

General Data Protection Regulations 2018 – C&DNHWA Guidance Note

This Guidance Note has been compiled, without prejudice, by Canterbury & District Neighbourhood Watch Association to assist its members' understanding of / compliance with Data Protection legislation. It provides guidance, deemed applicable to NHW Data Controllers, based on information taken from the ICO Website. It is not intended to provide a definitive reference to the legislation or the application of it. More detailed information on each aspect referred to below is available on the Information Commissioner's Office (ICO) Website <https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/>

1. New Data Protection legislation has been drafted by the UK Government to incorporate the General Data Protection Regulation (GDPR), approved by the European Parliament in April 2016. It is effective from 25 May 2018.
2. The Regulation covers all uses of personal data – and the fact that any such information might already be freely available within 'the public domain' is irrelevant so far as requirements of the GDPR are concerned.
3. **Coordinators that do not keep any member contact details, and deliver hardcopy information to houses in their scheme as required, do not fall within the scope of GDPR.**
4. **NHW members' contact details do, however, constitute data that falls within the scope of GDPR**, regardless of whether it is held on a computer or in hardcopy as a paper record. And in addition third-party information, associated with named NHW members, that is held by coordinators might also be considered to be personal data under GDPR – for example the names / contact details of landlords or letting agents. Those that hold / use personal data are called **Data Controllers**. However, coordinators can avoid becoming Data Controllers themselves if they administer their NHW scheme through another organisation that is registered as a Data Controller. The national Neighbourhood Watch Network offer this service – see Appendix four for details. But this option is only relevant for schemes where all members have internet availability. And C&DNHW trials of this system suggest that it is not yet as user-friendly and easy to operate as perhaps it could be.
5. The use of CCTV in residential premises might also fall within the scope of data protection legislation. Irrespective of any other GDPR requirement, use of CCTV may necessitate registration by any occupier who uses CCTV. More detail is provided at Appendix Five.
6. **To comply with GDPR, Data Controllers (i.e. NHW Coordinators) need to ensure compliance with Six Statutory Principles and the Statutory Duties detailed in the legislation – and importantly must be able to prove that they have done so.**
7. **Principle 1 – Personal data shall be processed lawfully, fairly and in a transparent manner**
 - i) *NHW coordinators can only lawfully collect and use members' personal data if they have that person's consent to do so. GDPR requires 'freely given, specific, informed and unambiguous consent' indicated 'either by a statement or by a clear affirmative action' and explicitly states that "silence, pre-ticked boxes or inactivity" will be inadequate to infer someone's consent.*

ii) *A record of members' consent to use their data should be obtained and kept either in hard copy or electronic format. This could form part of the initial sign up process for people to join a Neighbourhood Watch scheme. ICO guidance says that consent must be obtained from **NEW** members (i.e. those joining after 25th May 2018). The inference being that existing members have given consent by dint of their membership prior to commencement of GDPR.*

8. Principle 2 – Personal data shall be collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes

i) *The specified purpose for collecting and processing personal data by coordinators is the organisation and running of a NHW Scheme. When joining Neighbourhood Watch members should be informed of the information list below. Similar information should be provided to existing members, as a one off exercise, once GDPR is operative to demonstrate compliance.*

- ✓ *Who the Data Controller is – .i.e. the scheme's coordinator*
- ✓ *What will be done with their information – .i.e. used to circulate NHW messages*
- ✓ *Who their information will be shared with OR*
- ✓ *That their personal data will not be shared with anyone else, or for any other purpose, without their explicit consent.*

ii) *This information can be provided to members in a variety of ways, but should always be recorded so as to provide proof that it has been given both to new and existing members. It could be included as part of any hard copy or electronic process that a new member completes to join your Scheme - See Appendices Two & Three:*

- ✓ *Orally – face to face or when speaking with members by telephone*
- ✓ *In writing – printed media*
- ✓ *Through signage – for example an information poster in a public area*
- ✓ *Electronically – in text messages, on websites, in emails or in mobile apps*

9. Principle 3 – Personal data shall be adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed

- i) *Only collect the minimum amount of personal data needed to properly run your Neighbourhood Watch scheme. Usually name, address and contact details.*
- ii) *If you hold any 'special category data' (i.e. relating to race, ethnic origin, religious or sexual orientation etc.) you will need to comply with more onerous requirements of the Regulations.*

10. Principle 4 – Personal data shall be accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay

Coordinators are responsible for:

- i) *Regularly reviewing the data held about members to check its accuracy – perhaps at least annually. A record should be kept of when this is done.*

- ii) *Giving members a means of updating their details – even if this is simply by ensuring that they have relevant contact details for the coordinator.*
- iii) *Ensuring members’ details are updated as soon as possible after notification of any changes. A record should be kept of when this is done.*

