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CAD procedures>Pre-casework>Notification check

Notification check

Before beginning work on a case the officer should conduct a notification check by searching the public register.

If it appears that the data controller is not currently notified, and the officer thinks it likely that they ought to be notified, they should check the non-notification referral spreadsheet (not yet available) to see if that data controller has already been brought to the attention of the Non-notification team. If they have not, the officer should consider the nature of the case to determine how best to proceed.

Note: In the light of the forthcoming publication of our revised CCTV code we have reached an agreement with the MoJ about the line to take on notification of small CCTV users. This applies to small CCTV users who now come within the scope of the DPA because of our revised interpretation of the definition of personal data but who in the past we would have told that they do not need to notify (for example because the system was simple, couldn't focus on specific individuals etc). The line is that:

- we have raised with the MoJ the possibility of introducing a notification exemption for small business users of CCTV;
- the MoJ have agreed that, in principle, the proposal to introduce a notification exemption is sensible and we are now working with the MoJ on how best to address this;
- there are other drivers for changes to the notification fee system which the MoJ will be consulting on shortly. It is sensible for any changes, including any exemption for small business users of CCTV, to be introduced as a package.

In light of this, pending the introduction of a statutory exemption, the ICO has no plans to actively pursue small business users of CCTV who have not yet notified.

- Where the correspondent is unconcerned with notification matters
- Where the correspondent is partially concerned with notification matters
- Where the correspondent is solely concerned with notification matters

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CAD procedures> Pre-casework>Notification check >Where the correspondent is unconcerned with notification matters

Where the correspondent is unconcerned with notification matters

The officer should deal with the case in accordance with the relevant case handling procedures. But as well as writing to the data controller about the matters the correspondent raised, the officer should also point out that they do not appeared to have notified.

Writing to the data controller

Where the officer is writing at the beginning of a case and wants the data controller to respond to other matters in their letter, they should include the standard

non-notification paragraph - where a DC response is required' at the end of their letter.

Where the officer intends to write only one letter on the case to which the data controller does not need to respond, they should include the standard '

non-notification paragraph - where a DC response is not required' at the end of their letter.

In all cases they should enclose the 'Brief guide to notification' (or email the relevant web link in the case of emailed correspondence).

There is no need to discuss the non-notification matter with the correspondent as they have not raised the matter with us.

Next steps

The officer should then:

- Complete the non-notification spreadsheet; and
- Send the relevant documents as email attachments from the CMEH case direct to the Notification Departmental Manager's email account, including an explanatory paragraph for the Non-notification team.

If the data controller does not subsequently notify, the Non-notification team will take any follow up action they think is appropriate, updating the non-notification spreadsheet to reflect any action they might take.

Note - Until the non-notification spreadsheet is available CAD teams should

keep individual records of:

- The name of the data controller concerned;
- The date on which they wrote to them;
- Whether they asked them to respond;
- Whether any response was provided; and if so:
    - When the resonse was receieved; and
    - The nature of the response.

The officer should also include any other information that may be necessary in the circumstances to help the non-notification team understand the referral and progress the case.

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CAD procedures>Pre-casework>Notification check>Where a DC response is required

Non-notification paragraph - where a DC response is required

The officer should use the relevant sample letter to address the other matters the individual has raised, fitting these paragraphs in as appropriate.

As some of this text might not be entirely suitable in the circumstances of each case, the officer can be flexible with the language they use as long as they comply with the broad instructions for each section. They should also include any additional information they think is necessary.

Text in bold/square brackets/italics indicates that there is data to be selected or added and **should not be included in the letter. Section headings should also not be included.**

Step 1 - explain the requirement to notify

Finally, the Information Commissioner is also responsible for maintaining the public register of data controllers. Generally speaking the DPA requires every data controller who is processing personal data to 'notify' (that is have their details added to the register) unless an exemption applies. Failure to notify if required to do so is an offence. It seems likely that **[data controller]** will be required to notify but I have been unable to identify a relevant entry on the register.

Step 2 - Explain what steps you want the data controller to take

I have enclosed a copy of our 'Brief guide to notification' which you should read in order to determine whether **[data controller]** is required to notify. If you feel that **[data controller]** needs to notify, or you would like some information about the notification process, please see our website or call our notification helpline on 01625 545 740. If you do not feel that **[data controller]** needs to notify, I would be grateful if you would let me know why this when you write in response to the matters described above.

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CAD procedures>Pre-casework>Notification check>Correspondence partially concerned with notification>Where a DC response is not required

Non-notification paragraph - where a DC response is not required

The officer should use the relevant guide letter to address the other matters the individual has raised, fitting these paragraphs in as appropriate.

As some of this text might not be entirely suitable in the circumstances of each case, the officer can be flexible with the language they use as long as they comply with the broad instructions for each section. The officer should also include any additional information they think is necessary.

