

Public Service Guarantee on data handling

Explanation of the promises in the Guarantee

February 2006

Updated June 2009

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This document is also available on the Defra website.

Published by the Department for Environment, Food and Rural Affairs

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Explanation of the Promises in the Guarantee

Introduction

The Cabinet Office's Performance and Innovation Unit's (PIU) report *Privacy and data-sharing: the way forward for public services* recommended that public bodies should adhere to a Public Service Guarantee on Data Handling. The purpose of the Guarantee is to inform people of their rights when they supply personal information to the public sector for the provision of public services.

Defra, including its Executive Agencies, is displaying the Guarantee in offices and reception areas accessible to the public and on our website (www.defra.gov.uk). The Guarantee applies only to personal information supplied to Defra for the purpose of delivering a public service to you. Moreover, it is not intended that the Guarantee will apply in cases where a small amount of personal information is included in an application form or other document that consists mainly of non-personal information. It is important to note that the Guarantee does not exceed the rights or obligations in the Data Protection Act 1998.

This document provides a brief explanation of each of the promises in the Guarantee.

Please note that all references to Defra in the following paragraphs include the seven Executive Agencies: Animal Health (AH); Centre for Environment, Fisheries and Aquaculture Science (CEFAS); Food and Environment Research Agency (FERA); Marine Fisheries Agency (MFA); Rural Payments Agency (RPA); Veterinary Laboratories Agency (VLA); and Veterinary Medicines Directorate (VMD).

Explanation of the promises in the Guarantee

When we ask you for personal information, we promise:

◆ to make sure you know why we need it

It is a requirement of the 1st principle in Schedule 1 of the Data Protection Act to inform individuals of the purposes for which personal data are collected and processed. This is usually achieved by including a data protection statement (also known as a 'fair processing notice') on forms, or in accompanying booklets/leaflets, that require individuals to provide personal information about themselves. The Data Protection Act provides some exemptions to this requirement; including in cases where the provision of these details would not be practicable.

◆ to only ask for what we need, and not to collect too much or irrelevant information

It is a requirement of the 3rd principle in Schedule 1 of the Data Protection Act that organisations must ask for sufficient information to achieve their intended purposes, whilst ensuring that they do not request excessive or irrelevant information. It is not in anyone's interests for Defra either to gather insufficient data or to request information unnecessarily. Therefore, Defra ensures that it fully complies with this principle, which enables us to provide you with an effective and efficient public service.

◆ to protect it and make sure nobody has access to it who shouldn't

The 7th principle in Schedule 1 of the Data Protection Act requires that personal data is kept secure to ensure that no-one is able to access personal data which they are not authorised to see. The Data Protection Act and other laws (such as the law of confidentiality, the Human Rights Act etc) give individuals protection concerning the use and disclosure of their personal information. In limited circumstances, Defra may be required to release personal data in response to requests under the Environmental Information Regulations or the Freedom of Information Act. However, Defra will not permit any unwarranted breach of confidentiality nor will we act in contravention of our obligations under the Data Protection Act 1998. Defra is committed to ensuring that individuals' rights are respected.

◆ to only share it with other organisations when the law allows

The laws that apply to the use and dissemination of personal data across traditional organisational boundaries to achieve better public services are complex. The reason for this is that there is no single source of law that regulates the powers that a public authority has to use and to share personal information. The collection, use and disclosure of personal information is governed by the following different areas of law:

- the law that governs the actions of public bodies
- the Human Rights Act 1998 and the European Convention on Human Rights
- the common law tort of breach of confidence
- the Data Protection Act 1998; and
- European Union law

When proposing to share personal information with any other organisation, Defra will ensure that the transfer of the data is lawful by fully taking into account the respective legislation.

◆ to make sure we don't keep it longer than necessary

It is a requirement of the 5th principle in Schedule 1 of the Data Protection Act that personal data must not be kept longer than necessary once the purposes for which the data were gathered have been achieved. However, section 33 of the Data Protection Act provides an exemption to this Principle and allows organisations to keep personal data indefinitely if they are processed solely for historical, research or statistical purposes. This is an important exemption for Defra because some data may need to be kept in order to comply with the Public Records Act.

◆ not to make your personal information available for commercial use without your permission

Defra has no intention of making your personal information available for commercial purposes to anyone outside Defra. Some parts of Defra provide commercial services and we will only use your personal information in connection with these commercial services if you have provided the information for that purpose or if we otherwise have your permission to do so.

You can get more details on:

◆ how to find out what information we hold about you and how to ask us to correct any mistakes

Section 7 of the Data Protection Act gives individuals rights of access to their personal data held by organisations, subject to some exemptions.

