

Data Protection Policy

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Introduction

The Data Protection Act 1998 (DPA) replaces and builds on the earlier 1984 Act which arose out of concerns that the power of computers to manipulate information was threatening the privacy of individuals. This perception has grown in the intervening years and European Directive 95/46/EC extended the scope of data protection to include all personal data held about individuals, however it was stored. It also added constraints on transferring data outside the EU.

Scope

This policy has been established to ensure that Natural England meets its legal obligations under the DPA. This policy applies to all personal data for which Natural England is responsible, including electronic data and manual data which are covered by the DPA. It applies regardless of where the data are held, and regardless of the ownership of the equipment used for processing, if the processing is performed for Natural England purposes. Outside agencies and individuals who work with Natural England, and who have access to personal information for which Natural England is responsible, will be expected to comply with this policy and with the DPA. Natural England has a corporate responsibility to ensure that it conforms to and implements the DPA. Natural England is accountable to the Information Commissioner for its compliance with the legislation.

Status

This policy was approved by Natural England's Executive Board on 17 October 2006. It will be reviewed routinely and when changes to procedures are necessary through experience, case law or legislation changes.

Responsibilities

Natural England's Data Protection policy applies to all students and staff of Natural England. Any breach of the policy may result in Natural England, as the registered data controller, being liable in law for the consequences of the breach. Legal liability may also extend to the individual processing the data and their Team or Line Manager under certain circumstances. In addition, breach of Natural England's Data Protection Policy by staff or students will be considered to be a disciplinary offence and will be dealt with according to Natural England's

disciplinary procedures. Any member of staff or student who considers that the policy has not been followed with respect to personal data about themselves should raise the matter with their Team or Line Manager or Natural England's Access to Information Specialists.

Legal liability

Under the DPA the Information Commissioner has powers to issue an enforcement notice or an information notice where a data controller (ie Natural England) has contravened any of the data protection principles. The main contraventions are likely to be unauthorised processing and/or disclosure of data. Failure to comply with such a notice is an offence under the DPA. For example Natural England could be corporately fined.

Notification

Natural England has an obligation to notify the Information Commissioner of any processing of personal data. There are a number of standard categories to give information on:

- Purposes under which data is processed (eg marketing, staff management).
- Descriptions of data subjects (eg employees, enquiries, customers).
- The classes of data (eg personal details, financial details, employment details).
- The recipients of the data (eg other government departments, the individuals themselves).
- This notification is publicly available on the [Data Protection Public Register](http://www.esd.informationcommissioner.gov.uk/esd/search.asp), (www.esd.informationcommissioner.gov.uk/esd/search.asp).

Public Service Guarantee on Data Handling

Natural England has a [Public Service Guarantee](http://www.naturalengland.org.uk/pdf/foi/NEGuaranteeonDataHandling.pdf), (www.naturalengland.org.uk/pdf/foi/NEGuaranteeonDataHandling.pdf). This Guarantee is to inform people of their rights when they supply personal information to the public sector for the provision of public services.

Data Protection Principles

Key to data protection is adherence to the eight Data Protection Principles. These are set out in Schedule 1 of the DAP and can be summarised as:

1. Processing must be fair and lawful, in line with our legal and contractual obligations. The individual's explicit consent makes processing fair and lawful (although withdrawal of consent must be allowed for).
2. Data must be obtained only for specific and lawful purposes, and further processing must keep to these purposes.
3. Data must be adequate, relevant and not excessive in relation to why it is being processed.
4. Data must be accurate and up to date.
5. Data must not be kept for longer than necessary.
6. Individuals have the right to be aware of what data we hold, how we obtain it, what we do with it, what we disclose and to whom we disclose it.
7. Data must be kept secure.
8. There are special restrictions on transferring data outside Europe. (This includes putting personal information on the Internet.)

Staff guide

Guidance on the procedures necessary to comply with this policy will be developed by the Access to Information Specialists. The guidelines produced will be produced and added to from time to time as the regulatory environment evolves.

Rights of the individual

Everyone has the right to see and obtain a copy of information that is held about them by Natural England. This right applies to anyone about whom we hold information – staff, ex-staff, customers, suppliers, contractors – if we hold data about them we are required to provide it no matter who they are.

To exercise this right, individuals make a Subject Access Request. We are legally obliged to respond to requests within 40 calendar days; however Natural England's service standards reduce this to 20 working days. If we do not comply, we breach the DPA and the individual could complain to the Information Commissioner.

Confidentiality of personal information

All information about individuals that Natural England staff may hold, access or learn in the course of their duties, must not communicate this to external persons or bodies without good reason (see below). In order for data to be personal data, the data must relate to a living individual who can be identified from the data or from the data and any other information that is in, or is likely to come into, the possession of Natural England. It also includes any expression of opinion about the individual and any indication of the intentions of Natural England in respect of the individual.

This restriction includes to any information about any past or present employee or other individual, including their address, telephone number or any other data that is classed as personal by the DPA. This also includes data that individuals have provided to Natural England.

Acceptable reasons for disclosure

We may disclose personal data if disclosure is required by law, or for the purpose of Natural England business, or with the consent of the individual concerned as long as this disclosure complies with the DPA. This consent must in written form and a non-response cannot imply consent.

The Access to Information legislation relies on the DPA to govern the release of personal data about individuals other than the person making the request. The presumption in favour of disclosure which is inherent in the FOIA and EIRs may affect the way the principle of fairness is interpreted, and even though the information could be classed as personal there could be strong public interest factors that favour disclosure, eg when dealing with disclosure of personal data relating to individuals acting in an official capacity.

Dealing with requests for personal data

Even where disclosure of information is permitted, reasonable steps must be taken to determine the authenticity of the enquiry before any information is disclosed.

The Access to Information Specialists should be informed of any enquiry from an external person or body.

Giving information to Law Enforcement Agencies

While Natural England would appear to be within its legal rights to refuse to disclose information to Law Enforcement Agencies unless the person concerned is suspected of committing an arrestable offence, the Natural England policy is to offer every reasonable assistance to Law Enforcement Agencies in their enquiries.

Steps should be taken to establish the authenticity of a request. This is to be in writing on headed paper. If the request is an emergency then ask the caller to leave name, rank, and station telephone number, and then phoning back and asking for the officer in question.

Charging

An organisation can charge up to £10 when answering an individual's data access request. As it is not economic for Natural England to charge so little, this fee is currently waived.

Appeals

An appeal by an individual not a member of Natural England staff, against refusal to supply data, or any other conduct in processing personal data, should be treated as a complaint and should follow Natural England's complaints procedure as set out by the Corporate Planning and Reporting Team.

If a member of Natural England staff is dissatisfied with any aspect of the organisation's treatment of their personal data, including refusal to supply it on request, they should invoke the grievance procedure in the Employment Manual.

Data protection coordination and further information

All Data Protection enquires and questions relating to this policy should be directed to:

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