Text in bold/square brackets/italics indicates that there is data to be selected or added and **should not be included in the letter. Section headings should also not be included.**

Step 1 - give basic information about the DPA

The Information Commissioner enforces the Data Protection Act 1998 (the DPA). The DPA has eight principles of 'good information handling'. These say, amongst other things, that organisations should hold accurate, relevant data, which are processed fairly and are subject to appropriate security.

Step 2 - explain the requirement to notify

The Commissioner is also responsible for maintaining the public register of data controllers. Generally speaking the DPA requires every data controller who is processing personal data to 'notify' (that is have their details added to the register) unless an exemption applies. Failure to notify if required to do so is an offence.

Step 3 - explain that we have received a complaint

We have recently received a complaint that **[data controller]** is not notified. As I currently understand it, it seems likely that you will be required to do so.

Step 4 - explain what steps you want the DC to take

I have enclosed a copy of our 'Brief guide to notification' which you should read in order to determine whether **[data controller]** is required to notify. If you feel that **[data controller]** needs to notify, or you would like some information about the notification process, please see our website or call our notification helpline on 01625 545 740.

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CAD procedures > Pre-casework>Notification check >Where the correspondent is partially concerned with notification

Where the correspondent is partially concerned with notification matters

The officer should deal with the parts of the case that are related to the non-notification matters in accordance with the relevant case handling procedures.

Writing to the data controller

Where the officer is writing at the beginning of a case and wants the data controller to respond to other matters in their letter (e.g. they are conducting a veriified assessment with respect to the other parts of the case), they should include a relevant notification related paragraph using the

' non-notification paragraph for data controller - response required from data controller ' as a guide.

Where the officer intends to write only one letter on the case to which the data controller does not need to respond (e.g. where they are making a compliance likely unverified assessment with respect to the other parts of the case) they should include a relevant notification related paragraph using the

non-notification paragraph for data controller - response not required from data controller' as a guide.

In all cases they should enclose the 'Brief guide to notification' (or email the relevant web link in the case of emailed correspondence).

Writing to the requester

Where the officer is writing at the beginning of a case, wants the data controller to respond to other matters in their letter and intends to write to the requester again they should include a relevant notification related paragraph using the

' non-notification paragraph for requester - data controller response is required' as a guide .

Where the officer intends to write only one letter on the case to which the data controller does not need to respond, and does not, therefore, intend to write to the requester again, they should inlcude a relevant notification related paragraph using the

'non-notification paragraph for requester - where data controller response is not required' as a guide.

Next steps

The officer should then:

- Complete the non-notification spreadsheet; and
- Send the relevant documents as email attachments from the CMEH case direct to the Notification Departmental Manager's email account, including an explanatory paragraph for the Non-notification team.

If the data controller does not subsequently notify, the Non-notification team will take any follow up action they think is appropriate, updating the non-notification spreadsheet to reflect any action they might take.

Note - Until the non-notification spreadsheet is available CAD teams should keep individual records of:

- The name of the data controller concerned;
- The date on which they wrote to them;
- Whether they asked them to respond;
- Whether any response was provided; and if so:
    o When the resonse was receieved; and
    o The nature of the response.

The officer should also include any other information that may be necessary in the circumstances to help the non-notification team understand the referral and progress the case.

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CAD procedures>Pre-casework>Notification check>Where DC response is reqired - paragraph for requester

Non-notification - where a DC response is required - paragraph for the requester

The officer should use the relevant sample letter to respond to the other matters the individual has raised, fitting these paragraphs in as appropriate.

As some of this text might not be entirely suitable in the circumstances of each case, the officer can be flexible with the language they use as long as they comply with the broad instructions for each section. The officer should also include any additional information they think is necessary.

Text in bold/square brackets/italics indicates that there is data to be selected or added and **should not be included in the letter. Section headings should also not be included.**

Step 1 - explain the requirement to notify

As you are aware, the Information Commissioner is also responsible for maintaining the public register of data controllers. Generally speaking the DPA requires every data controller who is processing personal data to 'notify' (that is have their details added to the register) unless an exemption applies. Failure to notify if required to do so is an offence.

Step 2 - Explain that you have raised the matter with the DC

Whilst it seems likely that **[data controller]** will be required to notify, it is not clear at this stage so I **[have also raised / will also raise]** this matter with them.

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CAD procedures>Pre-casework>Notification check>Where a DC response is not required - letter to requester

Non-notification - where a DC response is not required - paragraph for the requester

The officer should use the relevant sample letter to respond to the other matters the individual has raised, fitting these paragraphs in as appropriate.

As some of this text might not be entirely suitable in the circumstances of each case, the officer can be flexible with the language they use as long as they comply with the broad instructions for each section. The officer should also include any additional information they think is necessary.

