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## **Blue Triangle (Glasgow) Housing Association Ltd**

### **Data Protection Policy GOV 014 REV 0**

**26 Sept 2019**

#### **Our Mission Statement**

***“Blue Triangle exists to support, accommodate and assist vulnerable people achieve better lives.”***

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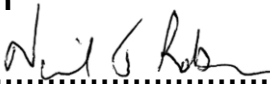
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## Revision History

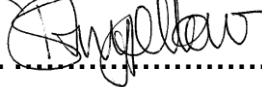
Rev No.	Rev. Date	Consultation Requirements (See Section 4 – Consultation)	Lead Officer	Committee	Approved by MB
0	March 2016	New policy	FS	Management	31 March 2016
1	Sept 2019	Amended Policy No consultation requirements as only text update to reflect law	FS	Management	26 Sept 2019

**Chairman**

Signed: 

Dated:.....26/09/2019.....

**Chief Executive Officer**

Signed: 

Dated:..... 26/09/2019.....

## **Section 1 Introduction**

### **1.1 Rationale for the policy**

The data protection policy is part of our governance policies and procedures and is vital to protect the interests of employees, service users and personnel from other organisations with whom we work in partnership. The policy is concerned with ensuring personal data are processed in line with data protection law, regulatory standards and related guidance, including codes of practice.

Note: the word “information” when used below denotes personal data.

### **1.2 Risk assessment statement**

The data protection policy and our related procedures ensure that we manage personal information in line with relevant legal principles and thus minimise risk of breach of our duties. Risk is also minimised by other organisational practices that include implementing a data protection action plan and ongoing staff training that ensure all services are assessed from a data protection standpoint on a continual basis. This includes refining and amending data protection procedures, as appropriate.

### **1.3 Policy Context**

Our data protection policy has been established so we comply with data protection requirements and good practice standards. We are registered with the ICO (the Information Commissioner’s Office).

The key benefits of our data protection policy are to manage personal data in line with the right data protection principles, thus fostering strong customer care links with our employees, service users and other customers who know that we process their personal data professionally and securely.

## **Section 2 Legal and regulatory standards**

### **2.1 Legal Framework**

The legal framework that regulates data protection is complex and diverse. The principal laws that regulate data protection in respect of individual persons are the GDPR 2016 and the Data Protection Act 2018. This Act contains six core legal principles. In addition, there are many Statutory Instruments that are secondary legislation and introduce into practice diverse legal provisions.

We must also comply with the Freedom of Information (Scotland) Act 2002 which also applies to housing associations in respect of specific functions. These are covered under our freedom of information procedures.

In practice, we also forge partnerships with a range of organisations, primarily local authorities and we establish contractual relationships that regulate sharing of data in line with data protection law and relevant codes of practice.

## **2.2 Codes of practice and other guidance**

Codes of practice are documents issued by the ICO to provide detailed guidance on how the various parts of legislation should be implemented into practice.

The ICO produces a wide range of guidance, too, that is subject to ongoing revision as the law evolves in practice.

## **2.3 The Scottish Housing Regulator Requirements – The standards of Governance and Financial Management**

### **Assurance requirements:**

#### **Assurance and Notification**

- √ Register all requirements for providing data to us with the Information Commissioner's Office as a purpose for which they are acquiring data under the Data Protection Act 2018

#### **Equality and Human Rights**

- √ To comply with these duties, landlords must collect data relating to each of the protected characteristics for their existing tenants, new tenants, people on waiting lists, governing body members and staff. Local authorities must also collect data on protected characteristics for people who apply to them as homeless. Landlords who provide Gypsy/Traveller sites must collect data on protected characteristics for these service users.

