

Buckland Brewer Parish Council

Report on the Impact of New Data Protection Legislation

Introduction

Like me, you will probably have been inundated in recent weeks with constant requests to update your email subscription preferences, numerous copies of privacy statements and heartfelt reassurances that your personal data is secure and won't be shared with all and sundry. This is due to the introduction of new data protection rules brought about by the General Data Protection Regulation (GDPR) which takes effect on 25th May 2018.

GDPR is designed to address issues of privacy relating to information held digitally: on computers, memory sticks, phones etc, or transmitted electronically, such as in emails, by internet, on websites, or on 'the cloud'. It expands on the regulations that already exist in the Data Protection Act, which this regulation will supersede. It increases the obligations of organisations and individuals holding information about people to ensure that personal data is respected, held securely and only used for legitimate purposes.

Personal data can be anything that relates to a living individual that can be used to identify that person. Things like names and addresses are obvious. But a comment such as "that bloke who lives in Orleigh Close – the house with the blue door" can be equally revealing

There are 6 principles that must be followed. Data must be:

- Processed fairly, lawfully and in a transparent manner in relation to the data subject
- Collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes
- Adequate, relevant and limited to what is necessary in relation to the purpose for which they are processed
- Accurate and, where necessary, kept up to date
- Kept in a form that permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed
- 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

I will try to address how this affects Buckland Brewer Parish Council specifically by looking at the Information Commissioner's Office (ICO) guidance on the 12 steps that organisations need to take now.

Preparing for the General Data Protection: 12 steps to take now

Step	Guidance	Impact on Buckland Brewer
1	<p><u>Awareness</u> You should make sure that decision makers and key people in your organisation are aware that the law is changing to the GDPR. They need to appreciate the impact this is likely to have.</p>	<p>You and I are the key people. I have already forwarded to you a number of emails including guidance notes and legal briefings from DALC, NALC and TDC. Together with this report you should have sufficient background to appreciate that the law is changing, that the regulations are more onerous than before and that we will need to create some policy documents, such as a Privacy Statement that we do not currently have.</p>
2	<p><u>Information you hold</u> You should document what personal data you hold, where it came from and who you share it with. You may need to organise an information audit.</p>	<p>I shall do a detailed 'Data Audit' so that I can list, as far as possible, all the groups of personal data that we hold. In a table format, I will show the type of information we hold, what it is used for, what authority we have to keep it, how often we ought to update it, how long we ought to keep it and who we can legitimately share it with. This task might not be finished before 25th May but our awareness that it needs to be done soon will reassure ICO that we are taking the regulation seriously.</p>
3	<p><u>Communicating privacy information</u> You should review your current privacy notices and put a plan in place for making any necessary changes in time for GDPR implementation.</p>	<p>We do not have an approved privacy notice yet. I have drafted two (see below), which I hope can be approved at the meeting on 9th May 2018. This will be used wherever relevant, or referred to, such as in emails requesting personal information, on the website and on any paper requests for information (e.g. questionnaires about the Parish Plan) that could be later stored electronically.</p>
4	<p><u>Individuals' rights</u> You should check your procedures to ensure they cover all the rights individuals have, including how you would delete personal data or provide data electronically and in a commonly used format.</p>	<p>The GDPR includes the following rights for individuals:</p> <ul style="list-style-type: none"> • the right to be informed; • the right of access; • the right to rectification; • the right to erasure; • the right to restrict processing; • the right to data portability; • the right to object; and • the right not to be subject to automated decision-making including profiling. <p>These need to be enshrined in a Data Protection Policy Document yet to be written and approved.</p>
5	<p><u>Subject access requests</u> You should update your procedures and plan how you will handle requests within the new timescales and provide any additional information.</p>	<p>The timescale referred to reduces the 40 days response time in the Data Protection Act to one month. We do not have a policy about information requests other than two brief paragraphs in Standing Orders that refer to a Freedom of Information Policy, that we do not have, and a general comment that we recognise our responsibilities under the terms of the FOI Act. We need to develop a Freedom of Information Policy that sets out procedures that would apply</p>

