

Local Government Remote Meetings Consultation Department for  
Communities,  
Local Government & Housing Regulation Division,  
Level 4,  
Causeway Exchange,  
1-7 Bedford Street,  
Town Parks,  
Belfast,  
BT2 7EG

**By email only:**

7th February 2022

Dear Department for Communities,

**RE: Call for Evidence, Northern Ireland District Councils -  
Remote/Hybrid Meetings**

Thank you for inviting the Information Commissioner's Office (ICO) to respond to the above Call for Evidence.

As you will be aware, the Information Commissioner's role includes the regulation of the Data Protection Act 2018, the UK General Data Protection Regulation (UK GDPR) and the Freedom of Information Act 2000 (FOIA), among other pieces of legislation. The bulk of the proposals are outwith the scope of the remit of the Information Commissioner's Office (ICO) and therefore the following comments are focused solely on the information rights elements of the document.

• **UK GDPR – Article 36(4) Statutory Requirement to Consult ICO**

We note that page 3 of your document states that "If any changes to legislation are made as a result of this call for evidence, they would apply to Northern Ireland only."

Any permanent change would require legislation that would be subject to the agreement of the Northern Ireland Assembly. If changes are made via a legislative measure, it is likely that a formal consultation must be

undertaken with the ICO prior to introduction of the measure. For this reason we would like to remind you of your obligations under Article 36(4) of the UK GDPR.

Article 36(4) imposes a requirement on Government to consult with the ICO when developing policy proposals relating to the processing of personal data. Article 36(4) states that: "Member States shall consult the supervisory authority during the preparation of a proposal for a legislative measure to be adopted by a national parliament, or of a regulatory measure based on such a legislative measure, which relates to processing."

If a decision is made to proceed with specific legislation, the Department for Communities (DfC) will need to initiate the requirement under Article 36(4) to consult with our office. The Department for Culture, Media and Sport (DCMS) guidance on the consultation process under Article 36(4) is available [here](#), alongside our Article 36(4) [Enquiry Form](#).

- **Data Protection Impact Assessment**

Page 3 of your document states: "If any policy changes are made following this call for evidence they will be subject to appropriate assessment. No impact assessment has been conducted at this time."

We would advise the DfC to complete a [Data Protection Impact Assessment](#) (DPIA) before beginning any type of processing that is "likely to result in a high risk." This means that although you have not yet assessed the actual level of risk, you need to screen for factors that point to the potential for a widespread or serious impact on individuals.

A DPIA is a way for you to analyse your processing and help you identify and minimise data protection risks. A DPIA does not have to indicate that all risks have been eradicated. But it should help you document them and assess whether or not any remaining risks are justified.

- **Lawfulness, Fairness and Transparency**

The DfC must identify a valid [lawful basis](#) under the UK GDPR for collecting and using personal data as a result of remote/hybrid meetings.

Personal data must also be used in a way that is fair. This means you must not process the data in a way that is unduly detrimental, unexpected, or misleading to the individuals concerned.

Those partaking in any remote/hybrid meetings, regardless of whether they are staff or members of the public, must be made aware of how their personal data will be used and processed, and you must be transparent, open, and honest at all times.

The three elements of [lawfulness, fairness, and transparency](#) overlap, but you must make sure you satisfy all three.

- **Security and data minimisation**

Given the nature of the personal information likely to be discussed and collected via remote/hybrid meetings, specific and detailed consideration should be given to ensuring appropriate [security](#) measures are implemented so that personal information is not compromised. The completion of a DPIA can assist with identifying any potential risks associated with proposed personal data processing.

When using third party technology/software providers to host remote meetings, the DfC should consider suppliers that design their products or services with data protection in mind.

The DfC should also consider areas such as cyber security, the risk of data breaches, the risk of human error, inappropriate access to sensitive personal data, staff training and data storage and retention.

- **Disclosure of personal data**

District councils conducting business via remote/hybrid meetings will be open to [Freedom Of Information](#) requests and [Subject Access Requests](#) (SARs), and will therefore need to comply with the Freedom of Information Act (FOIA) and the [individual's right of access](#). The DfC will need to give in depth consideration to any potential implications arising from this, along with how and when it will be appropriate to process and publicly release this data.

- **Special Category Data**

The DfC must also take into consideration that [special category data](#) may be processed as a result of any remote/hybrid meetings.

The UK GDPR singles out some types of personal data as likely to be more sensitive, and gives them extra protection. This is because use of this data could create significant risks to the individual's fundamental rights and freedoms. The presumption is that this type of data needs to be treated with greater care because collecting and using it is more likely to interfere with these fundamental rights or open someone up to discrimination.

A DPIA will make it easier to ensure you have appropriate safeguards in place and can demonstrate your compliance. Where processing of special category data has been identified, you should ensure that alongside an Article 6 lawful basis, an Article 9 condition for processing has also been satisfied.

- **Training**

Whilst district councils did conduct these meetings in person prior to the pandemic and they were open to the public, additional consideration should now be given to the security and training provided as a new platform means the data is more readily accessible. Given the potential scope for personal data processing and the sharing of personal information, consideration should be given to ensuring that staff within district councils are provided with practical data protection training that is specific to their role. Such training should be refreshed on a regular basis. Training on the appropriate use of the technology and software should also be carried out to ensure data security.

## **Concluding remarks**

To conclude, while the ICO cannot respond with a view on the different questions proposed and issues raised, we take this opportunity to stress the importance of incorporating appropriate systems to ensure compliance with data protection legislation. We ask that the DfC keep the ICO updated on any significant changes in approach via formal consultation routes where these apply and/or via our existing engagement points of contact. In the meantime, you may find it helpful to consult our website and in particular the information that is contained within the [Guide to the UK GDPR](#).

We hope you find the above comments helpful as you move forward with your call for evidence. Should you require clarification of any of the points made within this response, please feel free to contact us at [ni@ico.org.uk](mailto:ni@ico.org.uk) or on 0303 123 1114.

Yours Sincerely,

Information Commissioner's Office – Northern Ireland