### **Regulatory standard 4**

The governing body bases its decisions on good quality information and advice and identifies and mitigates risks to the organisation's purpose

### **Significant performance failures**

The Scottish Housing Regulator (SHR) has a duty to consider issues raised with them about "significant performance failures". A significant performance failure is defined by the SHR as something that the landlord does or fails to do that puts the interests of tenants at risk, and which the landlord has not resolved. That is something that is a systemic problem that does, or could, affect all of a landlord's tenants. Examples of a significant performance failure could be if social landlords are not:

- delivering the outcomes and standards in the Scottish Social Housing Charter over a period of time; or
- achieving the regulatory standards on governance or financial management

## **2.4 OSCR (Office of the Scottish Charity Regulator)**

Charity trustees' duties are set out in The Charities and Trustee Investment Act (Scotland) 2005. OSCR sets out in their guidance "Guidance and Good Practice for charity trustees, June 2016" what charity trustees must consider, so that they meet legal

requirements and ensure that their charities are well run. There are specific duties around:

- acting in the interests of the charity and its purposes
- acting with due care and diligence
- reporting to OSCR
- financial records and management
- providing information to the public

## **2.5 The Scottish Social Housing Charter and Indicators**

There are no specific standards within the Charter that are applicable to data protection

## **2.6 Care Inspectorate**

Health and Social Care Standards 4: I have confidence in the organisation providing my care and support

4.18 I benefit from different organisations working together and sharing information about me promptly where appropriate, and I understand how my privacy and confidentiality are respected

Note: this means that information that is kept about someone by an organisation will not be shared with anyone else unless the person gives their consent for it to be shared. Confidentiality may only be broken if it avoids or reduces the risk of harm to a person

## **Section 3 Policy Content**

### **3.1 Data Protection Principles**

This section describes key principles that are based on law. They are not, however, intended to be a precise statement of law but a summary of law.

**3.1.1** We process all personal data (including CCTV imagery) concerning service users employees and other individuals in accordance with relevant legal principles and codes of practice. This covers both data protection and freedom of information law. These are referred to as data subjects below.

**3.1.2** We process data, in relation to the data subject, lawfully, fairly and transparently throughout the organisation, using it only for specified purposes.

**3.1.3** We gather data only for specified, explicit and legitimate purposes and not for any purpose that is incompatible with these purposes.

**3.1.4** We gather data that is adequate, relevant and limited to what is necessary in relation to the purposes of data collection.

**3.1.5** We process data so that it is accurate, and, where necessary, kept up to date.

**3.1.6** We keep personal data that allows data subjects to be identified for no longer than is necessary for the purposes of the data processing.

- 3.1.7** We process personal data in a manner that ensures appropriate security of the data, including protection against unauthorised or unlawful processing of personal data. This includes taking appropriate technical and organisational measures to prevent accidental loss, destruction or damage of the personal data.
- 3.1.8** We process personal data to meet the needs and rights of employees and service users including publicising information to employees and service users. We adhere to our confidentiality policy when processing confidential data.
- 3.1.9** We process personal sensitive data in line with legal requirements and use any equality data that we gather to monitor our equality duties to address unlawful discrimination and to promote equality; we also use equality data to make reasonable adjustments to provide accessible services to disabled people.
- 3.1.10** We provide comprehensive and regular training for employees to ensure that policy objectives are implemented effectively.
- 3.1.11** We monitor how effectively we implement our policy objectives through our performance management system.
- 3.1.12** We review this policy formally on a regular basis, in general, every three years. Amendments are made, as required, after consultation with employees and other service users.
- 3.1.13** We do not transfer data to any country outside the European Economic Area.
- 3.1.14** All staff that we employ, including agency and relief staff are required to comply with the terms of this policy.

## **Section 4 Training and development**

We provide comprehensive training for staff to ensure effective implementation of policy objectives.

We provide staff training on:

The data protection policy and related good practice guidance, for example, the ICO codes of practice;

- our data protection procedures; and
- specialist training that is linked to the roles of individual employees.

We recognise that training must be ongoing and have established annual cycles of training for existing employees. New employees receive information about data protection at induction stage.

