

BERNESLAI HOMES POLICIES & PLANS



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Freedom of Information Policy

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Document Control

Organisation	Berneslai Homes
Title	Freedom of Information Policy
Responsible Officer	Head of Governance and Strategy
Author	Performance and Information Manager
Subject	Freedom of Information
Approved by	Berneslai Homes Executive Management Team
Approved date	25 th May 2018
Review date	Every 2 years from date of approval or when changes in law
Review responsibility	Data Protection Coordinator
Applicable to	All Berneslai Homes employees, temporary staff, contractors, board members and anyone working on behalf of Berneslai Homes
Regulatory Framework	Freedom of Information Act 2000; Data Protection Act 2018

Revision History

Date	Version	Author	Comments
12/05/15	0.1	Performance and Information Manager	First draft
03/07/15	1.0	ICT Project Manager	Following Human Resources Committee approval
18/05 2018	1.1	ICT Project Manager	Revised policy due to changes in data protection law
13/11/2021	1.2	Data Protection Coordinator	Revised policy due to team name changes; references to fees

Consultation and distribution

Type	Details
Consultation	Director of Corporate Services, BH Senior Management Team and Berneslai Homes Human Resources Committee
Distribution	All Berneslai Homes employees, temporary staff, contractors, board members and anyone working on behalf of Berneslai Home

1. Introduction

- 1.1 Berneslai Homes is committed to complying with the provisions of the Freedom of Information Act 2000 (FOIA), which came into force on 1st January 2005.
- 1.2 The FOIA gives the public the right of access to all recorded information held by public bodies.
- 1.3 Access to information can only and will only be denied if there is an absolute exemption upon its disclosure or the public interest assessment dictates that the information should not be disclosed.
- 1.4 The FOIA is regulated by the Information Commissioner.
- 1.5 The FOIA complements or supports the following legislation:
 - General Data Protection Regulation 2016, that gives individuals access to personal information held about them by Berneslai Homes;
 - Environmental Information Regulations 2004 that gives access to information about the environment held by the Government and Public Authorities.
 - Protection of Freedoms Act 2012 requires public authorities to provide information and if available datasets in a re-usable format so far as reasonably practicable
- 1.6 In complying with its duty any public body must take account of the Code of Practice in relation to Freedom of Information issued by the Department for Constitutional Affairs under Section 45 of the Act. Berneslai Homes will abide by the terms of Code of Practice whenever this is possible or appropriate.

2. Policy Statement

- 2.1 Berneslai Homes will comply with all the relevant provisions of the FOIA and, where relevant, the requirements of the Environmental Information Regulations 2004 (EIR).
- 2.2 Berneslai Homes will provide advice and assistance to help people make requests under the FOIA. We aim to respond to all requests promptly and within the statutory response period of 20 working days following receipt of a valid request.

- 2.3 In cases where information is covered by an exemption or other legislation, consideration is given as to whether or not it is in the public interest to disclose regardless of the exemption.
- 2.4 Berneslai Homes has developed and will maintain a Publication Scheme based on the model scheme approved by the Information Commissioner. The Publication Scheme contains details of all the information that Berneslai Homes makes available to the public as a matter of course. The Publication Scheme will be subject to annual review.
- 2.5 Berneslai Homes is committed to conducting its affairs in a transparent manner and enabling public access to its information whenever this is appropriate. Generally, we will act in as open and transparent a manner as possible whilst ensuring the integrity of information and protecting the privacy of our customers.

3. Scope

- 3.1 This policy informs customers, members of the public and external parties of the processes Berneslai Homes has established for complying with the FOIA.
- 3.2 This policy operationally applies to all employees, board members, contractors, partners and temporary staff working for or on behalf of the company.
- 3.3 This policy does not cover Subject Access Requests (requests for access to information about a living individual which could identify them). These requests are exempt from the FOIA under section 40 and should be processed in accordance with the General Data Protection Regulation 2016.

4. Relationship with the General Data Protection Regulation 2016

- 4.1 Berneslai Homes is under a legal duty to protect personal data as required by the General Data Protection Regulation 2016. We will carefully consider our responsibilities under current UK data protection laws before disclosing personal data about living individuals, including current and former officers, members and users of its services.

