

# Neighbourhood *Planning*



## **Data Protection Guidance for qualifying bodies**

This information was originally prepared by Cheshire Community Action who have kindly allowed us to reproduce the guidance as part of the neighbourhood plan toolkit. The guidance note was originally prepared for Parish Councils undertaking community led plans. However the guidance is equally valid for qualifying bodies preparing neighbourhood development plans. We have however added in a section on the Freedom of Information and Environmental Information Regulations and data release into the public domain as well as a number of other minor amendments. The Councils solicitors are happy with the contents of the document. You should also read the guidance note on data in relation to geographic information systems (GIS) licences.

Information provided by individuals as part of a neighbourhood plan process may be seen as being personal; both in the general sense that it represents personal opinions expressed by the individual and in the technical sense of falling within the definition in the Data Protection Act. The guidelines and templates set out in this guidance note are intended to minimise the risk of inappropriate use or disclosure of such personal information. They deal with issues of security and confidentiality, from the collection of the raw data through to the final publication of the plan.

The guidance is set out in relation to 3 key areas: transparency, security and notification.

### **Transparency**

This simply means making sure that people completing the questionnaire understand who is going to use their personal information and what limitations will be placed on its use. It is important that the questionnaire sets out why a survey is being carried out and contains some form of confidentiality statement emphasising that the purpose of the questionnaire is not to collect personal information about an individual. The following sample text can be used in the questionnaire to outline this:

*"Your personal information is protected by law and the questionnaire (survey form) may be completed anonymously. Research findings will be reported in a manner which prevents identification of any participant or person mentioned in the questionnaire."By providing comments you are accepting that those comments will/may be published and open to public scrutiny and that by*

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*completing and submitting comments you understand this and agree to publication.*

In some cases however you may wish to collect personal information (e.g. names, addresses, postcodes, telephone numbers) such as if you are having a free prize draw or want postcode information to help with the collection of completed forms. If you wish to collect personal information for running a prize draw, you could have a tear off slip at the end of the questionnaire with a statement like the following:

*"If you would like to be entered into the prize draw, please fill in your contact details below. The \*\*\*\*\* Neighbourhood Development Plan Steering Group /Committee will use the personal information on this tear-off slip only for the purpose of managing the prize draw and will not disclose any of the information to any other person or organisation. This tear-off slip will be separated from the main questionnaire."*

You may also wish to refer to the Market Research Society's good practice guidance on free prize draws at the following web address:

<http://www.mrs.org.uk/standards/downloads/2008-01-18%20Incentives%20and%20Free%20Prize%20Draws.pdf>

If you ask for postcode information to analyse the geographical distribution of completed questionnaires, you could use another tear-off strip with the following statement:

*The \*\*\*\*\* Neighbourhood Plan Steering Group/ Committee is asking for your postcode purely so that we can carry out a statistical analysis of whereabouts in the parish the completed questionnaires have come from. The postcode will never be used to identify the person who has completed the questionnaire. This tear-off slip will be separated from the main questionnaire."*

## **Security**

Thought should be given about the security of the completed questionnaires and of any processing done with the information on them. For example,

- How long should completed questionnaires be kept?
- How will data be destroyed after it is no longer required?
- How often and how will data be reviewed to determine whether you want to keep it/destroy it?

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- How will you authorise who is able to see the data? For example will access be granted by a particular person? How is access by a person reviewed? How often? (one off, ongoing; every 3 months)
- Where should they be kept?
- If applicable, how should we handle on-line forms?
- Who is authorised to see and to process the information?
- What is the risk that any of the personal information might be inadvertently disclosed to some unauthorised person?

You may wish to draft a **data protection policy** which seeks to answer these questions. A sample template is given in Appendix 1 below. Please read the, Freedom of Information Act and Environmental Information Regulations Guidance in relation to data and information.

## Notification

If as part of your Neighbourhood Development Plan / Order you will be holding and using personal data on computer, it is important that you consider whether you need to notify this to the Information Commissioner under the Data Protection Act 1998 at a cost of £35 per annum.

