

# **BUCKFASTLEIGH TOWN COUNCIL DATA PROTECTION POLICY**

1. The Data Protection Act 1998 and this Council Policy apply to all data relating to any identifiable living person, held by the Council, on computer or in manual filing systems.
2. The Council expects all of its employees to comply with this policy and to cooperate with the measures to ensure compliance.
3. Personal information must be treated as confidential and must only be disclosed, for purposes that are notified with the Information Commissioner's Office, to:
  - Council employees, where the information is necessary for their work; and
  - Others in accordance with the Data Protection notification.
4. All computerised and manual filing systems containing data relating to any identifiable living person must be:
  - Identified.
  - Secured
  - Be accurate and kept up to date
  - Notified to the Council's Data Protection Officer (the Town Clerk)
5. Such systems must be designed and operated so as to comply with the Data Protection Principles (see below).
6. Any person may ask the Council for the data that the Council holds about them. This must be carried out in accordance with the Data Protection Act and any data that the person is entitled to must be presented in plain language in hard copy format.
7. The Council is allowed to charge a maximum of £10.00 for a subject access request.

## **The Data Protection Principles**

1. Personnel data shall be processed fairly and lawfully and, in particular, shall not be processed unless-
  - At least one of the conditions in Schedule 2 is met, and
  - In the case of sensitive personal data, at least one of the conditions in Schedule 3 is also met.
2. Personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes.
3. Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed.
4. Personal data shall be accurate and, where necessary, kept up to date.
5. Personal data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or purposes.
6. Personal data shall be processed in accordance with the rights of the data subjects under this Act.

7. Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.

### **The Data Protection Act 1998 – Schedule 2**

1. The data subject has given his consent to the processing.
2. The processing is necessary-
  - For the performance of a contract to which the data subject is a party, or
  - For the taking of steps at the request of the data subject with a view to entering into a contract.
3. The processing is necessary for compliance with any legal obligation to which the data controller is subject, other than an obligation imposed by contract.
4. The processing is necessary in order to protect the vital interests of the data subject.
5. The processing is necessary-
  - For the administration of justice,
  - For the exercise of any functions conferred on any person by or under any enactment.
  - For the exercise of any functions of the Crown, a Minister of the Crown or a government department, or
  - For the exercise of any other functions of a public nature exercised in the public interest by any person.
6. The processing is necessary for the purposes of legitimate interest pursued by the data controller or by the third party or parties to whom the data are disclosed, except where the processing is unwarranted in any particular case by reason of prejudice to the rights and freedoms or legitimate interest of the data subject.

The Secretary of State may by order specify particular circumstances in which this condition is, or is not, to be taken to be satisfied.

### **The Data Protection Act 1998 – Schedule 3**

1. The data subject has given his explicit consent to the processing of the personal data.
2. (1) The processing is necessary for the purposes of exercising or performing any right or obligation which is conferred or imposed by law on the data controller in connection with employment.  
(2) The Secretary of State may by order-
  - Exclude the application of sub-paragraph (1) in such cases as may be specified, or
  - Provide that, in such cases as may be specified, the condition in sub-paragraph (1) is not regarded as satisfied unless such further conditions as may be specified in the order are also satisfied.
3. The processing is necessary-
  - In order to protect the vital interests of the data subject or another person, in case where-

- (i) consent cannot be given by or on behalf of the data subject, or
    - (ii) the data controller cannot reasonably be expected to obtain the consent of the data subject, or
  - in order to protect the vital interests of another person, in case where consent by or on behalf of the data subject has been unreasonably withheld.
4. The processing-
- Is carried out in the course of its legitimate activities by any body or association which-
    - (i) is not established or conducted for profit, and
    - (ii) exists for political, philosophical, religious or trade-union purposes.
  - Is carried out with appropriate safeguards for the rights and freedoms of data subjects.
  - Relates only to individuals who either are members of the body or association or have regular contact with it in connection with its purposes, and
  - Does not involve disclosure of the personal data to a third party without the consent of the data subject.
5. The information contained in the personal data has been made public as a result of steps deliberately taken by the data subject.
6. The processing-
- Is necessary for the purpose of, or in connection with, any legal proceedings (including prospective legal proceedings),
  - Is necessary for the purpose of obtaining legal advice, or
  - Is otherwise necessary for the purposes of establishing, exercising or defending legal rights.
7. (1) The processing is necessary-
- For the administration of justice,
  - For the exercise of any functions of the Crown, a Minister of the Crown or a government department.
- (2) The Secretary of State may by order-
- Exclude the application of sub-paragraph (1) in such cases as may be specified, or
  - Provide that, in such cases as may be specified, the condition in sub-paragraph (1) is not regarded as satisfied unless such further conditions as may be specified in the order are also satisfied.
8. (1) The processing is necessary for medical purposes and is undertaken by-
- A health professional, or
  - A person who in the circumstances owes a duty of confidentiality which is equivalent to that which would arise if that person were a health professional.
- (2) In this paragraph “medical purposes” includes the purposes of preventative medicine, medical diagnosis, medical research, the provision of care and treatment and the management of healthcare services.
9. (1) The processing-
- (a) Is of sensitive personal data consisting of information as to racial or ethnic origin,

(b) Is necessary for the purpose of identifying or keeping under review the existence or absence of equality of opportunity or treatment between persons of different racial or ethnic origins, with a view to enabling such equality to be promoted or maintained, and

(c) Is carried out with appropriate safeguards for the rights and freedoms of data subjects.

(2) The Secretary of State may by order specify circumstances in which processing falling within sub-paragraph (1) (a) and (b) is, or is not, to be taken for the purposes of sub-paragraph (1) (c) to be carried out with appropriate safeguards for the rights and freedoms of data subjects.

10. The personal data are processed in circumstance specified in an order made by the Secretary of State for the purposes of this paragraph.