For information on how to request access to your personal data held by Defra, you should contact the Data Protection Officer by telephoning the helpline number 08459-335577 or e-mailing the Data Protection Team at data.protection@defra.gsi.gov.uk. Alternatively, you may follow the procedure at <http://www.defra.gov.uk/corporate/opengov/defra/request/personal-request.htm>.

The 4th principle in Schedule 1 of the Data Protection Act requires that organisations should ensure that personal data are accurate and, where necessary, kept up to date. If you find that your personal information held by Defra is inaccurate, you should send the correct details with appropriate supporting evidence to the Defra Unit that is holding the information. If the information held by Defra is incorrect, we shall ensure that the record is amended.

◆ **agreements we have with other organisations for sharing information**

In order for Defra to provide public services and to carry out its functions, it is often necessary to provide other organisations (particularly other government departments or public authorities) access to personal information. In some cases, information concerning organisations with which Defra shares information for particular services is made available to you in the fair processing notice given on application forms or in accompanying leaflets/booklets at the time that you provide us with your personal information. In some other cases, Defra will have 'data sharing protocols' which are agreements signed by organisations that need access to personal data for specific purposes. Defra will make these protocols publicly available as a matter of course via the Defra website.

◆ **circumstances where we can pass on your personal information without telling you, for example, to prevent and detect crime or to produce anonymised statistics**

Defra is fulfilling this promise by setting out in this section the circumstances in which we can pass your personal information to others without informing you. The Data Protection Act provides various exemptions to the details that organisations have to disclose to individuals concerning the use of their personal data. By the very nature of these exemptions, it would not be appropriate to give specific details in individual cases where they would apply. The exemptions in the Data Protection Act most likely to apply to Defra's activities that allow disclosure of personal information without informing persons to whom the data relate are:

- section 29 - personal data processed for the purposes of preventing or detecting crime, apprehending or prosecuting offenders and assessing or collecting any tax or duty
- section 31 – personal data processed for the purposes of regulatory activity
- section 34 - if Defra is obliged by or under any enactment to make the information available to the public
- section 35 - if the disclosure is required by or under any enactment or by any rule of law or by the order of a court. Also, if the disclosure is necessary for any legal proceedings (including prospective legal proceedings) or for the purpose of obtaining legal advice, or is otherwise necessary for establishing, exercising or defending legal rights.
- schedule 7, paragraph 3 – personal data processed for the purposes of conferring by the Crown of any honour

- schedule 7, paragraph 7 – personal data which consist of records of the intentions of Defra in relation to any negotiations, if the disclosure of that information would be likely to prejudice those negotiations
- schedule 7, paragraph 10 – personal data consisting of information in respect of which a claim of ‘legal professional privilege’ could be maintained in legal proceedings. (The term ‘legal professional privilege’ applies to advice sought or received from legal advisers by Defra.)

Moreover, Defra holds a lot of information, including personal information, which is useful to researchers. Section 33 of the Data Protection Act provides certain exemptions concerning the use of personal data for research and statistical purposes. One of the key considerations is to ensure that release of information for research or statistical purposes does not cause an individual to suffer substantial damage or substantial distress as a result of the disclosure. When Defra receives a request for information, staff always ensure that they adhere to the safeguards in the Data Protection Act and that any release of information does not breach individuals’ rights.

◆ our instructions to staff on how to collect, use and delete your personal information

If you require further details about Defra’s processing of your personal information in relation to specific purposes, you should contact the appropriate Defra office that is processing the information. In some cases, the staff instructions will apply to specific business purposes, but in other cases it would be appropriate and reasonable to give a general explanation of the instructions or policy that applies - for example, the rules on the review and destruction of records held by government departments that are applied throughout the whole government. To attempt to provide details of how the policy applies in each case would likely involve disproportionate effort.

◆ how we check the information we hold is accurate and up to date

The vast majority of personal information that Defra and its Agencies hold is provided by the individuals themselves. As stated on the Public Service Guarantee, you have a responsibility to ensure that you provide Defra with accurate information and to let us know as soon as possible if there are any changes to it. As Defra’s activities are so varied, it is not possible to have one procedure for all of the handling of the personal information that we receive. Therefore, if you require details of the procedures for checking the personal information we hold in relation to a particular service provided by Defra, you should contact the appropriate Defra office that is processing your information.

◆ how to make a complaint

If you have a complaint about Defra’s handling of your personal information, you can raise the matter with the Data Protection Officer by telephoning the Defra helpline on 08459 335577 or by sending an e-mail to data.protection@defra.gsi.gov.uk.

If you are not satisfied with the response from the Data Protection Officer, you can contact the Information Commissioner at Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF (Telephone number: 01625 545745; Fax: 01625 524510; e-mail: mail@dataprotection.gov.uk).