## **Section 5 Information**

We foster an organisational culture that promotes awareness of the importance of managing personal information in line with legal principles. This is done through training and also dissemination of information about data protection through various methods.

These methods include information on data protection through leaflets to employees and service users, as well as information on our intranet system.

Our data protection leaflet to service users can be made available in “easy read.” format.

## **Section 6 Consultation**

Section 54 of the Housing (Scotland) Act 2001 stipulates a requirement of RSL’s to consult their tenants on policies and procedures which significantly affect their tenants; BTHA has no tenants but considers this a right which should be given to its service users.

The occupancy agreement that we use, therefore, includes a clause which indicates our commitment to consult with service users. The regulatory standards (Care and Housing) also stipulate that service providers should have robust consultation processes in place in order to comply. This means that if there are proposals or policies which could significantly impact on service users such as those in relation to housing management, repairs and maintenance or more strategic changes that we endeavour to notify service users of this and listen to any concerns. The main vehicle for this will be our service users’ forum.

We also operate a policy on consulting with staff and taking feedback on board.

Service users and staff will not be consulted on all policies – an assessment will be made at policy review as to what level of consultation (if any) will take place.

## **Section 7 Monitoring and review/link with KPIs**

Policies will be reviewed on a three yearly cycle according to a policy programme provided for committees on an annual basis at the start of the financial year. All policy reviews will take into account our Equality Impact Assessment toolkit requirements. Committees will report on performance to Committee of Management at the end of the year. We use a small number of key performance indicators (KPIs) which monitor critical success factors. Our policy monitoring framework tracks any policies which impact on KPIs. Other policies may have indicators which are monitored at departmental level.

The policy and its implementation will be reviewed by the Committee of Management.

## **Section 8 Publishing and availability of policy**

This policy is available in electronic format or hardcopy to all staff, service users, Committee members and other customers, as appropriate.

## **Section 9 Accessibility**

We are committed to promoting accessible services that address the needs of individual service users, as appropriate. For example, in terms of our data protection policy, this document can be provided in other formats such as in larger print or in audio-format.



## **Section 10 Other relevant policies and procedures**

The Association has a wide range of policies covering corporate services (covers the entire Association) and operational services (covers only specific operational areas). These include for data protection:

- CCTV Policy and procedure;

This governs how we process personal information that is in the form of CCTV imagery. This is based on the Code of Practice issued by the ICO

- Confidentiality Policy and procedure;
- Communication and Computer Usage Policy;
- Equality and Diversity Policy;

This policy has major implications for data protection as it sets out standards for developing clear and accessible information, as well as monitoring of equality data. Monitoring for equality data is aligned to monitoring of special category data that is regulated by the provisions of data protection law.

- Information and Records Management Policy

This sets out how we ensure that records and information held by BTHA are captured, managed and controlled effectively, efficiently and economically in support of our legal, operational and information needs.

- Secure Handling, Use, Storage and Retention of Disclosure Information Policy

This deals with the processing of information in relation to staff disclosures.

## **Section 11 Complaints**

We follow the Model Complaints Handling System that has been developed by the Scottish Public Services Ombudsman (SPSO). This is a comprehensive procedure that allows for complaints to be dealt with in either one of two stages.

Complaints must be dealt with in line with set timescales so that complaints are dealt with quickly.

If still dissatisfied after Stage 2 has been completed, a dissatisfied customer can take their complaint to the SPSO.

Any service user wishing to complain should ask for a copy of our complaints procedure. A service user, alongside their right to complain to the SPSO, can also complain to the Care Inspectorate, the Local Authority or other commissioner of the service, and they may have the right to complain to the Scottish Housing Regulator. To take their complaint further, a service user generally needs to go through our internal complaints procedure in the first instance.

## **Section 12 Impact Assessments**

Equality and Privacy Impact Assessments are required when developing or amending or reviewing policies. This is to ensure that the impact of any policy is understood in terms of EO and data protection requirements.

