

# Data Protection Policy and Procedure

## Document Control

Document Version:	1.2
Document Date:	15/10/2020
Document Author/Owner:	Caroline Bocquel, Marian Caulfield
Authorised by:	SLT
Date Authorised:	15/10/2020

## Version History

Version	Date	Comment
<b>1.0</b>	25/06/2018	Margaret Campbell
<b>1.1</b>	28/10/2019	Sytorus reviewed full policy
<b>1.2</b>	14/10/2020	Reviewed 27.11.19 (FH review 141020 - changes accepted)
	15/10/2020	Authorised by the SLT

## Data Protection Policy and Procedure

### Description of the Policy

Ensuring and maintaining the security and confidentiality of personal and/or special category data is one of BIM's top priorities. This document outlines the policies, procedures, controls, and measures BIM has developed to ensure maximum and continued compliance with the data protection laws and principles. BIM operates a 'Privacy by Design' approach.

### Purpose and Objectives of the Policy

The purpose of this policy is to ensure that BIM meets its legal, statutory and regulatory requirements under the data protection laws and to ensure that all personal and special category information is processed compliantly and, in the individuals best interest.

### Scope of the Policy

This policy applies to all staff within BIM.

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## 1 Policy Statement

Bord Iascaigh Mhara (hereinafter referred to as the “BIM”) needs to collect personal information to effectively carry out its everyday business functions and activities and to provide the products and services defined by its remit. Such data is collected from employees, customers, suppliers and clients and includes (but is not limited to), name, address, email address, data of birth, IP address, identification numbers, private and confidential information, sensitive information and bank/credit card details.

In addition, BIM may be required to collect and use certain types of personal information to comply with the requirements of the law and/or regulations, however BIM is committed to processing all personal information in accordance with the [General Data Protection Regulation \(GDPR\)](#), [Irish data protection laws](#) and any other relevant the data protection laws and codes of conduct (herein collectively referred to as “[the data protection laws](#)”).

BIM has developed policies, procedures, controls, and measures to ensure maximum and continued compliance with the data protection laws and principles, including staff training, procedure documents, audit measures, and assessments. Ensuring and maintaining the security and confidentiality of personal and/or special category data is one of BIM’s top priorities and BIM operates a 'Privacy by Design' approach, assessing changes and their impact from the start and designing systems and processes to protect personal information at the core of BIM’s operations.

## 2 Purpose

The purpose of this policy is to ensure that BIM meets its legal, statutory and regulatory requirements under the data protection laws and to ensure that all personal and special category information is processed compliantly and, in the individuals best interest.

The data protection laws include provisions that promote accountability and governance and as such BIM has put comprehensive and effective governance measures into place to meet these provisions. The aim of such measures is to ultimately minimise the risk of breaches and uphold the protection of personal data. This policy also serves as a reference document for employees and third parties on the responsibilities of handling and accessing personal data and data subject requests.

## 3 Scope

This policy applies to all staff within BIM (meaning permanent, fixed term, and temporary staff, any third-party representatives or sub-contractors, agency workers, volunteers, interns and agents engaged with BIM in Ireland or overseas). Adherence to this policy is mandatory and non-compliance could lead to disciplinary action.

### 3.1 Definitions

- “[Biometric data](#)” means personal data resulting from specific technical processing relating to the physical, physiological, or behavioural characteristics of a natural person, which allow or confirm the unique identification of that natural person, such as facial images.

- “**Binding Corporate Rules**” means personal data protection policies which are adhered to by BIM for transfers of personal data to a controller or processor in one or more third countries or to an international organisation.
- “**Consent**” of the data subject means any freely given, specific, informed and unambiguous indication of the data subject's wishes by which they, by a statement or by a clear affirmative action, signifies agreement to the processing of personal data relating to them.
- “**Cross Border Processing**” means processing of personal data which:
  - takes place in more than one Member State or
  - which substantially affects or is likely to affect data subjects in more than one Member State.
- “**Data controller**” means, the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data; where the purposes and means of such processing are determined by Union or Member State law, the controller or the specific criteria for its nomination may be provided for by Union or Member State law.
- “**Data processor**” means a natural or legal person, public authority, agency or other body which processes personal data on behalf of the controller.
- “**Data protection laws**” means for the purposes of this document, the collective description of the GDPR and any other relevant data protection laws that BIM complies with.
- “**Data subject**” means an individual who is the subject of personal data.
- “**GDPR**” means the General Data Protection Regulation (EU) (2016/679).
- “**Genetic data**” means personal data relating to the inherited or acquired genetic characteristics of a natural person which give unique information about the physiology or the health of that natural person and which result, in particular, from an analysis of a biological sample from the natural person in question.
- “**Personal data**” means any information relating to an identified or identifiable natural person (‘data subject’); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.
- “**Processing**” means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.
- “**Profiling**” means any form of automated processing of personal data consisting of the use of personal data to evaluate certain personal aspects relating to a natural person, in particular to analyse or predict

aspects concerning that natural person's performance at work, economic situation, health, personal preferences, interests, reliability, behaviour, location or movements.

- “**Recipient**” means a natural or legal person, public authority, agency, or another body, to which the personal data are disclosed, whether a third party or not. However, public authorities which may receive personal data in the framework of a particular inquiry in accordance with Union or Member State law shall not be regarded as recipients; the processing of those data by those public authorities shall be in compliance with the applicable data protection rules according to the purposes of the processing.
- “**Supervisory Authority**” means an independent public authority which is established by a Member State.
- “**Third Party**” means a natural or legal person, public authority, agency, or body other than the data subject, under our direct authority.

### 3.2 General Data Protection Regulation (GDPR)

The General Data Protection Regulation (GDPR) (EU)2016/679) was approved by the European Commission in April 2016 and applies to all EU Member States since 25th May 2018. As a 'Regulation' rather than a 'Directive', its rules apply directly to Member States, replacing their existing local data protection laws and repealing and replacing Directive 95/46EC and its Member State implementing legislation.

The Data Protection Act 2018 is the implementing legislation in Ireland which provides for the derogations within the GDPR.

As BIM processes personal information regarding individuals (data subjects), BIM is obligated under the General Data Protection Regulation (GDPR) to protect such information, and to obtain, use, process, store, and destroy it, only in compliance with its rules and principles.

#### 3.2.1 Personal Data

Information protected under the GDPR is known as “personal data” and is defined as:

*“Any information relating to an identified or identifiable natural person; an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.”*

BIM ensures that a high level of care is afforded to personal data falling within the GDPR's ‘special categories’ (previously sensitive personal data), due to the assumption that this type of information could be used in a negative or discriminatory way and is of a sensitive, personal nature to the persons it relates to.

In relation to the ‘Special categories of Personal Data’ the GDPR advises that:

*“Processing of personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person’s sex life or sexual orientation shall be prohibited – unless one of the Article 9 clauses applies.”*

### 3.2.2 The GDPR Principles

Article 5 of the GDPR requires that personal data shall be:

- a) Processed lawfully, fairly and in a transparent manner in relation to the data subject ('lawfulness, fairness and transparency').
- b) Collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes; further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes shall, in accordance with Article 89(1), not be considered to be incompatible with the initial purposes ('purpose limitation').
- c) Adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed ('data minimisation').
- d) Accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay ('accuracy').
- e) Kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in accordance with Article 89(1) subject to implementation of the appropriate technical and organisational measures required by this Regulation in order to safeguard the rights and freedoms of the data subject ('storage limitation').
- f) 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 ('integrity and confidentiality').

