

# Data Protection

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Information Briefing for Data Subjects

November 2006

## DATA PROTECTION BRIEFING 3: INFORMATION FOR DATA SUBJECTS

This is the third document in a new series of briefings about the implications of Data Protection for the Probation Service. These documents have been updated from previous Probation Briefings to take into account recent developments in the field of Information Access, particularly the interaction between the Freedom of Information Act 2000 and the Data Protection Act 1998.

This briefing outlines the essential information which the NPS is obliged to give to all 'data subjects' (a 'data subject' is a person whose personal information is stored or otherwise processed by the NPS). Individual Areas will also have customised leaflets for individual types of data subjects (eg offenders, staff).

The other documents in this series are: 'Data Protection Briefing 1: Data Protection Overview' and 'Data Protection Briefing 2: Responsibilities of Staff for Data Protection'.

**Freedom of Information** – For information about the Freedom of Information Act 2000, see NPS Briefing 'Freedom of Information', Issue 24, November 2004.

### Where To Get Help:

**Service Users** – If you are an offender, a victim or any other person who uses NPS's services, please liaise with your main point of contact within the Service. If you are an offender, this person will be your Offender Manager.

**NPS Staff** - If you are a staff member, please contact your line manager/ Data Protection Officer (or equivalent contact) in the first instance. Information about Data Protection is available on the NPS staff intranet, EPIC. (See 'Data Protection Briefing 1: Data Protection Overview' for details of how to access the NPS 'Information Security' Policies, including the NPS 'Data Protection Policy' and the NPS 'Data Protection Manual of Guidance' via EPIC.)

**General Enquiries** – Please liaise with the Area's Data Protection Officer (or equivalent contact).

**Complaints** – If you have a potential complaint about a data protection matter (for instance, if you have any concerns as to how information about you is being processed by a Probation Area), please see the information at the end of this briefing.

**Disclaimer:** The material contained in these 'Data Protection' Briefings is provided for information purposes and are for general comment only. The briefings are generic and cannot cover all aspects of the subjects that may arise. Before taking any actions as a result of reading this information, all staff who access NPS personal information, together with any other NPS sensitive information, should always seek clarification and appropriate advice from their line manager and/or local Data Protection/ Freedom of Information practitioners concerning their own individual circumstances.

## Overall Purpose of the Data Protection Briefings

The intention of these Data Protection briefings is to provide the information which National Probation Service staff at all levels of the organisation need to know in order to comply with the Data Protection Act 1998 (and, where it interacts with DPA, the Freedom of Information Act 2000). The information in these briefings should also be shared with third parties (that is - anyone else who is authorised and entrusted with NPS personal information).

The briefings have been updated from the previous NPS data protection guidance in order to take account of how the Act has affected the NPS in practice since it was first introduced and, in particular, to address the most frequent queries which NPS staff, NPS stakeholders and the public have raised about this subject.

As well as containing information which all NPS staff need to know, this particular briefing (Data Protection Briefing 3: Information for Data Subjects) has been written to inform data subjects (that is - anyone about whom the NPS holds personal information) about their rights under the Data Protection Act 1998.

This briefing covers:

- Why you have been given this briefing
- What is a 'Data Subject'?
- How Data Protection and Freedom of Information work together
- Your rights under the Data Protection Act 1998
- Our responsibilities towards you under the Data Protection Act 1998
- Why we keep personal information about you
- Situations where you might not be entitled to receive information you have requested
- Circumstances where we might need to share your personal information
- How to get access about the information we hold about you (either informally or formally)
- What to do if you have a concern or complaint about what is happening to your personal information.

## WHAT IS A 'DATA SUBJECT'?

You have been given this briefing because all Probation Areas collect, use and store information about staff and the people with whom we work. This means that we 'process' your personal data. It is a legal requirement of the Data Protection Act 1998 (DPA) that we tell you how we use this information. Under the Act, anyone about whom we hold personal information is known as a 'data subject'.

