



**Aberdeenshire** *housing partnership*

# **DATA PROTECTION POLICY**

**The purpose of this policy is to ensure that Aberdeenshire Housing Partnership complies with the principles of data protection outlined in the Data Protection Act.**

**Anyone processing personal data must comply with the eight enforceable principles of good practice.**

**They say that data must be:**

- **Fairly and lawfully processed;**
- **Processed for limited purposes;**
- **Adequate, relevant and not excessive;**
- **Accurate;**
- **Not kept longer than necessary;**
- **Processed in accordance with the data subjects rights;**
- **Secure;**
- **Not transferred to countries without adequate protection.**

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### **1. POLICY STATEMENT**

- 1.1 Aberdeenshire Housing Partnership is committed to meeting its obligations under the Data Protection Act of 1998. The Partnership will observe the law in all collection and processing of subject data and will meet any subject access request in compliance with the law. Aberdeenshire Housing Partnership will only use data in ways relevant to carrying out its legitimate purposes and functions as a registered social landlord, Scottish charity and limited company, in a way that is not prejudicial to the interests of individuals. Aberdeenshire Housing Partnership will take due care in the collection and storage of any sensitive data. Aberdeenshire Housing Partnership staff will do their utmost to keep all data accurate, timely and secure.
- 1.2 All Aberdeenshire Housing Partnership staff, whether permanent or temporary, must be aware of the requirements of the Data Protection Act when they collect or handle data about an individual. Aberdeenshire Housing Partnership staff must not disclose data except where there is subject consent, or legal requirement. Data sent to outside agencies must always be protected by a written contract. All collection and processing must be done in good faith.
- 1.3 The Data Protection Officer will keep records of all complaints by data subjects and the follow up. It will also keep a record of all data access requests. There will be a repository of all Aberdeenshire Housing Partnership statements of Data Protection Law compliance and information about any contacts made with the Data Protection Registrar. This information will be available to staff and data subjects on request.

### **2. SCOPE**

- 2.1 An essential activity within Aberdeenshire Housing Partnership (AHP) is the requirement to gather and process information about its staff and tenants in order to operate effectively. This will be done in accordance with the Data Protection Act 1998 (the Act), and other related government legislation.
- 2.2 AHP, acting as custodians of personal data, recognises its moral duty to ensure that all such data is handled properly and confidentially at all times, irrespective of whether it is held on paper or by electronic means. This covers the whole lifecycle, including:
  - the obtaining of personal data;
  - the storage and security of personal data;
  - the use of personal data;
  - the disposal / destruction of personal data.
- 2.3 AHP also has a responsibility to ensure that data subjects have appropriate access, upon written request, to details regarding personal information relating to them.
- 2.4 AHP ensures that any third party processing such information on Aberdeenshire Housing Partnership's behalf is contractually obliged to put in place similar measures.

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### 3. RESPONSIBILITY FOR COMPLIANCE

- 3.1 The Finance and Business Support Manager has overall responsibility for data protection within AHP, and for ensuring that our notification to the Information Commissioner, and our entry in the Data Protection Register is accurate and up to date.
- 3.2 The Finance and Business Support Manager will implement the requirements of the Act by:
- providing advice and support to all departments on all matters relating to compliance with the Act
  - disseminating information relating to the Act.
  - Responding to requests from individuals to access personal information held about them
- 3.3 All Managers will ensure that personal data processed by their team is included in the AHP's data protection register entry is kept up to date and complies with Data Protection principles.
- 3.4 All staff have a responsibility to comply fully with the requirements of the Data Protection Act and this policy. When involved in requesting information, staff will explain why the information is necessary, what it is to be used for, and who will have access to it.

### 4. ACTIONS

- 4.1 By following and maintaining strict safeguards and controls, AHP will:
- A1. Acknowledge the rights of individuals to whom personal data relates, and ensure that these rights may be exercised in accordance with the Act;
- A2. Ensure that both the collection and use of personal data is done fairly and lawfully;
- A3. Ensure that personal data will only be obtained and processed for the purposes specified;
- A4. Collect and process personal data on a need to know basis, ensuring that such data is fit for the purpose, is not excessive, and is disposed of at a time appropriate to its purpose;
- A5. Ensure that adequate steps are taken to ensure the accuracy and currency of data;
- A6. Ensure that for all personal data, appropriate security measures are taken, both technically and organisationally, to protect against damage, loss or abuse;
- A7. Ensure that the movement of personal data is done in a lawful way, both inside and outside AHP and that suitable safeguards exist at all times.