11. Principle 5 – Personal data shall be kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed

- i) *At any time members should be given the opportunity to withdraw their consent for the use of all or any part of the data held on them. GDPR introduces the “right to be forgotten” – so if someone wishes all their data to be deleted then you need to comply with their wishes.*
- ii) *Personal data should also be deleted as soon as it is no longer relevant. Let people know what to do if they choose to leave your Neighbourhood Watch Scheme or move away. Information about this could be included as part of the process when people first sign up to your scheme and / or made clear on your website and in local communications. If the Neighbourhood Watch Scheme ceases to operate ensure you let all your members know before deleting their data.*
- iii) *When updating members’ details, delete outdated information. Don’t keep old versions of spreadsheets or lists.*

12. Principle 6 – Personal data shall be processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures

Physical security

- i) *Hard Copy Records – take steps to ensure that the location of your records is secure enough to prevent unauthorised access i.e. adequate home security measures and locked drawers or cabinets.*
- ii) *Dispose of any paperwork containing personal data so it cannot be re-used i.e. by shredding or burning hard copies.*

Computer security

- iii) *Follow general computer security advice – use strong passwords to protect computers and / or files that contain personal data; use encryption to protect files that are emailed or stored on portable devices / flash cards etc.*
- iv) *Download computer software updates for your system as soon as they are available.*
- v) *Dispose of any old computer containing personal data so that it cannot be re-used by wiping hard drives properly i.e. with special software not just by deleting files.*
- vi) *Do not use public Wi-Fi to access files or systems containing members’ personal data.*
- vii) *Visit <https://www.cyberaware.gov.uk/> for information about computer security.*

Staff / Volunteers / Deputies / Links Persons

viii) Coordinators (and Deputies / Link's Persons) that manage members' information need to understand the importance of protecting personal data. It is the responsibility of the coordinator (the Data Controller) to ensure that anyone who assists in managing membership data understands:

- ✓ *The above requirements and duties of the Data Protection Legislation as they apply to the NHW scheme*
- ✓ *The proper procedures to be used to identify callers so as to ensure that data is not disclosed to unauthorised persons.*

13. Although not specifically required by the Regulations, it would be advisable for coordinators to produce and publish (i.e. have available to members) a Data Protection Policy document. This would go a long way toward demonstrating compliance with requirements associated with individuals' rights. An example of such a document, which can be 'top & tailed' to suite individual schemes' needs, is contained within Appendix One.

14. **Registering with the Information Controller's Office**

Normally organisations, to which data protection legislation applies, have to register with the Information Commissioner's Office (ICO). **However, the ICO website confirms that some organisations are exempt from registering under the GDPR, as long as they meet all of the criteria listed below – NHW schemes would normally be able to do this.**

Registration exemption, though, does not absolve the need for full compliance with the Regulations. Voluntary registration is permissible, even for exempted organisations, but the Data Controller would still have to pay the registration fee.

- i) Are established for not-for-profit making purposes, do not make a profit or only make a profit for their own purposes, and this is not used to enrich others.*
- ii) Do not use CCTV for crime prevention.*
- iii) Only process information necessary to establish or maintain membership or support.*
- iv) Only process information necessary to provide or administer activities for members of their association or scheme or those that have regular contact with it.*
- v) Only share the information with people and organisations necessary to carry out Neighbourhood Watch activities.*
- vi) Only keep the information while the individual is a member or supporter or as long as necessary for member/supporter administration.*

15. **Data breach notification requirements**

A breach of a data protection system is a serious matter, and one that requires urgent attention by the Data Controller.

- i) If personal data under control of a Data Controller has been destroyed, lost, altered, wrongly disclosed to a third party or accessed without authority it may constitute a data breach. The Data Controller must then decide whether there is a likelihood that this will result in a risk to the rights and freedoms of individuals as outlined below.*

- ✓ *Risk of discrimination, damage to reputation, financial loss, loss of confidentiality or any other significant economic or social disadvantage.*
- ii) *If your NHW scheme experiences a data breach and it is felt that any of the above rights and freedoms are likely to be at risk as a result, the Data Controller must notify the Information Commissioner's Office (ICO) within 72 hours outlining:*
- ✓ *The nature of the personal data breach – including categories of individuals concerned and approximate numbers / categories of data records involved and approximate numbers;*
 - ✓ *Name and contact details of the Data Controller;*
 - ✓ *Description of the likely consequences of the breach; and*
 - ✓ *Description of the measures taken or proposed to deal with the breach, and to mitigate potential adverse effects.*
- iii) *Once a data breach has been identified, which results in a risk to individual data subjects, the members at risk must be informed of the occurrence by the Data Controller.*
- iv) *Even if a data breach is not deemed reportable to the ICO the Data Controller must keep a record of the breach.*
- v) *If required the National NHW Group can assist you to ascertain whether the risk is such that the breach needs to be notified. Please contact Sian Dawson on 0116 4026111 or at sian.dawson@ourwatch.org.uk as soon as you discover the breach if you have any concerns in this respect.*

