



Charity No.: 1038962

# **Data Protection**

## **Data Protection Policy**

## Principles

This Data Protection Policy sets out New Forest Mencap's obligations under the Data Protection Act 1998, the actions we will take to fulfil those obligations and the responsibilities of staff and users in relation to personal data.

This Policy applies to all staff and other individuals about whom we might hold personal data.

### The main points of the policy are:

- It is necessary to collect personal data from, staff, service users and other individuals in order to be able to carry out the proper functions of an employer, a service provider, and a charity with a membership.
- New Forest Mencap will adhere to the data protection principles as set out in the Data Protection Act 1998.
- New Forest Mencap will notify the Information Commissioner's Office of all purposes of which personal and sensitive personal data is processed and will keep this notification up to date
- All staff, service users and other individuals will be able to access details of their own personal and sensitive personal data processed by New Forest Mencap.
- Staff and service users must provide the personal data required by New Forest Mencap to administer their employment or service and must keep this information up to date.
- It is the responsibility of line managers to ensure their staff are aware of the requirements of the Data Protection Act when processing personal data.
- Any deliberate breach of the Data Protection Act requirements may result in disciplinary action being taken against the relevant member of staff or a service being terminated in the case of a service user.

## 1. Introduction

As an organisation which provides services and support to adults with learning disabilities New Forest Mencap will have access to and will handle information on a day-to-day basis.

For both support and administrative purposes, much of this information will relate to living people – it is their personal data.

New Forest Mencap needs to collect and keep personal data about its employees, members, service users and other users to allow it to operate effectively and efficiently, e.g. for monitoring performance, equal opportunities, and health and safety.

It is also necessary to process data so that staff can be recruited and paid; services to individuals can be planned; and legal obligations to funders, contractors, regulatory bodies and government can be properly met.

To comply with the law, such personal data must be collected and used fairly, stored safely and not disclosed to any other persons unlawfully.

The principles to ensure that personal data is [processed properly and which New Forest Mencap follows to ensure it complies with legislation, are set out in the Data Protection Act 1998.

Under the Act, personal data shall:

- Be processed fairly and lawfully
- Be obtained for a stated purpose(s) and not processed for anything other than the stated purpose(s).
- Be adequate, relevant and not excessive for the purpose for which it is obtained.
- Be accurate and kept up to date.
- Not be kept longer than is necessary for the purpose for which it is obtained.
- Be processed in accordance with the data subject's rights
- Be kept safe from unauthorised access, accidental loss or destruction.
- Not be transferred to a country outside of the EU, unless the country has equivalent levels of protection for personal data.

New Forest Mencap and all staff or others who process or use personal data must ensure that they follow these principles at all times.

## Definitions

Many of the terms used in this policy are taken from the Act and are explained here:

- **Personal Data:** Information, including facts and figures, that identifies a living individual.
- **Sensitive Personal Data:** personal data referring to – race or ethnic origin of the data subject, political opinions, religious beliefs or beliefs of a similar nature, trade union membership, physical and/or mental health, sexual life and information about offences either alleged or committed.
- **Processing:** The collective term for any action taken relating to personal or sensitive personal data, including obtaining, recording, storing, using, disclosing and destroying data.
- **Data Subject:** The individual who is identified by the personal data collection.
- **Data Controller:** An organisation that determines the need to collect personal data and the uses to which it will be put. New Forest Mencap is a Data Controller.
- **Third Party:** Any person or organisation that is neither the data subject nor the data controller. Separate services within New Forest Mencap are considered to still be part of the same data controller and not, therefore, third parties.

## Responsibilities

New Forest Mencap as Company Limited by Guarantee is the 'Data Controller' under the Act and the Executive Committee is therefore ultimately responsible for implementation of the Act. The committee ensure that New Forest Mencap complies with the legislation and maintains its notification with the Information Commissioner's Office (ICO).

Responsibility for overall management of the implementation of the legislation lies with the Chairman, who passes day-to-day responsibility for implementation to the Managers of each service.

