



## **Data Controller Pricing Research Summary For ICO and DCMS 11<sup>th</sup> October 2017**

### **Background and Method**

In Autumn 2015, a quantitative research study was carried out with 2,017 data controllers to understand the profile of the organisations in terms of the data they hold and the dealings they have with ICO to understand how a different pricing structure could be applied. Following on from this research, ICO has developed a potential funding model for data controllers which involves different cost tiers depending on their annual turnover, employee size, the number of personal records they hold and the extent to which they use electronic direct marketing. This research summary is based on the follow-up research with participants in 2017 to understand their views about the funding model.

In 2015, online research was conducted with data controllers. Data controllers were selected on a random basis and written to by the ICO and were given the opportunity to opt out of research. Those who did not opt out were emailed a unique link to an online questionnaire. Data controllers paying the £500 fee were boosted to provide a reliable sub sample to enable separate analysis. The data was weighted at analysis stages to its true profile by fee paid. The type of organisation (private, public, charity) was also weighted to reflect true proportions in the data controller universe.

In line with 2015 research, research in 2017 used an online questionnaire was distributed to data controllers who had participated in the 2015 research. 333 data controllers completed this 'follow-up' questionnaire. Data was collected between 14 September and 2 October 2017. The questionnaire is included in the appendix.

All research at BDRC is carried out to ISO 25252 and ISO 27001 standards. Further details on methodology are available on request.

A description of the proposed fee structure was provided to data controllers in the questionnaire and was described as follows:

#### Opening Context (why is model changing)

The Data Protection Act 1998 requires every organisation that processes personal data to register with the Information Commissioner's Office (ICO) and pay a fee unless they are exempt. The process for registering is going to be simplified and in relation to this a revised fees model will be in operation from April 2018.



Explanation of the new fee structure

The current registration fees system is based on the size and turnover of an organisation. Organisations with a turnover of £25.9M **and** more than 249 members of staff; or are a public authority with more than 249 members of staff pay £500 per annum. All other organisations pay £35 per annum. The fee of £35 has been fixed since 2000 and the £500 fee has not changed since its introduction.

How much an organisation pays under the proposed new fees model will also be based on size and turnover, but will additionally take into account the amount of personal data an organisation is processing per year. This acknowledges that organisations that process large volumes of data will generally draw more heavily on the ICO’s resources than organisations that process small amounts of personal data. We also propose introducing a direct marketing top up to be paid by organisations that undertake electronic marketing activities as part of their business. This is to make sure the ICO’s work in this area is funded by those who undertake these activities.

The proposed fee structure is as follows:

<p><b>Tier 1: Small and Medium Firms that do not process large volumes of data</b></p>	<p>Staff headcount below 250; and            Turnover below £50M pa; and            Number of records processed under 10,000  <i>*Public Authorities should categorise themselves according to staff headcount and number of records only.</i></p>
<p><b>Tier 2: Small and Medium Firms that process large volumes of data</b></p>	<p>Staff headcount below 250; and            Turnover below £50M pa; and            Number of records processed above 10,000  <i>*Public Authorities should categorise themselves according to staff headcount and number of records only.</i></p>
<p><b>Tier 3: Large businesses</b></p>	<p>Staff headcount above 250; and            Turnover above £50M pa  <i>*Public Authorities should categorise themselves according to staff headcount and number of records only.</i></p>
<p><b>Direct Marketing top up</b></p>	<p>Organisations that carry out electronic marketing activities as part of their business.</p>

## Main findings

### Initial views on the new fee structure

The initial views on the new fee structure were measured prior to price points being provided to data controllers. The table below shows the proportions that found it easy or difficult to understand.

	Very easy	Fairly easy	Quite difficult	Very difficult
How easy or difficult is the new fee structure to understand	51%	44%	3%	2%
How easy do you think it will be for your organisation to self categorise based on the criteria in the table	65%	28%	3%	3%

*Base: All respondents 333*

On balance the new fee structure is easy to understand with 51% who think it is very easy to understand and a further 44% who think it is fairly easy. Just 5% find it difficult to understand. Given the low proportions that find it difficult, it is not possible to identify any particular pattern in the types of organisation who find it more difficult.

