

## Data Protection Staff Guide

[Public Service Guarantee on Data Handling](#)  
[Overview of the Data Protection Act 1998](#)  
[Definitions](#)  
[Data Protection Principles](#)  
[Gathering data](#)  
[Disclosure of data](#)  
[Use of personal data in research](#)  
[Confidential references and recruitment](#)  
[Use of images](#)  
[Disclosure of personal data to Law Enforcement Agencies](#)  
[Guidance on the use of personal data in system testing](#)  
[Generic fair processing notice](#)

### Public Service Guarantee on Data Handling

Natural England has a [Public Service Guarantee](#), ([www.naturalengland.org.uk/pdf/foi/NEGuaranteeonDataHandling.pdf](http://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.

### Overview of the Data Protection Act 1998

The Data Protection Act 1998 (DPA) replaced and broadened the Data Protection Act 1984. The purpose of the Act is to protect the rights and privacy of individuals, and to ensure that data about them are not processed without their knowledge and are processed with their consent wherever possible. The DPA covers personal data relating to living individuals, and defines a category of sensitive personal data which are subject to more stringent conditions on their processing than other personal data.

The DPA covers data held in electronic formats, and also applies to manual data which are held in what the Act calls a relevant filing system. While this might appear to limit the categories of non-electronic data to which the DPA applies, the definitions of personal data in the DPA have been broadened by the Freedom of Information Act 2000 in respect of public authorities like Natural England. The main effect of this is that unstructured personal information held by Natural England in manual form - ie not in a relevant filing system - is covered by the DPA, except for unstructured data relating to appointments, removals, pay, discipline and other personnel matters, which remain outside the scope of the DPA.

It should therefore be assumed, as a general rule, that any personal data relating to an identifiable living individual which are held by Natural England in any form are covered by the DPA.

Natural England is a data controller in respect of the data for which it is responsible. This means that Natural England is responsible under the DPA for decisions in regard to the processing of personal data, including the decisions and actions of external data processors acting on Natural England's behalf.

Natural England needs to collect certain types of personal information about the people with whom it deals, such as current, past and prospective employees, owner/occupiers, agreement holders and those with whom it communicates. This information has to be

collected for administrative purposes (such as staff recruitment and the administration of agreements), and to fulfil legal obligations. The DPA requires that this information should be processed fairly, stored safely and not disclosed to any other person unlawfully. Natural England is committed to protecting the rights and privacy of individuals in accordance with the requirements of the DPA.

## **Definitions**

### **Data controller**

A person who controls the manner and purposes for which, any personal data are to be processed. Person" here means legal person, not necessarily an individual. Natural England has been declared as the Data Controller.

### **Data processor**

An individual or organisation other than an employee of the data controller, who processes personal data on behalf of the data controller: e.g. a firm which collects and processes data on Natural England's behalf under contract. Data controllers are responsible for the processing which is carried out for them by data processors, and have to ensure that this processing takes place within appropriate security arrangements.

### **Data subject**

A data subject is an identifiable or identified living individual who is the subject of personal data. The data subject need not be a UK resident or a UK citizen. They could be anywhere in the world.

### **Information Commissioner**

The Commissioner is a public official, independent of government, who has a general duty to promote compliance with the Act, backed by enforcement powers.

### **Data**

Data encompasses information, which is or is intended to be processed by computer (electronic data) or processed manually (manual data).

Electronic data extends beyond the databases, spreadsheets and word processing documents to include swipe card systems, CCTV systems etc.

Manual data are covered by the Act if they form "part of a relevant filing system". Broadly speaking this means that they must be structured in such a way as to facilitate the processing of specific information about an individual. Natural England's will treat all information as data and will not use the subjectiveness of what defines a "structured filing system" as a reason to not disclose information.

### **Personal data**

Personal data means data which relates to a living individual who can be identified either from that data or from that data and other information which is in the possession of, or is likely to come into the possession of, the data controller. It also includes any expression of opinion about the individual and any indication of the intentions of the data controller or any other person in respect of the individual.