5. The Publication Scheme

- 5.1 The Publication Scheme is available on Berneslai Homes' website.
- 5.2 It specifies what information we will make routinely available to the public as a matter of course.
- 5.3 All information published on our web site can be downloaded free of charge and a single hard copy of anything included in the scheme will also be provided free of charge.
- 5.4 We will consider making a reasonable charge to cover the cost of providing multiple or repeated copies in order to avoid unnecessary expense to ourselves. If we intend making a charge, we will let you know before sending the information.

6. Roles and Responsibilities

- 6.1 All employees are responsible for ensuring that any request for information they receive is dealt with in line with the requirements of the FOIA and in compliance with this policy and the prevailing procedures.

All staff must recognise that all recorded information may be provided to the public, and that the law requires that there will be full and unconditional disclosure in every case unless one of the statutory exemptions applies.

Any breach of any provision of the FOIA will be deemed as being a breach of any contract between Berneslai Homes and that individual, company, partner or firm.

- 6.2 Managers are required to ensure all requests for information are directed to the Berneslai Homes Data Protection Team who deal with the administration of Freedom of Information and General Data Protection Regulation for the company.
- 6.3 Third parties who are users of information supplied by Berneslai Homes will be required to confirm that they will abide by the requirements of the FOIA and allow audits by the company of data held on its behalf (if requested); and indemnify Berneslai Homes against any prosecutions, claims, proceedings, actions or payments of compensation or damages, without limitation.

6.4 Berneslai Homes will ensure that:

- Everyone managing and handling information understands that they are responsible for following good information management practice.
- Staff who handle information are appropriately supervised and trained.
- Methods of handling information are regularly assessed and evaluated.
- Any disclosure of data will be in compliance with approved procedures.
- All necessary steps will be taken to ensure that data is kept secure at all times against unauthorized or unlawful loss or disclosure.
- All contractors who are users of information supplied by the Berneslai Homes will be required to confirm that they will comply with the requirements of the Act with regard to information supplied by Berneslai Homes.

7. In respect to any request for Information Berneslai Homes reserves the right to:

- 7.1 Withhold request results until the relevant fee has been paid, and also reserves the right to refuse requests whose total administrative cost is greater than £450.00 although Berneslai Homes will discuss with the requester whether the request can be modified to reduce the cost.
- 7.2 Refuse any vexatious or repetitious request.
- 7.3 Where Berneslai Homes already publishes the information requested, enquirers will be directed to the public resource in which they may find the information they require.
- 7.4 Withhold information if it is subject to an exemption under the FOIA, the Environmental Information Regulations 2004 or the Local Government Act 1972.
- 7.5 A refusal of a request for information will only be made when it is necessary to do so. The refusal of the request will be made in writing and will state the reason for refusal, specify the exemption which applies and state clearly why the exemption applies.
- 7.6 When applicable Berneslai Homes will identify why the public interest in maintaining an exemption outweighs the public interest in any disclosure.

Whenever appropriate the factors taken into account will be identified and communicated.

8. Complaints

- 8.1 Berneslai Homes has a set complaints procedure and any complaints about Data Protection, General Data Protection Regulation, the Environmental Information Regulations or the Freedom of Information Act may be dealt with by addressing it to:

Head of Governance and Strategy
Berneslai Homes,
PO Box 627,
Barnsley,
S70 9FZ
Email: BHdataprotection@berneslaihomes.co.uk

- 8.2 If you are not content with the outcome of the complaint, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:-

Customer Services Team
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
Website: www.ico.org.uk
Tel: 01625 545 745
Email: casework@ico.org.uk

- 8.3 Berneslai Homes will maintain a record of all complaints and their outcomes.

14. References and related documents

8.1 References:

Freedom of Information Act 2000
Environmental Information Regulations 2004
Protection of Freedoms Act 2012
General Data Protection Regulations

Data Protection Act 2018
Human Rights Act 1998
Environmental Information Regulations 2004

8.2 Related documents:

Revised Code of Practice issued under 45 of FOI
Information Request Charging Policy Fees
General Data Protection Regulation Policy
Records Management Policy
Information Security and Computer Usage Policy
Publication Scheme