Similarly, the vast majority (82%) find it very easy (65%) or fairly easy (28%) to self categorise. There is some indication that those organisations that are public sector/ charity or over 250 employees find it more difficult (11% and 16% respectively).

### Tier allocation

From the information provided in the questionnaire it is possible to allocate organisations to their fee tier using: organisation type, number of employees, their annual turnover, the number of customer records they process and whether they carry out electronic marketing activities. The survey sample shows the proportion of organisations falling into each category as follows:

- Tier 1: 78%
- Tier 2: 4%
- Tier 3: 3%
- Unknown (insufficient information given in the questionnaire): 14%
- Additionally 15% of organisations also fell into the Direct Marketing top-up fee bracket.

### Ability to self categorise

Data controllers were asked which fee tier they would fall into, this was compared to the actual data analysis of which tier they would fall into, given they had supplied information in the questionnaire about their organisation. This showed:

- **Those who self categorised as Tier 1:** 85% of these correctly identified the fee tier they would pay. 14% did not provide sufficient information in the questionnaire to enable a tier to be allocated (i.e. gave 'don't know' response to one or more of the relevant questions). The remaining 1% allocated themselves to tier 2.
- **Those who self categorised as Tier 2:** A low number of organisations fell into this category, therefore findings are indicative. 63% correctly identified with tier 2 and a further 15% did not provide enough information to allocate to a tier. Other responses indicate allocation to tier 1 and 3.
- **Those who self categorised as Tier 3:** 75% accurately self-categorised with tier 3, 20% did not provide sufficient information to allocate to a fee tier. The remainder provided a lower tier.
- **Direct marketing top-ups:** All organisations correctly identified with this.

### Appropriateness of the fee levels

On balance, 80% of data controllers said they thought these were the right criteria being used to determine fee structures (before proposed fees were given to them). There is a clear pattern of the types of organisations that don't think it is the right criteria. These types of organisation have the characteristics that mean they would fall into a higher tier fee, for example:

- Currently pay £500, a lower 64% think it is the right criteria to determine the new fee structure
- Would actually fall into tier 3: 41% think it's the right criteria
- Think they would fall into tier 3: 58% think it's the right criteria
- Over 250 employees: 43% think it s the right criteria
- Annual turnover of over £50 million: 43% think its the right criteria
- Over 10,000 customer records: 71% think it's the right criteria.

The proposed fees were provided to data controllers. The table below shows the proportions of each organisation which think it is appropriate or inappropriate to pay the fee their organisation would be eligible for.

	Very appropriate	Fairly appropriate	Fairly inappropriate	Very inappropriate
Tier 1: annual fee of up to £55	14%	44%	19%	23%
Tier 2: annual fee of up to £80	43%	57%	-	-
Tier 3: annual fee of up to £1000	2%	26%	30%	42%

*Base: All eligible for each tier: tier 1 170, tier 2 14 (caution low base!), tier 3 102*

There is a clear pattern that those paying the lower fee tier 1 find the proposed fee more appropriate than those in tier 3.

Data controllers were then asked to indicate how appropriate they thought the other tiers were. The data was combined with their views on their own tier (to provide a total research sample view of appropriateness for each tier). This is shown in the table below.

	Very appropriate	Fairly appropriate	Fairly inappropriate	Very inappropriate
Tier 1: annual fee of up to £55	15%	46%	18%	21%
Tier 2: annual fee of up to £80	14%	58%	15%	12%
Tier 3: annual fee of up to £1000	18%	61%	12%	9%
Electronic marketing top up fee of £20	26%	42%	20%	13%

*Base: all respondents 333*

For views on tier 1 fees, the levels of appropriateness amongst all organisations is similar to the views of organisations that would pay tier 1 fees. However, for tier 3, all organisations believe it more appropriate than those organisations that would be eligible for tier 3. Views on the £20 fee for organisations processing personal data for electronic marketing were also gathered.

On balance, the views on tier fees and the top-ups show the majority (in excess of 60% of organisations) think the fees are appropriate (very or fairly).

### Views on fairness of the proposed fee structure

After the pricing had been provided to data controllers they were asked to agree or disagree to two attitude statements. This is shown in the table below.