**Appendix 1** provides guidance on the terminology used in the Data Protection Act.

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### 5. ENABLERS

5.1 In order to support these actions, AHP will:

- E1. Nominate a **Data Protection Officer** for AHP, responsible for gathering and disseminating information and issues relating to information security, the Data Protection Act and other related legislation;
- E2. Ensure that **Managers** are responsible for communications and issues relating to information security, the Data Protection Act, and other related legislation within their team;
- E3. Ensure that **all activities** that relate to the processing<sup>1</sup> of personal data **have appropriate safeguards and controls** in place to ensure information security and compliance with the Act;
- E4. Ensure that all **contracts and agreements** between AHP and external third parties, where personal data is processed, **make reference to the Act** as appropriate;
- E5. Ensure that all **staff** acting on AHP's behalf understand their responsibilities regarding information security under the Act, and that they **receive the appropriate training / instruction and supervision** so that they carry these duties out effectively and consistently and are **given access** to personal information **that is appropriate** to the duties they undertake;
- E6. Ensure that **all third parties** acting on AHP's behalf **are given access** to personal information **that is appropriate** to the duties they undertake **and no more**;
- E7. Ensure that any requests for **access to personal data are handled courteously, promptly and appropriately**, ensuring that either the data subject or his/her authorised representative has a legitimate right to access under the Act, that the request is valid, and that information provided is clear and unambiguous<sup>2</sup>
- E8. **Review this policy** and the safeguards and controls that relate to it annually, to ensure that they are still relevant, efficient and effective.

<sup>1</sup> *Processing as defined by the Act as obtaining, recording, holding, organisation, adaptation, alteration, retrieval, consultation, use, disclosure, alignment, combination, blocking, erasure and destruction.*

<sup>2</sup> *All actions regarding data subject access requests will be logged. This audit trail will include details regarding the nature of the request, the steps taken to validate it, the information provided as well as any withheld, e.g. for legal reasons.*

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### **6. ACCESS RIGHTS**

- 6.1 Tenants, employees and other individuals about whom AHP holds personal information will have the right to access the information, unless it is exempt under the Data Protection Act. To aid understanding of individuals of their rights under the Data Protection Act **Appendix 2** will be available on request.
- 6.2 AHP will respond to information requests promptly and no longer than 40 working days.

### **7. CHARGES FOR PROVIDING INFORMATION**

- 7.1 AHP will make a charge of £10 to cover administration, stationery and postage costs.

### **8. CONFIDENTIALITY**

- 8.1 This policy complements AHP's Access to Information policy. Only information, which can or must be legally disclosed under the Data Protection Act will be shared with a third party without the individuals consent.

## Guidance

### Terminology

The terminology in the Data Protection Act has a particular legal meaning, so it is important in ensuring compliance that staff and Board members understand some of the key terms:

- **Data Controller** – any individual or organisation that controls personal data i.e. determines the purposes for which and the manner in which personal data is processed. RSLs are data controllers.
- **Data Subject** – a living individual who is the subject of personal data e.g. tenants, former tenants, applicants, employees, suppliers.
- **Personal Data** – information held on any living individual which on its own or in conjunction with other information held by the Data Controller identifies that individual (includes audio and video). It includes expressions of opinion or intention, manual or computerised records.
- **Sensitive Personal Data** – personal data relating to an individual's race or ethnic origin, political opinions, religious beliefs, physical or mental health, trade union membership, sexual life, criminal or alleged criminal activity.
- **Relevant Filing System** – The DPA defines this as “any set of information relating to individuals and structured, either by reference to the individuals or by reference to criteria relating to individuals, in such a way that specific information relating to a particular individual is readily accessible.” e.g. house files, personnel records, index box files.
- **Processing** – obtaining, recording or holding data or carrying out any operation on data, including disclosure and destroying information.

It is an offence under the Data Protection Act for a person to obtain or disclose personal information or data without the consent of the data controller, except in limited circumstances e.g. detection of crime.

### Type of Information

AHP will generally obtain or hold four types of information or data:

- Personal information.
- Sensitive personal information or data.
- Organisational information.
- Commercially sensitive information.



The Data Protection Act defines eight categories of 'sensitive data':

- (i) racial or ethnic origin.
- (ii) political opinions.
- (iii) religious beliefs, or beliefs of a similar nature.
- (iv) membership of a trade union.
- (v) physical or mental health or condition.
- (vi) sexual life.
- (vii) the commission or alleged commission by them of any offence.
- (viii) any proceedings for any offence committed or alleged to have been committed by them, the disposal of such proceedings or the sentence of any court in such proceedings.