The responsibilities of staff are set out below. Failure to follow the Policy may result in disciplinary proceedings.

Any member of staff who considers that the Policy has not been followed in respect of personal data about him or herself should raise the matter initially with their line manager. If the matter is not resolved it should be addressed through the Charity's Complaints Policy.

### **Notification of data held and processed by New Forest Mencap**

New Forest Mencap will maintain and use records of personal and sensitive personal data relating to staff and service users as is necessary for the effective operation as an employer and service provider.

Individuals offered employment or accessing one of our services will be notified of the standard data kept about them and the uses to which it may be put.

Acceptance of employment or a place in one of our services will be understood to signify acceptance of such processing of personal data.

Staff will be asked to check the accuracy of the data held about them every two years and users of the service will have their data updated on an annual basis.

It may be necessary to process sensitive personal data to operate or monitor organisational policies e.g. sickness, equality and diversity, to ensure that New Forest Mencap is a safe place to work, or to enable us to comply with the law.

It is recognised that in some circumstances the processing of such data may be of concern to some individuals. In such cases, staff and service users will be made aware of the sensitive nature of the information they are being asked for and may also be asked to give separate consent for the use of this data.

The one exception to this would be if a situation occurred where there were concerns for the safety of an individual. In such a situation, the Act allows sensitive personal data to be processed without referral to the individual.

All staff, service users and others about whom personal data is held are entitled to:

- Know what data New Forest Mencap holds and processes about them, why it is necessary to process the information and the third parties to whom that data may be given.
- Know how to gain access to that information via a Subject Access Request.
- Know that it is up-to-date.
- Know what New Forest Mencap is doing to comply with its obligations under the 1998 Act.

New Forest Mencap will therefore provide its staff and service users and other relevant users with a statement in the staff handbook and service users guide.

This statement will outline the types of personal data that the company holds and processes as part of its standard procedures and the reasons for which it is processed.

### Right to Access Data

Staff and service users of New Forest Mencap have the right to access any personal data that is being kept about them either in electronic or manual files.

When staff receive a request for access to records they should follow New Forest Mencap's Data Protection – Subject Access Requests Policy.

Any person who wishes to do this should complete a Subject Access Request Form

To cover the administrative costs involved in a Subject Access Request, New Forest Mencap will charge for each occasion that access is requested, although this fee may be waived in certain circumstances.

New Forest Mencap will comply with requests for access to personal data as quickly as possible, but will ensure that it is provided within the statutory 30 day time limit.

**Commented [AP1]:** This is new under the May 2018 update to the Act

### Responsibilities of Staff

All staff have the following responsibilities:

- To check, when requested, that any data they provide to New Forest Mencap in connection with their employment is accurate and up to date.
- To inform New Forest Mencap of any changes to, or errors in, the data held.
- To comply with the guidelines below, if and when, as part of their responsibilities, they collect or disclose data about other people.

Managers have an additional responsibility to ensure that their staff and or volunteers are aware of the data protection principles and how to correctly process personal and sensitive personal data as part of their work.

Staff whose work involves the use of personal data are responsible for ensuring:

- Any personal data which they hold whether electronically or in hard copy is kept securely, including using password protection on computer files.

- Personal data is not disclosed by them either orally or in writing, to any unauthorised third party.
- The personal data is accurate and kept up to date, held for the appropriate length of time and destroyed confidentially when/if no longer needed.
- They do not access any personal data which is not necessary for carrying out their work.

### **Retention of Data**

New Forest Mencap is committed to keeping and disposing of all personal data in a responsible and secure manner and will therefore keep data for the minimum time necessary to fulfil its purpose.

New Forest Mencap has a Privacy Policy on the retention of data which sets out the time limits that we will keep information.

### **Training**

New Forest Mencap will ensure that staff are trained so that they understand their responsibilities under the Act.

### **Conclusion**

Compliance with the 1998 Act is the responsibility of all New Forest Mencap employees.

Any breach of the Data Protection Policy may lead to disciplinary action being taken.