Text in bold/square brackets/italics indicates that there is data to be selected or added and **should not be included in the letter. Section headings should also not be included.**

Step 1 - explain the requirement to notify

As you are aware, the Information Commissioner is also responsible for maintaining the public register of data controllers. Generally speaking the DPA requires every data controller who is processing personal data to 'notify' (that is have their details added to the register) unless an exemption applies. Failure to notify if required to do so is an offence.

Step 2 - Explain that you have raised the matter with the DC

Whilst it seems likely that **[data controller]** will be required to notify, it is not clear at this stage so I **[have also raised / will also raise]** this matter with them. In the unlikely event that they do not notify (if we establish that they need to do so) I will refer the matter to our non-notification team to see if it is something they should pursue further. We thank you for bringing this matter to our attention.

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CAD procedures> Pre-casework>Notification check >Where the requester is concerned only with notification

Where the requester is concerned only with notification matters

Writing to the data controller

The officer should write to the data controller using the ' *non-notification - letter to the data controller*' as a guide; and

They should also enclose the 'Brief guide to notification' (or email the relevant web link in the case of emailed correspondence).

Writing to the requester

The officer should also write to the requester using the ' *non-notification - letter to the requester*' as a guide.

Next steps

The officer should then:

- Complete the non-notification spreadsheet; and
- Send the relevant documents as email attachments from the CMEH case direct to the Notification Departmental Manager's email account, including an explanatory paragraph for the Non-notification team.

If the data controller does not subsequently notify, the Non-notification team will take any follow up action they think is appropriate, updating the non-notification spreadsheet to reflect any action they might take.

Note - Until the non-notification spreadsheet is available CAD teams should keep individual records of:

- The name of the data controller concerned;
- The date on which they wrote to them;
- Whether they asked them to respond;
- Whether any response was provided; and if so:
    - When the resonse was receieved; and
    - The nature of the response.

The officer should also include any other information that may be necessary in the circumstances to help the non-notification team understand the referral and progress the case.

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CAD procedures>Pre-casework>Notification check>Where the correspondent is concerned only with notification>Letter to the DC

Non-notification - letter to the data controller

The text for steps 1, 2 and 3 should be included in all cases.

The officer can be more flexible from step 4 onwards as long as they comply with the broad instructions for each section. They should also include any additional information they think is necessary.

Text in bold/square brackets/italics indicates that there is data to be selected or added and **should not be included in the letter. Section headings should also not be included.**

Step 1 - give basic information about the DPA

[As you are aware] [T/t]he Information Commissioner enforces the Data Protection Act 1998 (the DPA). The DPA has eight principles of 'good information handling'. These give people specific rights in relation to their personal information and put certain obligations on those organisations that are responsible for processing it.

Step 2 - explain the requirement to notify

The Commissioner is also responsible for maintaining the public register of data controllers. Generally speaking the DPA requires every data controller who is processing personal data to 'notify' (that is have their details added to the register) unless an exemption applies. Failure to notify if required to do so is an offence.

Step 3 - explain that we have received a complaint

We have recently received a complaint that **[data controller]** is not notified. As I currently understand it, it seems likely that you will be required to do so.

Step 4 - explain what steps you want the data controller to take

I have enclosed a copy of our 'Brief guide to notification' which you should read in order to determine whether **[data controller]** is required to notify. If you feel that **[data controller]** needs to notify, or you would like some information about the notification process, please see our website or call our notification helpline on 01625 545 740.

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CAD procedures>Pre-casework>Notification check>Where requester is concerned only with notification>Letter to requester

Non-notification letter to requester

The text for steps 1, 2 and 3 should be included in all cases.

The officer can be more flexible from step 4 onwards as long as they comply with the broad instructions for each section. They should also include any additional information they think is necessary.

Text in bold/square brackets/italics indicates that there is data to be selected or added and **should not be included in the letter. Section headings should also not be included.**

Step 1 - explain why you are writing

Thank you for your letter of **[date]**.

Step 2 - explain the correspondents concerns, as you understand them

As I understand it, you are concerned that **[data controller]** is not included on the public register of data controllers.

Step 3 - give basic information about the DPA

The Information Commissioner enforces the Data Protection Act 1998 (the DPA). The DPA has eight principles of 'good information handling'. These give people specific rights in relation to their personal information and put certain obligations on those organisations that are responsible for processing it.

Step 4 - explain the requirement to notify

The Commissioner is also responsible for maintaining the public register of data controllers. Generally speaking the DPA requires every data controller who is processing personal data to 'notify' (that is have their details added to the register) unless an exemption applies. Failure to notify if required to do so is an offence.

Step 5 - explain that you will now write to the DC for their views

Whilst it is possible that **[data controller]** may be required to notify, it is not

clear at this stage so I **[have raised / will raise]** this matter with them. You should, however, be aware that there are a number of exemptions from the requirement to notify.

We have made our non-notification team aware of this who will ensure that **[data controller]** notifies, if it is necessary for them to do so. Thank you for bringing this matter to our attention.