

Your privacy and your rights

INTRODUCTION: Why is this leaflet important to you?



This guide is about our treatment of your personal data, and your right to know about what we hold, and how and why we use it. It also concerns your right to challenge what we are doing with your information, and to request that we stop.

Your personal data is information which can be used to identify you, as an individual, and which says something about you. It may be recorded on paper, in pictures or photographs or held electronically. It does not include information which is not recorded in some way.

You may have given us your personal data by filling out one of our forms online or on paper. Or, you may have told us about yourself on the telephone, or in person at one of our offices, and your information was written down and recorded by someone you spoke to. Your image may have been caught by one of our CCTV cameras. Or, we may also have received information about you from another public authority or one of our partner agencies.



An organisation who stores and uses your personal data, for purposes which they have decided, is called a “**data controller**”.

Data Controllers can use your information to make decisions which may affect you



You are called the “**data subject**”

We have provided this leaflet to you because:

- we are data controllers and we hold personal data about you
- we must, by law, tell you what we want to do with it and why
- we want you to understand what your data subjects rights are

This Council is a **Public Authority** who acts as a data controller.

We use your personal data where we consider it necessary to carry out tasks in the public interest, and to fulfil our public service functions. These tasks and functions have been legally assigned to us under various Acts of Parliament.

In certain exceptional circumstances, we may also be obliged to disclose some information we hold about you to other authorities (such as a Court of Law, or the Police). We may also share your information where this is needed in an emergency situation, particularly where providing the information could prevent serious harm to someone (including you), or save someone else's life.

Whatever we do with your information, we must always comply with the law governing data protection. The new law is called the General Data Protection Regulation (GDPR)¹. It sets out the rules we must follow about how to look after your data properly, what we are allowed to do with it, and for what purpose.

Most importantly this law sets out your rights as the data subject.

First and foremost, we understand that any personal data we hold about you is not our information.



It is your information.

You therefore have the right to understand what we hold, why we hold it and how we use it.

If you object to us using your information in this way you can ask us to stop, and to erase all your information from our records. We must then either do what you ask, or explain and justify our continued use of your information. In that case it will be up to us to prove that we need to hold on to your information in order to perform our statutory duties or comply with our legal obligations.



1. Your right to be informed

You have the right to know the answers to the following questions:



Who are we? Who is controlling the use of your personal data?

We must tell you the name and contact details of the Data Controller of your information. This is the organisation responsible for looking after your personal data, using it lawfully and respecting your Data Subject rights.

We are Bath & North East Somerset Council.



What and who is our Data Protection Officer (DPO)?

We must provide you with the name and contact details of the DPO who is the person responsible for ensuring that we follow the rules set down in the GDPR. The DPO is also your contact point for any questions and concerns you have about your rights as a data subject.

The DPO may be contacted by email to: Data_protection@bathnes.gov.uk



What kind of information do we hold about you?

We must describe the nature of the personal information we hold about you. In particular we must tell you if it includes the kind of information which is considered to be particularly sensitive. This is called a “special category” of personal data and it should therefore be treated with particular care. It includes any information about your health, your ethnicity, your religion or your political opinions.



What is our purpose in holding and using your data?

You have the right to understand why we need your personal information. It is important that we specify our purpose/s because this limits our use of your information. If we need to use your information for a different purpose which you do not know about then we must inform you of this and explain why we are doing it.



What legal basis do we have for using your data in this way?

Generally we process personal data where this is necessary to perform the official duties which have been assigned to us as a public authority. This includes providing support for families in difficulty, social care for children and vulnerable adults, as well as looking after libraries, schools, transport, roads and environmental issues. The GDPR allows us to use personal data for reasons related to these functions. The “lawful condition” for such use is that it should be necessary “ for the performance of task carried out in the public interest or in the exercise of official authority vested in the controller” . When we collect, or receive your personal information for these purposes we should confirm that we are using this legal condition and tell you which law (Act of Parliament) gives us this official authority.

