



# **WEBSITE PRIVACY NOTICE**

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## 1. ABOUT BMW KENYA

BMW Kenya, an affiliate of BMW Group is a luxury car brand operating in Kenya under the umbrella Inchcape Kenya, our official distributor [\(see Privacy Notice Here\)](#). Our registered office is at One Africa Place, Ground Floor, Westlands.

At BMW, we pride ourselves on our reputation for delivering excellence. We know what's important to our customers, and we focus on delivering the level of service that our customers expect. We are therefore dedicated to ensuring that all personal data that we process is done so in a fair, lawful and transparent manner. We take the security of your data very seriously and adhere to all relevant data protection legislation including the Data Protection Act 2019 and supporting Regulations.

## 2. WHAT IS THE PURPOSE OF THIS NOTICE?

To perform our functions, we collect personal or sensitive personal data from customers, and website users and members of the public (referred to as “you” or “your” in this Privacy Notice).

This Privacy Notice:

- sets out the types of personal data that we collect about you
- explains how and why we collect and use your personal data
- explains how long we keep your personal data for
- explains when, why and with who we will share your personal data

- sets out the legal basis we have for using your personal data
- explains the effect of refusing to provide the personal data collected
- explains the different rights and choices you have when it comes to your personal data
- explains how we may contact you and how you can contact us

### **3. WHAT IS PERSONAL DATA AND SENSITIVE PERSONAL DATA?**

Personal data is any information that can identify an individual directly or indirectly. Examples include your name, identification number, email or home address, photograph and bank account details, and any data that would allow you to be identified when combined with other data.

Sensitive Personal Data means data revealing a person's race, health status, ethnic social origin, conscience, belief, genetic data, biometric data, property details, marital status, family details including names of the person's children, parents, spouse or spouses, sex or the sexual orientation.

### **4. WHO DOES THIS PRIVACY NOTICE APPLY TO?**

This Privacy Notice applies to the personal data of:

- Customers
- Members of the public
- Website users

To be clear, if you are an Inchcape Kenya employee/ you should refer to Company's Employee Privacy Policy which is available in the Company's Intranet.

It is important to point out that we may amend this Privacy Notice from time to time. Please visit this page if you want to stay up to date, as we will post any changes here.

## 5. WHAT PERSONAL DATA DO WE COLLECT ABOUT YOU AND FOR WHAT PURPOSE?

We collect Personal Data directly and indirectly from you. We endeavour to only collect Personal Data that is necessary for the purpose(s) for which it is collected and to retain such data for no longer than necessary for such purpose(s). Subject to applicable law and practice, the categories of Personal Data that are typically collected and processed are: -

Data Subject	Examples of Types of Data Collected	Purposes of Collections
<p><b>Customers (existing and potential customers)</b></p>	<ul style="list-style-type: none"> <li>▪ <b>Biodata and identification data:</b> Name, ID/ Passport number, PIN Number, Passport photo,</li> <li>▪ <b>Contact data:</b> telephone, number, email address, postal address</li> <li>▪ <b>Online Identifiers</b> such as IP address and cookies and related tags</li> <li>▪ <b>Purchase and Service data:</b> type</li> </ul>	<ul style="list-style-type: none"> <li>▪ To fulfil your orders or requests</li> <li>▪ To respond to your enquiries – for example to send you a brochure or to provide details about a vehicle</li> <li>▪ To email you a video presentation about a vehicle you have enquired about</li> <li>▪ To follow up on a request you have made through a third-party website – such as Autotrader or Car Wow – to enquire about a vehicle we have advertised</li> <li>▪ To arrange a test drive where we have a legal obligation to check you hold a valid driving licence</li> </ul>

Data Subject	Examples of Types of Data Collected	Purposes of Collections
	<p>and date of purchase or service provided</p> <ul style="list-style-type: none"> <li>▪ <b>Financial</b> e.g. payment details i.e. bank and/or M-pesa details</li> <li>▪ <b>Tax information</b> including PIN number and tax payments</li> <li>▪ <b>Market Surveys</b></li> <li>▪ <b>Vehicle Registration details:</b> including vehicle registration number, logbooks, chassis number (VIN); NTSA details where you request us to register a vehicle on your behalf</li> <li>▪ <b>Correspondence e.g., complaints, queries and feedback, social media communications,</b></li> </ul>	<p>and for insurance purposes and compliance with applicable law</p> <ul style="list-style-type: none"> <li>▪ To track movement within our premises when you visit our showrooms or offices.</li> <li>▪ To share your personal data with vehicle manufacturer systems to allow vehicle ordering, in car systems setup, and activation of services and products for the vehicle including warranty</li> <li>▪ To administer the manufacturer's complimentary insurance on your behalf (if applicable)</li> <li>▪ To transfer ownership</li> <li>▪ To register the vehicle with appropriate entities</li> <li>▪ To provide or manage any information, products or services you have asked for specifically related to the purchase of your</li> <li>▪ To administer and arrange finance for you to purchase or lease a vehicle</li> <li>▪ To enter your personal details into the finance provider's</li> </ul>