## Processing

Processing means carrying out any operation or set of operations on information or data. This includes obtaining, storing, reading, using, disclosure, destruction etc.

## Notification

Processing personal data without informing the Information Commissioner is an offence. The information about an organisations' data processing is provided through a process known as notification. In this a number of standard categories are selected to give information on:

Purposes under which data is processed (e.g. marketing, staff management):

- Categories 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);
- General description of measures to be taken for the purposes of complying with the requirement of data security.

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](http://www.esd.informationcommissioner.gov.uk/esd/search.asp)).

## Subject Access Request

Please refer to the guidance on [Subject Access Requests](http://www.naturalengland.org.uk/pdf/foi/NEDPAHandlingSAR.pdf), ([www.naturalengland.org.uk/pdf/foi/NEDPAHandlingSAR.pdf](http://www.naturalengland.org.uk/pdf/foi/NEDPAHandlingSAR.pdf)).

## Data Protection Principles

The DPA requires that processing should be carried out according to eight Data Protection Principles. These are outlined below, together with Natural England's commitments to upholding these principles:

### Principle 1 Personal data shall be processed fairly and lawfully

Natural England will ensure that data are obtained fairly, and will make reasonable efforts to ensure that data subjects are told who the data controller is, what the data will be used for, for how long the data will be kept and any third parties to whom the data will be disclosed. In order for processing to be fair and lawful, data which is not sensitive personal data will only be processed by Natural England if at least one of the following conditions (called Schedule 2 conditions), set down in the DPA, has been met:

1. The data subject has given their consent to the processing.
2. The processing is necessary for the performance of a contract with the data subject, or for taking steps with a view towards entering into a contract.
3. The processing is required under a legal obligation other than a contract.
4. The processing is necessary to protect the vital interests of the data subject.
5. The processing is necessary for the administration of justice, the exercise of functions under an enactment, the exercise of functions of the Crown or a government department, or any other functions of a public nature exercised in the public interest.
6. The processing is necessary to pursue the legitimate interests of Natural England or of third parties, and does not prejudice the rights, freedoms or legitimate interests of the data subject.

Processing of sensitive personal data is subject to more stringent restrictions under the DPA. Processing of sensitive personal data will only be carried out by Natural England if at least one of the above conditions, applicable to non-sensitive data, has been met. In addition, at least one of the following conditions (called Schedule 3 conditions), set down in the DPA, must *also* be met:

- The data subject has given his/her explicit consent.
- The processing is required by law for employment purposes.
- The processing is necessary to protect the vital interests of the data subject or another person.
- The information has been made public by the data subject.
- The processing is required for the administration of justice, legal proceedings, the defending of legal rights, the exercise of functions under an enactment, or the exercise of functions of the Crown or a government department.
- The processing is necessary for medical purposes, and is carried out by a health professional or a person with an equivalent duty of confidentiality.
- The processing is necessary for equal opportunities monitoring.

Data relating to the disabilities of students, staff and other individuals are sensitive personal data under the DPA.

**Principle 2 Personal data shall be obtained only for a specified and lawful purpose or purposes, and shall not be further processed in any manner incompatible with that purpose or purposes.**

Natural England will ensure that data which are obtained for a specified purpose are not used for a different purpose, unless that use is done with the consent of the data subject, is covered by Natural England's registration with the Information Commissioner, or is otherwise permitted under the DPA.

**Principle 3 Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed.**

Natural England will not collect personal data which are not strictly necessary for the purpose or purposes for which they were obtained.

**Principle 4 Personal data shall be accurate and, where necessary, kept up to date.**

Natural England will take reasonable steps to ensure the accuracy of personal data which it holds, and will take steps to correct inaccurate data when requested to do so by a data subject.