It is a criminal offence to hold and process personal data on computer without appropriate notification unless your parish plan group falls within one of the exemptions. One of the exemptions under the Act is for 'not for profit organisations', provided that their processing of data is for 'the purposes of establishing or maintaining membership of or support for the body or association, or providing or administering activities for individuals who are either members of the body or association or have regular contact with it.'

For further information on the need for notification and the process, you can download the 'Notification Handbook – A Complete Guide to Notification' from the Information Commissioner's website [www.ico.gov.uk](http://www.ico.gov.uk). Alternatively you can contact the Information Commissioner either by post at The Information Commissioners Office, Wycliffe House, Water Lane, Wilmslow, SK9 5AF, or by telephone to the Information Helpline (Monday to Friday 9.0am to 5.0pm) on 01625 545745 or 08456 306060. You can also email your enquiry using their on line enquiry form through the website.

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## **Freedom of Information Act and Environmental Information Regulations**

Since 1 January 2005 all requests for information received by a public authority (for neighbourhood planning this could be the Parish Council and or CW&C) have had to be answered in accordance with the Freedom of Information (FOI) Act 2000 or the Environmental Information Regulations 2004 (EIRs). The only exception will be an individual's request for their own personal data (Subject Access Request) which must be handled under the terms of the Data Protection Act 1998.

We suggest that you read the following guidance note in relation to FOI and EIR requests. The document link has been taken from the Information Commissioners Office (<http://ico.org.uk/>). The document is invaluable to anyone who has received a request for information. It sets out clearly what is required of you as a Public Authority. The Response Process – the 8 R's and Key dos and don'ts, provide a quick check for you.

**[http://ico.org.uk/youth/sitecore/content/Home/Global/~/\\_media/documents/library/freedom\\_of\\_information/practical\\_application/foi\\_hints\\_for\\_practitioners\\_handing\\_foi\\_and\\_eir\\_requests\\_2008\\_final.ashx](http://ico.org.uk/youth/sitecore/content/Home/Global/~/_media/documents/library/freedom_of_information/practical_application/foi_hints_for_practitioners_handing_foi_and_eir_requests_2008_final.ashx)**



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## APPENDIX 1

### **Sample Data Protection Policy for a Neighbourhood Development Plan Group**

- Questionnaire forms completed on paper shall be stored in a secure filing cabinet kept at \*\*\*\*\*. Until such time as this secure storage is available, the forms shall be kept securely by the persons collecting them.
- Prize draw slips shall be detached from the rest of the questionnaire by the person collecting the form and stored securely in a separate folder in such a way that no link can be made with the original form.
- The prize draw shall be done within \*\*\* weeks of the closing date for submission of the questionnaires and the slips will be destroyed once the winners have been informed.
- Forms shall be withdrawn from storage only for the purpose of analysis and shall be returned to secure storage as soon as practicable.
- Online forms will be kept on a secure computer and passwords will only be given to the following individuals .....
- The postcode and the personal details on the prize draw slip submitted online shall not be stored in the same spreadsheet as the main questionnaire.
- The same periods for retention and destruction shall apply to online data as to data on paper.
- Only those persons authorised by the Neighbourhood Development Plan group/Steering Committee shall have access to the forms.
- After analysis, data from the questionnaires will be published in aggregated form only. Particular care must be taken not to publish any individual comment in such a way as might identify the individual concerned.
- Completed questionnaires shall be retained for no more than \*\* years after publication of the Neighbourhood Plan.
- At the end of the retention times mentioned above, the documents referred to shall be destroyed by a secure means of disposal, suitable for confidential waste.
- Everyone involved in processing of the questionnaires and the information on them shall be made aware of this policy and shall observe the restrictions on use and disclosure.
- The content of individual questionnaires shall not be discussed with anyone not authorised by the Steering Group.
- The requirement to register with the Information Commissioner shall be the responsibility of the Parish Council.

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Signed by all the members of the Steering Group Committee as below:

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