



Data Controller Registration with Information Commissioner - Advice for Councillors	21 November 2017
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 & Community Planning
Cost: (If applicable)	

1.0 Introduction

1.1 Under the Data Protection Act 1998 the Council is required to register as a Data Controller with the Information Commissioner. This is to ensure that personal data collected by the Council meets the requirements of the Data Protection Act while it is being processed by the Council.

2.0 Advice for Councillors in Relation to Personal Information

2.1 The Council's registration as a Data Controller covers certain aspects of the role of the Councillor. As a member of Council, Councillors would be covered by this registration for any personal information 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. These include the following:

- As a Representative of the Residents of their Ward

For example, if a Councillor is approached by a constituent regarding a problem they have with housing and as a result the Councillor holds any personal information relating to that constituent, the Councillor may need to be registered as an individual with the Information Commissioner for processing this personal information. Council's data registration would not provide cover in this type of instance as housing is not a Council function.

- As a Representative of their Political Party

For example, a councillor may hold personal information relating to political activities such as mailing lists at election times. A Councillor may perhaps be covered by their Party data registration and it might be useful for Councillors to contact their Political Parties to see what the situation is in relation to Party business.

- 2.3 The Information Commissioner's Office have issued "*Advice for Elected and Prospective Councillors on the Data Protection Act*". This gives guidance on the issue of data registration for Councillors and a hard copy was previously issued to all Councillors in January 2017. However, the advice can be found on the ICO website (www.ico.org.uk) at <https://ico.org.uk/media/for-organisations/documents/1432067/advice-for-elected-and-prospective-councillors.pdf>.

3.0 Contact from Information Commissioner's Office

- 3.1 The Registration Team within the Information Commissioner's Office (ICO) have recently been in contact with Council Officers regarding the requirement for individual Councillors to be registered under the Data Protection Act.
- 3.2 The ICO have been contacting all Councils to ask them to remind Councillors of this requirement and have requested that the following information be provided to Members:

Regarding whether a Councillor is required to register, a data controller is defined as a person (who alone or jointly in common with others) decides why and how any personal data is to be processed.

In the case of Councillors, they determine how they deal with complaints and respond to issues raised by constituents in their ward. The Council does not tell them how they should deal with the issues raised; it is the individual Councillor themselves who diary surgery appointments, write letters as they see fit on behalf of their constituent and determine how and why that personal data is to be processed.

When the Councillor sits on a Council committee (for instance to decide whether a taxi licence is to be renewed or a Council tenant should be evicted) then that data is processed as part of the Council's statutory function and will be covered by the Council's data protection registration.

There is a clear distinction between when the Councillor is a data controller in his/her own right in their advocacy work when dealing

with constituency casework, as they decide how personal data is processed and handled and when they are carrying out their duties as a representative of the council rather than as a representative of the constituent.

It is our opinion therefore that elected Councillors who process personal data electronically for the purpose of constituency casework will be required to have their own registration (the same as an MP, MLA, MSP and an AM has to) under the terms of the Data Protection Act 1998.

We hope this clarifies the situation but if you wish to discuss this further, please contact the Registration helpline on 0303 123 1113.