

Local Government Association briefing
The Data Protection (Charges and Information)
Regulations 2018
House of Lords
20 March 2018



- **Consultation:** We are concerned by the lack of consultation undertaken ahead of the Information Commissioner’s Office (ICO) new charging model being laid before Parliament.ⁱ Whilst approximately 40,000 data controllers were written to, inviting them to respond to the consultation (around 2,000 responded),ⁱⁱ not all affected parties (including the LGA) were offered the opportunity to contribute. The consultation and the responses to it are not publicly available, something which differs from most government consultations.
- **The increased costs:** We are concerned by what appears to be an arbitrary increase in the charges councils will have to pay to the ICO as data controllers (elected representatives will also be subject to a small increase in their charge). This comes at a time when local government is under significant financial pressure and councils are receiving no additional government funding to help implement GDPR.
- **Exemptions for elected representatives:** The Government are considering an exemption for elected representatives, subject to a full review of exemptions. It is important that councillors are exempted from paying a charge to the ICO as they should not incur a cost associated with their duties representing their constituents.

Further information

Consultation

According to the Government’s explanatory memorandum, the DCMS and the ICO undertook a ‘targeted consultation’ on the proposed changes. Whilst 2,000 data controllers were written to, inviting them to respond to the consultation, not all affected parties (including the LGA) were offered the opportunity to contribute. The consultation and the responses to it are not publicly available, something which differs from most government consultations.

Charging

Under the new charging model, councils with 250 or more employees are defined as large data controllers and are subject to the highest fees under the statutory instrument.ⁱⁱⁱ In practice most councils who would have been paying £500 to register with the ICO, will now pay £2900. This is an increase of 480 per cent. An inflationary increase would have seen the fees rise from £500 to £623.61.^{iv}

Exemptions

In the current process there are exemptions from the requirement to register with

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the ICO. This includes exemptions for those maintaining a public register, for staff administration purposes for advertising and accounting. In the explanatory memorandum the Government states in paragraph 7.10 that: 'It is our intention to undertake a full review of these exemptions, including publishing a public consultation in 2018. We are especially minded to consider an exemption for elected representatives, subject to consultation'.^v We support an exemption for elected representatives, as councillors should not have to pay a charge to the ICO to correspond with their residents.

ⁱ The Data Protection (Charges and Information) Regulations 2018, available at: <http://www.legislation.gov.uk/ukdsi/2018/9780111165782/contents>

ⁱⁱ The explanatory memorandum is available at: http://www.legislation.gov.uk/ukdsi/2018/9780111165782/pdfs/ukdsiem_9780111165782_en.pdf

ⁱⁱⁱ Ibid, pages 3-4.

^{iv} Ibid, paragraph 3.1, page 1.

^v Ibid, page 5.