

Report on	Advice from Information Commissioner's Office (ICO) on Registration requirements under the Data Protection Act 1998
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Is this report restricted for confidential business?	Yes	
If 'Yes', confirm below the exempt information category relied upon	No	x

1.0	Purpose of Report
1.1	To provide members with advice issued to the Council on registration requirements under the Data Protection Act 1998 (the Act), with specific reference to councillors.
2.0	Background
2.1	<p>The Act is based around eight principles for good information handling. The principles have been set to provide people with specific rights in relation to their personal information and places certain obligations on those organisations which processes it.</p> <p>Guidance previously compiled by the ICO and in their website states that the Act will apply to and affects councillors in their capacity as a:</p> <ul style="list-style-type: none"> • Member of the Council; • As a representative of residents of their ward (i.e. District Electoral Area); and • Representing a political party, especially at election time <p>This full Guidance entitled '<i>Advice for Elected and Prospective Councillors</i>' is attached as appendix A.</p> <p>Members will recall that NILGA had afforded training opportunities in September entitled EU General Data Protection. This training covered registration as Data Controller requirements in accordance with the Act.</p>
3.0	Main Report
3.1	<p>The ICO Registration Team has recently been in touch with Council and provided us with the following as advice on registration requirements of councillors, detailed as follows.</p> <p><i>"In answer to your query as to 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.</i></p> <p><i>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</i></p>

<p>3.2</p>	<p><i>surgeries appointments, write letters as they see fit on behalf of their constituent and determine how and why that personal data is to be processed.</i></p> <p><i>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.</i></p> <p><i>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.</i></p> <p><i>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.”</i></p> <p>In considering the need to register, Members should first decide on which role they are processing personal information. The below has been extracted from their attached Guidance:</p> <ul style="list-style-type: none"> (i) As a member of the Council: Councillors may have access to, and process, personal information in the same way as employees. In this case it is the Council rather than the Councillor that determines what personal information is used for and how it is processed. For example, if a member of a housing committee has access to tenancy files to consider whether the local authority should proceed with an eviction, the councillor is carrying out the local authority's functions and so does not need to register in their own right. (ii) As a representative of the residents of their ward (i.e. DEA): Councillors represent residents of their ward (i.e. DEA), they are likely to have to register in their own right. For example, if they use personal information to timetable surgery appointments or take forward complaints made by local residents. (iii) As a representative of a political party: When acting on behalf of a political party, for instance as an office holder, Councillors are entitled to rely upon the registration made by the party. When individuals campaign on behalf of political parties to be the Councillor for a particular ward (i.e. DEA), they can rely on the parties' registration if the party determines how and why the personal information is processed for the purpose of their individual campaigns. If a prospective Councillor is not part of any political party but campaigning to be an independent Councillor for a particular ward (i.e. DEA), they need to have their own registration <p>It is referenced within the attached ICO Guidance that there is an exemption from registration where the only personal information which is processed takes the form of paper records. This is, however, a matter for members to consider.</p>
<p>4.0</p>	<p>Other Considerations</p>
	<p>Further information and the registration process is accessible through the following link.</p> <p>https://ico.org.uk/registration/new</p>

Data protection - register your organisation

New registration

This form is for organisations (we use this term to include all data controllers, including sole traders, companies, and MPs) that need to register with the ICO under the Data Protection Act.

It should take about 15 minutes to complete.

You will need to fill in this form in one session, so we suggest you get everything you will need to complete it before you start. You will need:

- your credit/debit card or other payment details;
- details about the organisation(s) you are registering, eg Companies House number (if applicable), name, address;
- details about the types of data you process; and
- details about the number of staff you have and your turnover.

We will use the information you provide to administer your registration and maintain the public register. We will publish all the information you provide, except where we say otherwise. For more information, see our [privacy notice](#).

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