



berneslai
homes

**Appropriate Policy Document – Processing
Special Category Data**

Document Control

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1. Introduction

When processing personal data, Berneslai Homes will comply with the requirements of the UK GDPR and the Data Protection Act 2018 (DPA) and any associated legislation.

The Data Protection Act 2018 provides for safeguards that must be implemented when processing special categories of personal data (SC) and criminal offence data (CO). GDPR defines Special category data as:

- personal data revealing **racial or ethnic origin**;
- personal data revealing **political opinions**;
- personal data revealing **religious or philosophical beliefs**;
- personal data revealing **trade union membership**;
- **genetic data**;
- **biometric data** (where used for identification purposes);
- data concerning **health**;
- data concerning a person's **sex life**; and
- data concerning a person's **sexual orientation**

We process the following special category and criminal offence data:

- Health and disability
- Religious and philosophical beliefs
- Ethnic/racial background
- Sexual life /sexual orientation

- Trade Union membership
- Criminal offence data

This Appropriate Policy Document sets out the information required by **Schedule 1** of the Data Protection Act 2018 when processing special category (SC) and criminal offence (CO) data in reliance on one of the conditions contained in that schedule.

This Appropriate Policy Document will cover all processing of sensitive personal data (SC) and criminal offence data (CO) carried out by Berneslai Homes for which all of the following conditions are met:

- The data controller is processing personal data which is the subject of Articles 9 (Processing of special categories of personal data) or 10 (Processing of personal data relating to criminal convictions and offences) of UK GDPR.
 - The data controller is processing this personal data in reliance of a condition listed in Parts 1, 2 or 3 of Schedule 1 of the DPA.
- Schedule 1, Part 4 of the Data Protection Act 2018 requires us to have in place this Appropriate Policy Document when we rely upon what special category and criminal offence data we process.

2. RELEVANT SCHEDULE 1 CONDITIONS AND DATA PROCESSING ACTIVITIES

Berneslai Homes may process SC and CO data in reliance on the following Schedule 1 conditions, listed below. Additionally, some examples of what SC and CO data we process in connection with each condition are also listed:

Part 1 - Conditions Relating to Employment, Health and Research

Schedule 1 Part 1 para 1: Employment, health and research

Berneslai Homes may need to process SC/CO data in order to perform its obligations or rights as an employer or to guarantee social protection of individuals.

This means we may, for example:

- Process personal data concerning health in connection with Berneslai Homes under employment law and duties under the **Health and Safety at Work Act 1974**.
- Process data relating to criminal convictions under **Article 10 UK GDPR** in connection with Berneslai Homes' rights under employment law in connection with recruitment, discipline or dismissal.

Schedule 1 Part 1 para 2: Health or social care purposes

Berneslai Homes may require to process SC data for the provision of health care or treatment or the provision of social care or the management of health care systems or services or social care systems or services.

This means we may, for example:

- Providing human resources and occupational health facilities or health care treatment or facilities for employees in the assessment of the working capacity of an employee and the provision of reasonable adjustments and treatment.

Part 2 – Substantial Public Interest Conditions: Statutory etc. and Government Purposes

Schedule 1 Part 2 para 6: Statutory etc and government purposes

Berneslai Homes may require to process SC and CO data for the purpose of carrying out its obligations under UK legislations for the provision of services to customers and to comply with other legal requirements, i.e., to disclose information in connection with legal proceedings.

This means we may, for example:

- Fulfil Berneslai Homes **obligations under legislation** such as the Housing Act 1985, The Housing Act 1996, Equality Act 2010, Crime and Disorder Act 1998, the Anti-Social Behaviour, Crime and Policing Act 2014, Fire and Rescue Services Act 2004, Reform (Fire Safety) Order 2005 and any future updates to legislation.
- Ensure we fulfil our obligations under the Governments Decent Home Standards. We will supply our approved third-party contractor(s) with the minimum data they require to complete any works. However, in exceptionally cases this may include information about your access & communication needs and health problems to enable them to contact you and support the work you need undertaking at your home.
- Comply with other legal requirements, such as the requirement to disclose information in connection with legal proceedings.
- Comply with Gas Safety Regulations 36 (installation and Use) 1998 and COSHH – Control of substances hazardous to Health.

Schedule 1 Part 2 para 8: Equality of Opportunity or Treatment

Berneslai Homes may require to process SC and CO data for the purpose of carrying out its obligations under legislation (Equality Act 2010) ensuring it fulfils its public sector equality opportunity when carrying out its work, monitoring equality of opportunity or treatment between groups of people specified in relation to that category with a view to enabling such equality to be promoted or maintained.

