

## **CAPALC GDPR Workshop 16 March 2018**

The session was run by CAPALC (Cambridgeshire and Peterborough Association of Local Councils). It was very well attended. I sat next to an internal auditor who was not sure why he had been invited.

This was not a training session. The 63 page NALC toolkit dated February 2018 was handed out during of the meeting so no time to review or formulate any queries arising. An online version with links was promised. On a quick glance some of the appendices look useful. The section on document retention does not provide any advice except that councils should have a policy.

There was a brief introduction to GDPR and then 90 minutes for a questions-and-answers to an expert panel represented by:

- A company called Priviness set up to support public sector organisations and others as they start to implement the GDPR. They seemed knowledgeable and expert.
- Came & Co-the Parish Council Insurance brokers. They are in discussion with insurers about adding cyber-liability to the Parish Council Insurance Scheme. They were optimistic there would be something in place in time for the implementation of the legislation. If a complaint is made against an organisation there may be hefty penalties and a significant amount of work to respond. They did not go into any details about what the insurance will cover. They also talked about providing an online training tool.
- Ian Dewar from CAPALC represented NALC's (National Association of Local Councils) point of view.

### **1. INTRODUCTION**

GDPR comes into effect on 25 May 2018.

Organisations need to know what personal information they have, why they have it and how and why it is processed. This is not very different from the current UK Data Protection Act requirements. The aim of GDPR is to achieve a consistent standard of practice across Europe.

GDPR strengthens the position of the identifiable person in terms of the duties that the information holder has in respect to their information. There is a new duty on organisations for transparency i.e. telling people what information they have, how it is processed and obtaining their consent. Subjects also have a right to deletion (subject to some legal considerations).

All public authorities must appoint a Data Protection Officer. This is a statutory office. The DPO must have expert knowledge of European data protection law, legal processes and they must be sufficiently independent of the organisation. It is NALC's view that few clerks will have expert knowledge and in small parish councils they are unlikely to be independent. Most clerks will be processing and controlling the data. If a parish council has an expert parish councillor then she/he could be the Data Protection Officer.

CAPALC contacted parish councils seeking expressions of interest if they were to set up a countywide DPO service. LAPC expressed its interest and requested more detail. Only 65 of the 260 member councils replied. I suspect ignorance of the GDPR rather than apathy or an indication that parish & town councils already have this control.

The importance of robust cyber and document security was emphasised.

## 2. DISCUSSION POINTS

Some members of the audience were concerned about GDPR. Some of the questions highlighted lack of knowledge about the current Data Protection Act requirements. I do not recall any discussion about data protection in my Clerks training in 2004/5. CAPALC/NALC have left awareness raising of this new legislation very late.

**Role of Internal Audit.** CAPALC invited internal auditors for their information and education and because they wanted to gauge level of interest. They are not expecting internal auditors to review compliance with GDPR. Given the role of internal audit in reviewing governance I would have thought it would be good practice to look for evidence of preparation. There was also a suggestion that if they chose to internal auditors could become Data Protection Officers or provide an independent review of compliance with GDPR before submitting information to the DPO. This raises a question about what information the DPO requires.

**Outsourcing data processing.** If another organisation processes data on your behalf e.g. externally managed payroll then the data controller i.e. the owner of that personal information needs to make sure the data processor has adequate processes in place. I think the only organisation that processes personal data on LAPC's behalf is HMRC. LAPC is the data controller passing data to HMRC. As elected representatives Parish councillors are expected to share some personal information. However, personal information e.g. local residents' email addresses might be passed on to other organisations. LAPC should give this some consideration. There was a question about what to do if any of your data is processed by an organisation outside the EU. I don't think this (knowingly) applies to LAPC.

**What is processing?** Collection, storage, deleting and using the data. Doesn't matter if it is electronic or on paper. GDPR still applies.

**What is expert knowledge?** The legislation does not define this. It was suggested it should be someone with knowledge of court and legal procedures as well as detailed knowledge of the legislation. I.e. adequately trained.

**What guidance already exists** NALC has just published a toolkit. NALC has also published several Legal Technical Notices. I will need to look them up. They do not "signpost" them when they are published.

