

18 APRIL 2018

PARLIAMENTARY BRIEFING | DATA PROTECTION BILL

Summary

- The National Association of Local Councils (NALC) represents the first tier of local government – England’s 10,000 parish and town councils, over a 1000 parish meetings, and their 100,000 councillors.
- NALC is deeply concerned about the impact of the Data Protection Bill which is due to repeal the Data Protection Act 1998 Act to ensure there are no inconsistencies with new EU General Data Protection Regulation (GDPR) and to incorporate the GDPR standards into UK legislation after Brexit.
- Our main concern is the new requirement for all parish and town councils and parish meetings – regardless of size or data use – to appoint an external Data Protection Officer (DPO) creating a disproportionate new cost burden on local communities totalling at least £3.5 million per year.
- NALC is disappointed by the lack of consistent engagement to date on the Bill and GDPR from the Department for Digital, Culture, Media and Sport. However we are keen to work with the Government to mitigate the consequences of the Bill and GDPR.
- The Government must through the passage of the Bill address the following specific concerns and issues:
 - the absence of proposals to mitigate the financial impact of the Bill and GDPR on parish councils and parish meetings – and ultimately local residents through the parish precept – by providing funding through the new burdens doctrine;
 - publishing any pre-legislative impact assessment of the Bill and GDPR on parish and town councils and parish meetings;

- clarifying and explaining the Government's statement during House of Lords Report Stage that parish council clerks are qualified and able to act as their council's Data Protection Officer; this conflicts with NALC's own legal view and advice from the Information Commissioner's Office (ICO);
- considering phasing implementation of GDPR or exempting some councils such as the smallest parish councils and parish meetings from the requirement to appoint a DPO;
- during the House of Lords Stages, NALC supported amendments to place a new duty on the ICO to support smaller organisations including parish and town councils - these were not supported by the Government - and there remains limited and inadequate support and sector specific advice and guidance being offered by the Government and ICO;
- closer working with the sector, through NALC, and investing in a national programme - including funding for the establishment of a sector-led national DPO service - to provide support to help parish and town councils and parish meetings get ready for and comply with GDPR.

Background

- Parish and town councils and parish meetings councils operate within a comprehensive statutory legal framework and are already subject to statutory provisions as to what they must do and how they must operate; this includes existing accounts and audit, employment, equalities, procurement, transparency, freedom of information and data protection legislation.
- The Data Protection Bill is due to repeal the Data Protection Act 1998 Act to ensure there are no inconsistencies with new EU General Data Protection Regulation (GDPR) and to incorporate the GDPR standards into UK legislation after Brexit.

- The Bill will apply to parish councils and parish meetings as the Bill adopts the definition of public authorities used in the Freedom of Information Act 2000.
- NALC broadly welcome the Bill's objectives and has noted the new GDPR and need for compliance. We want to work with the government to help them understand the impact of the new requirements on the sector and deliver their policy objective. While we have limited resources ourselves, we have already published a range of briefings to inform and educate our member councils about the requirements of GDPR, held a series of training sessions and invested in the production of a sector specific toolkit.
- Nearly 1400 parish and town councils and parish meetings raise no precept (which generally suggests very limited activity and resources), another 400 raise a precept of under £1,000 a year and 7000 less than £25,000 – yet all councils irrespective of size or data use will have to appoint a DPO.
- In terms of their capacity, 61% of councils employ only one clerk and 65% of councils employ a clerk for less than 15 hours per week. Therefore it is unlikely most councils will be able to assume new responsibilities.
- NALC has undertaken an analysis of what charges are being applied by a limited number of principal councils (mostly districts and unitaries) as well as commercial companies to provide a DPO service to parish and town councils, and while actual costs will vary dramatically our conservative estimate is around £350 per council per year, totaling around £3.5 million – this equates to an increase in the precept (their small share of council tax) of 1%.
- While we had some welcome initial dialogue with the Government over the Bill and GDPR in the Summer last year through one telephone conference call and one face to face meeting with officials, engagement since then has been non-existent and we would have expected more.
- The Government should work closer with the sector – through NALC – and invest in a national programme to provide DPO and other support to parish and town councils and parish meetings.

More information and contact

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