**Principle 5 Personal data processed for any purpose shall not be kept for longer than is necessary for that purpose.**

Natural England will ensure that personal data are not kept for longer than is required by the purpose or purposes for which the data were gathered. Natural England may retain certain data indefinitely for research purposes (including historical or statistical purposes), as permitted under the DPA, subject to the conditions laid down in the Act for this type of processing.

**Principle 6 Personal data shall be processed in accordance with the rights of data subjects under the Data Protection Act.**

Natural England will ensure that personal data are processed in accordance with the rights of data subjects under the DPA. These rights include the right to:

- Make subject access requests to find out what information is held about them, the purposes for which it will be used, and to whom it has been disclosed.
- Prevent the processing of data which is likely to cause them substantial damage or substantial distress
- Prevent processing for the purposes of direct marketing.
- Be informed about automated decision making processes that affect them.
- Prevent significant decisions that affect them from being made solely by automated processes.
- Sue for compensation if they suffer damage through contravention of the Act.
- Take action to require the rectification, blocking, erasure or destruction of inaccurate data.
- Request an assessment by the Information Commissioner of the legality of any processing that is occurring.

**Principle 7 Appropriate technical and organisational measures shall be taken to prevent the unauthorised or unlawful processing of personal data and the accidental loss, destruction of or damage to personal data.**

Natural England will take steps to ensure the security of personal data which are held electronically and in manual form, to prevent the unauthorized disclosure of data to third parties, and loss or damage to data that may affect the interests of data subjects. Natural England will also ensure that data processors provide an appropriate level of security for the personal data which they are processing on Natural England's behalf.

**Principle 8 Personal data shall not be transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.**

Natural England will not transfer data outside the European Economic Area unless the transfer would be permitted under the DPA.

## Gathering data

Any gathering of personal data by members of Natural England must be in accordance with Natural England's notification with the Information Commissioner. Staff should check the register before introducing any new form of data gathering or making changes to existing methods of data gathering. If it appears that the collection of the data would not be covered by Natural England's existing registration, the Access to Information Specialists should be informed before the changes are implemented, so that Natural England's register entry can be updated.

While it is not always necessary to have the consent of the data subject in order for the processing of data to be fair and lawful, it is advisable to seek consent wherever possible, particularly in regard to sensitive personal data where explicit consent should normally be obtained, see the discussion of the first Data Protection Principle.

**Paper and electronic forms** (including web based forms) created by Natural England which gather personal data should normally include a Fair Processing Notice. Natural England has an obligation under DPA to inform those people who fill out questionnaires, complete surveys or apply for grants what we do with their information. The Fair Processing Notice is very important as it allows us to comply with the Data Protection Act and will allow us to release details in line with our obligations under the Access to Information legislation. Natural England has a [generic master Fair Processing Notice](#), which has standard paragraphs and a customisable paragraph. Information to include must include:

- The fact that Natural England is the Data Controller.
- The identity of any representative of Natural England as the Data Controller.
- The purpose(s) for which the information is intended to be processed.
- Any other information which is necessary to enable the processing to be fair. This could include:
  - Why the data needs to be gathered.
  - Any third parties outside Natural England to whom the data will be disclosed or transferred.
  - The fact that certain types of information may be released in response to a Access to Information request.
  - Public interest factors which may support that release.
  - The fact that completion of the form will be taken as consent by the data subject to the use of the data as outlined.
  - How long the data will be kept.
  - The parts of Natural England that will use the data.
  - How the data subject can exercise their rights under the Data Protection Act (eg by linking to Natural England's Data Protection pages or by providing contact details for Natural England's Access to Information Specialists).

Forms and other methods of data collection should not gather more data than are necessary for the task at hand. Staff who are responsible for the design of forms should ensure that there is a clear business need for each data item requested. Otherwise, the form should be amended to remove the data item.