		if an FOI request were received, as well as incorporating into a Data Protection Policy how we deal with personal data access requests. We should consider at that time whether we should charge a fee if we believe that requests are excessive or unfounded. In the normal course of events, we would not be expected to make any charge.
6	<p><u>Lawful basis for processing personal data</u></p> <p>You should identify the lawful basis for your processing activity in the GDPR, document it and update your privacy notice to explain it.</p>	The Parish Council is permitted to do the things that it does through a variety of legal powers, such the allotments being covered by Allotments Legislation. I will include reference to these in the data audit. We could not list all the different Acts that apply to us, but I will find some words that are ‘all encompassing’ for local councils for the Privacy Statement. In the data audit we will need to consider whether the information held is relevant for each different purpose. For example, in what circumstances might it be relevant to know what age someone is, or even what sex they are.
7	<p><u>Consent</u></p> <p>You should review how you seek, record and manage consent and whether you need to make any changes. Refresh existing consents now if they don’t meet the GDPR standard.</p>	Consent must be freely given, specific, informed and unambiguous. There must be a positive opt-in – consent cannot be inferred from silence, pre-ticked boxes or inactivity. We do not usually seek written consents, although sometimes it is given via exchanges of emails. For example, I know that Jane Lowe has been meticulous in ensuring that people who contribute pictures to the website have given their consent, where possible. I would not want (and it is not necessary) to get written consent from every person who might get photographed at a public event and whose image might therefore appear on the website. However, it would be wise to include in any advertising for such events that photographs might be taken and used on the website. People can then decide if they don’t want to come to the event, or if they want to ensure they don’t get photographed.
8	<p><u>Children</u></p> <p>You should start thinking now about whether you need to put systems in place to verify individuals’ ages and to obtain parental or guardian consent for any data processing activity</p>	As far as I am aware, we do not hold any information about children, or about the ages of any adults in our records. However, Elisa Hurley, or TorrAge on our behalf, might have records about members of the 4 o’clock Club that is held electronically. If so, it needs to be included in the data audit and tested against the GDPR criteria.
9	<p><u>Data breaches</u></p> <p>You should make sure you have the right procedures in place to detect, report and investigate a personal data breach.</p>	The GDPR introduces a duty on all organisations to report certain types of data breach to the ICO, and in some cases, to individuals. You only have to notify the ICO of a breach where it is likely to result in a risk to the rights and freedoms of individuals – if, for example, it could result in discrimination, damage to reputation, financial loss, loss of confidentiality or any other significant economic or social disadvantage. We need to think about 2 things: having robust and sustainable

		procedures, and how we deal with things that go wrong. These need to be incorporated into a Data Protection Policy.
10	<p><u>Data Protection by Design and Data Protection Impact Assessments</u></p> <p>You should familiarise yourself now with the ICO's code of practice on Privacy Impact Assessments as well as the latest guidance from the Article 29 Working Party, and work out how and when to implement them in your organisation.</p>	This is a requirement to undertake a Privacy Impact Assessment but only relates to organisations holding large quantities of potentially sensitive data. We do not fall into that category.
11	<p><u>Data Protection Officers</u></p> <p>You should designate someone to take responsibility for data protection compliance and assess where this role will sit within your organisation's structure and governance arrangements. You should consider whether you are required to formally designate a Data Protection Officer.</p>	All organisations have to appoint a designated officer for data protection issues. There was much speculation that a Parish Clerk would not be legally allowed to be a Data Protection Officer as well because there was a potential conflict of interest by being both the data processor and the DPO. That would entail Parish Council's employing another person, employing an independent firm to be the DPO, or perhaps having a reciprocal arrangement with other Parish Clerks. However, NALC has successfully campaigned that this would be unworkable and unaffordable for the majority of parishes. An amendment to that part of the legislation is being drafted and should be announced before the 25 th May. Until or unless we hear otherwise, I will operate on the basis that I am the DPO.
12	<p><u>International</u></p> <p>If your organisation operates in more than one EU member state (ie. you carry out cross-border processing), you should determine your lead data protection supervisory authority. Article 29 Working Party guidelines will help you do this.</p>	Not applicable to us

Conclusion

Clearly, there is a complex task that must be done quickly to undertake a data audit and put together a Data Protection Policy that covers how we gather data, what we gather, how we use it, how we keep it secure, how we get consents and how we deal with breaches.