In order to provide social care services to children, adults and families who need help it will often be necessary for us to record information about the individuals' physical and/or mental health. The law says that we may only use this kind of very sensitive personal information where this is necessary for defined purposes. One of these is "for the provision of health or social care".

Consent

When a data controller requests your consent to use your information this means they want you to indicate that you agree so that they can record this and use consent as their legal basis for using your data. Many data controllers rely on your consent as the "last resort", when they have no other legal basis for using your data in this way.

However, under GDPR consent may not be used as the legal basis for processing your personal data if:

- The person does not have a free choice
- The person has not been provided relevant privacy information (what personal data may be used, how, and why)
- Refusing consent may negatively impact on the person (such as where it is a condition of receiving a service she/he needs)
- There is an imbalance of power between the person and the organisation requesting the consent. This is likely when the organisation is a Public Authority (such as the Council)
- The GDPR provides a more appropriate basis for processing for public authorities.

The Council does not generally request consent for using your personal data because it is not the appropriate legal basis when we are carrying out our official functions and tasks

This is not the same as requesting your consent to actually receive a support service we consider would help you and/or your family. Except in rare cases relating to specific legal requirements (see below) we will always ask for your consent (agreement) to receive support services we offer you. We will always tell you about how and why we will use your information to provide such support before you decide.



Who will we share your personal data with and why?

We must tell you if we intend to share your personal data with another organisation, and under what circumstances we would do so.

For example, if someone needed help at home after being discharged from hospital, personal information needed to coordinate their health and social care may be shared (between us and their Doctor). In the 2014 Care Act the Government directs us to work together with the NHS to provide a "person centred" approach, to better integrate the way we provide our health and social care. There is also a special condition in the GDPR which allows us to share such confidential information where necessary to provide such care.

Exceptions and Emergencies

In exceptional situations the law allows public authorities to put other priorities before your privacy rights when considering the need to share your information. This includes saving lives and "safeguarding" (preventing serious harm to you or others). It also includes national security risks and prevention and detection of crime. If such a situation arise we would share only the minimum amount of personal data. This should be both necessary and proportional to address the risk presented.



Will we allow your data be sent out of the UK?

This is important because some countries are governed by the same rules as we are (the GDPR). Others may not be. Recent developments in “cloud computing” mean that our data is generally transferred to, and stored on, computers outside our actual premises. If these computers are located outside the region of countries who are governed by the same data protection law as the UK, we will tell you this. We will also explain what safeguards have been put in place for protecting your personal data and the exercise of your data subject rights.



How long will we keep your personal data?

We are not allowed to hold on to your personal data for longer than we need to. This should be related to the purpose we have specified for collecting (or receiving) your data in the first place. After that we may retain your data for a limited time where needed for business /accounting or legal purposes. This is called the retention period. We should tell you what retention period will apply to your personal data (and / or explain how we decide upon the retention period).



Where did your information come from?

If your personal data is given to us by another organisation which you were not aware of, we will tell you where it came from and why it was shared with us.



Profiling and automated decision-making

You have the right to know if we intend to let computers access your personal data to make decisions which may affect you. If this is the case, you have the right to know the reasoning behind such decisions, and if you object to the automated decision-making you have the right to request that the decisions be reconsidered in light of your objection, and that decisions be made by a human instead.

However, we may be authorised by law to use computer profiling to target our public resources and services to address the problems of particularly vulnerable people and families. If we can demonstrate that the law also provides effective safeguards for your privacy and data subject rights then we may continue with automated decision-making.

[Your contact for information and exercise of these rights is data_protection@bathnes.gov.uk](mailto:data_protection@bathnes.gov.uk)



When will we provide this information to you?

You have a right to be informed at the time you give us your information, or, where your information was given to us by somebody else, within one month of us receiving it. We believe you should never be surprised by hearing from us without being told how and why we have your personal details. So this means we will always tell you before we use your information to contact you to offer you targeted support or services.