This means we may, for example:

- Ensure compliance with Berneslai Homes obligations under legislation such as the equality Act 2010.
- Ensuring that we fulfil our **public sector equality duty** when carrying out our work.
- Ensuring we provide equal access to our services, to all sections of the community in recognition of our legal and ethical duty to represent and serve communities.

Schedule 1 Part 2 para 10: Preventing or detecting unlawful acts

Berneslai Homes may process CO data for the purpose of the prevention or detection of unlawful acts, such as and including, processing data concerning criminal records **in connect to employment**. This is in order to reduce any risk to the organisation and community, as well as enabling any enforcement action in connect with statutory duties where these exist. Processing for these purposes is carried out **without consent** so as not to **prejudice** these purposes.

This means we may, for example:

- Process data concerning criminal records in connection with employment. Therefore, reducing the risk to the services we provide and the community.

Schedule 1 Part 2 para 11: Protecting the public against dishonesty etc.

Berneslai Homes may process CO data to protect the public from dishonesty, unfitness, incompetence or mismanagement in the administration of an organisation, and where to **obtain consent would prejudice** the exercise of protection.

This means we may, for example:

- Process data concerning criminal records in connection with employment in order to protect the local community.

Schedule 1 Part 2 para 12: Regulatory requirements relating to unlawful acts and dishonesty etc.

Berneslai Homes may process CO data in order to establish whether an individual has committed an unlawful act or has been involved in dishonesty, malpractice or other seriously improper conduct, or assist other authorities in connection with their statutory and regulatory requirements. Processing for these purposes is carried out without consent as it cannot reasonably be expected to obtain it.

This means we may, for example:

- Assist Barnsley Metropolitan Borough Council local authority in connection with their regulatory requirements.

Schedule 1 Part 2 para 14: Preventing fraud

Berneslai Homes may process CO data for the purposes of preventing fraud or a particular kind of fraud, including the disclosure of personal data in accordance with arrangements made by an anti-fraud organisation.

This means we may, for example:

- Disclose personal data in accordance with arrangements made by an antifraud organisation, such as the police.

Schedule 1 Part 2 para 18: Safeguarding of children and individuals at risk

Berneslai Homes may process SC and CO data to protect the physical, mental or emotional well-being of an individual under the age of 18 or over, and at risk, including obtaining further support for children and individuals at risk by sharing information with relevant authorities where consent cannot be given by the individual concerned, cannot be reasonable obtained or where obtaining consent would prejudice the provision of the protection and is necessary for reasons of substantial public interests.

This means we may, for example:

- Be required to fulfil Berneslai Homes obligations under Safeguarding legislation (1989 & 2004 Children's Act & 2014 Care Act), the Counter Terrorism and Security Act 2015 and Crime and Disorder Act 1998 for prevention and detection of crime
- Carrying out community risk assessments in order to identify households for tenant support services.
- Identifying individuals at risk while attending tenants' properties.
- Obtaining further support for children and individuals at risk by sharing information with relevant agencies. Where possible, consent will be sought, except when seeking that consent would not be reasonably expected or would put our employees at risk or the individual at risk of further harm.

Schedule 1 Part 2 para 19: Safeguarding of economic well-being of certain individuals

Berneslai Homes may need to process SC/CO data to protect the economic well-being of an individual at economic risk who is 18 or over. This includes sharing information with partners to assist to support individuals where consent cannot be given or cannot be reasonably obtained, or the processing must be carried out without consent of the individual because obtaining it would prejudice the economic well-being of the individual at risk.

This means we may, for example:

- Be required to fulfil Berneslai Homes obligations under Safeguarding legislation (1989 & 2004 Children's Act & 2014 Care Act); and Crime and Disorder Act 1998 for prevention and detection of crime
- Carry out community risk assessments in order to identify households for tenant first support
- Identifying individuals at risk while attending tenant properties.
- Data sharing with our partners to assist them to support individuals.

Schedule 1 Part 2 para 21: Occupational pensions

Berneslai Homes may process SC data to determine eligibility for or benefits payable under an occupational pension scheme and concerning health relating to relatives of the member of the scheme. Processing may be reasonably carried out without the consent of the data subject where it cannot be reasonably expected to obtain consent and the controller is not aware of the individuals withholding it.

This means we may, for example:

- Fulfil Berneslai Homes' obligation to provide an occupational pension scheme.
- Determine benefits payable to dependents of pension scheme members.

Schedule 1 Part 2 para 23: Disclosure to elected representatives

Berneslai Home may need to process SC data for the purposes of disclosure to an elected representative or a person acting with the authority of such representative, where requests are made for assistance on behalf of their constituents.

This means we may, for example:

- Assist elected representatives such as local government Councillors and Members of Parliament with requests for assistance on behalf of their constituents.

