LGA Response to the DCMS public consultation on the review of exemptions from paying charges to the Information Commissioner's Office
30 July 2018

On behalf of our 414 member authorities in the local government sector in England, we are pleased to respond to the public consultation detailed above and available online at
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/717785/Consultation_Document__changes_to_exemptions_from_paying_charges_to_the_ICO.pdf

Our response relates specifically to:

Section 5: Consultation Questions - Part 3. Proposed new exemptions

> *Elected representatives (separate to their elected assembly or political party) can be data controllers in their own right particularly where they engage with and undertake casework on behalf of their constituents. Government has previously committed to considering the appropriateness of elected representatives being required to pay a charge in respect of their processing of personal data. The Government is minded that this activity deriving from their public office and public function should not be liable to a charge. The Government also wishes to avoid barriers to democratic engagement, mirroring the approach that the Government has taken during the passage of the Data Protection Act through Parliament. The Government is minded that all elected representatives should be exempt, as well as members of the House of Lords and (prospective) candidates for those elected offices.*
>
> *N.B. Elected representatives as defined in Schedule 1 of the Data Protection Act 2018.*

In response, we provide the following submission:

Do you agree? �🗸**yes**

If possible, please provide a reason for your response.

Reason(s) for your response (optional) *1,000 characters limit*

It is acknowledged in accordance with the definition of "Data Controller" that local government elected representatives can be data controllers in their own right particularly where they engage with and undertake casework on behalf of their constituents. Councillors are elected by their constituents, to their respective local councils, to represent their local community and is a form of public service undertaken on a voluntary basis.

Submission

The data subjects, whose data they process, as part of undertaking their political functions, would reasonably expect their elected Councillors to be engaging in data processing of the type they undertake, and that payment of fees would be an unreasonable and unnecessary financial burden.

The majority of Councillors, are not wealthy people, and only receive an allowance to cover necessary expenditure incurred in undertaking their work.

Further, the financial burden of paying a fee for processing personal data, is likely to deter other potential candidates from putting themselves forward to become councillors, with the unintended consequence of placing barriers to democratic engagement, which the governments wants to avoid.

We therefore welcome the government's proposal to exempt all elected representatives, as well as members of the House of Lords and (prospective) candidates for those elected offices, from the requirement to pay a fee for processing personal data. It is acknowledged that exemption from payment of fees does not also amount to exemption from compliance with the Data Protection Act principles for processing personal data.

On a more general point, whilst we welcome and support the exemption for elected members, we are concerned about the lack of consultation with the LGA and with councils on the proposed increase in data controller registration fees that took place some months ago. The resulting new rates of charging feel very arbitrary and we have detected unexpected and significant anomalies in the new charges whose bands are based upon 'numbers of employees'. Very similar local government organisations that cross from one band to another now face significant differences in the dues that have to be paid.

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