	Agree strongly	Agree slightly	Neither agree or disagree	Disagree slightly	Disagree strongly
The new proposed fee structure is fair compared to the current fee structure	13%	31%	18%	25%	13%
£x is a fair amount for your organisation to pay in a fee to the ICO to fund its regulatory activities	15%	26%	10%	19%	30%

*Base: all respondents/ all able to provide sufficient information to allocate a tier 333/ 286*

This shows that there are mixed views towards the proposed fee structure:

- Slightly more agree (44%) than disagree (38%) that the new fee structure is fair compared to the current structure. Those falling into the higher tier 3 were more likely to neither agree nor disagree (47%) than all organisations
- Slightly more disagree (49%) than agree (41%) that the fee they are paying is a fair amount to fund ICO's regulatory activities. As might be expected those falling into the higher tier 3 were more likely to disagree (72%).

Amongst organisations that disagree the fee proposed for them is fair, they were asked whether it was because the fee was too high or too low (or another reason). 86% said it was because it was too high. 14% gave another reason; these answers are shown in the appendix. These answer mainly provide reasons why they think it is too high.

## Appendix

### Open response answers as to why the fee level is not fair

all public authorities must be exempted from all fees. It is a waste

At a time of austerity when local govt. is seeing it's budgets slashed, central govt. asks us to pay more? This is unreasonable.

Disagree with extra for Direct Marketing top up

Disproportionate within the Tier structure.

Do not process information

I don't understand what the fee is for. I begrudge paying £35 each year, an additional £20 seems ridiculous

I pay an awful lot for regulation in various areas.

I'm self employed a very small turnover £16,000

It does not reflect my own position

It feels like a lot of small scale private sector organisations - doing much of the 'novel' development with personal data and tech - are going to be subsidised by large public sector organisations (and taxpayers money).

It is too high for a sole trader

it might be if it included all associated legal entities, but otherwise does not reflect the B2B nature of the vast majority of our transactions

No account is taken of our non-profit, public good purpose

Public Sector organisations are already struggling to provide services on the money provided by central government. Paying more will affect services provided somewhere else.

Smaller companies are less likely to have relevant controls in place to stop a breach, where the larger companies would do.

The criteria should be based on number of permanent staff and profit as the nature of our business means that we are being penalised.

the fee is too high specifically for a local council to pay

The gap between tier 1 to tier 3 is far too great. Tiers 1 and 2 should pay more

The suggested tiers are too gross.

The tier one category is too broad

There is a huge gap between a single person trader who handles less than 6 clients a year and a 50m turnover business with 10,000 records

There is too much of a difference between tiers 1 and 2, and 3. I think it would be fairer if tier 3 paid closer to the current fee of £500 and tier 2 paid a higher fee. Also, think that consideration should be given to public authorities paying a flat fee no matter how many employees they have.

This would be an increase of 57% which is totally unreasonable

Tiers 1 and 2 are appropriate for smaller organisations; the next step up is tier 3 for large organisations. What is in place for medium organisations? Many medium organisations will be caught in this and registration fees will go up for us, for example from under £2k to over £5k. That seems unreasonable.

too high for a public sector organisation

Too high for very small companies

We do not just pay this fee, which is a doubling of the fee but also Tier 1 fees for 45 elected councillors and the Electoral Registration function.

we are a registered charity



## Questionnaire

### ICO Funding Questionnaire

- Target Audience: UK data controllers
- Research method: Online

### Questionnaire content

#### Invite Header: Information Commissioner's Office fee structure

##### Email invite

You may recall being invited to participate in a research survey concerning the Information Commissioner's Office (ICO). The ICO is the UK's independent public body that enforces and regulates the Data Protection Act.

As a follow-up to the research conducted in 2015, BDRC Continental has been asked by the DCMS, as the ICO's sponsor body, to conduct further research to seek feedback on a different registration fee structure.

The information is being collected via an online research questionnaire. The information you provide is subject to the Market Research Society's Code of Conduct which means all your answers will be treated in strict confidence and the ICO will not see your individual answers, but only as aggregated data. Your organisation has been invited to provide information along as part of a study of around 300 organisations notifying with the ICO.

