



## General Data Protection Regulation Privacy Policy

### 1 Introduction

#### 1.1 St Benedicts Estate

The St Benedicts Estate, comprising 189 properties, was built in the mid 1980s in grounds for which St Benedicts (Tooting) Management Company Ltd ('the Management Company') owns the freehold. This company is mutually owned by the Estate property owners, is non-profit-making and is effectively also the residents association for matters within its remit. The grounds include Estate-managed areas for which both flat and house owners pay for the upkeep together with leasehold blocks of flats and areas around them for which only flat owners pay for the upkeep, while house freehold owners are responsible for upkeep of their houses and gardens.

#### 1.2 Management Company purpose

The *Memorandum of Association* for the Management Company sets out its purposes and should be viewed for the definitive list. These purposes can be summarised as:

- (a) To own the freehold of the Estate land and the blocks of flats and to grant leases.
- (b) To manage, administer the associated land, buildings and property; to maintain, plant and repair the garden / lawn areas, boundaries, buildings, structures, car parks, private roads and pathways, sewers and drains; to engage contractors and agents for the Company's purposes; to insure the land, buildings and property owned; and to make regulations for the flats and communal areas.
- (c) To carry out all the business of the land, buildings and property owned.
- (d) To develop the land if it wishes, entering into contracts and using contractors as required.
- (e) To carry on any trade or business in connection with its purposes.
- (f) To purchase, lease or hire any land or rights in connection with its business.
- (g) To construct, alter and maintain roads and buildings owned.
- (h) To borrow, raise or secure payment of money in connection with its business.
- (i) To mortgage and charge the assets owned.
- (j) To issue and deposit securities.
- (k) To receive money on deposit or loan.
- (l) To establish and maintain or procure pensions for any employees.
- (m) To deal with negotiable instruments.
- (n) To invest money.
- (o) To pay for property or rights acquired by cash or securities.
- (p) To accept payment for any properties or rights sold in a variety of ways.
- (q) To sell, improve, manage, turn to account, exchange, let or otherwise grant rights over property and assets owned.
- (r) To subscribe to or participate in charitable, benevolent, public or general causes which may directly or indirectly further its or its members objectives.
- (s) To distribute to members any property or proceeds of its sale as permitted by law.
- (t) To carry out these purposes in any location, alone or with others, and using agents, trustees, subcontractors or others.
- (u) To do anything else incidental or conducive to attaining these purposes.

The *Memorandum of Association* restricts the use of income and property to these purposes and prevents the Management Company from paying dividends, bonuses or profits to members.



## General Data Protection Regulation Privacy Policy

### 1.3 Purposes for holding and processing data

The Management Company holds, controls and processes data necessary and proportionate for carrying out the purposes of the Management Company where there is a lawful basis for doing so under the UK enactment of the *General Data Protection Regulation*, which first came into effect on 25 May 2018. It is a data controller and processor under the *General Data Protection Regulation*.

### 1.4 Contracts, legal obligations and legitimate interests

There is a contract between the Management Company and the property owner for each of the properties on the Estate. For flats this is a leasehold agreement which is the head lease for the property, for houses this is a freehold agreement and for the block of eight flats owned by a housing association it is a freehold agreement under with the housing association then grants leases. The leases give rise to legal obligations under the various Landlord and Tenant Acts.

These contracts are in a standard form created by the company that built the Estate and establish further rights and obligations on the parties, including that the sale of any property shall require the purchaser to enter into a contract on similar terms. The contracts also provide that the property owner from time to time will be a shareholder of the Management Company. This creates rights and legal obligations under the various Companies Acts.

The rights and obligations in the freehold and especially leasehold contracts include various terms for the protection, safety and benefit of other owners and residents on the Estate. The contracts place an obligation on the Management Company to uphold these terms when requested by a property owner on receipt of a suitable indemnity. This gives rise to legitimate interests of other property owners and the Management Company to be able to uphold the contract terms for each property on the Estate.

