



**BLACKBURNE  
HOUSE**

# Data Protection Policy

<b>Version</b>	Version 3
<b>Date Last Reviewed</b>	September 2023
<b>Title of Policy</b>	Data Protection Policy
<b>Policy Owner</b>	Finance
<b>Authorised by</b>	BHG Group Board
<b>Date for Review</b>	September 2024
<b>Blackburne House ICO Reference Number</b>	Z8432647
<b>Women's Technology &amp; Education Centre ICO Reference Number</b>	Z5439958

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## Introduction & Background

This Data Protection Policy sets out the Blackburne House Groups (BHG) commitment and approach to data protection. The policy's objectives are:

- To provide a clear frame of reference for stakeholders to determine the BHG Group's standards, aims, and ideals in respect of data protection compliance;
- To provide information to data subjects, data processors and the regulatory authorities about how the BHG Group approaches data protection compliance

The processing of personal data in the United Kingdom is regulated by law. The principle statutory instrument setting out the legal obligations of those handling personal data, the rights of data subjects whose data is processed and the offences, penalties and remedies is the Data Protection Act 1998 ("the Act"). This British Act of Parliament implements the European Privacy Directive 95/46/EC (the "Directive"). The Directive and therefore the Act was originally repealed and replaced by the General Data Protection Regulation ("GDPR") on 25 May 2018. This was subsequently replaced by the UK General Data Protection Regulation (UKGDPR) on 1<sup>st</sup> January 2021 as a result of the UK exiting the EU. This Policy is designed to accommodate both the Act and the UKGDPR. Other laws inter-relate with the Act and the UKGDPR including the Privacy and Electronic Communications Regulations (2003), and the Freedom of Information Act (2000). These laws are collectively referred to in this Policy as Data Protection Legislation.

The Data Protection Legislation sets out legal responsibilities on all parts of the BHG Group processing personal data and provides for rights in the law for those people whose data are being processed. This Policy describes the BHG Group's approach to complying with its legal responsibilities in the Data Protection Legislation and how it enables individual's rights to be upheld and exercised. Penalties can be imposed on processing personal data including fines of up to €20,000,000 or 4% of the prior year's global annual turnover whichever is the greater. There are a number of criminal offences set out in the Data Protection Legislation and individuals can be held accountable and be sentenced by the courts for offences under the Legislation.

### Policy Statement

The Board and the Executive Leadership Team (ELT) of BHG Group are committed to compliance with all relevant Data Protection Legislation and will formally delegate appropriate powers and responsibilities to its staff to ensure that it is fully able to comply with the Data Protection Legislation and its own defined standards in the field of data protection and information governance.

The BHG Group will ensure that all relevant staff and/or other persons it commissions to process personal data on its behalf, either directly or indirectly, have

received appropriate and sufficient training in the application of the BHG Group's policies.

The Executive Leadership Team (ELT) will ensure that sufficient and appropriate resources are available to ensure that it meets both its legal obligations in respect of Data Protection Legislation and the standards that it sets through its policies.

The Executive Leadership Team (ELT) will ensure that the BHG Group adheres to the 6 data protection principles and its obligations in respect of accountability. Sufficient controls will be implemented to ensure that it can demonstrate compliance with the Data Protection Legislation including the keeping of sufficient records of data processing activities, risk assessments and decisions relating to data processing activities.

The BHG Group will uphold the rights and freedoms of people conferred on them by the Data Protection Legislation. It will ensure that those rights and freedoms are appropriately taken into account in the decisions it takes which may affect people and will ensure that it has sufficient processes in place to assist people who wish to exercise their rights.

### **Policy Headlines**

The BHG Group, during its day-to-day operations, are required to process certain information about its employees, learners and other individuals for academic, administrative, commercial, financial and funding purposes. As such it holds and processes information that must comply with Data Protection Legislation, this means any data or information held:

1. Shall be processed fairly and lawfully
2. 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(s)
3. Shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed.
4. Shall be accurate and, where necessary, kept up to date.
5. Processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or those purposes.
6. Personal data shall be processed in accordance with the rights of data subjects under the DPA.

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.
8. Personal data shall not be transferred to a country or territory outside the European Economic Area unless that country ensures an adequate level of protection of the rights and freedoms of data subjects in relation to the processing of personal data.

## Policy Detail

### Fair lawful and transparent processing

The processing of all personal data by the BHG Group will only be undertaken in a fair, lawful and transparent manner meaning:

Fairness – no data collection activities will be undertaken or commissioned without an appropriate privacy notice being provided to the person from whom data is being collected, and also to the people who the data is about if personal data is collected from sources other than the data subject. All privacy information and any changes to privacy information must be approved by ELT

Lawfulness – no data collection activities will be undertaken or commissioned without there being a lawful ground for the data processing activities intended to be applied to the personal data.

Transparency – the BHG Group will endeavour to provide sufficient information about how personal data is being processed to enable sufficient transparency about its handling of personal data.