Information about visitors to a website gathered through **cookies**, **web bugs** and other devices will become personal data if the data is linked to personal details of the user, such as name and address details submitted through an online form. Natural England websites which use cookies, web bugs and other tracking devices in this way should include a privacy statement explaining:

- Which data will be collected in this way.
- Which parts of Natural England will use the data.
- How the data will be used.
- How long the data will be kept.
- How users can disable cookies, web bugs and other devices if they wish to do so.

## Disclosure of data

Staff must take particular care when disclosing personal data to third parties, to ensure that there is no breach of the DPA or the law of confidence.

Disclosure may be unlawful even if the third party is a family member of the data subject, or a local authority, government department or the police. A key point to consider is whether the disclosure is relevant to and necessary for the conduct of Natural England's business. For example, it would generally be appropriate to disclose a staff member's work contact details in response to an enquiry relating to a function for which they are responsible, but it would not be reasonable or appropriate to disclose a staff member's personal address or bank account details.

The disclosure of personal data represents a form of processing of the data. This means that the conditions for fair and lawful processing of personal data and sensitive personal data set out in [first Data Protection Principle](#) must be met. Consideration should also be given as to whether the disclosure was one of the purposes for which the data were originally gathered; in particular, whether the disclosure is covered by Natural England's entry in the Information Commissioner's [Data Protection Public Register](#), ([www.esd.informationcommissioner.gov.uk/esd/search.asp](http://www.esd.informationcommissioner.gov.uk/esd/search.asp)), or is a purpose to which the data subject has consented. If not, the disclosure is likely to represent further processing contrary to the [second Data Protection Principle](#).

Disclosure of personal data which are not sensitive personal data is most likely to be justified if one or more of the following conditions applies:

- The data subject has given his/her consent to the disclosure (e.g. at the time when the data were gathered).
- The disclosure is in the legitimate interests of Natural England or of the third party to whom the data are to be disclosed, and does not prejudice the rights, freedoms or legitimate interests of the data subject.
- There is a statutory or legal obligation to disclose the data.
- The disclosure is required for the performance of a contract (e.g. between a student and a sponsor).
- The disclosure is necessary to protect the vital interests of the data subject.

More stringent restrictions apply to the processing of sensitive personal data. The most likely conditions that would justify disclosure of sensitive personal data are:

- The data subject has given his/her explicit (ideally written) consent to the disclosure, or
- There is a statutory or legal obligation to disclose the data, or
- The disclosure is necessary to protect the vital interests of the data subject.

The Data Protection Act also allows personal data to be disclosed to third parties without the consent of the data subject, in the following circumstances:

- The disclosure is necessary for safeguarding national security.
- The disclosure is necessary for the prevention or detection of crime, or the apprehension or prosecution of offenders.
- The disclosure is necessary for the assessment or collection of any tax or duty.

- The disclosure is necessary for the discharge of regulatory functions (including the health, safety and welfare of people at work).
- The data to be disclosed are to be used for research purposes, subject to the rules governing the use of personal data in research.
- The data are information which Natural England is obliged by legislation to provide to the public.
- The disclosure of the data is required by legislation, rule of law or the order of a court.

The Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations (EIR) sets out certain circumstances in which personal data can be disclosed to a third party (ie someone other than the data subject) who has submitted a Access to Information request. In particular, the legislation provides that personal data can be disclosed where doing so would not breach any of the [Data Protection Principles](#). Guidance from the Information Commissioner suggests that this is likely to apply to data relating to an individual's official or work capacity which it would normally be reasonable to release, such as name, job title, official functions, grade, decisions made in an official capacity, and salaries of senior staff. Data relating to an individual's private life would not normally be disclosable under Access to Information.

Access to Information requests for the release of personal data to third parties need to be handled according to the rules set down in the FOIA/EIRs, which are different from those in the Data Protection Act. Any release of personal data in response to an Access to Information request should be cleared in advance with the Access to Information Manger. In addition, it should be noted that the FOIA/EIRs does not grant individuals any right to request data relating to themselves.

