

Title of Report: Registration with the Information Commissioner Office	Officer Presenting: Lead Democratic Services and Improvement Officer Author: As above
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1 Purpose of Report/Recommendations

- 1.1 To advise Elected Members of data protection registration requirements under the Data Protection Act 1998.

2 Background

- 2.1 The Information Commissioner Office (ICO) has recently launched a campaign to urge the local government and health sectors to check data protection registration requirements.
- 2.2 The ICO highlights that the Data Protection Act requires every data controller who is processing personal information to register with the ICO, unless they are exempt. Almost 500,000 organisations are currently registered. The ICO registration team is urging individuals who work in the health sector or who are Councillors or Elected Members to check their registration requirements.
- 2.3 An online tool has also been developed to help people determine whether registration is necessary (<http://ico.msgfocus.com/c/17zOE1e7Id8wXF>).
- 2.4 Specific advice for Elected Members regarding registration has been prepared by the Information Commissioner's Office (Appendix 1).

3 Key Issues

- 3.1 The ICO has recently written to all Elected Members advising that Councillors who process personal data electronically, are usually required to register as they deal with constituency casework and respond to issues raised by their ward members and residents. The ICO notes that it is the individual Councillor who decides how personal data is processed and handled while they are carrying out their duties as elected representatives. There is a clear distinction between this type of processing to that done as part of the council's statutory function which will be covered by the council's data protection registration, for example when a Councillor sits on a Council Committee.
- 3.2 It is noted that there are a number of purposes why Councillors process personal data and by doing so may qualify them to notify as a data controller, for example:

- Constituency case work involving the maintenance of constituents' complaints and enquiries, which include details of any follow up action, diary entries, outcome and details of particular cases;
- Where the Member is acting as agent / intermediary on behalf of individual constituents or other stakeholders/individuals, then personal data is held for constituency purposes. This data may not necessarily be connected with those of the council or a political party;
- Canvassing political support including lists of contacts and personal data (where registration is not covered by a political party);
- Processing of personal data held in connection with his/her duties as a representative of a forum or residents group; and
- Processing of personal data held and processed as part of the Member's own business or profession.

3.3 Registration to the ICO as Data Controller carries a fee of £35 for Councillors.

3.4 Paragraph 11 of the ICO Guidance (Appendix 1) notes that there is an exemption from registration where the only personal information which is processed takes the form of paper records.

3.5 Preliminary research carried out before Christmas indicates most NI Councils have been contacted by the ICO in respect of individual Elected Member registration. It also appears that a number of councils are advising Members of the ICO correspondence, asking that they consider their own personal circumstances and respond on an individual basis to the ICO.

3.6 Clarification is currently being sought on the potential for reimbursement of individual data controller registration fees. It is noted that Members of Parliament can currently claim for the registration fee against Administrative and Office Expenditure.

4 Financial, Equality, Legal, HR, Improvement and other Implications

4.1 Failure to register when required to do so is an offence. For example, a councillor who holds computerised records of residents' details for casework purposes would commit an offence if they had not registered this use of personal information.

4.2 There has been no budget provision in the 2017/18 for the payment of Elected Member registration fees. Potential costs in this year may be £1400 rising to £2200 (approximately) when new charging arrangements come into place.

- 4.3 It is important that all data controllers take the appropriate data protection measures and that any liability for inappropriate data processing lies with the individual Member as a data controller (if applicable).

5 Recommendations

- 5.1 That Elected Member note and consider the attached guidance and determine, given their own personal circumstances, whether registration with the Information Commissioner Office is required.

Background Papers

Appendix 1 ICO Advice for Elected Members