



**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 EU General Data Protection Regulation 2016/679 (EU GDPR), 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. 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**

This Appropriate Policy Document sets out the information required by Schedule 1 of the Data Protection Act 2018 when processing special categories of personal data in reliance on one of the conditions contained in that schedule.

This Appropriate Policy Document will cover all processing of sensitive personal data 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 EU 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.

2. RELEVANT SCHEDULE 1 CONDITIONS AND DATA PROCESSING ACTIVITIES

Berneslai Homes may process special categories of personal data in reliance on the following Schedule 1 conditions. Examples of the types of personal data processed in connection with each condition are also listed:

Part 1 – Conditions Relating to Employment, Health and Research, etc.

- Employment, social security and social protection
 - Processing personal data concerning health in connection with Berneslai Homes under employment law and duties under the Health and Safety at Work Act 1974.
 - Processing data relating to criminal convictions under Article 10 EU GDPR in connection with Berneslai Homes rights under employment law in connection with recruitment, discipline or dismissal.
- Health or social care purposes
 - Providing human resources and occupational health facilities for employees in the assessment of the working capacity of an employee and the provision of reasonable adjustments and treatment.
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Part 2 – Substantial Public Interest Conditions:

- Statutory etc. and government purposes
 - Fulfilling Berneslai Homes obligations under legislation such as the Housing Act 1985, The Housing Act 1996, 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.
 - Ensuring we fulfil our obligations under the Governments Decent Home Standards. We will supply our approved third-party contractor with the minimum data they require to complete any works but 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.
 - Complying with other legal requirements, such as the requirement to disclose information in connection with legal proceedings.
 - Ensuring compliance with Gas Safety Regulations 36 (installation and Use) 1998 and COSHH – Control of substances hazardous to Health.

- Equality of opportunity or treatment
 - Ensuring 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.
- Preventing or detecting unlawful acts
 - Processing data concerning criminal records in connection with employment in order to reduce the risk to the Service and the community.
- Protecting the public against dishonesty etc.
 - Processing data concerning criminal records in connection with employment in order to protect the local community.
- Regulatory requirements relating to unlawful acts and dishonesty etc.
 - Assisting Barnsley Metropolitan Borough Council local authority in connection with their regulatory requirements.
- Preventing fraud
 - Disclosing personal data in accordance with arrangements made by an anti-fraud organisation, such as the police.
- Safeguarding of children and individuals at risk

This will 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

 - 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.

- Safeguarding of economic well-being of certain individuals

This will 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

- Carrying 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.

- Occupational pensions

- Fulfilling Berneslai Homes obligation to provide an occupational pension scheme.
- Determining benefits payable to dependents of pension scheme members.

- Disclosure to elected representatives

- Assisting 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 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 Article 16 of EU 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