



BARNSLEY
Metropolitan Borough Council

Data Protection Policy

Document Control

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28/02/2013	V 0.2	Head of Technical Architecture & Governance	Amendments required
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19.08.2014	V 1.0	Chief Information Compliance Manager	SMT Approval

Document Distribution

This document will be distributed to the following for review and feedback prior to submission for approval:

Name	Role	Directorate	Div	Date Issued for Review
Andrew Frostdick	Assistant Chief Executive, Legal & Governance	CorpS	L&G	14/8/14
Frances Foster	Assistant Chief Executive Finance, Property & Information Services	CorpS	FP&IS	14/8/14
Vacant	Assistant Director of Information Services	CorpS	FP&IS	n/a
Vacant	Head of Technical Architecture & Information Governance	CorpS	FP&IS	n/a
Marie Buxton	Chief Information Compliance Manager	CorpS	FP&IS	14/8/14
Cathryn Copley	Information Compliance Assistant	CorpS	FP&IS	14/8/14

Policy Governance

The following table identifies who within BMBC is Accountable, Responsible, Informed or Consulted with regards to this policy. The following definitions apply:

- **Responsible** – The person(s) responsible for developing and introducing the policy
- **Accountable** – The person who has ultimate accountability and authority for the policy
- **Consulted** – The person(s) or groups to be consulted prior to final policy implementation or amendment
- **Informed** – The person(s) or groups to be informed after procedure implementation or amendment.

Responsible	Head of Technical Architecture and Information Governance
Accountable	Andrew Frosdick (SIRO)
Consulted	BMBC Information Governance Team (Records Management), BMBC Head of Technical Architecture & Governance, BMBC AD Information Services, BMBC ACE Finance, Property & Information Services
Informed	All Barnsley MBC employees, temporary staff, contractors, all elected members, head teachers, education employees, or anyone working on Council premises or on behalf of the Council

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1 Introduction

- 1.1 Barnsley Metropolitan Borough Council (BMBC) is fully committed to compliance with the requirements of the Data Protection Act 1998 (DPA), which came into force on the 1st March 2000. The Council will therefore instigate and apply procedures that aim to ensure that all employees, elected members, contractors, agents, consultants, partners or other servants of the Council who have access to any personal data held by or on behalf of the Council, are fully aware of and abide by their duties and responsibilities under the DPA.
- 1.2 The Council is classed as a Data Controller and could be prosecuted for any serious breaches of the DPA that may be committed.

2 Policy Statement

- 2.1 In order to operate efficiently, BMBC collects and uses information about people with whom it communicates. These may include members of the public, current, past and prospective employees, clients and customers, and suppliers. In addition, the Council may be required by law to collect and use information in order to comply with the requirements of central government. This personal information must be handled and dealt with properly, however it is collected, recorded and used. Personal information may be recorded on paper, in computer records or other formats which must all comply with the principles of the Data Protection Act 1998.
- 2.2 In carrying out our responsibilities we have cause to collect and use information about individuals for whom we provide services. We may also use the information to derive statistics to provide informed decisions, but use them in such a way that individuals cannot be identified from them.
- 2.3 The Data Protection Act 1998, states that the processing of personal data should be 'fair'. This means that the Authority, as 'Data Controller', should provide a Privacy Notice when collecting data which sets out:
 - The information we hold about them
 - Why we need the information
 - What we want to use it for
 - Who we will share the information with.
- 2.4 Barnsley Metropolitan Borough Council regards the lawful and correct treatment of personal information as very important to its successful operations and to maintaining confidence between the Council and those with whom it carries out business. The Council will ensure that it treats personal information lawfully and correctly.

To this end the Council fully endorses and will adhere to the principles of data protection as set out in the Data Protection Act 1998. DPA compliance will be achieved through a combination of processes, actions and procedures that will be monitored for their consistency and effectiveness to support the detailed principles contained within this policy.

3. Scope

- 3.1 This policy informs recipients of Council services, members of the public and external parties of the processes the Council has established for complying with the DPA.
- 3.2 This policy operationally applies to all employees of the Council, elected members, contractors, agents, partners and temporary staff working for or on behalf of the Council.

- 3.3 The DPA does not apply to requests for information about a person if they are deceased. These requests should be processed in accordance with the Freedom of Information Act (FoIA) 2000, but should also be considered fairly and lawfully.
- 3.4 This policy does not relate to data held by schools, as they are data controllers in their own right and responsible for their own DPA compliance.

4 Data Protection Principles

- 4.1 The DPA and the Information Commissioner, who oversees compliance with the DPA and promotes good practice, requires all data controllers who process personal data to be responsible for their processing activities and comply with the eight legally enforceable data protection principles of 'good information handling'; the principles require that personal information shall:
1. Be processed fairly and lawfully and in particular, shall not be processed unless specific conditions are met;
 2. Be obtained only for one or more specified and lawful purpose and shall not be further processed in any manner incompatible with that purpose or those purposes;
 3. Be adequate, relevant and not excessive in relation to the purpose or purposes for which it is processed;
 4. Be accurate and where necessary, kept up to date;
 5. Not be kept for longer than is necessary for that purpose or those purposes;
 6. Be processed in accordance with the rights of the data subjects under the Act;
 7. Be kept secure, i.e. protected by an appropriate degree of security;
 8. Not be transferred to a country or territory outside the European Economic Area, unless that country or territory ensures an adequate level of data protection.