The scope of the Data Protection Act 1998 includes information stored on computers, on video tapes and, in some cases, information stored in paper records.

## DATA PROTECTION AND FREEDOM OF INFORMATION

**Personal Information** - The Data Protection Act 1998 is the main law concerning the personal information of identifiable, living people. The overall purpose of the Data Protection Act is to make sure personal information held about you is protected and that you have access to it wherever possible. You also have a right to know about what information is being held on you, how it is stored and what is, or might be, done with it.

**Other requests for information** - If you wish to know about non-personal information (for instance, how a public sector organisation does something in particular or how much something costs), you are entitled to make a request for the information under the Freedom of Information Act 2000. The Freedom of Information Act applies to government departments and public sector organisations including Probation, the Police, the Crown Prosecution Service, local authorities and social services, as well as many other organisations such as schools and dentists.

Information about public sector organisations may also be available in other ways which you can access for yourself. For instance, the NPS website ([www.probation.gov.uk](http://www.probation.gov.uk)) contains information about all Probation Areas. Also, each Area has a 'Publication Scheme' which tells you about the main types of information which that Area publishes.

Any enquiries about Freedom of Information should be addressed to the Probation Area's 'Freedom of Information Officer' (this person may also be the Area's Data Protection Officer).

## AM I ENTITLED TO ALL THE INFORMATION I REQUEST?

The release of information under the Data Protection Act 1998 and the Freedom of Information Act 2000 is subject to certain conditions. For instance, by law, we are not allowed to give out any information which could affect national security. Also, as everyone has rights under the Data Protection Act, we will not release any personal information about anyone other than yourself where the release of such information would infringe their own rights.

Wherever possible, the National Probation Service will try to give you the information you have requested. Where we are unable to provide you with full information, we will explain why we are doing this.

## THE DATA PROTECTION ACT GIVES YOU RIGHTS

For example, you can ask us:

- How we use that information
- Who we pass it to
- For a copy of the information we hold
- To correct information if it is wrong.

## THE DATA PROTECTION ACT SAYS THAT WE MUST:

- Handle all personal information fairly and lawfully
- Not allow the information to be used or seen by anyone who should not see it
- Give you copies of your personal information (subject to any justifiable exemptions), if you ask us for it.

Depending on what you ask for, we may be entitled to charge a fee of £10. If you make a request for your information, we will let you know if this fee applies to you.

## WHY DO WE KEEP PERSONAL INFORMATION ABOUT YOU?

We collect information to allow us to carry out the work of the probation service with offenders and victims of crime. We also collect information about staff to perform our duties as an employer.

### *What types of information do we keep?*

Examples of the types of information we keep include:

- Names, addresses, dates of birth, ethnic origin, gender
- Details of offences and previous convictions
- Details of any court orders we supervise or reports we write
- Records of your contact with probation.

## WITH WHOM DO WE SHARE YOUR INFORMATION?

- We have to pass some information to the Home Office who monitor how we carry out our duties
- We have to share some information with courts, prisons, police and the CPS, Social Services
- We have to tell the courts or Parole Board if offenders breach their supervision

- We have to give some information to the victim of a serious offence if they have asked to be kept informed of the offender's progress
- We may share some information with other people who help us to supervise offenders, but we will ask permission from the offender before sharing this information
- We pass the information to other probation areas if an offender moves into their area, or if we cooperate on essential work involving an offender's personal information.

## HOW TO GET ACCESS TO INFORMATION WE HOLD ABOUT YOU

### Offenders:

If you are an offender and you just want to see the information held about you, but do not want a copy, you can ask your Offender Manager to show you. You will not be given any copies of the information in the record, and there will be no charge for this service.

### Other Service Users:

Please liaise with whoever is your main point of contact within the Probation Service.

### If you are a member of staff:

Please check your local procedures for the point of contact for access to your records (in some circumstances, this may be your HR department).