16. Direct Marketing

Direct marketing refers to the promotion of aims and ideals as well as the sale of products and services. The rules covering direct marketing under GDPR apply to both commercial organisations and not-for profit organisations such as Neighbourhood Watch. NHW newsletters, especially if they are sponsored by local companies, may contain marketing material, promoting local services, which constitutes direct marketing. Where direct marketing is being promoted the Coordinator, as Data Controller, must:

- i) *Be able to demonstrate that recipients' consent to receive such material has been knowingly and freely given – the ICO recommends that opt-in boxes are used and that clear and specific records of consent are kept. This information could be included as part of any hard copy or electronic process that a new member completes to join your Scheme. (See Appendices Two and Three).*
- ii) *Ensure that direct marketing messages are not sent to any member who objects or opts out of receiving them.*

Appendix One

* Neighbourhood Watch Scheme Privacy & Data Handling Policy

Personal Data

1. * Neighbourhood Watch Scheme (the Scheme) maintains a database listing of current NHW members.
2. The personal data held consists only of names, postal addresses and contact details, which includes email addresses.
3. The Scheme holds personal data for the purposes of supporting NHW activities and providing information and newsletters to its membership.
4. The database is updated as and when inaccuracies are notified or identified through routine maintenance or specific contact with members.
5. Members are asked to give consent to inclusion of their details on this listing when signing up to become a Scheme member. Members can withdraw consent at any time by submitting a written / email request to an official of the Scheme.
6. Members can obtain a copy of the data held, in respect of them, by the Scheme at any time by submission of a written request to the Coordinator, who acts as Data Controller.
7. Members' contact details will not be shared with other members, or third parties, without the prior explicit consent of the member concerned. This may include sharing such details with Kent Police and / or Canterbury & District Neighbourhood Watch Association for the purposes of NHW initiatives.
8. Members' personal data will not be further processed in a manner that is incompatible with the purposes specified above.
9. Members' personal data will be permanently deleted once membership of the Scheme ceases.

Data Security

Members' Data held by the Scheme will be accessed only by authorised officials of the Scheme for purposes allied to legitimate NHW activities. Data will be held securely either in hard copy or computer files which are password protected/encrypted.

* Insert name of NHW Scheme

Canterbury & District Neighbourhood Watch Association

New Scheme



Dear Resident,

Following a survey of local residents a Neighbourhood Watch (NHW) Scheme has been started for this area, including the following streets:

The purpose of Neighbourhood Watch is to:-

- Promote information flow between the police and local residents;
- Disseminate advice on security, safety and crime prevention
- Empower us to better protect our property and environment; and thus
- Deter criminals / vandals from attacking in our neighbourhood.

There is no charge made for NHW stickers / information but a small donation to assist with the initial cost of NHW lamppost signage might be requested.

If you would like to be part of the Scheme please let me know by completing and returning the tear off slip below. **Please include your email address, if you have one, as this is the quickest and easiest means of communicating. All personal data will be held / used in accordance with current Data Protection legislative requirements and our Privacy Policy.** Your personal details will be held securely and will not be disclosed to anyone else without your consent. All group email circulations will use the blind carbonless copy (BCC) format to keep your details private.

Yours faithfully

Scheme Coordinator & Data Controller – for purposes of the General Data Protection Regulations

Please complete the form below and return to:

Or email your details to:

To – Coordinator , XXXXXX Neighbourhood Watch, xxx

Please include me in your Neighbourhood Watch Scheme and add my details to your members' list.

I wish* / do not wish* to receive email communication about Neighbourhood Watch

Name: Phone Number

Address:

Email address :..... Signed

Some newsletters may contain direct marketing material (local adverts) – please indicate whether you would be happy to receive these: Yes / No* *Please indicate preferences



Canterbury & District Neighbourhood Watch Association

******* NHW Scheme**

Compliance with Data Protection

Dear Resident,

As a member of our NHW scheme please be advised of the following information, which I am required to make available to you to comply with the General Data Protection Regulations 2018.

The purpose of Neighbourhood Watch is to:-

- Promote information flow between the police and local residents;
- Disseminate advice on security, safety and crime prevention
- Empower us to better protect our property and environment; and thus
- Deter criminals / vandals from attacking in our neighbourhood.