Part 3 – Additional Conditions Relating to Criminal Convictions, etc.

Extension of conditions in Part 2 of Schedule 1 referring to substantial public interest.

- Berneslai Homes may process personal data relating to criminal convictions in connection with its enforcement obligations or as part of recruitment and employment checks to protect the public against dishonesty.

3. PROCEDURES FOR SECURING COMPLIANCE WITH THE DATA PROTECTION

In summary, Article 5 of the UK GDPR states that personal data shall be:

- processed lawfully, fairly and transparently
- collected for specific and legitimate purposes and processed in accordance with those purposes
- adequate, relevant and limited to what is necessary for the stated purposes
- accurate and, where necessary, kept up-to-date
- retained for no longer than necessary, and
- kept secure with appropriate technical and organisational measures in place.

In addition, Article 5 requires that the data controller shall be responsible for, and able to demonstrate compliance with, these principles (the accountability principle).

Berneslai Homes General Data Protection Policy sets out requirements for the data protection principles to be complied with when processing personal data.

When processing special category data, the following procedures are used within Berneslai Homes to ensure compliance with the data protection principles:

- processed lawfully, fairly and transparently
 - only process personal data fairly and will ensure that data subjects are not misled about the purposes of any processing through the provision of service specific privacy notices.
 - ensure that personal data is only processed where a lawful basis applies, and where processing is otherwise lawful
 - Compliance with conditions from both Article 6 and Article 9 of EU GDPR.
 - Use of data protection impact assessments to ensure proposed processing is carried out fairly.

- collected for specific and legitimate purposes and processed in accordance with those purposes
 - Privacy notices set out the purposes for which personal data will be used.
 - Personal data is not processed for other purposes without obtaining the data subject's consent unless authorised by law.

- adequate, relevant and limited to what is necessary for the stated purposes
 - Use of data protection impact assessments to ensure that collected data is sufficient to provide the service but not excessive in order to protect individuals from harm.
 - Use of national guidance and relevant legislation to determine information that we should collect.

- accurate and, where necessary, kept up-to-date
 - Cross-matching data sets where possible to check accuracy.
 - Review of personal information held when making contact with data subjects.
 - Correction of personal data when notified by data subjects exercising their rights in accordance with the UK GDPR.

- retained for no longer than necessary
 - Retention periods are set out in our service specific privacy notices.
 - Retention periods are based on legal requirements to retain data and consideration of the needs of data subjects through data protection impact assessments.

- kept secure with appropriate technical and organisational measures in place
 - Adopting and implementing data protection policies and ensuring we have written contracts in place with our data processors.
 - The appointment of a data protection officer who reports directly to our highest management level (CEO)
 - Taking a 'data protection by design and default' approach to our activities.
 - Maintaining documentation of our processing activities

- Berneslai Homes adheres to the Government's Minimum Cyber Security Standard and implements information security controls in line with Cyber Essentials Plus and ISO 27001.
- Technical security controls such as encryption are employed to secure sensitive information within systems.
- Role-based access controls are implemented to restrict access to sensitive data. - Where possible, anonymization or pseudonymisation are used to reduce the risk of sensitive data being compromised.

4. RETENTION AND ERASURE OF PERSONAL DATA

Personal data is held and disposed of in line with Berneslai Homes' Record Retention Policy.

When disposing of information, Berneslai Homes ensures this is carried out securely by using physical destruction methods as well as electronic data deletion.

We will ensure, where special category or criminal convictions personal data is processed, that:

- there is a record of that processing as defined in article 30 (Records of processing activities), and that the record will set out, where possible, the envisaged time limits for erasure of the different categories of data.
- where we no longer require special category or criminal convictions personal data for the purpose for which it was collected, we will delete it, put it beyond use or render it permanently anonymous.
- data subjects receive full privacy information about how their data will be handled, and that this will include the period for which the personal data will be stored, or if that is not possible, the criteria used to determine that period.

5. RESPONSIBILITY FOR PROCESSING SENSITIVE DATA

All employees are required to comply with Berneslai Homes Information Governance Policies when processing personal data and to ensure that any processing of sensitive personal data is carried out legally, fairly and transparently

Berneslai Homes is fully committed to ensuring continued and effective implementation of this policy and expects all employees and third parties to share in this commitment. Any breach of this policy will be taken seriously and may result in disciplinary action. To confirm that an adequate level of compliance that is being achieved in relation to this policy an annual data protection compliance audit will be carried out. In addition, Berneslai Homes' Board and Audit Committee will receive regular assurance reports on the effectiveness of data protection related activities. The policy will be reviewed on an annual basis, or as and when legislation or best practice guidelines change