



## DATA PROTECTION POLICY

### 1.0 Introduction

The Data Protection Act 1998 (referred to elsewhere in this policy as 'the Act') regulates the way in which personal information about individuals is obtained stored, used and disclosed. Individuals have the right to see the data stored about them, to require modifications of the data if it is wrong and in certain cases, to compensation. It applies to data held on computer or in a manual filing system. The Act provides conditions for the processing of any personal data and makes a distinction between personal data and 'sensitive' personal data (see Glossary of Terms).

This policy will be available to all internal and external stakeholders, and will be available on the Council's website [www.breckland.gov.uk](http://www.breckland.gov.uk).

### 2.0 Aim

The aim of this policy is to ensure that Breckland Council follows the eight principles of the Act, summarised below, to meet its statutory requirements and mitigate against penalties applied under the Act:

- 1) To process data fairly and lawfully.
- 2) To obtain and process data only for one or more specific and lawful purpose.
- 3) Data must be adequate, relevant and not excessive for the purposes defined.
- 4) Data must be accurate and where necessary kept up to date.
- 5) Data must not be kept for longer than is necessary.
- 6) Data must be processed in accordance with the Data Subjects' rights.
- 7) Data must be kept secure.
- 8) Data must 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.

### 3.0 Scope

This policy relates to personal information obtained, stored, used and disclosed about individuals and will apply to all Breckland Council officers, members, contractors, partners, consultants and service providers who have access to the Council's records. Failure of a contractor/partners/consultant/service provider to comply could lead to legal action and the cancellation of a contract.

### 4.0 Objectives

Breckland Council will ensure that:

- there is someone with specific responsibility for data protection in the organisation;
- everyone managing and handling personal information understands that they are contractually responsible for following good data protection practice;
- everyone managing and handling personal information is appropriately trained and supervised;
- anyone wanting to make enquiries about handling personal information, whether a member of staff or a member of the public, knows what to do;

- queries about handling personal information are promptly and courteously dealt with;
- methods of handling personal information are regularly assessed and evaluated;
- performance with handling personal information is regularly assessed and evaluated;
- data sharing is carried out under a written agreement, setting out the scope and limits of the sharing. Any disclosure of personal data will be in compliance with approved procedures.

## **5.0 Policy Statement**

Breckland Council will maintain the confidentiality of personal data held or processed either on computer or in manual files, and increase the access given to individuals to information relating to them.

## **6.0 Data Controller Notification**

Breckland Council has notified the Information Commissioner that it is a Data Controller. The Register of Notifications can be searched at [www.informationcommissioner.gov.uk](http://www.informationcommissioner.gov.uk) and at the Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. Telephone: 01625 545 745

Breckland Council Notification References are: Z5386405 – General Register and Z6595565 – Electoral Register

## **7.0 Data Held**

Breckland Council will hold the minimum personal data necessary to enable it to perform its functions. Every effort will be made to ensure that data is accurate and up-to-date and that inaccuracies are corrected quickly.

Breckland Council maintains a number of public registers in accordance with other legislation that contain personal data or data that could be used to identify individuals. Strict compliance with the rights of access given by the legislation will be applied in all cases.

## **8.0 Subject Access Rights, Requests and Consents**

The need to process personal data for normal purposes will be communicated to all staff. Express consent to process 'sensitive personal data' must be obtained.

Breckland Council will:

- provide to any individual who requests it, in the specified manner and for a fee, a reply stating whether or not it holds personal data about that individual.
- comply with requests for access to personal information as quickly as possible, **within 40 days of receipt of the request**, or within 40 days of the receipt of the identification information required, the completed Subject Access Request form and the relevant fee.
- subject to the above, provide a written copy (in clear language) of the data held.

Any person wishing to exercise this right to information should complete a Subject Access Request form (available from the Legal Executive), and return it to the Legal Executive. A fee of £10.00<sup>1</sup> per register entry will be payable on each occasion that access is requested. The Council currently holds 12 entries in its main register.

<sup>2</sup>

Breckland Council does not need to comply with a request where it has received an identical or similar request from the same individual unless a reasonable interval has elapsed between compliance with the original request and the current request.

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<sup>1</sup> Set by the Regulations

<sup>2</sup> Amended 29/12/04 at the request of the Legal Executive

## 9.0 Exemptions

There are certain circumstances under which Breckland Council may not be obliged to release information. Breckland Council will apply the exemptions fairly and consistently and will not use them as a means of obstructing access.

## 10.0 Disclosures

Disclosure within the authority, either to officers or elected members, will be made on a need-to-know basis. When a request for information is made, the minimum of personal data to meet the request will be made available, provided the Act allows the disclosure.

## 11.0 Retention and Disposal

Breckland Council will manage its information in accordance with its retention and destruction procedures (currently being revised).

## 12.0 IT System Design

Breckland Council intends that personal data must be treated as confidential. Computer systems will be designed to comply with the Act so that access to personal data is restricted to identifiable system users.

## 13.0 Training

Staff and Members will receive appropriate training to ensure they are fully informed of their obligations under the Act and are aware of their personal liabilities. Where appropriate, further specific training will be given to staff with extra responsibilities for data protection, and staff who have the handling or processing of personal information included in their Job Descriptions and their Terms and Conditions of Service.