Article 5(2) requires that 'the controller shall be responsible for, and be able to demonstrate, compliance with the data protection laws principles' ('accountability') and requires that firms show how they comply with the principles, detailing and summarising the measures and controls that they have in place to protect personal information and mitigate the risks of processing.

### 3.3 The Office of The Data Protection Commission (DPC)

The DPC is an independent regulatory office whose role it is to uphold information rights in the public interest. The legislation they have oversight for includes:

- The Data Protection Act 2018
- General Data Protection Regulation (post-25th May 2018)
- The Privacy and Electronic Communication (EU Directive) Regulations 2011

The DPC's mission statement is “to uphold information rights in the public interest, promoting openness by public bodies and data privacy for individuals” and they can issue enforcement notices and fines for breaches in any of the Regulations, Acts and/or Laws regulated by them.

Under the data protection laws the DPC, as Ireland’s data protection authority (Supervisory Authority), will have a similar role as previously, when it comes to oversight, enforcement and responding to complaints with regards to the data protection laws and those firms/organisations located solely in Ireland.

### 3.4 Data Protection Officer

Articles 37-39, and Recital 97 of the GDPR detail the obligations, requirements, and responsibilities on firms to appoint a Data Protection Officer and specifies the duties that the officer themselves must perform.

A Data Protection Officer (DPO) must be appointed by a firm where:

- The processing is carried out by a public authority or body (except for courts acting in their judicial capacity).
- The core activities of the controller/processor consist of processing operations which, by virtue of their nature, their scope and/or their purposes, require regular and systematic monitoring of data subjects on a large scale.
- The core activities of the controller/processor consist of processing on a large scale of special categories of data pursuant to Article 9 and personal data relating to criminal convictions and offences referred to in Article 10.

Where BIM has appointed a designated Data Protection Officer it is done so in accordance with the GDPR requirements and BIM have ensured that the assigned person has an adequate and expert knowledge of data protection law. The person has been assessed as being fully capable of assisting BIM in monitoring internal compliance with the Regulation and supporting and advising employees and associated third parties with regards to the data protection laws and requirements.

## 4 Objectives

BIM are committed to ensuring that all personal data processed by BIM is done so in accordance with the data protection laws and its principles, along with any associated regulations and/or codes of conduct laid



down by the Supervisory Authority and local law. BIM ensure the safe, secure, ethical and transparent processing of all personal data and have stringent measures to enable data subjects to exercise their rights.

BIM has developed the below objectives to meet data protection obligations and to ensure continued compliance with the legal and regulatory requirements.

BIM ensures that:

- The rights of individuals are protected with regards to the processing of personal information – for further information see the BIM Data Subject Rights Policy.
- A data protection policy, procedure, audit plan, and training program is developed, implemented, and maintained for compliance with the data protection laws.
- Every business practice, function, and process carried out by BIM, is monitored for compliance with the data protection laws and its principles.
- Personal data is only processed where BIM has verified and met the lawfulness of processing requirements.
- Special category data is only processed in accordance with the GDPR requirements.
- Consent is recorded at the time it is obtained and evidence such consent to the Supervisory Authority where requested.
- All employees are competent and knowledgeable about their GDPR obligations and are provided with in-depth training in the data protection laws, principles, regulations, and how they apply to their specific role and BIM.
- Individuals feel secure when providing BIM with personal information and know that it will be handled in accordance with their rights under the data protection laws.
- A continuous program of monitoring, review and improvement is maintained with regards to compliance with the data protection laws and to identify gaps and non-compliance before they become a risk, affecting mitigating actions where necessary.
- The Supervisory Authority, European Data Protection Board (EDPB) and any GDPR news and updates are monitored, to stay abreast of changes, notifications and additional requirements.
- Complaint Handling and Data Breach controls for identifying, investigating, reviewing and reporting any breaches or complaints with regards to data protection are robust and documented.
- A Data Protection Officer has been appointed who takes responsibility for the overall supervision, implementation and ongoing compliance with the data protection laws and performs specific duties as set out under Article 37 of the GDPR.
- A dedicated Audit & Monitoring Program is in place to perform regular checks and assessments on how the personal data that BIM processes is obtained, used, stored, and shared. The audit program is

reviewed against BIM's data protection policies, procedures and the relevant regulations to ensure continued compliance.

- Clear reporting lines and supervision is provided with regards to data protection.
- All personal information stored and destroyed in accordance with BIM's retention policy and schedule which has been developed from the legal, regulatory and statutory requirements and suggested timeframes.
- Any information provided to an individual in relation to personal data held or used about them, will be provided in a concise, transparent, intelligible and easily accessible form, using clear and plain language.
- Employees are aware of their own rights under the data protection laws and are provided with the Article 13/14 information disclosures in the form of a Privacy Notice.
- Where applicable, records of processing activities are maintained in accordance with the Article 30 requirements.
- Appropriate technical and organisational measures and controls for personal data security have been developed and documented, and BIM have a robust Information Security program in place.

## 5 Governance Procedures

### 5.1 Accountability & Compliance

Due to the nature, scope, context and purposes of processing undertaken by BIM, frequent risk assessments and information audits are carried out to identify, assess, measure and monitor the impact of such processing. BIM have implemented adequate and appropriate technical and organisational measures to ensure the safeguarding of personal data and compliance with the data protection laws and can evidence such measures through documentation and practices.

BIM's main governance objectives are to:

- Educate senior management and employees about the requirements under the data protection laws and the possible impact of non-compliance.
- Provide a dedicated and effective data protection training program for all employees.
- Identify key stakeholders to support the data protection compliance program.
- Allocate responsibility for data protection compliance and ensure that the designated person(s) has sufficient access, support and budget to perform the role.
- Identify, create and disseminate the reporting lines within the data protection governance structure.

The technical and organisational measures that BIM has in place to ensure and demonstrate compliance with the data protection laws, regulations and codes of conduct, are detailed in this document and associated information security policies.

### *5.1.1 Privacy by Design*

BIM operate a 'Privacy by Design' approach and ethos, with the aim of mitigating the risks associated with processing personal data through prevention via internal processes, systems, and activities. BIM have developed controls and measures (detailed below), that help enforce this ethos.

### Data Minimisation

Under Article 5 of the GDPR, principle (c) advises that data should be 'limited to what is necessary', which forms the basis of our minimalist approach. BIM only ever obtain, retain, process and share the data that is essential for carrying out its services and/or meeting legal obligations and only retain data for as long as is necessary.

BIM systems, employees, processes, and activities are designed to limit the collection of personal information to that which is directly relevant and necessary to accomplish the specified purpose. Data minimisation enables BIM to reduce data protection risks and breaches and supports BIM's compliance with the data protection laws.

