



**CABINET – 7AUGUST 2002**

**COUNCILLOR NOTIFICATION UNDER THE DATA PROTECTION ACT 1998**

**1. INTRODUCTION**

- 1.1 The purpose of this report is to seek approval for the Council to reimburse Members the cost of notification under the Data Protection Act.
- 1.2 All individuals and organisations that hold and process personal data (data controllers) are required to comply with the requirements of the Data Protection Act 1998 (The Act). The obligations under The Act include compliance with the 8 data protection principles and the need to 'notify' with the Information Commissioner. All notifications are then included in a public register that identifies the name and address of the data controller and a general description of the processing of personal data.
- 1.3 An annual fee of £35.00 is payable by data controllers for their specific notification.

**2. IMPLICATIONS FOR COUNCILLORS**

- 2.1 All Members have recently been circulated with information relating to their possible responsibility to notify as data controllers under The Act. This responsibility relates to personal data that they may hold and process individually in relation to constituency casework.
- 2.2 Guidance issued by the Information Commissioner identifies constituency casework as falling outside of a Councils' normal processing and is therefore not covered by the Council notification. Individual members are therefore required to notify as data controllers in their own right.
- 2.3 Constituency casework can include activities such as:
  - Maintenance of constituents' complaints and enquiries
  - Details of follow up action and outcomes
  - Case details where councillor acting as an agent / intermediary
- 2.4 Members have been advised to consider what personal data they hold and if necessary to submit a formal notification to the Information Commissioner. Similar advice has also been issued by Hampshire County Council to all of their

Members. It is therefore likely that some District Council Members will have already submitted formal notifications where they are County Councillors as well.

- 2.5 It should be noted that data controllers can only have one register entry with the Information Commissioner, notifications should therefore cover all personal data held by Members whether they are Parish, District and County Councillors.
- 2.6 The £35.00 annual charge for notification has to be paid by the data controller, in this case the individual councillor. The County Council has agreed, following Member representations, that the costs are reimbursed to their Members on submission of a confirmation of notification from the Information Commissioner's Office. It is therefore proposed to adopt the same approach for all NFDC Members.
- 2.7 There are currently 6 District Council Members who are also elected HCC Members. Their costs will be reimbursed by the County Council

### **3. FINANCIAL IMPLICATIONS**

- 3.1 There is a potential maximum cost of £1,820 (£35 x 58 – 6 HCC Members) to the Council in reimbursing the annual cost of notification of individual Members. This will rise to £1,890 in 2003/04 when the number of NFDC Members will rise to 60.
- 3.2 Actual costs may not reach this maximum due to some Members not having to formally notify due to the type of information held. It is not possible at present to assess the numbers that will notify.
- 3.3 It is hoped that any cost of reimbursement can be funded from within the existing democratic budget.

### **4. CONCLUSIONS**

- 4.1 All NFDC Members will have to review what personal data they hold and whether notification is required in accordance with The Act and the guidance issued by the Information Commissioner.
- 4.2 It would be unreasonable to expect the annual cost of notification to be borne by individual members given that the reason they may be processing personal data will be in their roles as elected representatives of their constituents. Reimbursement of these annual costs will be consistent with the arrangements put in place at HCC.

### **5. RECOMMENDATION**

- 5.1 That the cost of annual notification with the Information Commissioner by NFDC Members be reimbursed by New Forest District Council on submission of a confirmation of notification letter from the Information Commissioner.

**Further Information:**

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**Background Information:**

Guidance issued to all NFDC  
Members 29 July 2002