

TRUSTEES OF THE CARLTON JAMES  
RETIREMENT FUND  
OFFICE 12  
VENTURE WALES BUILDING  
PENTREBACH  
MERTHYR TYDFIL  
CF48 4DR



How to contact us

Payments and Penalties helpline:  
0303 123 1113  
Email:  
paymentsandpenalties@ico.org.uk

**STRICTLY PRIVATE & CONFIDENTIAL**

3 June 2024

Dear Sir / Madam

**NOTICE OF INTENTION TO ISSUE A PENALTY NOTICE UNDER THE DATA  
PROTECTION (CHARGES AND INFORMATION) REGULATIONS 2018**

Registration Number: ZA787870

Order Reference Number: 00c059e5040b

Expiry Date: 15 September 2023

I refer to the above matter, which has been the subject of previous data protection fee reminder correspondence issued by the Information Commissioner's Office (ICO). We sent this correspondence to the person your company nominated to deal with us on data protection fee issues. This is often a Data Protection Officer, a Director or a member of the finance team. Your contact details may not be up to date for the organisation, please email [paymentsandpenalties@ico.org.uk](mailto:paymentsandpenalties@ico.org.uk) if you need to update the contact details for the organisation.

Please find enclosed, by way of service, a Notice of Intent to issue a monetary penalty to **Trustees of the Carlton James Retirement Fund** under the above regulations unless either:-

- a) the requisite data protection fee of £40.00 is received by the Information Commissioner by 24 June 2024 or;
- b) representations are made to the Commissioner by 24 June 2024 by email to [paymentsandpenalties@ico.org.uk](mailto:paymentsandpenalties@ico.org.uk) or in writing explaining why Trustees of the Carlton James Retirement Fund is not required to pay a fee under the above regulations or if you wish to provide evidence that our assessment of the fee you are required to pay is incorrect.

Please note that all renewals will be backdated to the date that the registration expired once payment has been received and not to the date we received your payment.

### **How to renew:**

**You can renew online at: <https://ico.org.uk/renew>**

**Direct debit** - this is the best way to make sure you renew on time. Just visit [www.ico.org.uk/direct-debit](https://www.ico.org.uk/direct-debit) and follow the instructions to complete your payment online. It's really quick and easy to do. **If you pay by direct debit you will automatically receive an annual reduction of £5.** You will need your **order reference** and **registration reference** from the top of this letter.

If you wish to pay by card then enter the registration number and order number quoted overleaf in the required fields on the renewal payment page and choose the amount to pay depending on the fee tier category you have determined you belong in.

If you choose to pay by cheque please make it payable to "The Information Commissioner" and quote your registration number on the back of the cheque and post it to the Payments and Penalties Team, Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

Should you wish to pay by BACS then the details are:-

Bank: Royal Bank of Scotland, Manchester St Ann's Square branch  
Account Name: Information Commissioner Registration Account  
Account Number: 11663041  
Sort Code: 163424

**Please ensure you quote your registration number on your remittance.**

If you have recently made a BACS payment please contact us, providing the date the payment was made and reference number provided on the remittance, to allow us to allocate your payment.

You should note both the deadline of 24 June 2024, on page 5 of the Notice, and the provisions in the annex giving details of how to make representations. In this respect, please also consult the statutory guidance on the procedure and the issuing of monetary penalties which are available on our website via

the link: <https://ico.org.uk/rap>

If the matter ultimately proceeds to the issue of a Penalty Notice, you should be aware that its wording would not differ substantially from the Notice of Intent, although of course any representations made would be taken into account and we would correct any factual inaccuracy brought to our attention.



Any organisation issued with a Penalty Notice is subject to having their names listed on our website as per the above policy.

Action we've taken against organisations so far can be found at <https://ico.org.uk/penalty-notice>

If the matter subsequently results in a Penalty Notice being issued and payment is still not received then this will be subject to being passed to our external solicitors for collection.

If you have recently made a renewal payment or wish to contact us regarding this matter then please email [paymentsandpenalties@ico.org.uk](mailto:paymentsandpenalties@ico.org.uk) or call our helpline on 0303 123 1113 and ask to speak to a member of the Payments and Penalties team.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Traci Shirley', with a stylized flourish at the end.

Traci Shirley  
Group Manager – Data Protection Fees  
Information Commissioner's Office



# **THE DATA PROTECTION ACT 2018**

## **AND**

### **THE DATA PROTECTION (CHARGES AND INFORMATION) REGULATIONS 2018**



#### **NOTICE OF INTENT**

To: TRUSTEES OF THE CARLTON JAMES  
RETIREMENT FUND

Of: Office 12  
Venture Wales Building  
Pentrebach  
Merthyr Tydfil  
CF48 4DR

1. The Information Commissioner ("Commissioner") intends to issue Trustees of the Carlton James Retirement Fund with a penalty notice under section 155(1) (a) of the Data Protection Act 2018 ("DPA"). The penalty is being issued because of a failure to comply with regulations prescribing the payment of a charge to the Commissioner: the Data Protection (Charges and Information) Regulations 2018 ("the Regulations").
2. This notice explains the Commissioner's decision.

#### **Legal Framework**

3. Trustees of the Carlton James Retirement Fund is a data controller within the meaning of the DPA.
4. Under section 137 of the DPA, regulations may be made prescribing charges to be paid to the Commissioner by data controllers and requiring data controllers to provide the Commissioner with specified information.


