

Payment of fees to the Information Commissioner's Office

In Legal Briefing L05-17 we confirmed that the requirement in the Data Protection Act 1998 (“the 1998 Act”) to register with the Information Commissioner’s Office (“ICO”) as a data controller (i.e. a person who, alone or jointly with others, determines the purposes and means of the processing of personal data) and pay a notification fee will not apply when the General Data Protection Regulation (“GDPR”) is implemented and the 1998 Act is repealed next year. The present notification fee, based on the data controller’s size, is either £35 or £500. These fees are used to fund most of the ICO’s work.

A recent ICO blog has confirmed that there will still be a legal requirement on data controllers to pay a “data protection fee” when new data protection legislation comes into force next year.

S.108 of the Digital Economy Act 2017 provides the Secretary of State with a power to require data controllers to pay a charge to the ICO. The level of the charge will be used to fund the ICO’s data protection and privacy and electronic communications regulatory functions (s.109 (2)). Regulations setting out the amount(s) payable have yet to be made.

Below are useful extracts from the ICO’s blog:

“The new system will aim to make sure the fees are fair and reflect the relative risk of an organisation’s processing of personal data. The size of the data protection fee will still be based on the organisation’s size and turnover and will also take into account the amount of personal data it is processing. The current draft proposal is a three tier system, which will differentiate between small and big organisations and also how much personal data an organisation is processing. The aim is to keep the system as simple as possible, so that organisations will easily be able to categorise themselves”.

“Organisations should continue to renew their notification as usual and it is still a criminal offence to not notify if an organisation needs to. Once we know more about the new fees, we will be telling all organisations about the changes and what they need to do. So, until the new fees come in, it is very much business as usual – so no excuses for not notifying!”

The ICO Blog can be accessed here: <https://iconewsblog.org.uk/2017/10/05/ico-fee-and-registration-changes-next-year/#more-2938>