

Registering as a data controller **By Laura Coogan and James Johnson**

The Data Protection Act 1998 (the DPA) generally requires any organisation or individual who processes personal data electronically to register as a data controller with the Information Commissioner's Office (the **ICO**). Many if not all architectural technologists are likely to process personal data as part of their professional activities which means they should be registered, although many are not. A failure to register could give rise to legal sanction.

Under the DPA "personal data" broadly means any information relating to an identifiable living individual and "processing" data includes virtually everything that an individual or organisation would do with personal data in a professional capacity, including obtaining, recording, storing, updating, sharing and even destroying personal data. So processing personal data could include simply preparing a report which refers in any significant way to one or more individuals or passing on contact details.

By and large any organisation or individual who processes personal data must obtain registration from the ICO. There are some exceptions to the general obligation to register. For example, data controllers that only process data for staff administration purposes (for example, payroll) and for the purpose of keeping accounts and records will not have to register. Also, not-for-profit organisations and the judiciary do not have to register. However, the scope of these exceptions is very limited and they are unlikely to apply to personal data which is processed in a professional capacity.

Registration is carried out through the [ICO website](#). This includes a [self-assessment process](#) which an individual or organisation can work through on an anonymous basis to see if they should register or not. The name provided for registration should be the correct legal title of the individual or organisation. Sole traders should give their full name, partnerships should register under the trading name of the partnership (there is no requirement to give the names of the partners) and companies should register under their company name.

For an individual, or an organisation with a turnover of either under £25.9M, or £25.9M but with 249 staff or less, the annual registration fee is £35. For an organisation with a turnover of £25.9M and 250 staff or more, the annual registration fee is £500. The registration must be renewed each year and the registration fee is payable each year on renewal, as well as on first registration.

Registration is a statutory obligation under the DPA and non-registration is a criminal offence. The ICO has wide ranging powers, including the power to prosecute an individual or organisation for failure to register. Failure to register can result in a fine. This can be unlimited but typically the fines for small businesses are in the order of £500 (with legal costs to pay as well). In addition, the failure to register may render the processing of the data unlawful and actionable by those concerned.

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