### Measures to ensure that only the necessary data is collected includes:

- Electronic collection (i.e., forms, website, surveys etc) only have the fields that are relevant to the purpose of collection and subsequent processing. BIM do not include 'optional' fields, as optional denotes that it is not necessary to obtain.
- Physical collection (i.e., face-to-face, telephone etc) is supported using scripts and internal forms where the required data collection is ascertained using predefined fields. Again, only that which is relevant and necessary is collected.
- BIM have SLA's and bespoke agreements in place with third-party controllers who send BIM personal information (either in BIM's capacity as a controller or processor). These state that only relevant and necessary data is to be provided as it relates to the processing activity to be carried out.
- BIM has documented destruction procedures in place where a data subject or third-party provides us with personal information that is surplus to requirement.
- Forms, contact pages, and any documents used to collect personal information are reviewed as appropriate to ensure they are fit for purpose and only obtaining necessary personal information in relation to the legal basis being relied on and the purpose of processing.

## Pseudonymisation

BIM utilise pseudonymisation where possible to record and store personal data in a way that ensures it can no longer be attributed to a specific data subject without the use of separate, additional information (personal identifiers). Encryption and partitioning is also used to protect the personal identifiers, being kept separate from the pseudonymised data sets.

When using pseudonymisation, BIM ensure that the attribute(s) being removed and replaced, are unique and prevent the data subject from being identified through the remaining markers and attributes.

Pseudonymisation can mean that the data subject is still likely to be identified indirectly and as such, this technique is used in conjunction with other technical and operational measures of risk reduction and data protection.

## Encryption

BIM utilise encryption as a further risk prevention measure for securing the personal data that is held. Encryption with a secret key is used to make data indecipherable unless decryption of the dataset is carried out using the assigned key.

BIM utilise encryption via secret key for transferring personal data to any external party and provide the secret key in a separate format. Where special category information is being transferred and/or disclosed, the Data Protection Officer is required to authorise the transfer and review the encryption method for compliance and accuracy.

When sending personal data by email, the BIM Information Transfer Policy sets out the requirement to send it in password protected attachments rather than in the body text of an email. Passwords must never be sent by email.

## Restriction

Our Privacy by Design approach means that BIM use company-wide restriction (access control) methods for all personal data activities. Restricting access is built into the foundation of BIM's processes, systems and structure and ensures that only those with authorisation and/or a relevant purpose, have access to personal information. Special category data is restricted at all levels and can only be accessed by the Human Resource Manager.

## Hard Copy Data

Due to the nature of BIM's business, it is sometimes essential for personal and special category information which is only available in a paper format without pseudonymisation options (i.e. claims information) to be obtained, processed, and shared. Where this is necessary, BIM utilise a tiered approach to minimise the information held and/or the length of time it is held for. Steps include:

- In the first instance, BIM always ask the initial data controller to send copies of any personal information records directly to the data subject.
- Where step 1 is not possible or feasible, BIM will obtain a copy of the data and if applicable redact to ensure that only the relevant information remains (i.e., when the data is being passed to a third-party for processing and not directly to the data subject).
- When only mandatory information is visible on the hard copy data, BIM utilise electronic formats to send the information to the recipient to ensure that encryption methods can be applied (i.e., BIM do not use the postal system as this can be intercepted).
- Recipients (i.e., the data subject, third-party processor) are reverified and their identity and contact details checked.
- The Data Protection Officer authorises the transfer and checks the file(s) attached and encryption method and key.
- Once confirmation has been obtained that the recipient has received the personal information, where possible (within the legal guidelines and rules of the data protection laws), BIM destroy the hard copy data and delete the sent message.
- If for any reason a copy of the paper data must be retained by BIM, a physical safe is used to store such documents as oppose to any standard archiving system.

### *5.1.2 Data Protection Audit*

To enable BIM to fully prepare for and comply with the data protection laws, a company-wide data protection audit has been carried out to better enable us to record, categorise and protect the personal data that BIM holds and processes.

The audit has identified, categorised, and recorded all personal information obtained, processed and shared by BIM in the capacity as a controller/processor and has been compiled on a central register which includes:

- What personal data held.
- Where it came from.
- Who is it shared with?
- Legal basis for processing it.
- What format(s) is it in.

- Who is responsible for it?
- Disclosures and Transfers.

## 5.2 Legal Basis for Processing (Lawfulness)

At the core of all personal information processing activities undertaken by BIM, is the assurance and verification that BIM is complying with Article 6 of the GDPR and the lawfulness of processing obligations. Prior to carrying out any personal data processing activity, BIM identify and establish the legal basis for doing so and verify these against the regulation requirements to ensure that the most appropriate legal basis is used.

The legal basis is documented on an information audit register and in a Privacy Notice and, where applicable, is provided to the data subject and Supervisory Authority as part of our information disclosure obligations. Data is only obtained, processed or stored when BIM has met the lawfulness of processing requirements, where:

- The data subject has given consent to the processing of their personal data for one or more specific purposes.
- Processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract.
- Processing is necessary for compliance with a legal obligation to which BIM is subject.
- Processing is necessary in order to protect the vital interests of the data subject or of another natural person.
- Processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in BIM.
- Processing is necessary for the purposes of the legitimate interests pursued by BIM or by a third party (except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child).

### 5.2.1 Processing Special Category Data

Special categories of Personal Data are defined in the data protection laws as:

Processing of personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation shall be prohibited – unless one of the Article 9 clauses applies.

Where BIM processes any personal information classed as special category or information relating to criminal convictions, it is done so in accordance with Article 9 of the GDPR.

BIM will only ever process special category data where:

- The data subject has given explicit consent to the processing of the personal data.
- Processing is necessary for the purposes of carrying out the obligations and exercising specific rights of the controller or of the data subject in the field of employment and social security and social protection law.
- Processing is necessary to protect the vital interests of the data subject or of another natural person where the data subject is physically or legally incapable of giving consent.
- Processing relates to personal data which are manifestly made public by the data subject.
- Processing is necessary for the establishment, exercise, or defense of legal claims or whenever courts are acting in their judicial capacity.
- Processing is necessary for reasons of substantial public interest.
- Processing is necessary for the purposes of preventive or occupational medicine, for the assessment of the working capacity of the employee, medical diagnosis, the provision of health or social care or treatment or the management of health or social care systems and services.
- Processing is necessary for reasons of public interest in the area of public health.
- Processing is necessary for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in accordance with Article 89(1).

Where BIM processes personal information that falls into one of the above categories, adequate and appropriate provisions and measures are in place prior to any processing. Measures include:

- Verifying any reliance on Article 9(1) GDPR prior to processing.
- Documenting the Article 6(1) legal basis relied upon from processing on a Processing Activities Register (where applicable)
- Having an appropriate policy document in place when the processing is carried out, specifying:
  - Procedures for securing compliance with the data protection laws principles.
  - Policies as regards the retention and erasure of personal data processed in reliance on the condition.
  - Retention periods and reason (i.e., Legal, statutory etc.).

- Procedures for reviewing and updating our policies in this area.

Please refer to the Retention & Erasure Policy for further guidance and procedures.

### *5.2.2 Records of Processing Activities*

Being a Public Sector body; BIM maintains records of all processing activities and maintains such records in writing, in a clear and easy to read format and readily available to the Supervisory Authority upon request.