The questionnaire will take no longer than 5-10 minutes to complete.

If you are not the right person to answer the questions, please pass to an appropriate colleague.

If you would like to participate in the research, please click on the link [LINK TO BE INSERTED](#).

##### Data recorded from ICO database

TBC – could record from database, or if re-contacting those taken part previously can link to their data

##### Questionnaire

Thank you for participating in this online research questionnaire, it will take no longer than 5 minutes to complete.

This study concerns notifications; if you are not the right person to answer the questions, please pass to an appropriate colleague.

**The organisation we would like you to answer questions about is DISPLAY NAME OF ORGANISATION.**

**Q1. Firstly, were you the original recipient of the email inviting you to take part in this questionnaire or did someone else pass this to you?**

1. Original recipient
2. Email passed from someone else

**Q2. It's understood that your organisation has notified with the Information Commissioner's Office. Is this correct? By notified its meant your organisation is registered as a data controller.**

1. Yes
2. No                   CLOSE
3. Don't know        CLOSE

**Q3. And do you know how much your organisation pays to notify with the Information Commissioner's Office?**

1. My organisation pays £35
2. My organisation pays £500
3. I don't know how much my organisation pays

**Q4. Which of the following best describes your organisation?**

1. Private sector company
2. Public Authority
3. Charity

**Q5. How many employees are employed by your organisation in total across all sites in the UK?**

(Comparable to 2008 but codes 1-5 are split out to provide greater detail)

DISPLAY ORGANISATION NAME FOR CONSISTENCY

1. 1
2. 2-9
3. 10-49
4. 50-199
5. 200-249
6. 250-499
7. 500-999
8. 1000 to 4999
9. 5000+
10. Don't know
11. Rather not say

ASK IF Q4 code 1

**Q6. What is the annual turnover for the organisation in the UK?**

1. £25,000 or less
2. Over £25,000 to £50,000
3. Over £50,000 to £75,000
4. Over £75,000 to £100,000
5. Over £100,000 to £250,000
6. Over £250,000 to £500,000
7. Over £500,000 to £1 million
8. Over £1 million to £2 million
9. Over £2 million to £5 million
10. Over £5 million to £10 million
11. Over £10 million to under £50 million
12. Over £50 million
13. Don't know
14. Rather not say

**ASK All**

**Q7. How many customer records does your organisation process personal information about in a typical year?**

1. 1-50
2. 51-100
3. 101-250
4. 251-500
5. 501-1,000
6. 1001-5000
7. 5001-10,000
8. 10,001-50,000
9. 50,001-100,000
10. 100,000+
11. Not sure
12. Rather not say

**Q8. Does your organisation carry out electronic marketing exercises, by this we mean “the communication (electronic) of any advertising or marketing material which is directed to particular individuals”**

1. Yes
2. No

DISPLAY

Opening Context (why is model changing)

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<p><b>Tier 2: Small and Medium Firms that process large volumes of data</b></p>	<p>Staff headcount below 250; and</p> <p>Turnover below £50M pa; and</p> <p>Number of records processed above 10,000</p> <p><i>*Public Authorities should categorise themselves according to staff headcount and number of records only.</i></p>
<p><b>Tier 3: Large businesses</b></p>	<p>Staff headcount above 250; and</p> <p>Turnover above £50M pa</p> <p><i>*Public Authorities should categorise themselves according to staff headcount and number of records only.</i></p>
<p><b>Direct Marketing top up</b></p>	<p>Organisations that carry out electronic marketing activities as part of their business.</p>

**ENABLE DESCRIPTION TO BE REFERRED TO IN ALL QUESTIONS IF REQUIRED**

**Q8. How easy or difficult is the new fee structure to understand?**

1. Very easy
2. Fairly easy
3. Quite difficult
4. Very difficult

**Q9. How easy do you think it will be for your organisation to self categorise based on the criteria in the table? (SHOW CRITERIA AT QUESTION)**