## HOW TO GET A COPY OF THE INFORMATION WE HOLD ON YOU

You have the right to make a "subject access request" (under section 7 of the Data Protection Act 1998) so that you can receive copies of the information we hold about you.

### If You Are A Current Offender:

To enable us to deal with your request promptly, please tell your Offender Manager as soon as you know you wish to make a request. They will explain the process to you. If they are unable to answer any questions you may have, they will check and someone will get back to you as soon as possible.

In your request, you will need to:

- Address your request in writing to 'The Chief Officer' of the relevant Probation Area
- Provide your full name and date of birth
- Provide your present address, together with any other address that will help us recognise you
- Provide the fee of £10.00 (check if this is applicable).

To avoid any confusion, please make it clear in your request that you are formally requesting copies of your information – that is, your request is a 'Subject Access Request' under the Data Protection Act 1998.

### If You Are An Ex-Offender:

To enable us to identify your records and deal with your request, please:

- Send your request in writing to 'the Chief Officer' of whichever Probation Area you are or were supervised by
- Make it clear in your request that this is a formal 'Subject Access Request' under the Data Protection Act 1998 for copies of your information
- Provide your full name and date of birth
- Provide your present address, together with any other address that will help us recognise you

- Provide the dates of your last contact with us, together with the name of the staff or office with whom you had contact
- Send the relevant Probation Area a fee of £10.00 (if this is applicable).

### Other Service Users:

Equivalent procedures to the above will apply. Please liaise with whoever is your main point of contact within the relevant Probation Area.

### If You Are a Member of Staff:

- Check the exact procedure that applies for your Area with your line manager, HR department or Data Protection Officer

### WHAT IS NON-ACCESSIBLE INFORMATION?

We will be as open as we can about the information we keep about you. However, there are certain legal limits to information which we are allowed to disclose.

For example, we will not give you information:

- About other people, including members of your family
- That needs the permission of the person(s) who gave it to us, before we can pass it on to you
- That may cause harm to you or another person if we gave the information to you.

We will inform you if there is any information that we cannot share with you.

### WHAT IF YOU HAVE A CONCERN OR COMPLAINT ABOUT WHAT IS HAPPENING WITH THE PERSONAL INFORMATION WE KEEP ABOUT YOU?

If you have any concerns about how the NPS processes information about you (eg if you have concerns about incorrect personal information), you have a right to have the information corrected or, where applicable, to ask for the situation to be investigated.

### If You Are An Offender:

Firstly, please talk to your supervising officer about it.

Next, if you are still unhappy, you can write to the Chief Officer of the Probation Area concerned.

Lastly, if you are still not happy with how we are dealing with you information, you can write to the Information Commissioner and ask him to look at the procedures we are following. His contact details are at the end of this document.

### Other Service Users:

Firstly, please liaise with whoever is your main point of contact within the Probation Service.

Next, if you are still unhappy, you can write to the Chief Officer of the Probation Area concerned.

Lastly, if you are still not happy with how we are dealing with you information, you can write to the Information Commissioner and ask him to look at the procedures we are following.

### If You Are A Member of Staff:

Firstly, please raise the issue informally with your relevant contact (eg line manager, HR person) wherever possible.

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If you remain dissatisfied that your data protection concerns have been addressed, follow your Area's local complaints procedures, ensuring that your local Data Protection Officer is involved in the process.

Lastly, if you are still not happy with how we are dealing with your information, you can write to the Information Commissioner and ask him to look at the procedures we are following.

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Anyone who is not happy with the way their complaint has been handled can contact the Information Commissioner at:

*Information Commissioner  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire SK9 5AF  
Telephone: 01625 545700*

Wherever possible, the Information Commissioner expects individuals and organisations to try to resolve data protection complaints between themselves before approaching him.

Further information about the work of the Information Commissioner and about data protection / freedom of information, can be found at [www.informationcommissioner.gov.uk](http://www.informationcommissioner.gov.uk)

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This briefing is an UNCLASSIFIED document which can be shared with any organisation or individual.