Acting in the capacity as a controller (or a representative), our internal records of the processing activities carried out under our responsibility, contain the following information:

- BIM's full name and contact details, and the name and contact details of the Data Protection Officer. Where applicable, BIM also records any joint controller and/or the controller's representative.
- The purposes of the processing.
- A description of the categories of data subjects and of the categories of personal data.
- The categories of recipients to whom the personal data has or will be disclosed (including any recipients in third countries or international organisations).
- Where applicable, transfers of personal data to a third country or an international organisation (including the identification of that third country or international organisation and where applicable, the documentation of suitable safeguards).
- Where possible, the envisaged time limits for erasure of the different categories of data.
- A general description of the processing security measures as outlined in section 12 of this document (pursuant to Article 32(1) of the data protection laws).

Acting in the capacity as a processor BIM's internal records of the categories of processing activities carried out on behalf of a controller, contain the following information:

- The full name and contact details of the processor(s) and of each controller on behalf of which the processor is acting, and, where applicable, of the controller's or the processor's representative, and the data protection officer.
- The categories of processing carried out on behalf of each controller.
- Where applicable, transfers of personal data to a third country or an international organisation (including the identification of that third country or international organisation and where applicable, the documentation of suitable safeguards).
- A general description of the processing security measures as outlined in section 13 of this document (pursuant to Article 32(1) of the data protection laws).



### 5.3 Third-Party Processors

BIM utilise external processors for certain processing activities (where applicable). BIM use information audits to identify, categorise and record all personal data that is processed outside of BIM, so that the information, processing activity, processor and legal basis are all recorded, reviewed and easily accessible. Such external processing includes (but is not limited to):

- IT Systems and Services
- Legal Services
- Debt Collection Services
- Hosting or Email Servers
- Credit Reference Agencies
- Direct Marketing/Mailing Services
- Pension Services
- Occupational Health Services

BIM has strict due diligence and procurement procedures and measures in place and review, assess and background check all processors prior to forming a business relationship. BIM obtain company documents, certifications, references and ensure that the processor is adequate, appropriate and effective for the task that they are employed for.

BIM processes and activities are audited prior to contract and during the contract period to ensure compliance with the data protection regulations and review any codes of conduct that they are obligated under to confirm compliance.

The continued protection of data subjects' rights and the security of their personal information is always our top priority when choosing a processor and BIM understands the importance of adequate and reliable outsourcing for processing activities as well as the continued obligations under the data protection laws for data processed and handled by a third-party.

BIM has Service Level Agreements (SLAs) and contracts with each processor as per the services provided and have a dedicated Processor Agreement template that details:

- The processors data protection obligations.
- BIM's expectations, rights and obligations.
- The processing duration, aims and objectives.
- The data subjects' rights and safeguarding measures.
- The nature and purpose of the processing.

- The type of personal data and categories of data subjects.

Each of the areas specified in the contract are monitored, audited and reported on. Processors are notified that they shall not engage another processor without our prior specific authorisation and any intended changes concerning the addition or replacement of existing processors must be done in writing, in advance of any such changes being implemented.

The Processor Agreement and any associated contract reflects the fact that the processor:

- Processes the personal data only on BIM's documented instructions.
- Seeks BIM's authorisation to transfer personal data to a third country or an international organisation (unless required to do so by a law to which the processor is subject).
- Shall inform BIM of any such legal requirement to transfer data before processing.
- Ensures that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.
- Takes all measures to security the personal data at all times.
- Respects, supports and complies with BIM's obligations to respond to requests for exercising the data subject's rights.
- Assists BIM in ensuring compliance with obligations for data security, mitigating risks, breach notification, and privacy impact assessments.
- When requested, deletes or returns all personal data to BIM after the end of the provision of services relating to processing, and deletes existing copies where possible.
- Makes available to BIM all information necessary to demonstrate compliance with the obligations set out in the agreement and contract.
- Allows and supports audits, monitoring, inspections and reporting as set out in the contract.
- Informs BIM immediately of any breaches, non-compliance or inability to carry out their duties as detailed in the contract.

#### 5.4 Data Retention & Disposal

BIM have defined procedures for adhering to the retention periods as set out by the relevant laws, contracts, and business requirements, as well as adhering to the GDPR requirement to only hold and process personal information for as long as is necessary. All personal data is disposed of in a way that protects the rights and privacy of data subjects (e.g., shredding, disposal as confidential waste, secure electronic deletion) and prioritises the protection of the personal data in all instances.

Please refer to the Data Retention & Erasure Policy for full details on retention, storage, periods, and destruction processes.

#### 5.4.1 Data Retention Periods

The GDPR does not specify retention periods for personal data, only that it should be retained no longer than is necessary for the purposes for which it was processed. Retention periods in BIM are determined based on statutory retention periods, limitation periods for claims, individual business needs and general data quality principles.

The table below outlines the periods of time for which BIM will retain various types of data. In circumstances such as an on-going or pending legal case(s), the timeframe can be extended.

Category	Data Type	Retention Period
Personnel and Payroll Records	Benefits descriptions per employee	[Permanent/4 years]
	Employee applications and resumes.	1 year and 1 day or where successful, for the duration of the employment plus 7 years from the date of termination of employment.
	Employee benefit plans.	7 years from when the record was required to be disclosed.
	Employee offer letters (and other documentation regarding hiring, promotion, demotion, transfer, termination or selection for training).	7 years from date of making record or action involved, whichever is later, or 1 year from date of involuntary termination.

	Records relating to background checks on Employees.	7 years from when the background check is conducted.
	Employment contracts; employment and termination agreements.	7 years from the date of expiry of the contract or agreement.
	Employee records with information on pay rate or weekly compensation.	3 years
	Tax forms	6 years after date of hire.
	Injury and Illness Incident Reports and related Annual Summaries; Logs of work-related injuries and illnesses.	6 years following the end of the calendar year that these records cover.
	Job descriptions, performance goals and reviews; garnishment records.	For the duration of the employment plus 7 years from the date of termination of employment.
	Employee tax records	6 years from the date tax is due or paid.
	Personnel or employment records	7 years from the date the record was made.
	Time reports	7 years

	Written allegations/ complaints:	
	Records received/created as a result of investigating significant cases which set precedents or result in changes to policy.	Retain indefinitely
	Superannuation / Pension/ Retirement records.	Permanent
	Log and Summary of Occupational Injuries and Illnesses.	For the duration of the employment plus 7 years from the date of termination of employment.
	Payroll registers (gross and net).	[Permanent/3 years from the last date of entry].
	Time cards; piece work tickets; wage rate tables; pay rates; work and time schedules; earnings records; records of additions to or deductions from wages; records on which wage computations are based.	7 years
Corporate Records	Articles of Incorporation, Bylaws, Corporate Seal.	Permanent
	Annual corporate filings and reports to secretary of state and attorney general.	Permanent
	Board policies, resolutions, meeting minutes and committee meeting minutes.	Permanent
	Contracts.	Permanent if current (7 years if expired).
	Construction documents.	Permanent
	E-mails (business related).	Permanent