## Appendix 1 Equality and Data Privacy Impact Assessment

Our equality impact process is used to ensure that our policies and practices:

- eliminate any unlawful or unfair forms of discrimination in respect of the protected characteristics and other grounds;
- promote our equality and diversity policy; and
- evaluate impacts from a data protection perspective.

The EIA process involves two main elements: firstly, an initial policy audit against a range of key standards and, secondly, an assessment of the effects of policy documentation on the relevant issues.

It is critical to note that, although the Equality Act 2010 focusses on a range of protected characteristics, individual people should not be defined by these characteristics.

Indeed, individual people will “have” a range of protected characteristics at any one point in time and needs vary through time. For example, a non-disabled person can become a disabled person at any time while younger people move into older age groups naturally.

### Staff template

The staff template covers six procedural sections: background; the public sector equality duty; the internal IA; the external IA; consultation issues; and data protection impact assessment.

**Note:** This document is part of a more detailed IA document that is used when assessing other issues such as accessibility of our website and/or newsletters. In such cases, we take a broader range of accessibility criteria into account.

<b>Section 1: Background</b>	
<b>Name of Policy under assessment</b>	Data Protection
<b>New or existing policy (please specify)</b>	Existing Policy
<b>Key aims of the policy under assessment</b>	To ensure that personal data is processed in line with statutory requirements
<b>Service</b>	Corporate
<b>Person responsible for the assessment</b>	Doctor Stewart Montgomery
<b>Date of assessment</b>	1 <sup>st</sup> June 2019
<b>What data sources were available or consulted as part of this assessment (please explain below)</b>	
<b>Internal sources</b>	Existing data protection policy
<b>External sources</b>	GDPR and the Data Protection Act 2018 Scottish Housing Regulator Requirements 2019 Scottish Government Health and Social Care

	Standards Carey P, 2018, Data Protection
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## Section 2: The public sector equality duty

How this duty is met is based on whether there are equality impacts on three areas: (elimination of discrimination, advancement of equality of opportunity and fostering good relations between people with and without protected characteristics)

Public Sector equality duty	Is the policy likely to have equality impacts		
	Yes	No	Unsure
Will this policy result in the elimination of unlawful discrimination, victimisation, harassment or			
	Yes		
<b>Explain why</b>			
Managing data in line with legal principles is likely to reduce the possibility of unlawful forms of discrimination as data will be processed securely			

Does this policy create advancement of equality of opportunity between people with and those without protected characteristics	Yes	No	Unsure
Yes			
<b>Explain why</b>			
Collation of special category data that comprises protected characteristics too will enable us to evaluate important statistical trends in relation to equality matters. This will apply to both service users and employees. For example, monitoring of people with protected characteristics can support the identification of areas for developing positive action programmes to encourage people to apply for jobs and/or placements.			

Does the operation of this policy foster good relations between people with and those without protected characteristics	Yes	No	Unsure
Yes			
<b>Explain why</b>			
By using appropriate language when gathering equality data, positive views about people will be promoted thus fostering good relations. Using appropriate language assists in developing positive attitudes between disabled and non-disabled people.			

**Section 3: Internal IA of the policy**

The internal IA is vital as this examines if the policy attains specific standards essential to meeting equality standards

**1.0**

**Does the document state, at the front of the document, that it can be made available, on request, in other formats such as in larger print, audio-format, Braille and in other languages, as appropriate?**

<b>Yes</b>	<b>No</b>
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Yes	
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**If no, insert the following:**

This policy is available, on request, in different languages and in other formats such as in larger print, audio tape and Braille.