Data Subject	Examples of Types of Data Collected	Purposes of Collections
		<p>system so the finance provider can conduct a credit check and affordability assessment on you before making a decision whether to offer you finance to fund your vehicle</p> <ul style="list-style-type: none"> <li>▪ To send you promotional messages</li> <li>▪ To comply with legal/regulatory requirements</li> <li>▪ To identify and track you when you navigate our websites and improve your experience when browsing through our websites</li> <li>▪ To receive and respond to queries, complaints and requests</li> </ul>
<b>Website Users and Members of the Public</b>	<ul style="list-style-type: none"> <li>▪ Usernames and passwords, cookies and related tags, IP addresses</li> </ul>	<ul style="list-style-type: none"> <li>▪ To identify and track users as they navigate different BMW Kenyawebites and improve their experience when browsing the websites</li> </ul>

## 6. HOW DO WE COLLECT YOUR PERSONAL DATA?

a. **Customers-** We collect data directly from you when you:

- key in your information in data collection fields provided on our website, live chat boxes or social media platforms and testimonials and opinions you may have posted publicly

- contact our customer service teams and our call centre
- make an enquiry or register your interest in a vehicle in a showroom or at an event we, a manufacturer or third party have held
- place an order, purchase or book an appointment for a vehicle or for any parts, goods or any other products or services
- make an appointment for a vehicle service
- apply for a loan, personal contract purchase or lease agreement from one of our accredited finance providers to purchase your vehicle
- part exchange your vehicle or where you provide any service history relating to your vehicle or provide any information to evidence that you are insured to drive a vehicle
- register on the careers page of our website and when you apply for a role with us
- reach us through phone calls, email, in person or any other means for any reason

We may also collect information indirectly from you through third parties such as our vehicle manufacturers, financial providers and brokers, insurance providers, regulatory and supervisory/regulatory bodies.

- b. **Website visitors** – we collect data directly from you when you visit our website key in data in our data collection fields on our website. We may also collect data indirectly through cookies and other online identifiers.

Where we collect indirectly from you, we will endeavour to inform you within fourteen (14) days of such collection.

## **7. OUR LAWFUL BASIS FOR PROCESSING YOUR PERSON DATA**

BMW Kenya processes your personal data for on the following lawful basis:



- where you consent to processing for one or more specified purposes. Where we rely on consent, we do so to the extent that it is permissible in law. Where you give us consent, you have the right to withdraw the consent at any time.
- where the processing is necessary: -
  - for the performance of a contract to which you are a party or to take certain steps at your request before entering a contract
  - for compliance with any legal obligation to which BMW Kenya is subject.
  - to protect your vital interests or another person/individual
  - to enable us to perform a task carried on in public interest or in the exercise of official authority vested in BMW Kenya
  - for legitimate interests pursued by BMW Kenya by a third party to whom the data is disclosed, except if the processing is unwarranted having regard to the harm and prejudice to your rights and freedoms or legitimate interests.
  - for purpose of historical, statistical, journalistic, literature and art or scientific research.

## **8. WHO DO WE SHARE YOUR PERSONAL DATA WITH?**

Where appropriate, we may share your personal data in various ways and for various reasons with: -

- appropriate personnel within the company

- third-party service providers who perform functions on our behalf including IT systems providers and our marketing consultants

where we share your data, we ensure that there are appropriate data processing or data sharing agreements (or similar protections) in place.