For obtaining and processing sensitive personal data, AHP must obtain the person's *explicit* consent to obtain and process that particular data, unless:

- it is necessary in respect to legally imposed employment rights and obligations.
- it is already publicly available due to actions of the data subject.
- it is necessary for legal proceedings e.g. anti social behaviour, for government or statutory functions.
- it is for equal opportunities monitoring.

AHP holds sensitive personal information, which falls into these categories.

Compliance with the Act will be achieved by obtaining the individual's signature on a form which includes all the relevant details, and a statement as to what it will be used for printed there.

Information can be held in a variety of formats, for example:

- Databases.
- Spreadsheets.
- Manual records (files, card indexes).
- Computerised files and records.
- Email.
- CCTV footage.

### **Range of Information held**

AHP holds a range of personal information, which falls within the terms of the Data Protection Act:

- information held on tenants and former tenants.
- nominations for housing.
- applicants for employment.
- employees.
- pension administration.
- governing body members.
- supplier administration.

## AN EXPLANATION OF YOUR RIGHTS UNDER THE DATA PROTECTION ACT 1998

### *What are your rights?*

- To ask what AHP uses the information for
- To be provided with a copy of the information
- To be given details of the purposes for which AHP uses the information and other persons/organisations to whom it is disclosed
- To ask for incorrect data to be corrected

### *Why do we keep personal information?*

AHP keeps personal information about you in order that:

- It can provide you with the services you require
- Collect rent
- Help assess the correct level of benefit for your needs
- Provide you with up to date information about these services and the most appropriate service for your needs.

The information about you is also used to maintain a record of any help provided in order that we can look at it from time to time to see if it is still what you need and to plan for any changes. The personal information you provide may also be shared with other agencies involved in the provision of services to you, and between members of AHP where we are legally required to do so.

### *Who do we share information with?*

Depending on the original purpose for which it was obtained and the use to which it is to be put, information may be shared with a variety of services, examples include rent information in tenant references, or confirming rent details with Housing Benefits. It may also be shared, where necessary, with other organisations that provide services on our behalf, e.g. contractors working for AHP.

In all of these examples the information provided is only the minimum necessary, to enable them to provide services to you.

Personal information about you may also be provided to Government departments where we are required to do so by law. An example would be when Housing Benefit requires confirmation of your rent.

Information about you may also be provided for statistical research. This will not include your name and address unless you have given us permission to provide the information.

### *What sort of information do we hold?*

The personal information held will depend on the service being provided. Basic information, that is, your name and address, age, date of birth, sex, next of kin; plus a note of the service provided, decisions regarding the provision, and any meetings between you and the department of AHP providing the service will appear on all records.

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Other more sensitive data may also be held. Depending on the needs of the service being provided such data may include for example, details of a person's physical or mental health, disabilities and racial, or ethnic origin. Data relating to specific services include the level of payment and the current state of rent account.

### *How do we keep the information, and who is responsible?*

The information is kept on secure computer systems and in secure manual filing systems. Maintaining the record and keeping it secure is the responsibility of the teams of AHP providing the services you receive.

### *Are the records confidential?*

AHP's employees have a duty of care when providing services. This includes respecting the right to confidentiality, and ensuring that information about you is only used and given to others for the purposes of the service being provided. Care is taken to ensure that third parties cannot access the information without permission and that data about you is not disclosed - to third parties or others - without your consent.

### *How long are records about you held?*

Normally, your records will be kept only for as long as the service is provided to you, or as is required by law. If there is no legal requirement to keep the records they will be destroyed as soon as is practicable. Where there is a legal requirement to retain information it is not normally kept for more than six years.

### *How do you ask to see your information?*

You can contact AHP and request a Subject Access Request Form from the Data Protection Officer. Alternatively you can write to AHP, addressing the letter to the Data Protection Officer, or call at our offices in person. When you do so you must provide your name and address; details of the service(s) you are receiving; and any other information such as date of birth, sex, householder status you think may help AHP find your information. If you have any difficulty with the form, help will be provided.

### *What information will you receive?*

All of the personal information we hold about you on both our computer, and manual record systems. You will also be given a description of the purposes for which we process your data, a list of those to whom we disclose the data, and information about sources where this is available.

### *Can you see information about members of your family or any other person?*

You may not see information about other persons, unless they have given their consent. This includes information about members of your family. If you are a parent or a member of an elderly person's family you may be provided with information about your child, or the elderly person, but only where you have written permission to ask for it, or have been granted powers to do so by the courts, and AHP is satisfied that such permissions are genuine.