When you make a request to exercise one, or more, of the rights described below we must respond to your request within a month. We must tell you whether we have done what you asked, or if not, explain our reasoning and legal grounds for refusing your request . In exceptional cases, where requests are particularly numerous, complex, or burdensome, we may inform you that we require a further two months to comply with your request/s.

We make no charge for responding to your requests and providing information to you.



2. Your right to access your information

We must give you a copy of the information we hold about you when you ask for it. This is called a Subject Access Request. It also tells you how to provide proof of who your identity (so we can be sure we are giving your information to the right person!)

We will provide the information you request in paper or electronic form, or you may come into one of our offices to inspect the files we hold and discuss them with someone who can explain them and respond to any concerns or questions you may have.

You also have the right to know where the information came from, who it has been, or may be, disclosed to.

Sometimes we may need to “redact” (or remove) words or paragraphs from the information we provide to you. Most commonly this will be information which is about someone else instead of you, and to protect the privacy rights of other people mentioned in connection with you.

We will endeavour to respond to your subject access request as soon as we can within the one month deadline set by the law. If your request is exceptionally complex and your response demands significant amounts of staff time, we might need extra time. Where this is necessary, the law allows to extend the deadline for an additional month, but we will always contact you before the first month is up our need to explain this, or to see if we can work out a more efficient way to meet your needs.

To request access to your records please send your request to data_protection@bathnes.gov.uk

3. Your right to rectify any data we hold which is not correct



If you believe that any of the personal data we hold about you is inaccurate or incorrect you have the right to tell us about this and request that the information is corrected.

Please contact: data_protection@bathnes.gov.uk

4. Your right to data portability



This concerns your right to be given your information in a form which can be transferred for re-use by another organization. This means we must provide it to you in a “structured, commonly used and machine-readable format”

However, this only applies to information which you have given to us yourself, and where we are using it on the basis of your consent.

It should be noted, however, that we do not generally rely on consent as the condition for using your personal data.

5. Your right to object to us using your data



As explained above, as a public authority we are allowed to use your personal data for tasks carried out in the public interest, and where we have been granted the official authority (in Statutory Legislation) to use it in this way. You have the right to object to us using your data in this way. We must then cease the processing of your information unless we can demonstrate that we have important and legitimate reasons for continuing which would override your right to request that we stop

To object to our use of your data please email data_protection@bathnes.gov.uk



Your right to restrict use of your data:

Once you make an objection to our use of your data, you have the right to restrict our use of it until we have implemented your request to erase it, or demonstrated our grounds for continued use of it.

This means that we will still hold your information during this time, but we may not use it to inform decisions or take any action which may affect you.

You may also exercise this right if you have told us that the information we hold about you is incorrect.

Contact: data_protection@bathnes.gov.uk

6. Your right to refuse to give us your information, (and to know what this means for you)



You are not required to give us your personal data, and you have right to be informed of consequences of refusing to give it to us. In many cases we will be unable to provide you with the support and services which would benefit you without being able to access your information (such as your name, contact details as well as details about your particular needs and situation.)

7. Your right to appeal to the regulator to make a complaint



If you are unhappy about the way we have treated your personal data, or feel we have not properly respected your data subject rights, you have the right to contact the Information Commissioner's Office (ICO) and tell them about this. The ICO will investigate your complaint and decide how best to resolve it. If the ICO finds that we have not complied with our duties under the law (the GDPR) they may compel us to take action to respect your rights, and to make changes to the way we do things in the form of an "undertaking". In more serious cases they can impose sanctions on us in the form of fines.

To make a complaint please go to: <https://ico.org.uk/concerns/>
The ICO may also be contacted on 0303 1231113

Further information specific to different Council services and users is available here:
www.bathnes.gov.uk/specific-privacy-notice

General information about the Council's use of personal data is available here:
www.bathnes.gov.uk/council-privacy-notice