



## Buckhorn Weston and Kington Magna Parish Council

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### **DATA BREACH (INCIDENT RESPONSE) POLICY**

#### **Definition of a data breach**

GDPR defines a personal data breach as “a breach of security leading to accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed”.

Examples include:

- a) Access by an unauthorised third party;
- b) Deliberate or accidental action (or inaction) by a controller or processor;
- c) Sending personal data to an incorrect recipient;
- d) Computing devices containing personal data being lost or stolen;
- e) Alteration of personal data without permission;
- f) Loss of availability of personal data.

Buckhorn Weston & Kington Magna Parish Council takes the security of personal data seriously, computers are password protected and hard copy files are kept in locked cabinets.

#### **Consequences of a data breach**

A breach of personal data may result in a loss of control of personal data, discrimination, identity theft or fraud, financial loss, damage to reputation, loss of confidentiality of personal data, damage to property or social disadvantage.

Therefore a breach, depending on the circumstances of the breach, can have a range of effects on individuals.

#### **Duty to report a breach**

If the data breach is likely to result in a risk to the rights and freedoms of the individual, the breach must be reported to the individual and the Information Commissioner's Office (ICO) without undue delay and, where feasible, not later than 72 hours after having become aware of the breach. The Data Protection Officer (DPO) must be informed immediately so they are able to report the breach to the ICO in the 72 hour timeframe.

If the ICO is not informed within 72 hours, Buckhorn Weston & Kington Magna Parish Council, via the DPO, must give reasons for the delay when they report the breach.

When notifying the ICO of a breach, Buckhorn Weston & Kington Magna Parish Council must:

- a) Describe the nature of the breach including the categories and approximate number of data subjects concerned and the categories and approximate number of personal data records concerned;
- b) Communicate the name and contact details of the DPO;

- c) Describe the likely consequences of the breach;
- d) Describe the measures taken or proposed to be taken to address the personal data breach including, measures to mitigate its possible adverse affects.

When notifying the individual affected by the breach, Buckhorn Weston & Kington Magna Parish Council must provide the individual with (ii) - (iv) above.

Buckhorn Weston & Kington Magna Parish Council would not need to communicate with an individual if the following applies:

- a) It has implemented appropriate technical and organisational measures (i.e. encryption) so those measures have rendered the personal data unintelligible to any person not authorised to access it;
- b) It has taken subsequent measures to ensure that the high risk to rights and freedoms of individuals is no longer likely to materialise, or;
- c) It would involve a disproportionate effort.

However, the ICO must still be informed even if the above measures are in place.

#### **Data processors duty to inform Buckhorn Weston & Kington Magna Parish Council**

If a data processor (i.e. payroll provider) becomes aware of a personal data breach, it must notify Buckhorn Weston & Kington Magna Parish Council without undue delay. It is then Buckhorn Weston & Kington Magna Parish Council's responsibility to inform the ICO, it is not the data processors responsibility to notify the ICO.

#### **Records of data breaches**

All data breaches must be recorded whether or not they are reported to individuals. This record will help to identify system failures and should be used as a way to improve the security of personal data. A report template is provided for this purpose on page 3.

To report a data breach use the ICO online system: <https://ico.org.uk/for-organisations/report-a-breach/>

**Data Breach Reporting Template**

|   |  |  |
|---|--|--|
|   | <b>Report prepared by:</b><br><b>Date:</b><br><b>On behalf of:</b>   | Name<br>Date<br>Buckhorn Weston & Kington Magna Parish Council   |
| 1 | Summary of the event and circumstances   | When, what, who, summary of incident etc'  |
| 2 | Type and amount of personal data   | Title or name of the document(s); what personal information is included – name, address, dob, bank account details; description of information about an individual – health issues, case hearing notices, etc. |
| 3 | Actions taken by recipient when they inadvertently received the information                                  |  |
| 4 | Actions taken to retrieve the information and respond to the breach  | Has the information been retrieved? When? Has the loss been contained? E.g. all emails deleted   |
| 5 | Procedures / instructions in place to minimise risks to security of data                                     | Communication, secure storage, sharing and exchange  |
| 6 | Breach of procedure/policy by staff member   | Has there been a breach of policy?<br>Has appropriate action been taken?   |
| 7 | Details of notification to affected data subject<br><br>Has a complaint been received from the data subject? | Has the data subject been notified? If not, explain why not?<br><br>What advice has been given to the affected data subject?   |
| 8 | Procedure changes to reduce risks of future data loss  |  |
| 9 | Conclusion   | Serious/minor breach, likelihood of happening again  |