	Fixed Asset Records.	Permanent
	All tax records.	Permanent
	Sales and purchase records.	3 years
	Resolutions.	Permanent
Accounting and Finance	Accounts Payable and Receivables ledgers and schedules.	7 years
	Annual audit reports and financial statements.	Permanent
	Annual plans and budgets.	2 years
	Bank statements, cancelled checks, deposit slips.	7 years
	Business expense records.	7 years
	Cash receipts.	3 years
	Details of cheques/stubs.	7 years
	Electronic fund transfer documents.	7 years
	Employee expense reports.	7 years
	General ledgers.	Permanent
	Journal entries.	7 years
	Invoices.	7 years
	Petty cash vouchers.	3 years
	All tax records.	[Permanent/7 years]

Legal and Insurance Records	Appraisals	6 years from termination.
	Insurance claims/ applications.	Permanent
	Insurance disbursements and denials	Permanent
	Insurance contracts and policies (Director and Officers, General Liability, Property, Workers' Compensation).	Permanent
	Leases.	6 years after expiration.
	Patents, patent applications, supporting documents.	Permanent
	Real estate documents (including loan and mortgage contract, deeds).	Permanent
	Stock and bond records.	Permanent
	Trademark registrations, evidence of use documents.	Permanent
Warranties.	Duration of warranty + 7 years.	
Planning and Premises	Records of Compliance and grants of planning permission.	7 years
	Building floorplans and emergency exist routes.	7 years

## 6 Data Protection Impact Assessments (DPIA)

Individuals have an expectation that their privacy and confidentiality will be upheld and respected whilst their data is being stored and processed by BIM. Therefore, BIM utilise several measures and tools to reduce risks and breaches for general processing. However, where processing is likely to be high risk or cause significant impact to a data subject, BIM utilise proportionate methods to map out and assess the impact ahead of time.

Where BIM must or are considering carrying out processing that utilises new technologies, and/or where there is a likelihood that such processing could result in a high risk to the rights and freedoms of data subjects, a Data Protection Impact Assessment (DPIA) will always be carried out (sometimes referred to as a Privacy Impact Assessment).

Pursuant to Article 35(3) and Recitals 84, 89-96, we consider processing that is likely to result in a high risk to include:

- Systematic and extensive evaluation of personal aspects relating to natural persons which is based on automated processing, including profiling, and on which decisions are based that produce legal effects concerning the natural person or similarly significantly affect the natural person(s).
- Processing on a large scale of special categories of data.
- Processing on a large scale of personal data relating to criminal convictions and offences.
- Systematic monitoring of a publicly accessible area on a large scale (i.e., CCTV).
- Where a processing operation is likely to result in a high risk to the rights and freedoms of an individual.
- Those involving the use of new technologies.
- New processing activities not previously used.
- Processing considerable amounts of personal data at regional, national or supranational level, which could affect many data subjects.
- Processing activities making it difficult for the data subject(s) to exercise their rights.

BIM does not currently carry out any processing activities that are defined as requiring a DPIA, however all activities will be monitored continuously against the GDPR Article 35 requirements and have robust DPIA procedures already developed should they be necessary.

## 7 Data Subject Rights Procedures

### 7.1 Consent & The Right to Be Informed

The collection of personal and sometimes special category data is a fundamental part of the products/services offered by BIM and therefore specific measures and controls are in place to ensure compliance with the conditions for consent under the data protection laws.



The data protection law defines consent as; 'Any freely given, specific, informed and unambiguous indication of the data subject's wishes by which he or she, by a statement or by a clear affirmative action, signifies agreement to the processing of personal data relating to him or her'.

Where processing is based on consent, BIM have reviewed and revised all consent mechanisms to ensure that:

- Consent requests are transparent, using plain language and is void of any illegible terms, jargon or extensive legal terms.
- It is freely given, specific and informed, as well as being an unambiguous indication of the individual's wishes.
- Consent is always given by a statement or a clear affirmative action (positive opt-in) which signifies agreement to the processing of personal data.
- Consent mechanisms are upfront, clear, granular (in fine detail) and easy to use and understand.
- Pre-ticked, opt-in boxes are never used.
- Where consent is given as part of other matters (i.e., terms & conditions, agreements, contracts), BIM ensure that the consent is separate from the other matters and is not be a precondition of any service (unless necessary for that service).
- Along with our company name, BIM also provides details of any other third party who will use or rely on the consent.
- Consent is always verifiable, and BIM has controls in place to ensure that consent can be demonstrated in every case.
- BIM keep detailed records of consent and can evidence at a minimum:
  - That the individual has consented to the use and processing of their personal data.
  - That the individual has been advised of BIM's name and any third party using the data.
  - What the individual was told at the time of consent.
  - How and when consent was obtained.
- BIM have ensured that withdrawing consent is as easy, clear and straightforward as giving it and is available through multiple options, including:
  - Opt-out links in mailings or electronic communications.
  - Opt-out process explanation and steps on website and in all written communications.
  - Ability to opt-out verbally, in writing or by email.

- Consent withdrawal requests are processed immediately and without detriment.
- Where services are offered to children, age-verification and parental-consent measures have been developed and are in place to obtain consent.
- Controls and processes have been developed and implemented to refresh consent, especially those relating to parental consents.
- For special category data, the consent obtained is explicit (stated clearly and in detail, leaving no room for confusion or doubt) with the processing purpose(s) always being specified.

### *7.1.1 Consent Controls*

BIM maintain rigid records of data subject consent for processing personal data and are always able to demonstrate that the data subject has consented to processing of their personal data where applicable. BIM also ensures that the withdrawal of consent is as clear, simple and transparent and is documented in all instances.

Where the data subject's consent is given in the context of a written declaration which also concerns other matters, the request for consent is presented in a manner which is clearly distinguishable from those matters, in an intelligible, and easily accessible form, using clear and plain language. All such written declarations are reviewed and authorised by the Data Protection Officer prior to being circulated.

Consent to obtain and process personal data is obtained by BIM through:

- Face-to-Face
- Telephone
- In Writing
- Email/SMS
- Electronic (i.e., via website form)

Any electronic methods of gaining consent are regularly reviewed and tested to ensure that a compliant Privacy Notice is accessible and displayed and that consent is clear, granular, and utilises a demonstrable opt-in mechanism. Where consent is obtained verbally, BIM utilise scripts, checklists to ensure that all requirements have been met and that consent is obtained compliantly and can be evidenced.

Electronic consent is always by a non-ticked, opt-in action (or double opt-in where applicable), enabling the individual to provide consent after the below information has been provided. This is then followed up with an email, SMS or written confirmation of the consent to process, store and share the personal information.

Privacy Notices are used in all forms of consent and personal data collection, to ensure that BIM is compliant in disclosing the information required in the data protection laws in an easy to read and accessible format.

### *7.1.2 Alternatives to Consent*

BIM recognises that there are six lawful bases for processing and that consent is not always the most appropriate option. BIM has reviewed all processing activities and only use consent as an option where the individual has a choice.

When reviewing the processing activity for compliance with the consent requirements, BIM ensures that none of the below are a factor:

- Where consent is asked for, but the data would still be processed even if consent was not given (or withdrawn). If the data would still be processed under an alternative lawful basis regardless of consent, BIM recognise it is not the correct lawful basis to use.
- Where consent is asked for to process personal data as a precondition of a service offered, it is not given as an option and consent is not appropriate.
- Where there is an imbalance in the relationship, i.e., with employees.