In the meantime, below are two proposed Privacy Statements: one for the website and another more comprehensive statement covering all aspects of data protection. It would be helpful if these could be considered thoroughly and approved (with any amendments that might be proposed and agreed) at the meeting on 9th May 2018, so that we can demonstrate that we have taken substantial steps towards meeting the requirements of the GDPR legislation before 25th May 2018.

Patrick Blossie

Parish Clerk

2nd May 2018

Proposed Website Privacy Statement

Privacy and Cookie Policy

Buckland Brewer Parish Council is committed to ensuring that your privacy is protected. Should we ask you to provide certain information by which you can be identified when using this website, then you can be assured that it will only be used in accordance with this privacy statement.

Buckland Brewer Parish Council may change this policy from time to time by updating this page. You should check this page from time to time to ensure that you are happy with any changes. This policy is effective from May 2018.

WHAT WE COLLECT

We might collect the following information:

- Contact information including email address.
- Demographic information such as postcode.
- Other information relevant to customer service, quotes etc.
- Your computer's IP address

WHAT WE DO WITH THE INFORMATION WE GATHER

We require this information to understand your needs and provide you with a better service, and, in particular, for the following reasons:

- Internal record keeping
- We might use the information to improve our services
- We might periodically send emails about services, meetings or events

SECURITY

We are committed to ensuring that your information is secure. To prevent unauthorised access or disclosure, we have put in place suitable physical, electronic and managerial procedures to safeguard and secure the information we collect online.

HOW WE USE COOKIES

A cookie is a small file placed on your computer's hard drive, the cookie helps analyse web traffic or allows web applications to respond to you as an individual. The web application can tailor its operations to your needs, likes and dislikes by gathering and remembering information about your preferences.

We use traffic log cookies to identify which pages are being used. This helps us analyse data about webpage traffic and improve our website and tailor it to customer needs. We only use this information for statistical analysis purposes and then the data is removed from the system.

Overall, cookies help us provide you with a better website by enabling us to monitor which pages you find useful and which you do not. A cookie in no way gives us access to your computer or any information about you, other than the data you choose to share with us.

You can choose to accept or decline cookies. Most web browsers automatically accept cookies, but you can usually modify your browser setting to decline cookies if you prefer. This may prevent you from taking full advantage of our websites.

We are not in control of the delivery of cookies from service providers such as Google Analytics and YouTube. Any comments or questions that you may have should be raised with the originator of those cookies.

Your use of this site is taken as consent to the placing of cookies on your system. If you disagree, please take the following action (for technical support please contact your IT support technician.)

- Close this website
- Use your web browser's tools to "delete your cache"
- Quit your browser
- You can then choose to disallow cookies from this website via browser settings

If you continue without changing your settings, we'll assume that you are happy to receive all cookies from our website.

LINKS TO OTHER WEBSITES

Our website might contain links to other websites of interest. However, you should note that, once you use links to leave our site, we do not have any control over that other website. Therefore, we cannot be responsible for the protection and privacy of any information which you provide whilst visiting such sites and such sites are not governed by this privacy statement. You should exercise caution and look at the privacy statement applicable to the website in question.

CONTROLLING YOUR PERSONAL INFORMATION

If you have previously agreed to us using your personal information for direct marketing purposes, you may change your mind at any time by writing to or emailing us at parishclerk@bucklandbrewer.org.uk.

We will not sell, distribute or lease your personal information to third parties unless required by law to do so.

You may request details of personal information which we hold about you under the General Data Protection Regulation, 2018. A small fee might be payable. If you would like a copy of the information held on you, please email parishclerk@bucklandbrewer.org.uk.

If you believe that any information we are holding on you is incorrect or incomplete, please write to or email us as soon as possible at the above address. We will promptly correct any information found to be incorrect.

