

Compliance advice

Subject access – Rights of access to local authority housing records.

The Data Protection Act 1998 came into force on 1 March 2000. It gives all individuals who are the subject of personal data (“data subjects”) a general right of access to the personal data which relates to them. Personal data may take the form of computerised or, in some cases, paper records. The Act also sets out specific rights in relation to local authority housing records whether these are held in computerised or paper form. These rights are known as “subject access rights”.

This leaflet explains the rights of local authority tenants in relation to housing records. (It does not set out to explain the general right of access to personal data not forming part of the housing record, for instance records held by local authority housing benefit offices. This is described in the leaflet, “Using the law to protect your information,” also available from the Data Protection Commissioner.)

Which Records Are Covered?

The Act gives right of access to tenancy records which are held by any of the following:

- In England and Wales, “Housing Act local authorities” and housing action trusts established under the 1988 Housing Act;
- In Scotland, Scottish Homes, a local authority, a joint committee or joint board of two or more local councils or any trust under the control of a council.
- The Northern Ireland Housing Executive.

The records covered relate to residential rather than commercial tenancies. The tenants may be current or past tenants or applicants for tenancies. The records themselves may be held in the form of computer or paper records.

The Data Protection Act calls organisations which hold personal data, “data controllers.” Technically the data controllers for housing records are the local authorities themselves rather than the housing departments, although for practical purposes subject access requests in relation to tenancy records are often best direct towards the housing departments.

Making a subject access request

Subject access requests must be made in writing to data controllers who are allowed up to 40 days in which to respond. Tenants are entitled to be told if any personal data are held about them and, if it is:

- To be given a description of the data;
- To be told why the data are held;
- To be told who the data may have been given to;
- To be given a copy of the data with any technical terms explained;
- To be given any information available to the controller as to the source of the data;

- To be given an explanation as to how any automated decision taken about them have been made.

Data controllers may charge a fee of up to £10 for responding to a subject access request. They may also ask for any information which they need in order to verify the identity of the person making the requests and to locate the data (for instance the address of the property or dates of the tenancy).

Information which may be withheld

Although in principle individuals have access to all the personal data held about them, there are a few exceptions. In particular personal data may be withheld if:

- in that particular case it might prejudice the prevention and detection of crime, the prosecution or apprehension of offenders or the assessment or collection of any tax or duty to provide a copy;
- the data identify other people who have not consented to the disclosure of their data and where, on balance, it appears wrong to provide it;

What if access is denied?

If no response is received to a subject access request or if you think that there is information to which you are entitled which has been withheld, you should write to the Director Housing or to the Chief Executive of the Council. If you remain dissatisfied you may either apply to a court for release of your data or contact the Data Protection Commissioner.

Further information about the Data Protection Act can be obtained from the Commissioner's web site (www.dataprotection.gov.uk) or can be requested from our Information Line (01625 545745).

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The Office of the Data Protection Commissioner

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