## 7.2 Privacy Notice or Fair Processing Statement

BIM defines a Privacy Notice or a Fair Processing Statement as a document, form, webpage, or pop-up that is provided to individuals at the time their personal data is collected (or at the earliest possibility where that data is obtained indirectly).

BIM's Privacy Notice includes the Article 13 (where collected directly from individual) or 14 (where not collected directly) requirements and provides individuals with all the necessary and legal information about how, why and when their data is processed, along with their rights and obligations.

BIM have a link to our Privacy Notice on our website and provide a copy of physical and digital formats upon request. The notice is the customer facing policy that provides the legal information on how BIM handles, processes, and discloses personal information.

The notice is easily accessible, legible, jargon-free and is available in several formats, dependant on the method of data collection:

- Via the BIM website.
- Linked to or written in full in the footer of emails.

- Worded in full in agreements, contracts, forms and other materials where data is collected in writing or face-to-face.
- In employee contracts and recruitment materials.
- Verbally via telephone or face-to-face.
- Via SMS.
- Printed media, adverts and financial promotions.
- Digital Products/Services.
- On Mobile Apps.
- Automated phone service.

With lengthy content being provided in the privacy notice and with informed consent being based on its contents, BIM has tested, assessed, and reviewed the organisation's privacy notice to ensure usability, effectiveness and understanding. BIM follows the below preferred steps for testing, reviewing, and auditing our privacy notice(s) and opt-in consent formats prior to use and to record such assessments.

- 1) Privacy Notices are drafted by the Data Protection Officer, with legal assistance as required, using the data protection laws requirements and with Supervisory Authority guidance and reviewed internally.
- 2) All feedback responses are saved with a copy of the used Privacy Notice and improvements are made and recorded where applicable.
- 3) The final Privacy Notice(s) are then authorised by Senior Management/Director(s) before being rolled out.

Where BIM relies on consent to obtain and process personal information, it is ensured that:

- Displayed clearly and prominently.
- Asks individuals to positively opt-in.
- Gives them sufficient information to make an informed choice.
- Explains the different ways we will use their information.
- Provides a clear and simple way for them to indicate they agree to different types of processing.
- Includes a separate unticked opt-in box for direct marketing.

### 7.3 Personal Data Not Obtained from The Data Subject

Where BIM obtains and/or processes personal data that has not been obtained directly from the data subject, BIM ensures that the information disclosures contain in Article 14 are provided to the data subject within 30 days of our obtaining the personal data (except for advising if the personal data is a statutory or contractual requirement).

In addition to the information disclosures in section 8.1.4, where personal data has not been obtained directly from a data subject, BIM also provides them with information about: -

- The categories of personal data.
- The source the personal data originated from and whether it came from publicly accessible sources.

Where the personal data is to be used for communication with the data subject, or a disclosure to another recipient is envisaged, the information will be provided at the latest, at the time of the first communication or disclosure.

Where BIM intends to further process any personal data for a purpose other than that for which it was originally obtained, this intention is communicated to the data subject prior to doing so and where applicable, process only with their consent.

Whilst BIM follow best practice in the provision of the information noted in the relevant section of this policy, the right not to provide the data subject with the information is reserved if:

- They already have it and their prior receipt of the information can be evidenced.
- The provision of such information proves impossible and/or would involve a disproportionate effort.
- Obtaining or disclosure is expressly laid down by Union or Member State law to which BIM is subject and which provides appropriate measures to protect the data subject's legitimate interest.
- Where the personal data must remain confidential subject to an obligation of professional secrecy regulated by Union or Member State law, including a statutory obligation of secrecy.

### *7.3.1 Provision of Information*

Where personal data is obtained directly from the individual (i.e. through consent, by employees, written materials and/or electronic formats (i.e. website forms, subscriptions, email etc), BIM provides the below information in all instances, in the form of a privacy notice or fair processing statement:

- The identity and the contact details of the controller and, where applicable, of the controller's representative.
- The contact details of our data protection officer.
- The purpose(s) of the processing for which the personal information is intended.

- The legal basis for the processing.
- Where the processing is based on point (f) of Article 6(1) "processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party", details of the legitimate interests.
- The recipients or categories of recipients of the personal data (if applicable).
- If applicable, the fact that BIM intends to transfer the personal data to a third country or international organisation and the existence/absence of an adequacy decision by the Commission.
  - Where BIM intends to transfer the personal data to a third country or international organisation without an adequate decision by the Commission, reference to the appropriate or suitable safeguards BIM has put into place and the means by which to obtain a copy of them or where they have been made available.
- The period for which the personal data will be stored, or if that is not possible, the criteria used to determine that period.
- The existence of the right to request access to and rectification or erasure of, personal data or restriction of processing concerning the data subject or to object to processing as well as the right to data portability.
- Where the processing is based on consent under points (a) of Article 6(1) or Article 9(2), the existence of the right to withdraw consent at any time, without affecting the lawfulness of processing based on consent before its withdrawal.
- The right to lodge a complaint with the Supervisory Authority.
- Whether providing personal data is a statutory or contractual requirement, or a requirement necessary to enter into a contract, as well as whether the data subject is obliged to provide the personal data and of the possible consequences of failure to provide such data.
- The existence of any automated decision-making, including profiling, as referred to in Article 22(1) and (4) and explanatory information about the logic involved, as well as the significance and the envisaged consequences of such processing for the data subject.

The above information is provided to the data subject at the time the information is collected and records pertaining to the consent obtained are maintained and stored for 6 years from the date of consent, unless there is a legal requirement to keep the information longer.

### *7.3.2 Employee Personal Data*

As per the data protection law guidelines, BIM do not use consent as a legal basis for obtaining or processing employee personal information. BIM's HR policies have been updated to ensure that employees are provided with the appropriate information disclosure and are aware of how their data is processed and why.

All employees are provided with the BIM Staff Handbook which informs them of their rights under the data protection laws and how to exercise these rights and are provided with a Privacy Notice specific to the personal information BIM's collects and processes about them.

## 7.4 The Right of Access

BIM has ensured that appropriate measures have been taken to provide information referred to in Articles 13/14 and any communication under Articles 15 to 22 and 34 (collectively, The Rights of Data Subjects), in a concise, transparent, intelligible and easily accessible form, using clear and plain language.

Such information is provided free of charge and is in writing, or by other means where authorised by the data subject and with prior verification as to the subject's identity (i.e., verbally, electronic).

Information is provided to the data subject at the earliest convenience, but at a maximum of 30 days from the date the request is received. Where the retrieval or provision of information is particularly complex or is subject to a valid delay, the period may be extended by two further months where necessary. However, this is only done in exceptional circumstances and the data subject is kept informed in writing throughout the retrieval process of any delays or reasons for delay.

Where we do not comply with a request for data provision, the data subject is informed within 30 days of the reason(s) for the refusal and of their right to lodge a complaint with the Supervisory Authority.

### *7.4.1 Subject Access Request*

Where a data subject asks BIM to confirm whether personal data is held and processed concerning them and requests access to such data; they are provided with:

- The purposes of the processing.
- The categories of personal data concerned.
- The recipients or categories of recipient to whom the personal data have been or will be disclosed.
- If the data has or will be disclosed to a third countries or international organisations and the appropriate safeguards pursuant to the transfer.
- Where possible, the envisaged period for which the personal data will be stored, or, if not possible, the criteria used to determine that period.
- The existence of the right to request rectification or erasure of personal data or restriction of processing of personal data concerning the data subject or to object to such processing.

