

The Information Commissioner v Islington Borough Council 24th May 2002

One of the requirements of the Data Protection Act 1998 is the process of Notification (formerly known as Registration under the 1984 Act). This is where a Data Controller informs the Information Commissioner (IC) of, amongst other things, what information it is holding and what it is intending to do with it. All this is common knowledge amongst local authorities and it would be very surprising if any have not notified. However, as a recent case has shown, it is very important that notifications are kept up to date.

The Information Commissioner v Islington Borough Council was heard on 24 May 2002. It was an appeal by way of case stated by the IC against a decision of a Magistrates' Court to dismiss seven charges brought against the Council for not being registered under the Data Protection Act 1984. The High Court upheld the court's decision in six of the charges, as insufficient evidence had been adduced to have any real prospect of a conviction. However, the case was remitted to the Magistrates court to continue the hearing in relation to one of the charges.

This case was precipitated after a solicitor complained that his office address was being used by the Council to send letters to his client demanding payment of council tax. Upon investigation by the IC, it was found that the Council's relevant registration had expired. Islington LBC acknowledged that it had failed to renew the registration, in spite of reminders. It said that it had been "overlooked due to pressure of work and clerical error". The High Court held that where a corporate body such as a local authority failed to renew its registration under the Data Protection Act 1984 notwithstanding reminders to do so, it could reasonably be inferred that the body was aware of its omission so that its continued holding and use of personal data "knowingly" or "recklessly" contravened s.5 of the 1984 Act.

This case shows how local authorities, due to pressure of work or staff leaving, can overlook seemingly minor administrative issues. However the IC will not show any sympathy.

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The original idea behind Notification under the 1998 Act was as follows: Instead of an unwieldy Registration process where Councils had a dozen or more separate Registrations (for each department) each costing £75 for three years, the new system would mean a single Notification for each Council at a cost of £35 a year.

However, Councils must not be under the illusion that only they have to notify once. The IC is of the view that councillors have to separately notify. Whilst a council may not be legally required to notify on behalf of councillors it may well be called upon to assist them. Certainly it will need separate notifications for the Electoral Registration Officer and the Superintendent Registrar of Births, Marriages and Deaths.

Under the extended transitional arrangements, authorities can add expiring entries under the 1984 Act to continuing entries for other purposes, until the last such entry expires. However, notification is such an easy exercise to undertake that it should really be done sooner. Standard templates are provided on the IC's website for each type of council.

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