Your personal details (name, address, & contact details, including email address if supplied) are currently held for the purposes of running our NHW scheme. In order for me to continue to hold these details I require your consent. This can be given by completing the proforma below. If I do not receive this consent I cannot legally continue to hold your data. **Your consent can be withdrawn at any time simply by notifying me of your wishes. All personal data will be held securely / used in accordance with current Data Protection legislative requirements and our Privacy Policy (attached).** Your personal details will not be disclosed to anyone else without your consent. All group email circulations will use the blind carbonless copy (BCC) format to keep your details private.

Yours faithfully

Scheme Coordinator & Data Controller – for purposes of the General Data Protection Regulations

Please complete the form below and return to:

Or email your details to me:

To – Coordinator , XXXXXX Neighbourhood Watch, xxx

Please include me in your Neighbourhood Watch Scheme and add my details to your members’ list.

I wish * / do not wish * to receive email communication about Neighbourhood Watch

Name: Phone Number

Address:

Email address :..... Signed

Some newsletters may contain direct marketing material (local adverts) – please indicate whether you would be happy to receive these: Yes / No* *Please indicate preferences

Running A Neighbourhood Watch Scheme Without Becoming A Data Controller

If coordinators maintain records of members within their NHW scheme they will be deemed a Data Controller under the General Data Protection Regulations 2018 (GDPR) – and will have to comply with all requirements of the Regulations set out in the main body of text in the Guidance Note above.

However, coordinators can administer a NHW scheme without becoming a Data Controller themselves if a fully registered Data Controller maintains the membership records on their behalf. The Neighbourhood Watch Network (NWN), the National organisation responsible for NHW, does offer this service. NWN is listed as a Data Controller with the Information Commissioner's Office and has for some years afforded NHW coordinators the ability to register their schemes with NWN through the OurWatch website www.ourwatch.org.uk

The benefits of registration for coordinators are that they:

- Receive regular national crime / frauds alerts from the national body;
- Are advised of new members that join their scheme through the NWN website;
- Can take advantage of facilities to contact scheme members by email through NWN.

However, for this to work:

- All scheme members need to have internet access AND individually they need to sign up to join their scheme through the NWN website;
- Individual members would also be responsible for deleting or altering their data on the NWN website when needed – coordinators wouldn't be able to do that for them;
- Coordinators wouldn't be able to keep their own records of scheme members - if they did they would immediately become Data Controllers and have to comply with GDPR requirements.

Although NWN appears to offer an alternative to coordinators taking on responsibilities under GDPR themselves, the following issues could affect the practicality of using the NWN system:

- C&DNHWA testing of the NWN system suggests that it is not user-friendly at the present time;
- National guidance in relation to use of the NWN system states that: *"Neighbourhood Watch Coordinators can also set up their own e-mail distribution lists on this system **with their members' consent** and use this to communicate with their members to avoid keeping separate records."* At present, however, there appears to be no confirmed way for members to provide that consent through the NWN website – and if coordinators obtain / maintain consent lists themselves they once again become Data Controllers under GDPR;
- It is not clear who would actually undertake periodic reviews of member data held on the NWN system (as needed under GDPR). Coordinators would not be able to amend records directly and NWN could be responsible for hundreds of thousands of entries UK wide. There is currently no information on the NWN website of how they would perform this task;
- Coordinators could feel that they are one step removed from their members.

CCTV and GDPR Requirements

The use of surveillance systems for limited household purposes can be exempt from the Data Protection Act under S36 - "Personal data processed by an individual only for the purposes of that individual's personal, family or household affairs (including recreational purposes) are exempt from the data protection principles and the provisions of Parts II and III."

Case law has concluded that where a fixed surveillance camera faces outwards from an individual's private domestic property and it captures images of individuals beyond the boundaries of their property the recording cannot be considered as being for a purely personal or household purpose. This means that cameras attached to a private individual's home may, in certain circumstances, no longer be exempt from the requirements of the Data Protection Act under section 36. This would include any camera that covered, even partially, a public space such as the pavement or street. It would also cover cameras which captured areas such as neighbours' gardens.

This decision does not mean that using such a camera is not possible but it does mean that individuals will have to ensure that its use is legitimate under the Data Protection Act. The above case law made it clear that use of cameras to protect a property in this way can meet the legitimate interest condition in the legislation. The ICO has produced a short piece of guidance for the public on how to ensure the use of a surveillance camera on a private domestic property complies with the Data Protection Act. <https://ico.org.uk/for-the-public/cctv/>

Each resident in your Neighbourhood Watch Scheme that uses CCTV cameras that monitor any area beyond the interior and exterior limits of that individual's home will need to register their use of Household CCTV with the ICO. A charge is made for registration, details can be found on the ICO website. <https://ico.org.uk/registration/cctv>