## **9. DISCLOSURE OF PERSONAL INFORMATION**

We will not usually disclose your personal information other than as already explained in Clause 8 above. However, there may be circumstances where we need to share personal information other than as anticipated. These include:

- where we are legally required to disclose the information. This includes sharing the personal information with tax authorities and law enforcement agencies for the purposes of the prevention and detection of crime
- where we need to disclose the personal information for the purpose of resolving a complaint or in connection with any legal proceedings, or for the purpose of obtaining legal advice, or the disclosure is otherwise necessary for the purposes of establishing, exercising or defending legal rights
- disclosure is required to protect our interests, or someone else's interests (for example, to prevent fraud)
- disclosure is necessary to protect your vital interests (for example if you are unwell at our premises, we may need to seek medical assistance)
- it is to a third party for the purposes of providing administrative or processing services on our behalf. If such disclosure is required, we will take steps to ensure that the third party protects the personal information in the same way that we do and notify you of any changes to this privacy notice.

## **10. SUBSCRIBING AND UNSUBSCRIBING TO OUR DIRECT MARKETING MESSAGES**

- If you have made an enquiry into our products or services, we will provide you with a clear choice to consent to receiving marketing materials by giving you an opt-in to receiving such communications. If you have provided your consent, we may collect your contact details (name, postal address and email address) and vehicle details (make and model) to provide you with such communications.
- If you ever decide you want to change your marketing preferences or no longer wish to receive our marketing communications, you can do so at any time by using the opt-out link provided in your email or SMS. If you do unsubscribe, please note that we will still keep your email and phone number in a separate secure list so that we can make sure that you do not receive our marketing communications again in the future.

## **11. HOW DO WE SAFEGUARD YOUR PERSONAL DATA?**

BMW Kenya has taken appropriate technical, administrative, and procedural security measures, consistent with local and international information practices and regulations, to protect the personal data from misuse, unauthorised access or disclosure, loss, alteration, or destruction. These measures include:

- Technology safeguards, such as use of anti-virus and firewall, passwords, encryption, and monitoring of our systems to ensure compliance with our security policies.
- Organizational safeguards, through training and awareness programs on security and privacy, to ensure employees understand the importance and means by which they must protect personal data, as well as through data protection and security policies and Notice standards that govern how BMW Kenya treats personal data.

If you suspect any misuse or loss of or unauthorized access to your personal data, please let us know immediately by sending us an email on [privacy@inchcapekenya.com](mailto:privacy@inchcapekenya.com)

## **12. HOW LONG DO WE KEEP YOUR PERSONAL DATA FOR?**

We will only keep your personal data for as long is necessary to achieve the purposes for which it was required unless the retention is required or authorized by law, reasonably necessary for a lawful purpose, you have consented to longer retention periods or if the personal data is required for statistical, journalistic, literature and art or research purposes. We maintain an up-to-date retention schedule. Where the information is past the retention period, we use secure methods to dispose the data.

## **13. WHAT HAPPENS IF YOU DO NOT PROVIDE US WITH THE PERSONAL DATA WE REQUEST OR ASK THAT WE STOP PROCESSING YOUR PERSONAL DATA?**

Our ability to perform our obligations derived from your business relationship with us and our ability to comply with our legal and contractual obligations sometimes depends on BMW Kenya accessing and being able to use certain personal data. Therefore, and depending on the circumstances, if you do not provide us with the personal data we request or if you ask that we stop processing your personal data, we may not be able to perform our contractual obligations, we may be in breach of one or more legal obligations applicable to us. In some cases, if we are not allowed to process your personal data, this may result in us being required to terminate our work relationship with you.

## 14. WHAT RIGHTS DO YOU HAVE OVER YOUR DATA?

The Data Protection Act, 2019 accords you with several rights over your data.

- **right to information:** you have a right to be informed of how the Company will use your personal data.
- **right of access:** you are entitled to access your personal data that is in our possession or custody.
- **right to object:** you can object to the processing of all part of your personal data, unless we can demonstrate a compelling legitimate interest for the processing which overrides your interests or for the establishment, exercise or defence of a legal claim.
- **right to rectification:** you have the right to request us to rectify or correct, without undue delay, personal data in our possession or under our control that is inaccurate, outdated, incomplete or misleading
- **right to erasure:** you can request us to delete or destroy, without undue delay personal data that we are no longer authorized to retain, or which is irrelevant, excessive, or obtained unlawfully.
- **right to data portability:** you have the right to receive personal data concerning you in a structured, commonly used, and machine-readable format and to transmit the data to another data controller without hindrance. You also have the right, where technically possible, to have personal data transmitted directly from us to another data controller or data processor.
- **automated decision making** you have the right not to be subjected to a decision based solely on automated processing,

including profiling, which produces legal effects concerning or that significantly affects you. BMW Kenya may from time to time make decisions based on the automated processing of your personal data. In such instances, you will be informed, in writing, whenever a decision based on automated processing is taken. In addition, you can request us to reconsider any decisions made based on automated processing or to take a new decision that is not based solely on automated processing.

