

## BERNESLAI HOMES POLICIES & PLANS

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**berneslai**  
homes

### Freedom of Information Policy

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## Document Control

<b>Organisation</b>	Berneslai Homes
<b>Title</b>	Freedom of Information Policy
<b>Responsible Officer</b>	Head of Governance and Strategy
<b>Author</b>	Performance and Information Manager
<b>Subject</b>	Freedom of Information
<b>Approved by</b>	Berneslai Homes Executive Management Team
<b>Approved date</b>	25 <sup>th</sup> May 2018
<b>Review date</b>	Every 2 years from date of approval or when changes in law
<b>Review responsibility</b>	Data Protection Coordinator
<b>Applicable to</b>	All Berneslai Homes employees, temporary staff, contractors, board members and anyone working on behalf of Berneslai Homes
<b>Regulatory Framework</b>	Freedom of Information Act 2000; Section 45 Code of Practice, Data Protection Act 2018; UK GDPR;

## 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
18/04/2024	1.3	Data Protection Coordinator	Revised to include what makes a valid request and amended the review section.
18/03/2026	1.4	Data Protection Coordinator	Reviewed. Insertion of Section 45 Code of Practice within the introduction.

## Consultation and distribution

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

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## 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 1<sup>st</sup> January 2005 and **Section 45 Code of Practice**.
- 1.2 The FOIA gives the public the right of access to all recorded information held by public bodies whereas Section 45 Code of Practice provides best practice recommendations for public authorities.
- 1.3 Access to information can only and will only be denied if there is an absolute exemption upon its disclosure or an undertaken public interest assessment dictates that the information should not be disclosed.
- 1.4 The FOIA is regulated by the Information Commissioner's Office.
- 1.5 The FOIA complements or supports the following legislation:
  - UK General Data Protection Regulation (GDPR) and Data Protection Act 2018, which gives individuals access to personal information held about them by Berneslai Homes;
  - Environmental Information Regulations 2004 which 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, a public body, such as Berneslai Homes, 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 and can be provided upon request.
- 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 UK General Data Protection Regulation 2016 and Data Protection Act 2018.

#### 4. Relationship with current UK Data Protection Laws

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

#### 5. The Publication Scheme

- 5.1 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. The information published is covered by Berneslai Homes publication scheme
- 5.4 We may 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 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 requests under the FOIA.

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 Berneslai Homes will be required to confirm that they will comply with the requirements of the FOIA with regard to information supplied by Berneslai Homes.

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

7.1 Ensure certain information, as per section 8 of the FOIA, is provided before Berneslai Homes can respond to a request. FOI Act requires:

- Your real name – Berneslai Homes does not have to respond to requests submitted under a pseudonym;
- Your address (email addresses are acceptable);

- A description of the information you wish to obtain; and
  - Any preferences for the format in which you wish to receive the information e.g. electronic or hard copy. We will endeavour to meet your preferences but cannot guarantee that we will be able to.
- 7.2 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. However, Berneslai Homes will discuss with the requester whether the request can be modified to reduce the cost.
- 7.3 Refuse any vexatious or repetitious request.
- 7.4 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.
- 7.5 Withhold information if it is subject to an exemption under the FOIA, the Environmental Information Regulations 2004 or the Local Government Act 1972.
- 7.6 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.**
- 7.7 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. Review/Appeal Handling

- 8.1 Berneslai Homes has a set up a procedure for handling any requests to review/appeal with regards to the way we have handled their Freedom of Information request. They should contact the Head of Governance and Strategy and clearly mark their correspondence 'Review' and address it to:

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

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

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF  
Website: [www.ico.org.uk](http://www.ico.org.uk)  
Tel: 01625 545 745  
Email: [icocasework@ico.org.uk](mailto:icocasework@ico.org.uk)

8.3 Berneslai Homes will maintain a record of all reviews 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