1. Very easy
2. Fairly easy
3. Quite difficult
4. Very difficult

**Q10. From this information, what fee tier do you think your organisation would pay? (SHOW CRITERIA AT QUESTION)**

ENTER fee tier

1. Tier 1
2. Tier 2
3. Tier 3
4. Direct marketing top-up (multi-punch)
5. Don't know

**Q11. Do you think these are the right criteria being used to determine the fees structure?**

1. Yes
2. No

**ASK IF Q11 'NO'**

**Q12. What alternative criteria do you think should be used? WRITE IN**

Allow DK

**Q13. The fee for your tier would be xx (NEED TO ADD ACCORDING TO THE WAY IN WHICH QUESTIONS ARE ANSWERED). How appropriate do you think this fee level is for organisations like yours?**

**Tier 1** = Q5 codes 1 to 5 (i.e. employees less than 250) OR Q6 CODES 1-11 (turnover less than £50 mill) AND Q7 codes 1-7 (process less than 10,000). If they are a Q4 not code 1 (public authority or charity) and therefore don't get Q6 then its Q5 codes 1 to 5 (i.e. employees less than 250) AND Q7 codes 1-7 (process less than 10,000)

**Tier 2**= Same as Tier 1 but process more than 10,000 at Q7

= Q5 codes 1 to 5 (i.e. employees less than 250) OR Q6 CODES 1-11 (turnover less than £50 mill) AND Q7 codes 8-10 (process more than 10,000).

If they are a Q4 not code 1 (public authority or charity) and therefore don't get Q6 then its Q5 codes 1 to 5 (i.e. employees less than 250) AND Q7 codes 8-10 (process less than 10,000)

**Tier 3** = Q5 codes 6 to 9 (i.e. employees more 250 or more) AND Q6 CODES 1-12 (turnover less than £50 mill) If they are a Q4 not code 1 (public authority or charity) and therefore don't get Q6 then its Q5 codes 6 to 9 (i.e. employees more than 250)

If there are any DKs at Q5, Q6 or Q7 then skip Q13 but get asked all options at Q14.

*For Tier 1 Orgs: annual fee of up to £55*

*For Tier 2 Orgs: annual fee of up to £80*

*For Tier 3 Orgs: annual fee of up to £1000*

1. Very appropriate
2. Fairly appropriate
3. Fairly inappropriate
4. Very inappropriate

**Q14. And how appropriate do you think it is for Tier 'insert number' to pay 'insert fee' as an annual fee? (ASK FOR EACH TIER WHICH ORGANISATION IS NOT IN)**

*For Tier 1 Orgs: annual fee of up to £55*

*For Tier 2 Orgs: annual fee of up to £80*

*For Tier 3 Orgs: annual fee of up to £1000*

1. Very appropriate
2. Fairly appropriate
3. Fairly inappropriate
4. Very inappropriate

**Q15. How appropriate do you think it is that organisations that process personal data for electronic marketing purposes should pay a £20 top up fee to the ICO to cover the cost of the additional regulation?**

1. Very appropriate
2. Fairly appropriate
3. Fairly inappropriate
4. Very inappropriate

**Q16. To what extent do you agree or disagree**

- A. The new proposed fee structure is fair compared to the current fee structure?
  - B. £x is a fair amount for your organisation to pay in a fee to the ICO to fund its regulatory activities\*\*
- 
1. Agree strongly
  2. Agree slightly
  3. Neither agree or disagree
  4. Disagree slightly
  5. Disagree strongly

\*\* calculate fee paid according to questions, if DKs at Q5, Q6 or Q7 then skip Q16 B



**ASK OF Q16B CODES 4 or 5**

**Q17. Which of these best describes why you disagree £x is not a fair amount for your organisation to pay?**

1. The fee is too high
2. The fee is too low
3. Or is it for another reason (WRITE IN)

**Q18. Do you have any further comments you would like to make about the proposed fee structure?**

Thank and Close (redirect to ICO website on close)

Many thanks for your time in completing the survey. You will now be redirected to the ICO website ([ico.org.uk/for-organisations/](http://ico.org.uk/for-organisations/)).

**CLOSE STATEMENT (FOR SCREENED INDIVIDUALS AT Q2)**

Thank you for your time, we only need to ask questions of organisations who have notified with the Information Commissioner's Office on this occasion.