- **right of restriction:** You have the right to request us to restrict the processing of personal data where: -
  - you contest the accuracy of the personal data
  - the personal data is no longer required for the purpose of the processing
  - the processing is unlawful of you have opposed the erasure of the personal data and requested for restriction of its use instead.
  - you have objected to the processing of personal data, pending verification as to whether our legitimate interests override your interests over the data.
- **right to raise a complaint:** You can raise a complaint about our processing with the Regulator i.e., the Data Commissioner in Kenya. You may also be able to seek a remedy through the courts if you believe that your rights have been breached.

## 15. HOW TO EXERCISE YOUR RIGHTS

- If you wish to exercise any of the rights outlined above, please write an email to the Data Protection Officer (DPO) on [EnquiriesKe@inchcapekenya.com](mailto:EnquiriesKe@inchcapekenya.com)

- We will endeavor to answer all questions via email within the timelines stipulated in law.
- If the provision of the data involves the data of third parties, these third parties can be asked in advance whether they have objections to the provisions.
- We may ask for identification, because we need to know for certain whether we are issuing the data to the right person.
- In some cases, we will not be able to comply with your request. If this happens, you will be duly notified.

## **16. INTERNATIONAL DATA TRANSFERS**

- To carry out the purposes outlined in Clause 5 of this Privacy Notice, your data may be transferred to:
  - Our website service providers
  - our cloud-based system service providers
  - other third parties as stated in clause 8 of this Privacy Notice who may utilize servers located outside Kenya.
- We will only transfer your personal data outside Kenya where such transfer is compliant with the provisions of the Data Protection Act 2019 and the Data Protection (General) Regulations, 2021
- To ensure that your personal data receives adequate levels of protection, we shall put in place appropriate procedures with our third-party service providers whom we share your personal data with to ensure that your personal information is treated by those third parties in a way that is consistent with, and which respects the data protection laws.

## 17. WHAT ARE COOKIES AND HOW DO WE USE THEM?

Cookies are small files of letters and numbers that we store on your browser or the hard drive of your device. There are different types of cookies that we use for different purposes; however generally speaking cookies help us to distinguish you from other users of our website, which allows us to provide you a better experience and also allows us to improve our website.

You can block cookies at any time by activating the setting on your browser that allows you to refuse some or all cookies. However, if you do block cookies there may be parts of our website that you will be unable to access or that will not function properly.

We use the following types of cookies:

- **Strictly necessary cookies.**

These are cookies that are essential for the operation of our website. They include, for example, cookies that enable you to log into secure areas of our website, use a shopping cart or make use of e-billing services.

- **Analytical/performance cookies.**

They allow us to recognise and count the number of visitors and to see how visitors move around our website when they are using it. This helps us to improve the way our website works, for example, by ensuring that users are finding what they are looking for easily.

- **Functionality cookies.**

These are used to recognise you when you come back to our website so that we can personalise our content for you, greet you by name and remember your preferences (for example, your region).



If you require further information about the cookies we use, then please contact us using the details provided in clause 20

## **18. THIRD PARTY LINKS**

This website may include links to third-party websites, plug-ins, and applications. Clicking on those links or enabling those connections may allow third parties to collect or share data about you. We do not control these third-party websites and are not responsible for their privacy statements. When you leave our website, we encourage you to read the Privacy Notice of every website you visit.

## **19. YOUR RESPONSIBILITIES**

- You are responsible for the information you make available to BMW Kenya, and you must ensure it is accurate, honest, truthful, and not misleading in any way. You must ensure that the information does not contain material that is obscene, defamatory, or infringing on any rights of any third party.
- Further, if you provide any information concerning any other person, for example if you provide your spouse's details in connection with the purchase of a vehicle, you are responsible for providing any notices and obtaining any consents necessary for BMW Kenya to collect and use that information.

## **20. TO WHOM SHOULD I DIRECT A QUESTION A COMPLAINT?**

If you have any questions or complaints about the processing of personal data, you can contact our Data Protection Officer on the following email address [EnquiriesKe@inchcapekenya.com](mailto:EnquiriesKe@inchcapekenya.com)

You can also write a letter addressed to:

The DPO

Inchcape Kenya

One Place Africa, Ground Floor

Westlands

Nairobi, Kenya.