Samples of the contracts and summaries of key terms can be found on the Estate website.

## 2 Lawful basis

Because of the position created by the *Memorandum of Association* for the Management Company and the freehold and leasehold agreements for each property on the Estate to which it is party and which give rise to rights by other property owners, multiple reasons provide the lawful basis for holding, controlling and processing data concerning the Estate and the properties on the Estate:

- In some cases, consent may have been given, generally in addition to one or more other reasons.
- There are contractual rights and obligations for which the data is necessary.
- There are legal obligations for which the data is necessary.
- The Management Company, property owners and residents on the Estate have legitimate interests for which the data is necessary.

It is not believed that the reasons of vital interests and public tasks apply to the data.

Data subject rights provided under the *General Data Protection Regulation* are summarised in table 2-1.

<b>Reason</b>	<b>Erasure right</b>	<b>Portability right</b>	<b>Objection right</b>
(a) Consent	Yes	Yes	Can be withdrawn
(b) Contract	Yes	Yes	No
(c) Legal obligation	No	No	No



## General Data Protection Regulation Privacy Policy

<b>Reason</b>	<b>Erasure right</b>	<b>Portability right</b>	<b>Objection right</b>
(d) Vital interests	Yes	No	No
(e) Public task	No	No	Yes
(f) Legitimate interests	Yes	No	Yes

Table 2-1 Data subject rights

Because of the combination of reasons providing the lawful basis for holding, controlling and processing data concerning the Estate and the properties on the Estate, the data subjects may not have rights of erasure, portability nor objection since at least one of the reasons in each case carries no such right.

### 3 Sources and recipients of data

#### 3.1 Contractors

The Management Company employs contractors to carry out its purposes, including but not limited to a managing agent, solicitors, gardeners, cleaners, maintenance, electrical, builders, drainage, parking control, pest control and locksmiths.

Data is shared with these contractors only as necessary to fulfil their obligations. In the case of all except the managing agent and solicitors this is likely to be only what is necessary to contact an owner or resident to carry out work.

The Management Company appoints a managing agent to carry out day-to-day management of the estate, to run the Estate finances and hold the Estate's money, to provide the point of contact, to manage contractors, to obtain insurance quotations, to provide company secretarial services, to comply with legal and regulatory requirements (such as filings), to hold company records, to manage periodic maintenance and re-decoration, to carry out the necessary processing and registration of property sales and transfers including the associated shareholding and for other purposes as necessary from time to time.

The managing agent holds full records related to the Estate and is subject to its own *General Data Protection Regulation* registration, policies and procedures. It collects additional data, for example, to process payment of charges, so is expected to be both a data controller and a data processor. The Management Company will agree with an outgoing managing agent how data it holds regarding the Estate is handled, whether to be returned to the Management Company, passed to a new managing agent or deleted and after what period.

The Management Company uses firms of solicitors to provide legal advice, draw up new leases, uphold the terms of the property freehold and leasehold agreements, take legal action on behalf of the Management Company and other purposes as necessary from time to time.

The firms of solicitors hold data related to the Estate freehold and leasehold agreements and matters on which they act and are subject to their own *General Data Protection Regulation* registrations, policies and procedures.

#### 3.2 Online applications

The Management Company provides a website for the Estate at <http://www.stbentooting.co.uk/> which contains information about the Estate and Management Company. It provides online means of contacting the managing agent and Management Company directors.

This includes means of applying online for consents required by the property legal agreements. This is beneficial to property owners applying because they can apply free online and avoid the need to pay fees to the managing agent for the additional administration involved in handling paper applications, which are not part of the basic contracted services as they cannot be quantified.



## General Data Protection Regulation Privacy Policy

Using the online contact and application facilities necessarily requires provision of data like name, address and email address to process the contact or application. As well as the basis applicable to the contact or application, those using these facilities are informed that it is a condition and that by doing so they agree to the data they submit being held and used, so this provides additional lawful basis of contract and consent.