Buckland Brewer Parish Council is registered as a Data Controller: Registration reference ZA277103

Proposed General Data Protection Policy Statement

Last updated: May 2018

Buckland Brewer Parish Council is registered as a data controller under the General Data Protection Regulation (ICO registration ZA277103) because we collect and process personal information about you. This applies to council staff, councillors, suppliers, service users and members of the public.

We process and hold your information in order to provide public services. This notice explains how we use and share your information. Information may be collected in paper or online form, by telephone, email, CCTV, by a member of our staff, a councillor or one of our volunteers.

Why do we collect information about you?

We need to collect and hold information about you, in order to:

- deliver public services
- confirm your identity to provide some services
- contact you by post, email or telephone
- understand your needs to provide the services that you request
- understand what we can do for you and inform you of other relevant services and benefits
- update your records
- help us to build up a picture of how we are performing at delivering services to you and what services the people of Buckland Brewer need
- process financial transactions
- prevent and detect fraud and corruption in the use of public funds
- obtain your opinion about our services
- allow us to undertake statutory functions efficiently and effectively
- make sure we meet our statutory obligations including those related to diversity and equality

We may not be able to provide you with a service unless we have enough information, or your permission to use that information.

How we use your information

We will use the information you provide in a manner that conforms to the General Data Protection Regulation. We will endeavour to keep your information accurate and up to date and not keep it for longer than is necessary. In some instances, the law sets the length of time information has to be kept.

We will process your information for the following purposes:

- for the service you requested, and to monitor and improve the council's performance in responding to your request
- to allow us to be able to communicate and provide services and benefits appropriate to your needs
- to ensure that we meet our legal obligations
- where necessary for the law enforcement functions
- to prevent and detect fraud or crime
- to process financial transactions including grants, payments and benefits involving the council, or where we are acting on behalf of other government bodies, e.g. Department for Work and Pensions, HMRC
- to collect monies owed to us
- to pay staff and suppliers
- where necessary to protect individuals from harm or injury
- to allow the statistical analysis of data so we can plan the provision of services

We will not pass any personal data on to third parties, other than those who either process information on our behalf, or because of a legal requirement, and we will only do so, where possible, after we have ensured that sufficient steps have been taken to protect the personal data by the recipient.

We will not disclose any information that you provide in confidence to us, to anyone else without your permission, except in the few situations where disclosure is required by law, or where we have good reason to believe that failing to share the information would put someone else at risk. You will be told about this.

Information sharing

We might need to pass your information to other people and organisations that provide services on our behalf. These providers are obliged to keep your details securely and use them only to fulfil your request. If we wish to pass your sensitive or confidential information onto a third party, we will only do so once we have obtained your consent, unless we are legally required to do so.

We may disclose information to other partners where it is necessary, either to comply with a legal obligation, or where permitted under the General Data Protection Regulation, e.g. where the disclosure is necessary for the purposes of the prevention and/or detection of crime.

Where we need to disclose sensitive or confidential information such as medical details to other partners, we will do so only with your prior explicit consent or where we are legally required to.

We might disclose information when necessary to prevent risk of harm to an individual.

At no time will your information be passed to organisations external to us and our partners, for marketing or sales purposes or for any commercial use without your prior express consent.

Improving customer records

We are working to make our record keeping more efficient.

Your basic record comprises of your name, address, contact details (telephone/email), and in some cases, a brief summary of your contact with the council and a record of the services used. For example, the plot number of an allotment tenancy and a record of deposits held and rents received. We regularly review the information held to ensure that it is still required, relevant and accurate.

Detect and prevent fraud or crime

Buckland Brewer Parish Council is required by law to protect the public funds it administers. We might use any of the information you provide to us for the prevention and detection of fraud. We might also share this information with other bodies responsible for auditing, administering public funds, or where undertaking a public function, in order to prevent and detect fraud. This includes the Cabinet Office, the Department for Work and Pensions, other Local Authorities, HM Revenue and Customs and the Police.

Section 68 of the Serious Crime Act 2007 enables public authorities to disclose information for the purposes of preventing fraud, as a member of a specified anti-fraud organisation or otherwise in accordance with any arrangements made with such an organisation.