5. The Regulations make provision for these charging and information requirements.
6. Regulation 2(2) requires a data controller to pay a charge to the Commissioner, within 21 days of the beginning of the relevant charge period, in the sum set out in regulation 3.
7. Regulation 3(1) prescribes the applicable charge to be:
  - (1) £40 for a tier 1 organisation;
  - (2) £60 for a tier 2 organisation;
  - (3) £2,900 for a tier 3 organisation.
8. The definitions of the tiers are set out in regulation 3(2). Regulation 3(5) reduces each charge by £5 if paid by direct debit.
9. Regulation 2(3) requires a data controller to provide to the Commissioner, within 21 days of the beginning of the relevant charge period, specified information as at the first day of that charge period. That information is:
  - (1) The name and address of the controller;
  - (2) The number of members of staff of the controller by reference to specific bands;
  - (3) The turnover of the controller by reference to specific bands;
  - (4) Whether the data controller is a public authority.
10. Section 155(1)(a) DPA provides the Commissioner the power to issue a written notice requiring a person to pay an amount specified in the

16. In accordance with paragraph 2 of Schedule 16 to the DPA, the Commissioner has issued this Notice of Intent to inform the controller that the Commissioner intends to issue a penalty notice and the reasons for that intention.
17. The Commissioner makes the findings of fact in this Notice on the balance of probabilities.

### **The Contravention**

18. The Commissioner is satisfied of the following matters.
19. Trustees of the Carlton James Retirement Fund is a data controller liable to pay a charge to the Commissioner under the Regulations.
20. The charge due from Trustees of the Carlton James Retirement Fund became due on 15 September 2023. The Commissioner calculates this date to be the beginning of the relevant charge period in accordance with regulation 2(6)(a).
21. In contravention of regulation 2(2), no charge was paid to the Commissioner within 21 days.
22. In contravention of regulation 2(3), no information was provided to the Commissioner within 21 days.
23. On the basis of the information available, the Commissioner is satisfied that Trustees of the Carlton James Retirement Fund


notice if the Commissioner is satisfied that the person has failed or is failing as described in, inter alia, section 149(5).

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11. Section 149(5) describes a failure on the part of a controller to comply with regulations under section 137. The Regulations are regulations under section 137 DPA.
  12. In accordance with section 158, the Commissioner has published a document specifying the amount of the penalty for a failure to comply with the Regulations. This document is entitled 'Regulatory Action Policy' and is published on the Commissioner's website at <https://ico.org.uk/rap>
  13. The Commissioner has specified that for a breach of regulation 2(2) and/or regulation 2(3) the following penalties will be applied:
    - (1) A tier 1 organisation will be the subject of a £400 penalty;
    - (2) A tier 2 organisation will be the subject of a £600 penalty;
    - (3) A tier 3 organisation will be the subject of a £4,000 penalty.
  14. In accordance with section 158(3) and the Commissioner's published document, a higher penalty sum may be issued where there are aggravating factors. Aggravating factors may include failing to co-operate with the Commissioner, the provision of misleading or false information, or a previous history of non-compliance.
  15. For the avoidance of doubt, a penalty issued under section 155(1)(a) DPA is in addition to the charge set in regulation 3(1) of the regulations and payment of this penalty does not satisfy the requirement in regulation 2(2).



is a Tier 1 organisation under the provisions of the Data Protection Act (Charges and Information) Regulations 2018.

The information upon which the Commissioner has reached that view is as follows:

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- (1) The previous registration for the organisation where it is identified as now being a Tier 1 organisation under the provisions of the Data Protection (Charges and Information) Regulations 2018.

### **The Amount of the Penalty**

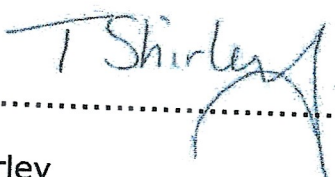
24. In accordance with the Commissioner's statutory published guidance, the applicable fixed penalty amount is **£400.00**.

### **Conclusion**

25. The Commissioner intends to make a final decision as to whether to serve a penalty notice for such amount on or after **24 June 2024**. If you wish to make any representations as to why the Commissioner should not serve a penalty notice, or should not serve a penalty notice in the amount set out above, you must do so before that date. A sheet explaining the procedure for making representations is attached to this Notice of Intent as Annex 1.



Dated the 3 June 2024

Signed ..... 

Traci Shirley  
Group Manager – Data Protection Fees  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

## **ANNEX 1**

### **DATA PROTECTION ACT 2018**



#### **REPRESENTATIONS IN RESPONSE TO A NOTICE OF INTENT**

The Information Commissioner has power under section 155 of the Data Protection Act 2018 to serve a penalty notice on a data controller. Before that power is exercised, the Commissioner wishes to take account of all the relevant facts and arguments.

This Notice of Intent is to enable the person affected to put their side of the case. The Commissioner's intentions are set out in the accompanying Notice of Intent. If you wish to make representations on those matters you have an opportunity to do so. The closing date for this is in the accompanying Notice of Intent, and will not be less than 21 days from the date of the Notice.

Representations should be made in writing. You may wish to comment on the facts and views set out by the Commissioner or to make general remarks on the case and enclose documents or other material, including by reference to the Commissioner's published guidance.

All representations will be carefully considered by the Commissioner before a final decision is made.

Representations should be sent to The Payments and Penalties Team, Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF or by email to [paymentsandpenalties@ico.org.uk](mailto:paymentsandpenalties@ico.org.uk).