**2.0**

**Does the document use Arial font and minimum 12 type size**

<b>Yes</b>	<b>No</b>
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Yes	
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**If No, amend text as appropriate:**

**3.0**

**Is the document accurate in terms of content, for example, are statements within the document accurate when evaluated against law, regulatory standards and related good practice guidance?**

<b>Yes</b>	<b>No</b>	<b>Unsure</b>
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Yes		
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**If No (or unsure) check the legal sources and other guidance and then specify the changes required to ensure that the document is accurate in all relevant respects.**

<b>4.0</b>			
<b>Are there any rules specified within the policy</b>	<b>Yes</b>	<b>No</b>	<b>Unsure</b>
		No	
<p><b>If Yes, (or unsure) assess if such rules could be discriminatory in terms of equality law and other law (for example, could rules constitute indirect discrimination)</b></p> <p><b>Assessment details:</b></p>			

<b>5.0</b>			
<b>Is language appropriate throughout the document, for example, does it promote positive views about and respect for other people?</b>	<b>Yes</b>	<b>No</b>	<b>Unsure</b>
	Yes		
<b>Comments:</b>			
<b>If No, (or unsure), specify the changes required to ensure that appropriate language is used:</b>			

<b>6.0</b>			
<b>Is the document written in clear and plain language?</b>	<b>Yes</b>	<b>No</b>	<b>Unsure</b>
	Yes		
<b>Comments:</b>			
<p>In general, the document is in plain language. But, as the document involves a very technical field and terms cannot be changed with altering legal meaning then jargon is necessary. Legal terms are, however, explained, if necessary.</p>			
<b>If No (or unsure), specify the changes required and amend text as appropriate.</b>			
<p>This could be part of the document or general paragraphs. (Remember that sentences should, on average, be from fifteen to twenty words in length)</p>			

<b>7.0</b>			
<b>Does the document, if relevant, explain how service users and/or employees can appeal and/or make a complaint</b>	<b>Yes</b>	<b>No</b>	<b>Not applicable</b>
	Yes		
<b>If No, specify the changes required and amend text as appropriate</b>			
<b>If not applicable, please explain why:</b>			

<b>8.0</b>			
<b>Does the document, if relevant, explain what positive action measures are in place</b>	<b>Yes</b>	<b>No</b>	<b>Not applicable</b>
			Not applicable
<b>If No, specify the positive action required and amend text as appropriate</b>			
<b>If not applicable, please explain why:</b>			

<b>9.0</b>			
<b>Does the document, if relevant, explain what performance monitoring equality measures are in place</b>	<b>Yes</b>	<b>No</b>	<b>Not applicable</b>
		No	
<b>If No, specify specific equality indicators required and amend text as appropriate:</b>			
The policy refers to our monitoring system, but these indicators are gathered in other procedural documentation			

**If not applicable, please explain why:**

**Section 4: External IA of the policy**

Now that section one to three has been completed, is the policy likely to have any negative or positive effect on people of the policy?

Protected Characteristic	Negative effect	Positive effect	Explanation
	Yes/No	Yes/No	
Age	No	Yes	See separate report on these issues
Disability	No	Yes	
Gender Reassignment	No	Yes	
Marriage and civil partnership	No	Yes	
Pregnancy	No	Yes	
Race	No	Yes	
Religion/belief	No	Yes	
Sex/gender	No	Yes	
Sexual Orientation	No	Yes	

Other issues	Negative effect	Positive effect	Explanation
Social class	No	Yes	
Personal characteristics	No	Yes	

**Summary**

The data protection policy could have both positive and negative effects on people with protected characteristics depending on whether we comply with data protection law and guidance standards. The external impact assessment report below shows that our policy eliminates any form of discrimination and promotes equalities objectives

**Equality impact assessment**

This section describes how our data protection policy impacts on the protected characteristics of people, as well as other grounds. This assessment is covered in alphabetical order.

**Age**

People of any age group can be affected by non-appropriate use of their personal data.

Our policy addresses this in various ways. Firstly, information can be provided in different formats thus addressing the needs of younger and older people.

