

New Charging Regime for Data Controller Registration with Information Commissioner – Implications for Councillors	20 March 2018
Corporate Policy and Resources Committee	For Information

Linkage to Council Strategy (2015-19)	
Strategic Theme	Leader and Champion
Outcome	Provide civic leadership to our citizens
Lead Officer	Head of Policy and Community Planning
Cost: (If applicable)	

1.0 Introduction

- 1.1 Under the Data Protection Act 1998 data controllers have been required to register with the Information Commissioner and pay a fee as part of this registration.
- 1.2 However, on 20/2/2018 The Data Protection (Charges and Information) Regulations 2018 were laid before Parliament. This legislation introduced a new charging regime in relation to registration and is related to the introduction of the new General Data Protection Regulations (GDPR) on 25th May 2018.
- 1.3 The ICO has published details of the new charging scheme and a Guide for Data Controllers¹.

2.0 New Charging Regime - Implications for Councillors

- 2.1 As previously indicated, the Council's registration as a data controller covers certain aspects of the role of a Councillor. As a member of Council, Councillors would be covered by this registration for any personal information

¹ ICO blog on new charging scheme:

<https://ico.org.uk/about-the-ico/news-and-events/news-and-blogs/2018/02/new-model-announced-for-funding-the-data-protection-work-of-the-information-commissioner-s-office/>

ICO Guide for Data Controllers:

<https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/accountability-and-governance/guide-to-the-data-protection-fee/>

they are provided with in relation to the functions of Council, for example to enable Councillors to fulfil their decision and policy making role within Council.

- 2.2 However, there are other aspects of a Councillor's role which are not covered by the Council's data registration. This includes personal information gathered by a Councillor acting as a representative of the residents of their Ward or as a representative of their Political Party.
- 2.3 Members have previously been advised that the Registration Team within the Information Commissioner's Office (ICO) have been in contact regarding the requirement for individual Councillors to be registered under the Data Protection Act.
- 2.4 At present, it is a criminal offence to fail to register, or fail to keep an entry up to date, under the Data Protection Act 1998 but this will be replaced under the new charging regime and will now be treated as a civil matter. Data controllers who fail to pay the requisite charge will be liable to pay a fine of 150% of the amount due.
- 2.5 The new fees will be:
- Tier 1** – micro organisations (maximum turnover of £632,000 or no more than ten members of staff) **Fee = £40** (or £35 if paid by direct debit)
- Tier 2** – SME's (maximum turnover of £36million or no more than 250 members of staff) **Fee = £60**
- Tier 3** – large organisations **Fee = £2,900**
- The new fees will apply from 25th May 2018 but will not affect controllers until the expiry of a current notification entry.
- 2.6 Data controllers due to renew their existing notification between now and 25th May 2018 must continue to do so. This means that a data controller renewing under the existing notification arrangements on, say, 24th May 2018 will not be subject to the new charging regime until 25th May 2019.
- 2.7 Councillors processing personal data on behalf of their constituents or political party will be required to pay the **Tier 1 charge**. Therefore it is likely that Councillors who have not already registered should consider doing so. Advice for elected and prospective councillors is available on the ICO website².
- 2.8 There is a modest (one off) incentive to do so. The rate post 25th May 2018 will be £40 unless paid by direct debit when the rate will be £35.

² <https://ico.org.uk/media/for-organisations/documents/1432067/advice-for-elected-and-prospective-councillors.pdf>