacity to allow the appropriate storage and destruction of documents.

The record retention schedule provides details of the storage of council records. Service areas must ensure that electronic and physical records are kept in a secure storage area and referenced appropriately to ensure they are kept for the required retention period and not accidentally deleted or destroyed. This will allow for easy retrieval to meet business requirements or Freedom of Information and Subject Access requests.

The Council holds a number of records which are considered of historical value, service areas should consider offering items of historic value to the Lincolnshire Archive through Lincolnshire County Council.

## 8.0 Record disposal

When records are no longer required for business or statutory purposes, the service area must consider appropriate disposal based on the format of the record and whether or not the record contains confidential or restricted information.

The table below should be used as a guide to selecting an appropriate method for disposing of a record:

Media type	Suggested method of destruction
Paper records	Recycled unless contains personal data and/or is considered confidential. Shredded if the record contains personal data/

	confidential records.
Electronic storage – ICT servers	Deleted from live storage and records will be housed in archived backup form as per the backup and replication procedures.
Electronic storage – hard drives, USB, CDs	Provide to ICT for environmentally friendly disposal or for secure destruction if the electronic storage contains personal data and/or confidential records.
Microfilm or other small-format physical storage	Recycled unless contains personal data and/or is considered confidential. Shredded if the record contains personal data/confidential records.
Magnetic tape (computer data or audio/video tape)	Recycled unless contains personal data and/or is considered confidential. Shredded if the record contains personal data/confidential records.

A record of destruction must be retained by the service area. The retention schedule for the service area is considered by the council to be a suitable record of destruction.

Premature destruction of documents could result in inability to defend claims against the council, operational difficulties and failure to comply with the Freedom of Information Act 2000, the Data Protection Act 2018 and the General Data Protection Regulations.

Advice should be sought from the Legal Services Team if in doubt regarding the appropriate time to destroy or dispose of a record. Where appropriate, advice will be sought from a third-party body or similar expert.

## **9.0 Responsibilities**

**Overall responsibility** for the records management lies with the Council's Executive Management Team who, in conjunction with the Senior Information Risk Officer will:

- be aware of the authority's current compliance status with the Lord Chancellor's Code of Practice on Records Management;
- identify and monitor problem areas and risk, and recommend solutions;
- promote clear and effective procedures and offer guidance to staff on record management issues;
- ensure the provision of suitable training for staff and members;
- develop best practice guidelines;
- carry out compliance checks to ensure adherence with this policy.

**Day to day responsibility** for administration and compliance with this policy is delegated to Service Managers, who will:

- ensure that the data they hold is kept accurate, up-to-date, and not held for any longer than is necessary for the purpose which it was collected and ensure this is accurately recorded within their service's Information Asset Register;
- monitor compliance with this policy and associated procedures;
- implement security requirements and access rights to documents and records;
- coordinate the proactive development of the Publication Scheme, in liaison with the Statutory Information Officer and the Corporate Improvement and Performance Team.
- Responsibility for the operational aspect of record management may be delegated by the Service Manager to a designated Data Protection Lead where required.

The Data Protection Officer will provide advice and guidance in respect of compliance with GDPR and the DPA.

The Statutory Information Officer will provide advice and guidance in respect of compliance with FOIA requests.

The Senior Information Risk Officer will be responsible for ensuring that this policy is implemented.

All staff and members must comply with this policy and are responsible for ensuring that:

- all information they hold, regardless of the medium, is kept secure, and
- personal information is processed only in accordance with the law and the Council's Data Protection Policy and that such information is not, in particular, disclosed unlawfully to any unauthorised third party.

## **10.0 Publication Scheme**

As required by the FOIA, the Council has adopted and maintains a Publication Scheme as a guide to the information that it holds which is publicly available. Any individual or organisation who requests it will be informed whether the Council holds the information and, subject to exceptions, be supplied with it. The Publication Scheme is available on the Council's website at [www.sholland.gov.uk](http://www.sholland.gov.uk).

## **11.0 Complaints**

The Council's 'Compliments and Complaints Procedure' (available on the Council's website) will be applied in the event of any complaint received about requests for access to information under the FOIA, DPA or GDPR. If the complainant is still unhappy, they will be informed of their right to complain to the Information Commissioner, who will decide whether the request has been handled properly.

## **12.0 Policy Review**

This policy will be managed and reviewed annually. Reviews will be subject to scrutiny and, from time to time, updates and re-issues will be circulated. However, the policy will be reviewed sooner if a weakness in the policy is highlighted, in the case of new risks, and/or changes in legislation.

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