Staff should always exercise caution when dealing with requests from third parties for the disclosure of personal data. Disclosure requests should normally be required to be in writing, and should be responded to in writing. Where reasonable, the party making the request should be required to provide a statement explaining the purpose for which the data is requested, the length of time for which the data will be held, and an undertaking that the data will be held and processed according to the [Data Protection Principles](#). Where the request relates to the prevention/detection of crime, the apprehension/prosecution of offenders, assessment/collection of any tax or duty, or the discharge of regulatory functions, appropriate paperwork should be produced by the enquirer to support their request (eg official documentation stating that the information is required in support of an ongoing investigation). Guidance for staff on how to respond to requests for data from the police and similar agencies is available in Natural England's Guidelines for the [Disclosure of Personal Data to Law Enforcement Agencies](#).

Personal data should only be disclosed over the telephone in emergencies, where the health or welfare of the data subject would be at stake. If data have to be disclosed by telephone, it is good practice to ask the enquirer for their number and to call them back. For further information on how to respond to emergency requests, see the Guidelines for the [Disclosure of Personal Data to Law Enforcement Agencies](#).

## Use of personal data in research

The DPA sets down certain exemptions which allow data to be used for research purposes (including historical or statistical research), where the data were originally gathered fairly and lawfully for other purposes. Data collected for one purpose or piece of research can be used for other research, and can be kept indefinitely, provided the following conditions are met:

- The data must be used solely for research purposes and not for any other purposes (eg general administration) unless those purposes are the same as the purposes for which the data were gathered, or are in accordance with Natural England's notification with the Information Commissioner.
- The data must not be processed to support measures or decisions in regard to particular data subjects.
- The processing for research purposes must not cause, or be likely to cause, substantial damage or distress to data subjects. Closure of the data to outside access would be one way of helping to ensure this, as would anonymisation of research results.

Where the above conditions have been met, data retained for research purposes are exempt from subject access requests, provided the results of the research are not published in a form which identifies the data subjects. However, other aspects of the **Data Protection Principles** will still apply, such as the requirement to keep the data secure, and the requirement that the data should be processed fairly and lawfully.

## Confidential references and recruitment

Confidential references for educational or employment purposes will involve the disclosure of personal information, often of a private nature. Requests for references which are received from reputable organisations and which request that the reference is returned to a recognised address can generally be taken at face value, where it is known that the individual who is the subject of the request has cited a member of Natural England as a referee. However, if there is any doubt as to the validity of a reference request, staff should always check with the individual concerned to determine that they are willing for information about them to be released. Staff who are requested to provide references in their work capacity must ensure that they do so in accordance with Natural England's Staff References Policy.

References given by a data controller are exempt from data subject access requests under the DPA. In practical terms, this means that Natural England is under no obligation to disclose the data contained in copies of references given by Natural England staff. However, references received by a data controller are not exempt from subject access requests. This has the following implications, which should be taken into consideration by staff who are asked to provide references:

- References received by Natural England from other individuals or organisations may have to be disclosed in response to subject access requests directed at Natural England.
- References from Natural England to other organisations may have to be disclosed by those organisations in response to subject access requests.

A reference will also contain personal data about the referee, such as the referee's name and address. The information contained in a confidential reference need not be released if it would identify the referee, unless one of the following conditions can be satisfied:

- The referee's identity can be protected by anonymising the information.
- The referee has consented to the release of the data.
- It is reasonable in all circumstances to release the information without the referee's consent.

Given the possibility that a reference may be disclosed as a result of a DPA subject access request, referees should avoid making statements in references which cannot be supported by factual evidence. See Natural England's Staff References Policy for further guidance.

Staff involved in recruitment and selection should be aware that information in documents such as interviewers' notes could potentially be disclosed to data subjects in response to access requests. Staff should therefore ensure that any feedback which is provided to candidates after interview is consistent with and can be supported by the documentation relating to the recruitment and selection process, including the person specification. Feedback should be provided in a manner which complies with Natural England's Recruitment Policy.