### 4 Data procedures

#### 4.1 ICO registration

The Management Company completed the self-assessment tool on the UK Information Commissioner's Office (ICO) website. This identified that the Management Company does not need to register with the ICO so it has not done so. There would be an annual cost which could not be justified as a necessary purpose.

The main reason for this appears to be because the Management Company is non-profit-making and holds and processes data only about its shareholder members, the property owners, and their property ownership on the Estate.

#### 4.2 Privacy notice

The Management Company has a privacy notice which meets the requirements under the *General Data Protection Regulation* on its website (at <http://www.stbentooting.co.uk/privacy>). This identifies the data controller, the purposes and lawful bases for processing, the categories of data held, sources and recipients of data, retention periods, the lack of automated decision making, data subject rights and the right to complain to the Information Commissioner's Office with contact details.

Links are provided to this policy where data is collected, for example, where forms are submitted in St Benedicts Online to contact the Management Company and managing agent or to request consent under the property legal agreements.

This policy document is also available to download from the website.

#### 4.3 Data held

The Management Company maintains a register of data held in a template similar to that provided by the Information Commissioner's Office, showing the categories of individual and data, its source, how it is held, any recipients it is shared with, the lawful basis for processing, and the retention policy.

Data is not held or used other than for the purposes set out in the register.

The Management Company requires that its managing agent and other contractors do not use data other than for the purposes held so, for example, it may not be used for marketing purposes unless the data subject has given explicit consent for that specific purpose.

#### 4.4 Access requests

On receipt of a subject access request to the Management Company or its managing agent, this will be acknowledged within the 5-day SLA period for queries and a copy of the data held will be provided to the subject within one month as required under the *General Data Protection Regulation*.



## General Data Protection Regulation Privacy Policy

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### 4.5 Data retention

Different categories of data require different retention periods, so these are listed in the register of data held. Retention periods vary from ephemeral communications retained for a month or two to information related to freehold and leasehold legal agreements, which must be retained while the properties still exist and the agreements or their successors to which rights and obligations are transferred are still current. For freehold houses, this is an indefinite period and for leases it is up to 999 years.

### 4.6 Deletion

Data held is reviewed at least annually by the Management Company directors, linked to the Management Company financial year to 30 June 2018 or to the calendar year depending on the category of data. Any data beyond its retention period is then deleted. It would potentially be held on computer backups for a further period until that backup media is re-used in line with the computer backup schedule.

### 4.7 Breaches

Any data breaches discovered by or reported to the Management Company or its managing agent will be investigated by the Management Company directors. If required by law, this will be reported to the Information Commissioner's Office. Remedial action will be taken as required by law, including notifying data subjects of the breach. Action will be taken as soon as possible to stop the breach and prevent a recurrence, which will depend on the circumstances of the breach.

Because the managing agent holds extensive data related to the Estate, the Management Company requires it to inform the directors of the Management Company immediately if any data breach is discovered or notified to the managing agent. It also requires the managing agent to inform data subjects, the Information Commissioner's Office and any relevant trade association, such as the Association of Residential Managing Agents, of any data breach in line with good practice not just as required by law.

### 4.8 Data impact assessment

The data held by the Management Company is not such that a breach would cause risk to the rights and freedoms of individuals. Property ownership records are publicly available from HM Land Registry, property owners are adults so no information is held on identifiable children and data to make financial payments (such as bank account, credit or debit card details) is not held by the Management Company.

Consequently, the Management Company does not need to carry out a data impact assessment.

### 4.9 Data Protection Officer

The data held by the Management Company is not such that it is required to designate a Data Protection Officer. Consequently, the Management Company has not done so.

### 4.10 Right to complain

Data subjects have a legal right to complain to the Information Commissioner's Office (ICO). This can be contacted through its website (<https://ico.org.uk/>), by post at Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF or by telephone on 0303 123 1113 (local rate) or 01625 545745 (geographical) at the time of writing.

This is included in this document as required under the *General Data Protection Regulation*.