### Data processing purposes

Personal data will only be collected, created or otherwise obtained for specific, explicit and legitimate purposes. BHG shall maintain a register of data processing activities and their purpose. Data process owners are responsible for ensuring that all of the data processing activities that they undertake and/or commission are compliant, and no personal data will be used for any purpose other than that which it was collected and/or created for.

### Data minimisation

The BHG Group will strive to use a minimum of personal data in its data processing activities and will periodically review the relevance of the information that is collected. Managers are responsible for ensuring that no unnecessary, irrelevant or unjustifiable personal data is collected or created either directly or indirectly through the data processing activities they are responsible for and/or engage in.

## Data retention

The BHG Group will ensure that it does not retain personal data for any longer than is necessary for the purposes for which they were collected and will apply appropriate measures at the end of the data's useful life such as erasure or anonymisation. Data process owners will be responsible for determining the retention period for personal data under control or sphere of influence and BHG will maintain a data retention schedule setting out approved retention periods and end of-life treatment

## Information security

The BHG Group will ensure that any personal data that it processes or commissions the processing of is processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures. In particular, an Information Security Policy will be maintained setting out specific policies in relation to maintaining personal data secure, confidential, available and integrity.

## Accountability and Record keeping

Accountability - The BHG Group uses the Accountability Framework published by the ICO to ensure that it is compliant with the requirements as set out in the Data Protection Legislation.

Record Keeping - In order to fulfil its responsibility to be able to demonstrate compliance with the Data Protection Legislation the BHG Group will maintain records of the processing activities that it controls, undertakes or otherwise commissions as required by the Data Protection Legislation and specifically those required in Article 30 of the GDPR.

## Information rights

The BHG Group recognises the legal rights of those whose data it is processing or intends to process and will ensure that appropriate information is provided to them advising them of their rights and that policies and procedures are maintained to ensure that the BHG Group is able to recognise information rights requests and handle them appropriately when they are exercised. These rights include:

- a. Right to information about data processing operations
- b. Right of access to personal data

- c. Right to portability of personal data
- d. Right of rectification of personal data
- e. Right of erasure of personal data
- f. Right to restriction of processing
- g. Right to object to direct marketing
- h. Right to object to data processing operations under some circumstances
- i. Right not to be subject to decisions made by automated processing under some circumstances
- j. Right of complaint about the BHG Group's processing of personal data and the right to a judicial remedy and compensation

### **Data Subject Access Rights (DSAR)**

The BHG Group recognises that data subjects have the right:

- a. To be provided with any and all information held about them, within one month and free of charge
- b. To delete or erase their personal data, within one month and free of charge
- c. To have incorrect or incomplete information rectified, within one month and free of charge – the information in question is rectified and the data subject informed in writing when the request has been completed.
- d. To have any or all processing of their personal data restricted – processing is suspended until the processing in question has been resolved or the restriction has been lifted. \_
- e. To object to processing, including marketing, automated decisions and profiling – when such a request is received from a data subject The BHG Group will comply and cease the processing without delay.
- f. To have their personal data provided in a readable format, or, if requested, transferred to another organisation.
- g. To lodge a complaint
- h. To a fair judicial remedy if their complaint is not resolved or handled to a satisfactory standard
- i. To claim compensation from the controller, processor or the supervisory authority for infringement of their rights The BHG Group recognises that data subjects can report a complaint about:
  - How their personal data has been processed;
  - How their request for access to data has been handled;
  - How their complaint has been handled;
  - Appeal against any decision made following a complaint.

## Consent

The BHG Group will interpret consent to be as defined in the glossary at the end of this document and that any consent shall not be valid unless:

- There is a genuine choice;
- It has been explicitly and freely given, and represents a specific, informed and unambiguous indication of the data subject's wishes that signifies agreement to the processing of personal data relating to them;
- The consent was given through a statement made by the data subject or by a clear affirmative action undertaken by them;
- The BHG Group can demonstrate that the data subject has been fully informed about the data processing to which they have consented and is able to prove that it has obtained valid consent lawfully;
- A mechanism is provided to data subjects to enable them to withdraw consent and which makes the withdrawal of consent in effect as easy as it was to give and that the data subject has been informed about how to exercise their right to withdraw consent;

The BHG Group recognises that consent may be rendered invalid if any of the above points cannot be verified. The BHG Group recognises that consent cannot be considered to be forever and will determine a consent refresh period for every instance where consent is the lawful condition for processing.

## Personal Data Breaches

The BHG Group will maintain a Data Breach Reporting Procedure and will ensure that all employees and those with access to personal data are aware of it and this policy. All employees and individuals with access to personal data must report all personal data breaches to their Line Manager and the Data Protection Lead via the Data Protection inbox. The BHG Group will log all personal data breaches and will investigate each incident without delay. Appropriate remedial action will be taken as soon as possible to isolate and contain the breach, evaluate and minimize its impact, and recover from the effects of the breach. Data protection near misses will also be recorded and investigated in the same manner as data protection breaches. The breach reporting procedure will set out responsibilities, decision making criteria and timescales for notifying data subjects, the Information Commissioner and the media about a personal data breach.

