



Information Commissioner's Office
Promoting public access to official information
and protecting your personal information

Data Protection Good Practice Note

Subject access requests and local authority housing records

This good practice note is for professionals who regularly deal with subject access requests for local authority housing records. It applies to all housing records held by:

- in England and Wales, 'Housing Act Local Authorities' and housing action trusts established under the 1988 Housing Act;
- in Scotland: the Scottish Government, a local authority, a joint committee or joint board of two or more local authorities or any trust under the control of a local authority; and
- the Northern Ireland Housing Executive.

What is a housing record under the Data Protection Act 1998?

Housing records are defined in schedule 12 of the Data Protection Act 1998 (the Act) as information held for “the purpose of any of the authority’s tenancies”. This means any information relating to the buildings themselves or to the tenants will be part of this file. It will include, for example, information about people applying for tenancy, information about repairs or refurbishment of the property, complaints about tenants and details of evictions or prosecutions.

Records dealing with local authority tenancies are covered by this good practice note whether they are held electronically or manually. They are also covered whether they are held by a local authority, or by a housing management organisation, which is owned by, or is in partnership with a local authority.

This note also covers records held by any charity, voluntary or other organisation (such as a Housing Association) working in partnership with a local authority for its tenancy purposes.

How should a subject access request (SAR) be dealt with?

Section 7 of the Act gives individuals the statutory right, subject to some exemptions, to see information which organisations hold about them. SARs must be made in writing and accompanied by the statutory fee, if charged, currently set at a maximum of £10.

There should be clear and accessible policies and guidelines explaining how to deal with requests. All relevant staff should be trained to recognise SARs and to deal with them promptly and in any case within 40 days.

Some public authorities will deal with SARs themselves; others will have delegated this task to the subsidiaries or partners who deal with housing on their behalf. Even if the task has been delegated, the relevant authority will still be the data controller and will be responsible for making sure that SARs are dealt with as required by the Act.

How long do I have to respond to a request?

You have 40 calendar days to respond to a SAR. The 40 days allowed for dealing with the SAR begin when you have confirmed that:

- the person you are dealing with is the person whose information you hold, or their representative;
- you have received the fee (if charged); and
- you have been given any information you reasonably require to locate the records.

The 40-day response period is a statutory requirement and there are no exemptions from this.

What should I include in my response?

Your response should include a copy of the personal information you hold about the person making the request and any information you have about where the information came from. You should also include the reasons why you hold this information and details of who else is likely to see it. If the information contains any technical terms then you should explain these.

Some information in housing records may relate only to the property, for example, records of repairs or refurbishment. You will not usually need to include this type of information in your response unless the information also relates to the tenant(s). If you are unsure about whether something is personal information, please see our guidance on this. [Determining what is personal data](#)

Personal information should be supplied unless any of the exemptions in the Act apply. For example, you should consider whether disclosure of the information will prejudice an investigation into the behaviour or activities of the person making the SAR. This is particularly relevant if the investigation is likely to involve the police; if it may lead to the creation of an ASBO; or if it is in connection with eviction proceedings. For further information on disclosures see guidance on [s29](#) of the Act

What if the file contains information about other people?

Sometimes housing records will contain information about other people (third parties), such as details of complaints made by other tenants, or comments made by housing staff. The Act states that if you cannot respond to a SAR without giving information about other people, you are not obliged to include this information in your response unless they consent, or unless you think it is reasonable in all the circumstances to disclose this information without their consent.

You should bear in mind that removing someone's name might not protect their identity if the person making the SAR already knows some information about them. If it is not possible to comply with the request without revealing information about other individuals then you may need to contact them to see if you can get their consent. If you cannot get their consent there are a number of things you should consider before disclosing any information.

You should consider whether the information was given to you with an expectation of confidentiality, for example, does your complaints policy offer confidentiality to those who make complaints about tenants? You may also have a duty of care towards the other individual, especially if they are an employee who will have regular contact with the person who has made the SAR. You should also consider how detrimental it would be to the person who has made the SAR if they do not receive this information and weigh that against any detriment to any other individuals if the information is disclosed.

Do I need to record SARs?

You should always record SARs and have a procedure in place to track them through to completion. This will help you to give accurate information to an individual who wants to know when they will receive their response. It will also help you to make sure that SARs are not lost or mislaid and that they are dealt with within 40 days.

You should also keep a record of all the information sent out as part of your response, together with details of any information withheld and the reasons why it was withheld. This will be a useful prompt in the future if further SARs are made by the same individual or if any of your decisions about the SAR response are challenged.

Housing Associations

Some local authorities have outsourced all their housing functions to Housing Associations (HA). The provision of social housing arrangements is likely to form only part of the business operations of a HA. Where a tenancy contract is administered by the HA but is made between the local authority and the tenant, the information relating to that tenancy is likely to be a 'housing record' as defined in this note. Where the tenancy contract is made between the HA and the tenant, the tenant will still have a right of access to information about them which the HA holds, where this information is held either electronically or in a relevant filing system. If there is any uncertainty about whether information in these files is personal information refer to the Commissioner's guidance: [Determining what is personal data](#)

More information:

If you need any more information about this or any other aspect of data protection, please contact us.

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