- The right to lodge a complaint with a Supervisory Authority.
- Where personal data has not been collected by BIM from the data subject, any available information as to the source and provider.
- The existence of automated decision-making, including profiling and meaningful information about the logic involved, as well as the significance and the envisaged consequences of such processing for the data subject.

Subject Access Requests (SAR) are passed to the Data Protection Officer as soon as received and a record of the request is noted. The type of personal data held about the individual is checked against BIM's Information Audit to see what format it is held in, who else has it been shared with and any specific timeframes for access.

SARs are always completed within 30-days and are provided free of charge. Where the individual makes the request by electronic means, we provide the information in a commonly used electronic format, unless an alternative format is requested.

Please refer to the external Subject Access Request Procedures for the guidelines on how an SAR can be made and what steps are taken to ensure that access is provided under the data protection laws.

## 7.5 Data Portability

BIM provides all personal information pertaining to the data subject to them on request and in a format, that is easy to disclose and read. BIM ensures that the data portability rights of individuals are complied with by ensuring that all personal data is readily available and is in a structured, commonly used and machine-readable format, enabling data subjects to obtain and reuse their personal data for their own purposes across different services.

To ensure compliance with Article 20 of the data protection laws concerning data portability, BIM keeps a commonly used and machine-readable format of personal information where the processing is based on:

- Consent pursuant to point (a) of Article 6(1)
- Consent pursuant to point (a) of Article 9(2)
- A contract pursuant to point (b) of Article 6(1); and
- the processing is carried out by automated means.

Where requested by a data subject and if the criteria meet the above conditions, BIM will transmit the personal data directly from BIM to a designated controller, where technically feasible.



All requests for information to be provided to the data subject or a designated controller are done so free of charge and within 30 days of the request being received. If for any reason, we do not act in responding to a request, we provide a full, written explanation within 30 days to the data subject or the reasons for refusal and of their right to complain to the supervisory authority and to a judicial remedy.

All transmission requests under the portability right are assessed to ensure that no other data subject is concerned. Where the personal data relates to more individuals than the subject requesting the data/transmission to another controller, this is always without prejudice to the rights and freedoms of the other data subjects.

## 7.6 Rectification & Erasure

### *7.6.1 Correcting Inaccurate or Incomplete Data*

Pursuant to Article 5(d), all data held and processed by BIM is reviewed and verified as being accurate wherever possible and is kept up to date. Where inconsistencies are identified and/or where the data subject or controller informs BIM that the data held is inaccurate, every reasonable step is taken to ensure that such inaccuracies are corrected with immediate effect.

The Data Protection Officer is notified of the data subjects request to update personal data and is responsible for validating the information and rectifying errors where they have been notified. The information is altered as directed by the data subject, with the information audit being checked to ensure that all data relating to the subject is updated where incomplete or inaccurate. Once updated, an addendum or supplementary statement is added where applicable.

Where notified of inaccurate data by the data subject, the error will be rectified within 30 days and BIM will inform any third party of the rectification if BIM has disclosed the personal data in question to them. The data subject is informed in writing of the correction and where applicable, is provided with the details of any third-party to whom the data has been disclosed.

If for any reason, BIM is unable to act in response to a request for rectification and/or completion, a written explanation is always provided to the individual and they are informed of their right to complain to the Supervisory Authority and to a judicial remedy.

### *7.6.2 The Right to Erasure*

Also, known as 'The Right to be Forgotten', BIM complies fully with Article 5(e) and ensures that personal data which identifies a data subject, is not kept longer than is necessary for the purposes for which the personal data is processed or where the data subject requests their data to be erased.

All personal data obtained and processed by BIM is categorised when assessed by the information audit and is either given an erasure date or is monitored so that it can be destroyed when no longer necessary.

Please refer to the Data Retention & Erasure Policy and the Data Subject Rights Policy for procedures on erasing data and complying with the Article 17 requirements.

## 7.7 The Right to Restrict Processing

There are certain circumstances where BIM restricts the processing of personal information, to validate, verify or comply with a legal requirement of a data subjects request. Restricted data is removed from the normal flow of information and is recorded as being restricted on the information audit.

Any account and/or system related to the data subject of restricted data is updated to notify users of the restriction category and reason. When data is restricted, it is only stored and not processed in any way.

BIM will apply restrictions to data processing in the following circumstances:

- Where an individual contest the accuracy of the personal data and BIM is in the process of verifying the accuracy of the personal data and/or making corrections.
- Where an individual has objected to the processing (where it was necessary for the performance of a public interest task or purpose of legitimate interests), and BIM is considering whether there are legitimate grounds to override those of the individual.
- When processing is deemed to have been unlawful, but the data subject requests restriction as opposed to erasure.
- Where we no longer need the personal data, but the data subject requires the data to establish, exercise or defend a legal claim.

The Data Protection Officer reviews and authorises all restriction requests and actions and retains copies of notifications from and to data subjects and relevant third parties. Where data is restricted, and BIM has disclosed such data to a third-party, the third-party will be informed of the restriction in place and the reason and re-inform them if any such restriction is lifted.

Data subjects who have requested restriction of data are informed within 30 days of the restriction application and are also advised of any third-party to whom the data has been disclosed. BIM also provides in writing to the data subject, any decision to lift a restriction on processing. If for any reason, BIM is unable to act in response to a request for restriction, a written explanation to the individual is always provided and this informs them of their right to complain to the Supervisory Authority and to a judicial remedy.

## 7.8 Objections and Automated Decision Making

Data subjects are informed of their right to object to processing in BIM's Privacy Notices and at the point of first communication, in a clear and legible form and separate from other information. BIM provide opt-out options on all direct marketing material and provide an online objection form where processing is carried out online. Individuals have the right to object to:

- Processing of their personal information based on legitimate interests or the performance of a task in the public interest/exercise of official authority (including profiling).
- Direct marketing (including profiling).
- Processing for purposes of scientific/historical research and statistics.

Where BIM processes personal data for the performance of a legal task, in relation to our legitimate interests or for research purposes, a data subjects' objection will only be considered where it is on 'grounds relating to their particular situation'. BIM reserves the right to continue processing such personal data where:

- It can be demonstrated that there are compelling legitimate grounds for the processing, which overrides the interests, rights, and freedoms of the individual.
- The processing is for the establishment, exercise, or defense of legal claims.

Where BIM is processing personal information for direct marketing purposes under a previously obtained consent, BIM will stop processing such personal data immediately where an objection is received from the data subject. This measure is absolute, free of charge and is always adhered to.

Where a data subject objects to data processing on valid grounds, BIM will cease the processing for that purpose and advise the data subject of cessation in writing within 30 days of the objection being received.

BIM have carried out a system audit to identify automated decision-making processes that do not involve human intervention. BIM also assesses new systems and technologies for this same component prior to implementation. BIM understands that decisions absent of human interactions can be biased towards individuals and pursuant to Articles 9 and 22 of the data protection laws, BIM aims to put measures into place to safeguard individuals where appropriate. Via Privacy Notices, in the first communications with an individual and on the BIM website, individuals are advised of their rights not to be subject to a decision when:

- It is based on automated processing.
- It produces a legal effect or a similarly significant effect on the individual.

