



ENGLISH HERITAGE

Dear Ms Youngberg,

BRDO Consultation on Data Sharing for Non-Economic Regulators

I write in reply to your consultation on data sharing for non-economic regulators.

English Heritage is an Executive Non-Departmental Public Body sponsored by the Department for Culture, Media and Sport. We work in partnership with central government departments, local authorities, voluntary bodies and the private sector to conserve and enhance the historic environment, broaden public access to our cultural heritage, and increase people's understanding and appreciation of the past.

We are the Government's adviser and a statutory consultee on all aspects of the historic environment and its heritage assets. This includes archaeology on land and under water, historic buildings and areas, designated landscapes and the historic elements of the wider landscape.

English Heritage as a Regulator

English Heritage's role in the protection of the historic environment is frequently misunderstood. English Heritage is principally an expert adviser. It is not a decision-maker in the planning system and its regulatory activities are very limited:

- English Heritage has a power to prosecute offences under the Ancient Monuments and Archaeological Areas Act 1979 and the Planning (Listed Buildings and Conservation Areas) Act 1990. In the past 12 months (not an untypical year) one prosecution under the 1979 Act and none under the 1990 Act was undertaken.
- English Heritage may apply for an injunction to prevent any such breaches of the law. None was applied for in the last year.
- In Greater London only, English Heritage has the power to direct local planning authorities to refuse listed building consent. It also has certain powers to execute works and compulsorily acquire listed buildings at risk in Greater London. None of these powers was used in the last year.
- English Heritage has some limited powers of entry onto land for the purposes of compiling records. None was used in the last year.

English Heritage is very active in providing advice and guidance to owners and local planning authorities as to the best means of achieving the objectives of the National Planning Policy Framework (NPPF) at the strategic level of making local development plans and on a case-by-case basis. Local planning authorities are bound to take into

account such advice in so far as it is in keeping with the NPPF and their existing local development plans.

Response to the consultation

English Heritage is not responsible for any large-scale system of compliance, nor do we often licence, inspect or investigate in the regulatory sense. The impact of its regulatory activities is very limited indeed and in the last year has been negligible.

Our concern with such data-sharing is that our chosen path in our work, given our lack of regulatory tools, is almost always a matter of persuasion rather than compulsion or regulation. As an example, I mention a couple of programmes which we run:

1. The **Heritage at Risk Programme** provides a dynamic picture of the health of England's built heritage and every year English Heritage publishes a list of those sites most at risk of being lost through neglect, decay or inappropriate development. The important process of systemically checking the condition of our heritage goes back more than two decades with the birth of the Buildings at Risk survey. The method has since been widened to include other types of historic places (heritage assets) from archaeological sites and conservation areas to registered parks and gardens, registered battlefields, and protected shipwrecks.

Every year English Heritage updates the Heritage at Risk Register, which is a list of those sites most at risk of being lost, and most in need of safeguarding for the future. It is published on a dedicated website, without ownership details; we hold these details confidentially, where known. We have not in the past shared these with other regulators and would be loath to do so, as buildings and sites can be on the HAR Register for many reasons, not all blameworthy.

English Heritage has no statutory repair or compulsory purchase powers, though the Secretary of State has reserve powers which we have fallen back on in a very small number of cases over the years. We do on occasion suggest that local planning authorities should use their powers in the most egregious cases, where it is in the public interest, but we mostly rely on persuasion as our chosen way of working, with which we have had considerable success.

2. **Section 17 Management Agreements** (under the Ancient Monuments and Archaeological Areas Act, 1979). English Heritage can offer funding under this heading to improve the management of scheduled monuments via term agreements with landowners or tenants. The reason for mentioning them here is that we work closely with Natural England, whose agri-environment funding scheme, known as Environmental Stewardship, is the primary source of funding for landscape management. However, we have agreed with NE that we will concentrate our management agreements on sites where Environmental Stewardship is not available or appropriate.

Conclusion

As I say, EH is not responsible for any large-scale system of compliance, nor do we often licence, inspect or investigate in the regulatory sense. Our chosen way of working, given this lack of regulatory powers, is by advice and persuasion and we would be concerned if our data was used in ways which would conflict with this strategy.

Of course, we may have misunderstood your intentions in terms of data sharing, in which case please contact me; I would be happy to answer any questions you may have.

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