

# The Price of Compliance - The New Data Protection Fee Regime

***Most businesses process personal data and so are well aware of their obligation under the Data Protection Act 1998 to “notify” (register with) the Information Commissioner’s Office with details of what they do with that data. The ICO uses those details to create an entry on its register of “data controllers” which is open to public inspection at [www.ico.gov.uk](http://www.ico.gov.uk) - failure to notify is a criminal offence.***

The yearly renewal fee has been £35 for many years, but as from 01 October 2009 new regulations brought into force a “two tier” fee structure. For “Tier 1”, the notification fee is unchanged at £35, but for businesses in “Tier 2” the fee is now £500 a year. The new fees apply to renewals of notifications due on or after 01 October 2009.

Whether your business is Tier 1 or 2 will depend on its size and turnover:

Q: Does your business have fewer than 250 members of staff?

If your answer is **YES** - The business is ‘TIER 1’- the annual fee is £35

If your answer is **NO** - Go to the next question below

Q: Did your business turn over £25.9 million or more in its last financial year?

If your answer is **YES** - The business is ‘TIER 2’- the annual fee is £500

If your answer is **NO** - The business is ‘TIER 1’- the annual fee is £35

In calculating how many “members of staff” there are in your business, you will have to total up the number of staff for each month of your (most recent) financial year and then calculate the monthly average over that year. You need to count not only employees, but also others such as partners and “office holders”.

To calculate “turnover”, companies and limited liability partnerships need to apply the relevant definition in the Companies Act 2006 and related regulations.

For other businesses, turnover will be the amount derived from the provision of goods and services falling within the data controller’s ordinary activities, after deducting:

- Trade discounts
- VAT
- Any other taxes based on the amount so derived

All these calculations will have to be done for each company in a group.



For more information, see the document “Notification fee changes - what you need to know” available from the ICO website, or speak to Deryck Houghton : 0845 070 3810 [deryck.houghton@freethcartwright.co.uk](mailto:deryck.houghton@freethcartwright.co.uk)