## Use of images

### Is a photograph/photographic file covered by the Data Protection Act?

Yes, if it contain information which relates to an identifiable individual. Therefore photos constitute personal data if they are either:

- photos of a person (or persons) where those person(s) are the specific subject of the photo, or
- photos of a group of people where their images are clearly identifiable (eg the classic "happy seminar group" photo that graces every prospectus ever published).

Photos that match the above, need to be taken and then processed (eg published on websites etc) with the subjects' explicit permission.

### Shots of specific individuals

Where we are taking shots of specific individuals (ie posed or semi-posed shots) we should use a normal photographers model release form which would be signed by the participants.

### Organised/targeted group

Where it is an organised or targeted group - such as a guided walk - we should say what we are doing and give the opportunity for individuals to give verbal consent and for them to opt out (ie temporarily leave the group).

### General shots of sites public places

For general shots of sites and of public places, that incidentally include images of individuals, who are in no way the subject of the photo, we don't have to take any specific action unless we are particularly targeting individuals. The fact that someone is in a particular place at the time the shot was taken is a fact of life and as we are not identifying

the individual (or the time/date the shot was taken) there isn't a problem. For example, 'a lecturer in full flow with an attentive audience in background' photo, the background image is not personal data. So you don't need the permission of everyone in the theatre (though, obviously, it might be an idea to get the lecturer's permission).

Of course, this is real "piece of string stuff". In the unlikely event that someone who appears in the background of a general shot complains that their data has been processed without permission, then they'll need to prove they are identifiable from the photo and (if they're seeking real redress) that they have suffered "damage or distress" because of this.

### **Photos of minors**

If the person is under 16 years of age, we would require parental consent under agreed codes of practice.

### **Copyright**

Copyright remains with the person taking the photograph unless he/she was specifically employed to take such a photograph.

In short, if we use courtesy and commonsense we shouldn't tread on anybody's toes. Would we like our images being used without our permission?

### **Disclosure of personal data to law enforcement agencies**

These guidelines are intended to cover situations where Natural England receives requests from agencies connected with law enforcement for personal data about, staff or other individuals whose information is in Natural England's custody. Usually, such requests will come from the police. However, other government agencies may also request data for law enforcement purposes, such as the Department for Work and Pensions, local authorities and HM Customs and Revenue.

Personal data held by Natural England has to be managed in accordance with the Data Protection Act 1998. Natural England's [Data Protection Policy](http://www.naturalengland.org.uk/foi/NEDataProtectionPolicy.pdf) ([www.naturalengland.org.uk/foi/NEDataProtectionPolicy.pdf](http://www.naturalengland.org.uk/foi/NEDataProtectionPolicy.pdf)) provides general guidance on the situations in which personal data can be disclosed and transferred outside Natural England (see [Disclosure of data](#)). In general, care should be taken to ensure that any disclosure meets the conditions for "fair and lawful" processing set down in the Act, and is done for a purpose which is covered by the our notification with the Information Commissioner.

However, the DPA includes exemptions which allow personal data to be disclosed to law enforcement agencies without the consent of the individual who is the subject of the data, and regardless of the purpose for which the data were originally gathered. In particular, personal data may be released if:

- The information is required for **safeguarding national security** (DPA section 28); or
- Failure to provide the data would prejudice the prevention or detection of crime, the apprehension or prosecution of offenders, or the assessment or collection of any tax or duty (DPA section 29).

Before we release data to a law enforcement agency, we need to ensure that the information is being provided to a genuine and properly authorised investigation. If we are not satisfied that there are valid grounds for releasing the information, the DPA does not oblige us to do

so: the exemptions in the Act are permissive. However, if we refuse to release the information, law enforcement agencies may obtain a court order requiring us to provide it.

Natural England seeks to co-operate with the police and other agencies in the prevention and detection of crime, and the maintenance of a safe environment for Natural England and the wider community.