## Data Processors

The BHG Group reserves the right to contract out data processing activities or operations involving the processing of personal data in the interests of business



efficiency and effectiveness. No third-party data processors will be appointed who are unable to provide satisfactory assurances that they will handle personal data in accordance with the Data Protection Legislation. Colleagues wishing to appoint a data processor will ensure that appropriate due diligence is undertaken on the proposed data processor in the field of information governance and data protection compliance prior to their appointment. A written agreement will be implemented between the BHG Group and the data processor, which at least meets the requirements of the Data Protection Legislation. A register of such agreements/arrangements will be maintained. The data processor agreement will specify what is to happen to personal data upon termination of the data processing agreement.

No employee is permitted to commission or appoint a third party to process data on behalf of the BHG Group without adhering to this policy.

### **Data sharing, disclosure and transfer**

The BHG Group will only share personal data with or otherwise disclose personal data to other parts of the BHG Group and third parties where there is a legal basis for doing so and the data sharing is necessary for specified purposes. No data sharing or disclosure is permitted to occur without a suitable legally enforceable agreement satisfying the requirements for such agreements as set out in the Data Protection Legislation being in place.

The BHG Group will provide information to all employees setting out safe and approved methods of transferring personal data to recipients. Employees are required to use only approved methods of data transfers. Disciplinary action will be taken against employees who fail to observe the data transfer policy and use unsafe and insecure methods of data transfer.

### **Internationalisation of personal data**

The BHG Group will neither transfer nor process nor will it permit personal data to be transferred or processed outside the United Kingdom (UK) without the conditions laid down in the Data Protection Legislation being met to ensure that the level of protection of personal data is not undermined.

### **Children's data**

Special measures will be taken by the BHG Group regarding the processing of personal data relating to children under the age of 13 including the nature of privacy information provided and the approach to information rights requests.

These special measures will be set out in a policy relating to children's data within the Nursery policies and procedures.

## **Training and Awareness**

The BHG Group will ensure that all those who it engages to process personal data either directly or indirectly are provided with appropriate training in the application of this and other data protection policies and procedures and in their data protection responsibilities.

## **Audit and compliance checking**

The BHG Group will undertake periodic compliance checks to test whether its policies and procedures are being adhered to and to test the effectiveness of its control measures. Corrective action will be required where non-conformance is found. Records will be kept of all such audits and compliance checks including corrective action requests raised. Disciplinary action will be taken against individuals who fail to act upon the reasonable corrective action requests properly formulated and raised through data protection audits. Finance, Audit & Risk Committee will be provided with a summary of audit findings periodically.

## **Responsibilities:**

### **Management and supervisory staff**

The Chief Executive is the accountable officer responsible for the management of the BHG Group and ensuring appropriate mechanisms are in place to support service delivery and continuity. Protecting data and thus maintaining confidentiality is pivotal to the BHG Group being able to operate.

Each Manager, in their respective areas of responsibility, must ensure that all staff members are aware of this policy, other relevant policies and procedures, and their responsibilities concerning the processing of personal data. Each Manager must ensure this policy is adhered to.

Managers and supervisory staff are responsible for ensuring that all data processing operations under their control or sphere of responsibility or commissioned by them are undertaken in compliance with this policy and other relevant data protection policies. They are responsible for ensuring that anyone processing data is sufficiently aware of this policy and how it applies to their job role and sufficiently trained to carry out their duties in compliance with this policy.

## **Staff Responsibilities**

All staff including employees, volunteers, casual/temporary workers and directors shall:

- Ensure that all personal information which they provide to the BHG Group in connection with their employment is accurate and up-to-date.
- Inform the BHG Group of any changes to the information, for example, changes of address. The BHG Group shall not be held responsible for errors of which it has not been informed.
- When staff are involved in the receipt, handling, processing or communication of personal data, they must adhere to this policy. This includes but is not limited to information about learners, colleagues or other data subjects (for example, learners' course work, references to other academic institutions, or details of personal circumstances)
- Staff should be aware that unauthorised/inappropriate disclosure may be a disciplinary matter and could be considered gross misconduct.
- Staff supervising learners' work which involves the processing or handling of personal information, they must ensure that those learners are aware of the Data Protection Principles, particularly, the need to obtain the data subject's consent where appropriate for use of any information.

### Employee and Learner responsibilities

All employees and learners shall:

- Ensure that all personal information which they provide to the BHG Group is accurate and up-to-date;
- Inform the BHG Group of any changes to that information, such as changes of address
- The BHG Group shall not be held responsible for errors of which it has not been informed.
- Learners who use computer facilities, may for a variety of reasons process personal information for research or study purposes. In such situations, they must notify the teaching staff who will ensure any information or data gathered is in line with this policy

### Partner & Third-Party Responsibilities

Any partner or third party of the BHG Group that is commissioned to process data or receives data from the BHG Group or is able to access any personal data **must** complete an Information Sharing Protocol with the BHG Group the nature of which

will be determined by the level of involvement with the data that is held/shared/accessed. Any such agreement must be approved by the Data Protection Lead and a member of ELT.