## 14.0 Disciplinary Action

Disciplinary action may be taken against any employee who breaches any of the procedures flowing from this policy.

## 15.0 Staff Responsibilities

**Overall responsibility** for the efficient administration of the Act lies with the Monitoring Officer in conjunction with the Legal Executive. The Monitoring Officer will:

- assess the understanding of the obligations of Breckland Council under the Act;
- be aware of the authority's current compliance status;
- identify and monitor problem areas and risks, and recommend solutions;
- promote clear and effective procedures and offer guidance to staff on data protection issues;
- be responsible for the provision of cascade data protection training for staff and members;
- develop best practice guidelines;
- carry out compliance checks to ensure adherence with the Act throughout the authority.

**Day to day responsibility** for administration and compliance with this policy is delegated to the Operational Managers. The Operational Managers will ensure that the Legal Executive is informed of all computer and manual systems within the respective service areas that contain personal data. The registration of systems and Subject Access Requests will be dealt with by the Legal Executive.

**Access to Information Representatives** will be identified in all Portfolios and will, together with the Monitoring Officer, be responsible for ensuring that this policy is implemented.

**All staff** are responsible for ensuring that:

- all personal data they hold, whether electronically or manually, is kept secure; and
- personal information is not disclosed deliberately or accidentally either orally or in writing to any unauthorised third party.

## **16.0 Members' Responsibilities**

Members can be regarded as Data Controllers in their own right if they process personal data either manually or by computer, whether on their own equipment or on equipment provided to them by the Council. In this case, members **must** notify the Information Commissioner of all purposes for which they hold and process personal data.

Where holding and processing personal data about individuals in the course of undertaking Council business, the member will be covered by Breckland Council's Notification, and have the same responsibilities in respect of data protection as an employee of the authority. Further guidance can be found in 'Data Protection: Councillors Guide', published by the Improvement and Development Agency, [www.idea.gov](http://www.idea.gov).

## **17.0 Breckland Council's Closed Circuit Television Scheme**

Breckland Council, in association with the Norfolk Constabulary, operates a Closed Circuit Television (CCTV) scheme in the urban areas of Attleborough, Dereham, Swaffham, Thetford and Watton to enhance a sense of safety within the community and to assist with crime prevention. Recording and retention of images of persons in public places will be undertaken in compliance with this Act. Breckland Council's CCTV Code of Practice refers.

## **18.0 Freedom of Information Act 2000**

The Freedom of Information Act 2000 (FOIA) allows public access to all types of information held by public authorities, including Breckland Council. Requests for personal information will be dealt with under the Data Protection Act. The FOIA will not make private and confidential information about people public.

## **19.0 Complaints**

Breckland Council's 'Compliments and Complaints Procedure' (available on the Council's website) will be applied in the event of any complaints received about requests for access to information under the Act.

## **20.0 Policy Review**

This policy will be managed and reviewed annually. Reviews will be subject to scrutiny and, from time to time, updates and re-issues will be circulated. However, the policy will be reviewed sooner if a weakness in the policy is highlighted, in the case of new risks, and/or changes in legislation.

**21.0 Glossary of Terms**

<b>Data</b>	<p>Information that is either:</p> <ul style="list-style-type: none"> <li>• Being processed by means of equipment operating automatically in response to instructions given for that purpose (eg payroll system) and is recorded with the intention that it should be processed by means of such equipment; or</li> <li>• Being recorded as part of a manual filing system or with the intention that it should form part of a 'relevant filing system' (see definition below); or</li> <li>• One of a number of records to which public access is allowed</li> </ul>
<b>Data Controller</b>	<p>Means a person who determines the purposes for which and the manner in which any personal data are, or are to be, processed.</p> <p><i>NB Elected Members may also be considered as data controllers in their own right if they process personal data either manually or by computer, whether on their own equipment or on equipment provided to them by the Council.</i></p>
<b>Personal Data</b>	<p>Data about a living individual who can be identified from that information, or from that and other information in the possession of the Data Controller. This includes an expression of opinion about the individual, and any indication of the intentions of the Data Controller or any other in respect of that individual.</p>
<b>Sensitive Personal Data</b>	<p>Data consisting of information about a Data Subject's:</p> <ul style="list-style-type: none"> <li>• racial or ethnic origin;</li> <li>• political opinion;</li> <li>• religious beliefs or beliefs of a similar nature;</li> <li>• membership of a trade union;</li> <li>• physical or mental health or condition;</li> <li>• sexual life;</li> <li>• commission or alleged commission of an offence and any proceedings for any offence committed, the disposal of such proceedings or the sentence of any court in such proceedings.</li> </ul>
<b>Processing</b>	<p>Obtaining, recording or holding information or data, or carrying out any operation or set of operations on the information or data including its:</p> <ul style="list-style-type: none"> <li>• organisation, adaptation or alteration;</li> <li>• retrieval, consultation or use;</li> <li>• disclosure;</li> <li>• destruction.</li> </ul>

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