5 Prerequisite Conditions for Processing Information within the DPA

- 5.1 The DPA provides conditions for the processing of any personal data. It also makes a distinction between "personal" data and "sensitive" personal. Sensitive personal data requires stricter conditions of processing.
- 5.2 Personal data is defined as, data relating to a living individual who can be identified from:
- That data;
 - That data and other information which is in the possession of, or is likely to come into the possession of the data controller and includes an expression of opinion about the individual and any indication of the intentions of the data controller, or any other person in respect of the individual.
- 5.3 Under the Act, one from a set of additional conditions must be met for the information to be classed as 'sensitive personal data'. This includes information about racial or ethnic origin, political opinions, religious and other beliefs, trade union membership, physical or mental health conditions, sexual life, criminal proceedings or convictions. The Council will ensure that one of the following additional conditions is met before it processes any sensitive personal data:
- The individual has explicitly consented to the processing
 - The information is required by law for employment purposes

- The information is processed in order to protect the vital interests of the individual or another person
- The processing is necessary to deal with the administration of justice or legal proceedings

6 Individuals' Rights

6.1 The Council will ensure that individuals are given their rights as defined within the Act including:

- The right to be informed that processing is being undertaken;
- The right of access to one's personal information within the statutory 40 days, under the Subject Access provision;
- The right to prevent processing in certain circumstances;
- The right to correct, rectify, block or erase information regarded as wrong information.

7 Roles and Responsibilities

7.1 All individuals permitted to access personal data on behalf of BMBC must agree to comply with this Policy and will take steps to ensure that personal data is kept secure at all times against unauthorised or unlawful loss or disclosure.

Any breach of any provision of the DPA will be deemed as being a breach of any contract between the Council and that individual, company, partner or firm;

Any individual who knowingly or recklessly processes data for purposes other than those for which it is intended or is deliberately acting outside of their recognised responsibilities may be subject to the Council's disciplinary procedures, including dismissal where appropriate, and possible legal action.

7.2 Managers are required to ensure that the service areas for which they are responsible have in place adequate guidance on data protection act and effective measures to comply with this policy.

7.3 Third parties who are users of personal information supplied by the Council will be required to confirm that they will abide by the requirements of the Data Protection Act with regard to information supplied by the Council and allow data protection audits by the Council of data held on its behalf (if requested); and

Indemnify the Council against any prosecutions, claims, proceedings, actions or payments of compensation or damages, without limitation.

The Data Protection Act does not give third parties rights of access to personal information for research purposes, unless a contractual agreement has been established between the Council and the third party to perform research services.

7.4 The Council will ensure that:

- Everyone managing and handling personal information understands that they are responsible for following good data protection practice;
- Staff who handle personal information are appropriately supervised and trained;
- Queries about handling personal information are promptly dealt with;
- People know how to access their own personal information;
- Methods of handling personal information are regularly assessed and evaluated;

- Any disclosure of personal data will be in compliance with approved procedures;
- All necessary steps will be taken to ensure that personal data is kept secure at all times against unauthorised or unlawful loss or disclosure; and
- All contractors who are users of personal information supplied by the Council will be required to confirm that they will comply with the requirements of the Act with regard to information supplied by the Council.
- Where justified, the Council's SIRO will report any unauthorised disclosure, loss or leakage of information to the Information Commissioner's Office (ICO).
No other employee or officer should communicate with the ICO in this regard.

8 Information Commissioner - Notification and Registration

- 8.1 The Council has registered its use of personal data with the Information Commissioner and the register references are given below. The registers can be accessed and searched on the Information Commissioner's website: www.ico.gov.uk.

Data Controller: Barnsley Metropolitan Borough Council
Registration Ref: **Z5121328**

Data Controller: Barnsley Electoral Services
Registration Ref: **Z5308393**

Data Controller: Barnsley Youth Offending Team
Registration Ref: **Z859619X**

Information Services will review the Data Protection Register annually and notify the Information Commissioner of any amendments.

9 Complaints

- 9.1 The Council has a set complaints procedure and any complaints about the Data Protection Act, the Environmental Information Regulations or the Freedom of Information Act may be dealt with by clearly marking your correspondence 'Complaint' and addressing it to:

Barnsley MBC
Corporate Services – Information Governance
C/O Corporate Mail Room
PO Box 634
Barnsley
S70 9GG
[email:online@barnsley.gov.uk](mailto:online@barnsley.gov.uk)

- 9.2 If you are not content with the outcome of the internal review, 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 address: <http://www.ico.org.uk> Tel: 01625 545 745

10 References and Related Documents

10.1 References

- Data Protection Act 1998
- Freedom of Information Act 2000
- Human Rights Act 1998
- Computer Misuse Act 1990

10.2 Related documents

- Privacy notice guidance
- Subject Access Request guidance
- Information Sharing guidance (currently under review)
- Information Classification and Data Handling guidance (currently under review)
- Data Quality policy and related guidance
- Records Management policy and related guidance
- Information Security policy and related guidance
- Freedom of Information policy and related guidance