### **Responding to request for information from the Police**

When disclosures are requested from the Police, citing exemptions available within Section 29 of the Act, we require the following:

1. The request is in writing on an original piece of headed paper or using an official police form (known as section 28/section 29 forms).
2. A declaration that the information is required for an investigation concerning national security, the prevention or detection of crime, or the apprehension or prosecution of offenders.
3. Details of the information requested and an explanation why the information is required and stating that the investigation would be prejudiced by a failure to disclose the information.
4. The name, rank, number and signature of the officer making the request.
5. The name, rank, number and signature of the officer authorising the request.

This provides us with a legal basis for supplying the data under the Data Protection Act exemptions.

### **Responding to request for information from other public bodies and law enforcement agencies**

Other public bodies or law enforcement agencies may not use standard forms. However, any request should:

- Be in writing, on headed paper, and signed by an officer of the agency.
- Describe the nature of the information which is required.
- Describe the nature of the investigation (e.g. citing any relevant statutory authority to obtain the information).
- Certify that the information is necessary for the investigation.

If a properly completed form or letter is received, the data should normally be disclosed. However, remember that we can (and should) refuse to provide the information if we have reason to doubt that the request is genuine or believe that public body or agency doesn't have the statutory power or that we are not subject to it.

### **Emergency situation**

An emergency situation is one where we have reason to believe that there is a danger of death or injury to a member of Natural England or any other person. The police and other emergency services may urgently require personal data from us, and may not have time to complete a formal written request. In these circumstances, any staff member who has access to the data can legally disclose the information, but the safeguards below need to be met:

- If possible, seek the authorisation of a senior manager before providing the data.

- If the request is received by telephone, ask the caller to provide a switchboard number, and call them back through the organisation's switchboard before providing the data. This provides a basic (though not foolproof) way of checking that the call is genuine.
- Ask the enquirer to follow up their request with a formal written request, so that we have this on file. Keep a record of the enquiry and your response, and pass details to the Access to Information Specialists as soon as possible.
- Do not be bullied into disclosing data if you have any doubt as to the validity of the request. Ask the enquirer to submit the request in writing, and refer the enquiry to those staff who normally deals with written requests.

## Guidance on the use of personal data in system testing

The DPA does not specifically say that live/real data must not be used as test data. However, the use of live/real data as test data has to be in accordance with the Act (it still remains personal data) and therefore has to meet all the [Data Protection Principles](#) and be properly justified in relation to a Schedule 2 condition (and a Schedule 3 for sensitive data).

The Employment Practices Data Protection Code Part 2: Employment records states that “Give access to such information [personal data] sparingly; for example, access... ..should not normally be given to technical staff for use in testing computer hardware or software. The basic principle should be that information... ..is only available to those who need it to do their job. Access rights should be based on genuine need”

### Definitions

- **Information systems** – Anything electronic that can hold personal data..
- **Data** – for the purposes of this guidance data refers to personal data.
- **Personal data** – data that relates to a living individual who can be identified from it or any other information, which we have or we are likely to receive.
- **Sensitive personal data** – data giving information as to a person’s race, ethnic origin, religious and other beliefs, political opinions, health or commission of criminal offences.
- **Processing** – is broadly defined and takes place when any operation or set of operations is carried out on personal data.

### Data differences

- **Live data** – data that is being accessed from a database in real time.
- **Real data** – live data that has been accessed from a database, as a snapshot at some point in time.
- **Test data** – this is fictional data that is created to mimic real/live data, in a test environment. Can also describe live/real data when used in a test environment.

### Our needs

- System restore after a hardware crash. We may need to step back to the situation where we restore the live data back to just before the crash.
- Test the live applications to ensure data integrity.
- Perform system tests.
- Development of new systems and applications.

- We use test data for development but we use real data for testing.
- We cannot use encryption at the database level as we use data redundancy and to encrypt data in one table would render it 'useless' in other tables.