Emergency response management

Data matching might be used to assist the council in responding to emergencies or major accidents, by allowing the council, in conjunction with the emergency services, to identify individuals who might need additional support in the event of e.g. an emergency evacuation.

Telephone calls

Buckland Brewer Parish Council does not record telephone conversations. However, if you call the Parish Clerk or a councillor at a time when they are unable to answer the phone, you might be given the opportunity to leave a message. Callers are advised not to leave any sensitive information on such occasions but to leave only sufficient information to be contacted at a later time.

Emails

If you email us, including contacts that come via the community website, we might keep a record of your contact, your email address and the content of the message for our records. For security reasons we will not include any confidential information about you in any email we send to you, unless you actively consent to this.

We suggest that you keep the amount of confidential information you send to us via email to a minimum and use secure online forms and services when available.

Using our website

If you are a user with general public access, the Buckland Brewer Community Website (www.bucklandbrewer.org.uk) does not store or capture personal information, but merely logs a number called your IP address which is automatically recognised by the system.

The system will record personal information if you:

- subscribe to or apply for services that require personal information
- report a fault and give your contact details for us to respond
- contact us and leave your details for us to respond

We employ cookie technology to help log visitors to our web site. A cookie is a string of information that is sent by a website and stored on your hard drive or temporarily in your computer's memory. The information collected is used for the administration of the server and to improve the service provided by the website. No personal information is collected this way. You can reject the use of cookies, but you may be asked for information again, e.g. to participate in a survey.

This statement only covers the council websites maintained by us. It does not cover other websites linked from our site.

Please refer to the website for a more comprehensive website privacy statement.

CCTV

We have installed a CCTV camera above the defibrillator situated in the bus shelter next to the Community Shop. The defibrillator can be used by members of the public. The CCTV is for the purpose of public, volunteer and staff safety and for crime prevention and detection.

Images captured by CCTV will not be kept for longer than necessary. However, on occasions there may be a need to keep images for longer, for example where a crime is being investigated.

You have the right to see CCTV images of yourself and be provided with a copy of the images.

We will only disclose images to other authorised bodies who intend to use it for the purposes stated above. Images will not be released to the media for entertainment purposes or placed on the internet for public viewing.

We operate CCTV and disclose in accordance with the codes of practice issued by the Information Commissioner and the Home Office.

How we protect your information

Our aim is not to be intrusive, and we won't ask irrelevant or unnecessary questions. The information you provide will be subject to rigorous measures and procedures to make sure it can't be seen, accessed or disclosed to anyone who shouldn't see it.

Our Data Protection Policy and Privacy Statements define our commitments and responsibilities to your privacy and cover a range of information and technology security areas. We provide training to councillors, staff and volunteers who handle personal information and treat it as a disciplinary matter if they misuse or do not look after your personal information properly.

We will not keep your information longer than it is needed or where the law states how long this should be kept. We will dispose of paper records or delete any electronic personal information in a secure way.

Your rights

You have the right to request that Buckland Brewer Parish Council stops processing your personal data in relation to any council service. However, this may cause delays or prevent us delivering a service to you. Where possible we will seek to comply with your request, but we might be required to hold or process information to comply with a legal requirement.

We try to ensure that any information we hold about you is correct. There might be situations where you find the information we hold is no longer accurate and you have the right to have this corrected. Please contact the Parish Clerk at bucklandbrewerparishcouncil@gmail.com or write to him at the address below if you would like further information or if you believe that any information held about you is incorrect or has changed.

You are legally entitled to request access to any information that we hold about you. A paper copy can be provided. In some circumstances a small fee might be payable.

Further information

We will provide further information about what is shared with other organisations, if any, on data collection forms, privacy notices and specific service sharing agreements.

Changes to this privacy notice

We will continually review and update this privacy notice to reflect changes in our services and feedback from service users, as well as to comply with changes in the law. When such changes occur, we will revise the last updated date at the top of this notice.

Patrick Blossie, Parish Clerk and Responsible Finance Officer

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