Complying with the Data Protection Act and associated legislation – what do we need to know?

Frequently Asked Questions for Friends of the Earth Local Groups

The following Frequently Asked Questions (FAQs) are designed to help you understand what your group needs to do to comply with the current data protection legislation. We recommend that you read this document through initially, identify the areas of improvement for your group and then keep it to hand as a working document to regularly check that your group is on track.

We have tried to make these FAQs as clear and comprehensive as possible, and to apply the data protection principles to the types of scenarios you and your group are most likely to encounter. However, it’s important to note that this document offers guidance only and is based on our interpretation of the current legislation.

FAQ 21 at the end of the document provides you with details of how to find out more about data protection and where to go / who to ask for more information.

1. What is Data Protection all about?

Data Protection is about the way you collect and look after the personal data entrusted to you by individuals. The Data Protection Act 1998 (the “Act”) seeks to protect the privacy of individuals by regulating the way their personal data is used by those who possess it. Data Protection is regulated in the UK by the Information Commissioner. The ideals of the legislation are encapsulated in the Eight Data Protection Principles (see the FAQ 20 on What are the Eight Data Protection Principles?).

2. Do Local Groups need to register with the Information Commissioner under the Data Protection Act?

There is an exemption from registration available to certain small not-for-profit organisations and we are currently seeking legal advice regarding whether Local Groups qualify for this exemption. We will communicate the outcome and the implications for Local Groups once known. We are aware that Local Group set-ups across the network do differ, with a few groups operating as registered charities or companies, and with some of our larger groups having already taken it upon themselves to register with the Information Commissioner. However, it is important to note that all organisations must comply with the Act, regardless of their legal status and whether or not they are required to register. The guidance within these FAQs therefore applies to all local groups, registered or not.
3. How does the Data Protection Act impact Local Groups?

The Act applies to personal data that you hold about any living individual. The main activities of local groups which fall under the Act and you should be aware of are:

(a) collecting personal data (of anyone – e.g. a new group member, someone signing up to receive your newsletter, someone setting up a standing order to give money to your group, or people signing up to attend one of your events, etc);

(b) contacting anyone whose data you hold (i.e. members, supporters, or just people whose details you have because they once came to an event etc);

(c) storing their information (The Act applies to electronic and paper files); and

(d) disclosing their information to third parties and/or other organisations.

4. What is Personal Data?

Any data that you hold about any individual will usually count as personal data. This will include biographical information such as name, postal & email addresses, employment details and date of birth, and financial information such as bank details. It also includes any written comments or opinions about an individual.

Certain information such as an individual’s sexual orientation, their racial or ethnic origin, criminal record, political opinions, and religious beliefs, are classified as Sensitive Personal Data and you should have the explicit consent of the individual in order to hold it or use it in any way. It’s extremely unlikely that you would need to hold this information for anyone on your membership list and we’d strongly recommend that you do not do so.

5. What should we know about collecting Personal Data?

When you collect personal data, typically contact information, it should be clear to the individual who you are and what you are going to use their information for. (E.g. that you are XXXX Friends of the Earth and that you’re going to use their contact details to send them your group’s monthly newsletters and keep them informed of what the group’s up to). You should then ensure that you only use the information for the purpose it was given to you. Only ask for the minimum information you actually need to achieve your purpose.

6. We collected contact details to support a campaign/petition against a local development. Can we contact these people about our other campaigns?

This may depend upon the context by which the information was collected but generally, if someone gives you contact details for a specific purpose; you should only use their details for that purpose alone. This is especially true when contacting people by email as you must have consent to send emails to people about your campaign work. For the avoidance of doubt, it is best to obtain a broad consent to send general campaign communications whenever you collect data for any other specific purpose. Please also see FAQ 13
for more information on the situation of Local Groups collecting postcards on behalf of national Friends of the Earth.

7. **How can we obtain consent to send general campaign communications such as regular newsletters and emails?**

There is no prescribed method but you could use an opt-out tick box on web pages, membership leaflets and sign-up sheets with the following suggested wording:

“We will use the contact details you have provided to keep you up to date on our campaigns and how you can help us. If you would rather **not** receive this kind of information from us please tick here”

If someone does **not** tick this box then you can consider that they have given you consent to contact them using the contact details that they have provided on the form, including email if they have provided their email address.

8. **Would we need to use this wording on all materials where we collect personal data?**

It may not be required when contact details are being provided specifically to join your mailing list or to subscribe to a general newsletter because this would be consent in itself. However, it would definitely be appropriate to include it for example, if you are signing people up to an event or for support on a particular campaign issue, as in these cases you are not being given consent to contact people about other campaigns. You will need to consider what you are asking people to give you their details for, and whether you might want further consent to contact them about something else.

9. **What should we do if someone opts not to receive our general information?**

You should note in your records that the individual has opted out of your general communications and ensure that they are excluded from any such mailings. They must then only receive the information/mailings that they have specifically requested (or nothing if they gave you their details for just attending one event etc). When sending emails, it is good practice to always give individuals an easy method of unsubscribing from further communications e.g. by responding to the email stating their intention to unsubscribe.