**Next Steps.** Most parish councils will not have full GDPR compliant policies and procedures in place by 25 May. It was felt it would be adequate to have a robust action plan that demonstrates an intention to implement the legislation with clear timelines and milestones.

**Data breaches.** If there is a data breach there is a very short time window for informing any potential victims. We probably are aware from the press of examples like TalkTalk and Carphone Warehouse and the hundreds of thousands of customers that were affected. LAPC does not hold a lot of personal information. I will need to compile a register. One of the reasons for reviewing document retention is to ensure that LAPC does not keep information unnecessarily. Data subjects need to be informed that their data is being held and how it will be used. So LAPC needs to know what it has and the legal basis for having it and using it.

**Additional burden on parish councils.** I asked about the grant funding that was mentioned months ago. There is no decision on this. One of the panel suggested preparation and getting processes in place will require about 40 hours work.

**Committees and subcommittees** There was a question about "autonomous" committees and sub-committees of parish councils. This will apply to the Committee for Abington Housing and the Abington Recreation Ground Committee. They are formally accountable to the parish council(s) and the parish council(s) must to be assured that they are following proper procedures.

**Old records.** Need to be clear what they are, why they're being held and period of retention.

**Competing legislation.** What takes precedence? This wasn't answered.

**GDPR network for parish clerks** CAPALC proposed setting one up. I thought this was a good idea but they didn't gauge support or suggest how they would follow it up.

### 3. CONCLUSION/NEXT STEPS.

- As previously discussed I'm not overly concerned about the GDPR. I have a good understanding of information governance/data protection. Setting processes up to meet the necessary standards will be time-consuming and tedious.
- LAPC needs to assure itself that it has high enough level of IT security. This will include the clerk's PC and the parish council website
- LAPC knows that it holds a lot of unnecessary data; a lot of it on paper and mostly, in my garage. This needs to be stored securely. I think the previous clerk has passed on all the parish council documents she held. LAPC might wish to be assured about any information possibly still held by previous parish councillors.
- It looks as if the DPO role will need to be outsourced. LCPAS is offering a service for about £150 a year. CAPALC is thinking about it.
- There will need to be adequate insurance in place. Came & Co is LAPC's broker
- LAPC will need to be assured that the Committee for Abington Housing and Abington Recreation Ground Committee have adequate processes in place. ARGC's new insurance policy covers many of the elements in a standard Parish Council Insurance Policy.
- LAPC will need an implementation plan and a method of monitoring progress. Maybe the Compliance Working Group?
- Cost and additional burden. LAPC has £350 set aside for GDPR in 2018-19. If 40 hours work is a realistic estimate then at the clerk's current pay rate this will be about £450. Including the balance of the hours carried forward from 2017-18 LAPC has a budget of just under £3000 available for document management and GDPR implementation. Setting aside on average two hours week should enable LAPC to implement by the end of 2018.
- I will add GDPR to the LAPC risk register.
- What training should parish councillors have? There could be some value in making sure parish councillors are aware of good practice such as not sharing email addresses or being aware of what personal information might be included in a forwarded thread of email messages. The online training mentioned as part of the Parish Council insurance discussions might be intended for parish councillors. Should parish councillors use personal email addresses and their own PCs? There is a pilot project running in Peterborough City to enable parish councillors to have .gov email addresses. Feedback awaited.
- Join the CAPALC GDPR network if it is established. If not an alternative might be to further develop existing networks for example the A1307 Parish Council Forum.

#### 4. IMMEDIATE/ URGENT ACTIONS

- Lockable metal cupboard to replace wooden one currently in use (reduce risk of fire damage to documents as well as improving security)
- Lockable filing cabinets,
- Assurance on security of the Parish Council website
- Assurance on security of the Clerk's PC
- Buy a shredder or make arrangements for regular shredding of confidential waste. Once the bulk of files has been rationalised the former should be adequate

*If there is funding from NALC costs associated with the above could be included.*

- Draft a plan to be agreed in time for the implementation of the legislation in May 2018 e.g. LAPC meeting 21 May. *Not much time given the approach of year-end procedures and audit of LAPC accounts plus Recreation Ground Committee and the clerk's holiday.*
- Continue to rationalise old paper records.

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