

Data Protection Questions And Answers (that arose from the presentation)

Q. Why don't you refer to the 'GDPR' anymore?

A. Because the term 'GDPR' was dropped from UK legislation on 31st January 2020 with 'Brexit' – BUT all the concepts remain. We now use the term 'Data Protection'.

Q. What is 'Personal Data'?

A. Any information relating directly or indirectly to a natural person.

Can a person be identified from the text/information?

If Yes, then its personal data, and subject to these rules.

Q. Who is the 'ICO'?

A. The ICO is The Information Commissioner's Office – The UK supervisory authority for Data Protection.

Not to be confused with 'CIO' which is a Charities Commission status that some clubs have.

Q. Whether a club is 'CIO', has a Charity Trust or Fund, or does not have this 'status', We are all not for profit – Why do you advise all clubs to register with the ICO?

A. It is true that there is an exemption to paying the fee that includes processing by a not for profit organisation.

However the 'not for profit' ONLY applies to club administration. A club will ALSO process data for 'fund raising'; 'realising the objectives of a charitable organisation or voluntary body' and 'trading/sharing personal information' – the latter is processing on MyLCi/MyLion, where data are stored in the USA.

Because of this 'ALSO', clubs do not fall into the exempt definition, and therefore should pay the fee.

All Lions clubs process some data electronically, for example email and MyLCI/MyLion – electronic processing is not exempt either.

Q. Our club has Charity Status – When I completed the ICO Self-Assessment Tool, It said we are exempt?

A. I am only guessing but I suspect you answered the following question: 'Is your organisation a charity, does it have exempt charitable status' as 'Yes', but you should have answered 'No'!

If you read the referenced section of the Charities Act 2006, '*Section 1(1) establishes the meaning of charity. By specifying that a body or trust is a charity if established for charitable purposes "only", section 1(1)(a) preserves the current rule to the effect that a body or trust which has non-charitable as well as charitable purposes is not a charity.*'

Therefore a Lions club, even with Charity status is NOT considered exempt, because a Lions club will also process data for other purposes not covered by this or the 'not for profit' exemption.

Q. My club is small or a branch club – We would have to increase fees significantly to pay the ICO fee, what can we do?

A. If your club has 5 or less members then please email me as we may be able to give separate advice. It is recognised that even £40 is a lot of money for these small clubs to find.

I do not believe that Branch Clubs need to register in their own right as the processing is overseen by the parent club, including membership.

Charity Funds/Trusts - If this is separate to the main Club but administered by the Lions Club then just the Club needs to register.

Q. From where is the fee paid?

A. It has been discussed at MD level. As a club processes some data for charity purposes, some of the £40 (£35 by direct debit) can legitimately be paid from the charity account if a club wishes to do this. Perhaps 50/50.

Q. Why can't MD or District pay the ICO fee on behalf of a club?

A. A club is a 'Controller' in its own right. It is actually the club that, on the whole, collects data from the individual. The club has to pay the ICO fee themselves as a separate individual organisation – as this particular law sees it.

Q. Can a District decide to pay The ICO fee on behalf of clubs within their boundary?

A. Clubs have to register on an individual basis and the ICO would expect them to pay the fee themselves. If a particular District wishes to pay, they would need a resolution at convention, they would need to transfer the funds to each club accordingly to account for the spend, for the club to then pay the ICO. When considering this, a District should be aware that this is an annual fee.

Q. What are other charities such as Rotary doing about the ICO fee?

A. Rotary, Round Table and WI, to name just a few, are not exempt either. All are technically membership organisation the same as Lions clubs. But we are ahead of these clubs, as only a few of each have paid the ICO fee and are risking the £400 fine.

Q. How do these laws impact on using/maintaining directories?

A. Let's look at club directories first. It is quite proper and appropriate for a club to have a list of club members, and their contact details. As this recent pandemic has shown, we need to be in contact with each other. Each club member should understand that a certain level of responsibility comes with this, and the information should be respected and not shared outside the club without the person's knowledge. District & MD directories tend to include officer details, even at club level. When a Lion takes on the responsibility of an officer position, there is an inherent understanding that as part of the job you have to be contactable. Having said this, the Lion can, at any level control the type of data recorded. For Example: You can set up a specific email address so that you don't have to use your personal or work email address if you don't want to. The same with Spouse information (especially if they are not part of the organisation)

Q. Whether our club registers with the ICO or not, is there anything else our club is required to do?

A. Yes.

- You will need a main Privacy Notice, even if you do not have a website. If you have a website, you need to publish your privacy notice with a link to it from a prominent place on your home page.
- Also all forms will require a short privacy notice at the bottom of the form. (electronic and paper forms are slightly different).
- Emails also require a short privacy notice below the signature. (if you don't know how to add an email signature you can Google your email program and how to add an email signature)

Q. How do I write a 'main' Privacy Notice for our club?

A. The easiest thing to do is to email the MD data Protection Officer (Me!) at districtdpo@gmail.com. I do this stuff for a living and have been running my own business doing this for 15 years. I have much experience in ensuring the appropriate concepts and information is included. I do this for Lions for free.

Q. How do I write a 'short' Privacy Notice for forms?

A. You can use the examples below;

- Any form on paper
"Any personal data/special category data contained herein are processed in accordance with UK data protection legislation. If you would like further details, please ask for our main Privacy Notice"
- Any Electronic form (slightly different)
"Any personal information herein is processed in accordance with UK data protection legislation. All feasible security measures are in place. Further details are in our Privacy Notice."
- Emails have slightly different rules to abide by as well, so again slightly different
"All personal data/special category data herein are processed in accordance with UK data protection legislation. All feasible security measures are in place. If you are not the intended recipient, please notify the sender and delete all copies. Thank you."

Q. Do we have to pay out for expensive encryption for emails?

A. No! There is no requirement in Data Protection legislation. If you believe a document that you want to send contains 'sensitive' information, there is a plethora of advice and free software on line to password protect your files before emailing them.

However you still need to keep data secure. This is particularly relevant when copying people in on emails. Two basic principles here;

1. If you know that everyone on the list knows each other (for example the email is only going to everyone in the club) then you can use 'CC'
2. If the email could potentially include or go to people outside the club, then the safest option is to use 'BCC'

If you are concerned about the safety of the information in a document, there is available on the internet free software to password protect the document before sending.

CONSENT

I shall break this complicated matter into smaller chunks.

Q. Do we need every member to sign a consent form to be able to process their information on, for example, MyLCI, in a directory or in business meeting minutes?

A. No! You should NOT use any form for consent, you could actually be breaking the law if you do! If the club, through its officers, is processing the data of its members on club business, then further consent is not required.

Q. When do we need to seek consent?

A. Technically, the only time in Data Protection terms, we need consent is if we are taking photos that we intend to use in promotional material, for example handing over a donation, having fun at a quiz night or charter. This may then be published on a website or social media.

Not 'consent' as such – just make everyone aware when taking the photo what the intention is. – Anyone can then 'duck out' if they choose.

If the photo is taken at a large public event – 'fair game'

BUT we need to be aware of 'safeguarding' children aged 16 or under and/or vulnerable people. We should seek and record consent from these individuals, usually through their parent/guardian/carer. Ensure you also record the relationship between the person being photographed and the person giving consent.