10. **Our membership data and mailing lists have been collected on an adhoc basis over many years. We have no idea what information people originally agreed to receive or what communication preferences they signed up to. What action should we take?**

We realise it would not be practical in most cases to review all your existing records. It should be fine to carry on communicating with your existing supporters as you currently do, unless of course anyone is objecting to receiving your messages. Try and regard these guidelines as best practice to work towards from now onwards and be aware of those areas where your group could improve its compliance. Think especially of the
implications when you encounter new situations or are designing new data collection materials. Then over time, your group will become increasingly competent with implementing data protection best practice.

11. Can we pass our supporters’ contact details to other organisations that campaign on similar issues?
We recommend that you never disclose any personal data that you hold unless the individual has given you specific consent to do so. If you wish, you could obtain such consent by use of a tick box on web pages and sign-up sheets with the following suggested wording:

“We occasionally share data with like-minded organisations. If you would prefer us not to use your data in this way, please tick here”

However, you will need to ensure that you note in your records when someone opts out of sharing their personal data. You will also need to be aware that your definition of a like-minded organisation may differ from that of your supporter. Always consider the situation from the supporter’s perspective and if in doubt, don’t disclose any data.

12. Can we pass our supporters’ contact details to other local groups or to national Friends of the Earth?
Each local group is an autonomous organisation so you should not generally disclose your supporters’ details to other local groups or to national Friends of the Earth without their consent. However, it would be ok to pass their details to national Friends of the Earth to fulfill a specific purpose in the supporter’s interest such as to subscribe them to Change Your World. It may also be necessary to disclose your membership to national Friends of the Earth when you request a mailing to national Friends of the Earth supporters in your area, so that national Friends of the Earth can exclude them from the mailing.

13. When we collect signed postcards for a national Friends of the Earth campaign are we allowed to use the personal data for our own purposes such as adding them to our group mailing list?
People who complete these postcards are giving their personal data to national Friends of the Earth only. Since local groups and national Friends of the Earth are separate organisations, you will need to seek additional consent using your own group sign-up materials if you want to include the person on your mailing list.

14. We have received a list of contact details from another organisation. Can we contact them about our campaign work?
You must not contact these people by email because you have not been given consent. The law provides extra protection for individuals regarding the receipt of unsolicited communications by electronic means such as email. However, you could contact them by post providing details about your campaign work and asking them if they will consent to you contacting them by email.
15. **How long should we keep personal data for?**
You should not retain personal data for longer than necessary so if you have no further need for it then it should be deleted. We suggest that the individual in your group who is responsible for holding and managing your membership lists regularly schedules in time to go through the lists and remove any details on them which are no longer needed.

16. **What rights do people have concerning the data we hold about them?**
People are entitled to know what data you hold about them provided they make a written request. You are entitled to charge a fee of up to £10 for this and you must respond within 40 days of receiving their request in writing. You should disclose all the personal data that you hold about the individual including references to them within documents such as emails.

17. **Should we delete someone’s data from our records if they ask us to?**
We recommend avoiding any conflict with ex-supporters that might lead to a complaint so it’s best to comply with such a request.

18. **What about data security?**
You are not expected to adopt elaborate security measures but you should take sensible precautions to guard against unnecessary risks. Just maintain an attitude that you are responsible for someone else’s property and be aware of the potential risks to your group and its reputation if some or all your data was lost.

19. **This looks like a lot to remember – what’s the worst that can happen? How can we make sure our group is complying?**
Relax! Data Protection is regulated by the Information Commission and they will only contact you if someone makes a complaint about the way you have treated their personal data. Even then, the IC will not expect you to be experts in Data Protection legislation. You won’t go far wrong if you get in the habit of putting yourself in the shoes of the individual whose data you hold and ask yourself some simple questions:

- Is the way we are using this data consistent with the reason for which it was given?
- Would the person expect us to do this or do we need consent?
- Are we putting our own priorities above those of the individual?
- Are we taking good care of the data that has been entrusted to us?
- Would it make us feel uncomfortable if the individual concerned asked to see any of the information which we hold about them?
- Do we really need any/all of this information?

The Eight Data Protection Principles are a good guide to the ethos of the Data Protection Act.
20. **What are the Eight Data Protection Principles?**

a. Personal Data shall be processed fairly & lawfully

b. Personal Data shall only be processed for the purposes for which it was obtained

c. Personal Data shall be adequate, relevant, and not excessive in relation to its purpose

d. Personal Data shall be accurate and kept up to date

e. Personal Data shall not be kept for longer than is necessary

f. Personal Data shall be processed in accordance with the rights of Data Subjects

g. Appropriate technical and organisational measures shall be taken against unlawful processing or accidental loss

h. Personal Data shall not be transferred outside the European Economic Area (EEA) unless the country has equivalent Data Protection standards

21. **We still have a question – who can help us?**

Contact our Activist Information Officer, Jill Andrews, on 020 7566 1677 or via localgroups@foe.co.uk. Jill will attempt to help you initially and may refer your query to our Data Protection Officer if necessary. Your Network Developer may also be able to help you too.


There is also some useful information available on the Information Commissioner’s website: [http://www.ico.gov.uk/Home/for_organisations/data_protection_guide.aspx](http://www.ico.gov.uk/Home/for_organisations/data_protection_guide.aspx)

These FAQs can be downloaded from our Community Website at: [http://www.foe.co.uk/community/local_groups/resource/data_protection.html](http://www.foe.co.uk/community/local_groups/resource/data_protection.html)

*Please note that this version is a final draft. The document will be finalised and sent out to all local groups along with the Partnership Agreement renewal mailing in Spring 2009.*