In limited circumstances, BIM will use automated decision-making processes within the guidelines of the regulations. Such instances include:

- Where it is necessary for entering into or performance of a contract between us and the individual.
- Where it is authorised by law (e.g. fraud or tax evasion prevention).
- When based on explicit consent to do so.

- Where the decision does not have a legal or similarly significant effect on someone.

Where BIM uses, automated decision-making processes, the individual is always informed, and they are advised of their rights. BIM also ensures that individuals can obtain human intervention, express their point of view, and obtain an explanation of the decision and challenge it.

## 8 Oversight Procedures

### 8.1 Security & Breach Management

Alongside BIM's 'Privacy by Design' approach to protecting data, BIM ensures the maximum security of data that is processed, including as a priority, when it is shared, disclosed and transferred. BIM's Information Security Policies provide the detailed measures and controls that are taken to protect personal information and to ensure its security from consent to disposal.

BIM carry out information audits to ensures that all personal data held and processed is accounted for and recorded, alongside risk assessments as to the scope and impact a data breach could have on data subject(s). BIM have implemented adequate and appropriate technical and organisational measures to ensure a level of security appropriate to the risk.

Whilst every effort and measure are taken to reduce the risk of data breaches, BIM has dedicated controls and procedures in place for such situations, along with the notifications to be made to the Supervisory Authority and data subjects (where applicable).

Please refer to the Data Breach Policy & Procedures for specific protocols.

## 9 Transfers & Data Sharing

BIM takes proportionate and effective measures to protect personal data held and processed at all times, however BIM recognises the high-risk nature of disclosing and transferring personal data and as such, place an even higher priority on the protection and security of data being transferred. Data transfers within Ireland and EU are deemed less of a risk than a third country or an international organisation, due to the data protection laws covering the former and the strict regulations applicable to all EU Member States.

Where data is being transferred for a legal and necessary purpose, compliant with all Articles in the Regulation, BIM utilises a process that ensures such data is password protected and where possible is also subject to our data minimisation methods.

All data being transferred is noted on BIM's information audit so that tracking is easily available, and authorisation is accessible. The Data Protection Officer authorises transfers and verifies the encryption and security methods and measures.

Please refer to the BIM Information Transfer Policy for further details.

## 10 Audits & Monitoring

This policy and procedure document details the extensive controls, measures and methods used by BIM to protect personal data, uphold the rights of data subjects, mitigate risks, minimise breaches and comply with the data protection laws and associated laws and codes of conduct. In addition to these, BIM also carry out regular audits and compliance monitoring processes that are detailed in our [Compliance Monitoring & Audit Policy & Procedure](#), with a view to ensuring that the measures and controls in place to protect data subjects and their information, are adequate, effective and compliant at all times.

The Data Protection Officer has overall responsibility for assessing, testing, reviewing and improving the processes, measures and controls in place and reporting improvement action plans to the Senior Management Team where applicable. Data minimisation methods are frequently reviewed, and new technologies assessed to ensure that BIM is protecting data and individuals to the best of its ability.

All reviews, audits and ongoing monitoring processes are recorded by the Data Protection Officer and copies provided to Senior Management and are made readily available to the Supervisory Authority where requested.

The aim of internal data protection audits is to:

- Ensure that the appropriate policies and procedures are in place.
- To verify that those policies and procedures are being followed.
- To test the adequacy and effectiveness of the measures and controls in place.
- To detect breaches or potential breaches of compliance.
- To identify risks and assess the mitigating actions in place to minimise such risks.

- To recommend solutions and actions plans to Senior Management for improvements in protecting data subjects and safeguarding their personal data.
- To monitor compliance with the data protection laws and demonstrate best practice.

## 11 Training

Through our strong commitment and robust controls, BIM ensures that all staff understand, have access to and can easily interpret the data protection laws requirements and its principles and that they have ongoing training, support and assessments to ensure and demonstrate their knowledge, competence and adequacy for the role. The Training & Development Policy & Procedures and Induction Policy detail how new and existing employees are trained, assessed and supported and include:

- GDPR Workshops & Training Sessions.
- Assessment Tests.
- Coaching & Mentoring.
- 1:1 Support Sessions.
- Scripts and Reminder Aids.
- Access to GDPR policies, procedures, checklists and supporting documents.

Employees are continually supported and trained in the data protection laws requirements and must note their own objectives and obligations around data protection.

## 12 Penalties

BIM understands its obligations and responsibilities under the data protection laws and recognises the severity of breaching any part of the law or Regulation. BIM respects the Supervisory Authority's authorisation under the legislation to impose and enforce fines and penalties on us where we fail to comply with the regulations, fail to mitigate the risks where possible and operate in a knowingly non-compliant manner.

Employees have been made aware of the severity of such penalties and their proportionate nature in accordance with the breach. BIM recognise that:

- Breaches of the obligations of the controller, the processor, the certification body and the monitoring body, are subject to administrative fines up to €10,000,000 or 2 % of the total worldwide annual turnover of the preceding financial year, whichever is higher.
- Breaches of the basic principles for processing, conditions for consent, the data subjects' rights, the transfers of personal data to a recipient in a third country or an international organisation, specific

processing situations (Chapter IX) or non-compliance with an order by the Supervisory Authority, are subject to administrative fines up to €20,000,000 or 4 % of the total worldwide annual turnover of the preceding financial year, whichever is higher.

## 13 Responsibilities

BIM has appointed a Data Protection Officer (DPO) whose role it is to identify and mitigate any risks to the protection of personal data, to act in an advisory capacity to the business, its employees and upper management and to actively stay informed and up-to-date with all legislation and changes relating to data protection.

The DPO will work in conjunction with the Compliance Officer, IT Manager, and Training Officer to ensure that all processes, systems and staff are operating compliantly and within the requirements of the data protection laws and its principles.

The DPO has overall responsibility for due diligence, privacy impact assessments, risk analysis and data transfers where personal data is involved and will also maintain adequate and effective records and management reports in accordance with the data protection laws and BIM's own internal objectives and obligations.

Staff who manage and process personal or special category information will be provided with extensive data protection training and will be subject to continuous development support and mentoring to ensure that they are competent and knowledgeable for the role they undertake.

### Non-Compliance

Failure by any individual to adhere to these policies may be subject to disciplinary action, up to and including termination of employment.

### Business Unit Director/Directors

Business Unit Directors are responsible for:

- The implementation of this policy and all other relevant policies within the business areas for which they are responsible.
- Ensuring that all employees who report to them are made aware of and are instructed to comply with this policy and all other related policies.

- Consulting with the Legal team in relation to the appropriate procedures to follow when a breach of this policy has occurred.

## **Employees**

Each employee, whether a permanent member of staff or a contractor/associate member, is responsible for:

- Complying with the terms of this policy and all other relevant policies, procedures, regulations and applicable legislation.
- Respecting and protecting the privacy and confidentiality of the information they process at all times.
- Reporting all misuse and breaches of this policy to their Business Unit Director.