

From: Gary Cooke, Cabinet Member for Corporate and Democratic Services

Geoff Wild, Director of Governance & Law

To: Selection and Member Services Committee – 7 October 2015

Subject: Register of Data Controllers.

Classification: Unrestricted

Summary: The Data Protection Act 1998 requires persons and organisations who process personal information to notify the Information Commissioner's Office of that processing. This report outlines the implications for KCC and notifies the Committee of the Cabinet Member's decision taken on 29 September 2015.

Introduction

1. The Data Protection Act 1998 (the Act) requires persons and organisations who process personal information to notify the Information Commissioner's Office in the form of a registration.
2. Section 1 of the Act defines a "data controller" as "a person who (either alone or jointly or in common with other persons) determines the purposes for which and the manner in which any personal data are, or are to be processed."
3. Kent County Council is a data controller for the purposes of the Act and has therefore registered.

Advice to elected and prospective councillors

4. The Information Commissioner's Office has published a document entitled *Advice for elected and prospective councillors (Appendix 1)*. This sets out a requirement for elected Members to register separately.
5. The Advice document sets out that that elected Members (when acting as Members of the Council) may have access to and process personal information in the same way as Council employees and therefore there is no requirement for Members to register in their own right because they are carrying out the local authority's functions and are covered by the Council's registration.
6. The same principle applies when Councillors are acting on behalf of a political party. In such circumstances, they are able to rely upon the registration made

by their party. Members acting or campaigning as an independent Councillor need to register in their own right.

7. The crucial area requiring individual registration by Members is when they represent residents of their division. This can cover matters such as timetabling surgery appointments or taking forward complaints made by local residents.
8. The Data Protection Act specifies that it is an offence to fail to register when required to do so.

Registration of County Council Members

9. The Information Commissioner's Office has produced a standard form for registration by Councillors. The cost of registration is £35 per year.
10. The expense of registration is a necessary one which most elected County Councillors have to incur. However, there is no lawful impediment to the County Council meeting the cost of registration for each Member as part of their overall responsibilities, and there are already a number of district and borough councils in Kent that do this for their Members.
11. In order to ensure full compliance with the Data Controller requirements of the Data Protection Act, the Cabinet Member for Corporate and Democratic Services took the decision on 29 September 2015 that each elected Member of the Council would be registered as a data controller with the Information Commissioner's Office with the registration fee being paid on their behalf by the County Council. This registration will be renewed on an annual basis. The record of decision is set out at **Appendix 2**.

Recommendations:

12. The Committee is recommended to note the decision taken by the Cabinet Member for Corporate and Democratic Services set out at **Appendix 2** of the report.

Contact details:

Peter Sass
Head of Democratic Services
peter.sass@kent.gov.uk
(03000) 416647

Background Papers: None