### *Will you be charged a fee for information provided?*

Yes, a charge of £10 will be levied.

*How long does it take to provide you with the information?*

AHP must respond within 40 days of receiving your application. The 40 days starts from the date on which you sent in the written application, and any additional information required by AHP.

*What should you do when you get the information?*

You should check it to ensure that you have received all of the information to which you are entitled, and to make sure it is correct.

*What do you do if the information provided is incorrect?*

You should tell AHP that the data is incorrect and ask them to correct it. You must do so in writing. AHP must inform you if they have, or have not corrected the data within 21 days of you asking them to. If the department does not agree that the information is incorrect you can ask it to record your disagreement on the record itself.

If AHP does not correct the information you may also appeal to the Information Commissioner or the courts. These organizations have the power to order AHP to correct data.

*When is data inaccurate?*

The Act defines inaccurate data as being "data which is incorrect or misleading as to any matter of fact".

*How can you have inaccurate data about you corrected?*

The Act provides you with a right to apply to the court to have inaccurate data rectified, blocked, erased or destroyed. This right extends to any other personal data, which contains an opinion based on the inaccurate data.

*What do you do if you think you have not been given all the information you asked for?*

You can appeal to AHP, through its complaints procedure, or to the Information Commissioner whose staff will look into the matter on your behalf.

*Do you have any other rights under the Data Protection Act, and what are they?*

Yes. In addition to the right of subject access, individuals have the following rights;

1. To prevent processing likely to cause damage or distress
2. To prevent processing for the purposes of direct marketing
3. Not to be the subject of decisions based on wholly automated means.
4. To take action for compensation if he/she has suffered damage by any Contravention of the Act, by AHP
5. To make a request to the Commissioner for an assessment as to whether any provision of the Act has been contravened by AHP.

As far as the first three of these rights are concerned you should write to AHP informing us that you require us to cease processing personal data about you. In the case of the first of these you must state the purpose for which the data is being processed, and that you consider the processing is already causing, or is likely to cause you or another person unwarranted substantial damage or distress. The second requires you to notify AHP in writing, that we should cease, or not begin the processing of personal data about you for the purpose of direct

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marketing. The third is specific to the use of automated decision-making processes. If you do not wish to be the subject of a decision based wholly on such process you must write to AHP requiring us to ensure no decision, which significantly affects you, is based solely on such processing.

*How will you know if AHP has made any decision about you based, wholly, on automated processes?*

If we have not received a notice from you we will inform you that a decision, which significantly affects you has been taken by automatic means. If we do so and you object, then you can inform us in writing that you require us to reconsider the decision, or to take a new decision by some other means. AHP has 21 days of our telling you that we have made our decision by automated means.

*How can you be sure AHP has complied with your notice(s)?*

The Act requires us to respond to your notice within 21 days of receiving it. Our reply will tell you whether or not we have complied with your request, intend to comply with your request, or the extent to which we intend to comply. If we do not consider your request is justified, our response will list our reasons.

*What do you do if AHP does not reply, or refuses to comply with your notice?*

if you do not receive a reply, or you consider AHP has not complied with any of the above notices, you have a right to apply to the court for an order requiring us to comply.

*Under what circumstances can you claim compensation?*

If you have suffered damage or distress as a result of the contravention of any requirements of the Act, by AHP, you may be entitled to compensation.

The court will only support such a claim if you can show that AHP had not taken reasonable care to ensure it complied with the relevant requirements of the Act.

*Are you entitled to compensation as a result of our use of inaccurate data?*

As with the example quoted above, only if the court is satisfied that you have suffered damage as a result of AHP's use of inaccurate data.

*What can you complain to the Commissioner about?*

You can complain to the Commissioner if you consider AHP has breached any of the requirements of the Data Protection Act. These include;

- A breach of any of the Data Protection Principles
- Processing data without having notified the Commissioner
- Failure to respond to any of your written notices (see above)
- Processing data without your consent (where consent is necessary)
- Refusing to provide you with wernthe personal information you have requested

This list is not exhaustive.

*What will the Commissioner do?*

At your request the Commissioner will carry out an assessment of AHP's processing to establish whether or not we are doing so in compliance with the Act.

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Should the Commissioner find we are not, then AHP will be issued with a notice requiring it to take steps to ensure compliance.

*Do we provide you with help in understanding the information?*

If you need help in understanding the information provided, please inform AHP, and we will provide someone to explain.