#### Risks

- We do not tell individuals that their data will be used to test systems and therefore may be accessible to trainees, external company engineers, etc, (Principle 1 and 2).
- The data may get modified in the test environment. It is still personal data even though it is in the test environment. It should therefore be accurate and up to date, but if it has been erroneously amended, (Principle 4).
- Data left indefinitely in the test environment, (Principle 5).
- Security may not be as good in the test environment as the live system and there is the risk of the data being disclosed, (Principle 7).
- That it may be accessible to people who would otherwise have no reason to access their personal data, (Principle 7).

Would you be happy if your own data was used as test data and, as a result, some was amended? Someone then reads the amended test data and forms an opinion of you based on that incorrect amendment - they assume that it is still correct live data.

#### Guidance

Section 33 of the Act provides for various exemptions in respect of the processing of personal data for research purposes. It says that we can use personal data for research and statistical purposes without the need to get consent or notifying the individuals concerned. We can argue that the research here; is research into the suitability and stability of our systems. The proviso is that we must take the following safeguards into account. Safeguards are imperative and in most cases we would not use live/real data.

#### Safeguards

- Are the people seeing it likely to have access to it anyway, or covered by contact in relation to their use of it.
- Wherever possible use dummy data or copy the data and write routines to anonymise it.
- Do not feed data back into the system after use in a training/testing/development/training environment.
- Do not use live/real data for system development (see below)
- Do not use live/real data for system testing (see below)
- Do not use live/real data for system demonstrations
- Do not use live/real data for system training
- The data must be used in a controlled manner.
- Do not feed data back into the system after use in a training/testing/development/training environment.

If we are to go to use live/real data the following should also be taken into account:

- Assess whether the use of live/real data is strictly necessary and would anonymised or dummy data will not suffice.

- Are the people seeing it likely to have access to it anyway, or covered by contact in relation to their use of it.
- Will the data be deleted after the test? If so, after what period?
- How long will the live/real data be retained before an updated snapshot is taken?
- We do not make decisions or steps in relation to the individuals from the live/real data – or in a way that could cause damage or distress.

**Fair processing notice**  
**Generic master**  
**DPA/FOIA/EIR Compliance**



**Using and sharing your information**

2 The data controller is Natural England, Northminster House, Peterborough, PE1 1UA.

3 Your information will be stored and processed in accordance with the Data Protection Act 1998. This Act gives you, as an individual, the right to know what data we hold on you, how we use it, with whom we share it and for it to be accurate.

4 It will be used for administering and analysing agreements under the Wildlife Enhancement Scheme. It will be circulated and discussed in confidence with those persons or organisations helping Natural England to assess and monitor the agreement. Some information will be shared with other grant distribution bodies and Government Departments to enable them to detect fraudulent applications and to co-ordinate the processing of complementary applications. To do this we may have to discuss agreements with third parties or disclose information about funding decisions.

5 Natural England or its appointed agents may use the name, address and other details on your application form to contact you in connection with occasional customer research aimed at improving the services that Natural England provides to you.

We will respect personal privacy, whilst complying with access to information requests to the extent necessary to enable Natural England to comply with its statutory obligations under the Environmental Information Regulations 2004, and the Freedom of Information Act 2000.

Version 0.2

**Notes**

1. This padlock symbol should be placed next to the personal information (eg name, contact details) on the questionnaire/survey/application form, and placed next to the fair processing notice, as it links the two.
2. These are the standard opening paragraphs.
3. This is an example for Wildlife Enhancement Scheme. In this section you need to say
  1. Why you are collecting the information.
  2. What you do with the information.
  3. What, if any disclosures you will make to third parties, to whom and why?

Remember not to lock yourself into not being able to reuse the data in future, for example for follow up surveys. So don't use phrases like 'we will not use the information you supply for any other purpose'. On the other hand don't be vague!

4. This is a standard paragraph to allow us to conduct customer research.
5. This is the standard closing paragraph