We monitor age related information to ensure that there is no discrimination on age related grounds unless permitted in law.

**Disability**

Disabled people can be affected by non-appropriate use of their personal data.

Our policy addresses this in various ways. Firstly, the policy can be made available in different formats, thus ensuring accessibility for people with different impairments. For instance, the document can be made available in larger print (for visually impaired people) and Braille (for blind people).

Secondly, the policy specifies that we will make reasonable adjustments in services or employment to disabled people as required in law (the Equality Act 2010, section 20). In order to make such adjustments, we gather personal data about impairment issues.

**Gender re-assignment**

People who have re-assigned their gender, undergoing (or considering) undergoing gender re-assignment can be affected by non-appropriate use of their personal data.

We process personal data in line with preferences of individual people. For example, we ask service users and employees how they wish to be addressed to ensure respect for persons when processing personal data. We also use data to make service adjustments, as appropriate, for example, consideration of toilet facilities that are accessible to everyone.

**Marriage and civil partnership**

We gather data on the protected characteristics so that we can give appropriate advice in terms of our “family friendly” policies.

**Pregnancy and maternity**

We gather data on employees who are pregnant and process this data securely in line with our equality data collection procedure. We use this data to provide advice on statutory entitlements and employee rights.

**Race**

We gather data on employees relating to ethnicity and race and process this data securely in line with our equality data collection procedure. We use this data to monitor and address any form of racism. This reflects our equality and diversity policy



commitment to address any form of discrimination, including institutionalised discrimination.

### **Religion or belief**

We gather data on religion and/or belief and process this data securely in line with our equality data collection procedure. We use this data to promote equality and diversity policy objectives, for example, scheduling meetings with service users and/or employees to avoid days that may be religious holidays, if appropriate.

### **Sex**

We gather data on employees and service users relating to sex and process this data securely in line with our equality data collection procedure. We use this data to monitor and address any form of sexism, as well as to promote positive action to promote employment of persons under-represented in particular working areas. This reflects our equality and diversity policy commitment, not merely to address any form of discrimination, but to promote equality matters.

### **Sexual orientation**

We gather data on sexual orientation of employees in order to monitor any form of discrimination and ensure that people's rights are protected. We process this data in line with our equality data collection procedure.

### **Other grounds**

We gather data relating to benefit entitlement of service users to promote social inclusion of people disadvantaged on grounds of social origin/social class.

### **Summary**

Our data protection policy is robust and its principles cover personal data relating to all of the protected characteristics and other personal data. Our policy covers employees, service users and other customers too. Finally, our data protection monitoring systems are established, not merely to detect and prevent any form of unlawful discrimination, but to promote equality and diversity issues.

### **Section 5: Consultation issues**

<b>Is consultation required in law and/or due to our policy?</b>	<b>Yes</b>	<b>No</b>
	Yes	
<b>Summarise what types of consultation have been carried out, if any, and with whom</b>	<b>Consultation carried out: please explain</b>	
	Consultation with committee members and staff. This is done through a report to the committee with full	

	discussion and information to staff at consultation events
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**Section 6: Data protection impact assessment**

<b>Does the policy have implications in terms of data privacy?</b>	<b>Yes</b>	<b>No</b>	<b>Unsure</b>
	Yes		

Comments:  
 The data protection policy is pivotal to the whole data protection strategy that is based on the policy principles contained in the policy

**State in what ways the policy promotes data privacy**

**Comments**  
 The policy is based on law, regulatory standards and guidance. Thus, it incorporates all of the issues required to establish a comprehensive and quality framework

**State in what ways the policy minimises risk**

**Comments:**  
 The policy minimises risk by ensuring that it is supported by a data protection action plan and suite of procedures that mainstream data protection principles into practice.

Assessment completed by: Doctor Stewart Montgomery

Signed \_\_\_\_\_

Date \_\_\_\_\_

Next policy review date \_\_\_\_\_