



## **DATA PROTECTION, ACCESS TO INFORMATION AND CONFIDENTIALITY POLICY** **(2015)**

### **1.0 INTRODUCTION**

The Association is committed to promoting a culture of openness, transparency and accountability in respect of all its activities.

This policy sets out how the Association will conduct its business in an open and accountable manner whilst, at the same time, ensuring that personal and commercial confidentiality is maintained where appropriate and that compliance with the provisions of the Data Protection Act 1998 are achieved.

It also ensures compliance with the spirit of the Freedom of Information (Scotland) Act 2002 which although not applicable to RSLs the principles are included within regulatory requirements. In effect, therefore, the Association does conform.

### **2.0 AIMS AND OBJECTIVES**

The Association believes that its members, tenants, sharing owners and any other interested parties should have access to information on how it conducts itself. This means that unless information requested is considered commercially sensitive or personally confidential it will be made available on request. This will include information on:

- ✓ Performance against operational targets.
- ✓ How to become a member of the Committee or influence decisions in other ways.
- ✓ Performance Audit assessments – the inspectors report.
- ✓ Policies and procedures.
- ✓ Non confidential committee papers and minutes.

The above list is not exhaustive and the Association will action any request for information within a reasonable timescale, unless it is prevented from doing so by the Confidentiality section of this policy.

Any requests for information should be authorised by the Director (or most senior staff member in the Director's absence).

### **3.0 ACHIEVING POLICY OBJECTIVES**

This section outlines the steps the Association will take to ensure compliance with this policy.

### 3.1 Performance Against Operational Targets:

This will be done primarily in a specific Annual Performance Report to tenants and sharing owners but performance information will also be contained in the Annual Report and tenant newsletters. Monthly figures will be available on request.

### 3.2 How to Become a Committee Member or Influence Decisions in Other Ways:

The Association is continually trying to ensure that a maximum Committee membership of 15 is maintained and that within this at least 4 are tenants or former tenants. Sometimes residents may wish to influence certain decisions without necessarily joining the Committee and this is acknowledged and actively encouraged by the Association in its support to resident groups and/or registered tenant organisations.

### 3.3 Performance Audit Assessments:

Inspection reports prepared by the regulator (Scottish Housing Regulator) are now published by them and will also be available on the Association's website and available on request.

### 3.4 Policies and Procedures:

Copies of policies and procedures will be available on request.

### 3.5 Non Confidential Committee Papers and Minutes:

Committee minutes (minus any confidential sections) will be available on request. Where such a request is made, the Association will provide the document(s) within 10 working days.

## **4.0 DATA PROTECTION PRINCIPLES**

The Association adopts and operates in accordance with the Data Protection Act principles. Personal data and information held by the Association shall:

1. be obtained and processed fairly and lawfully;
2. be obtained only for specified and lawful purposes, and shall not be used for any other purpose;
3. be adequate, relevant and not excessive in relation to the purpose for which it is obtained or kept;
4. be accurate and up to date;
5. be held no longer than is necessary for the purpose;
6. be processed in accordance with the rights of data subjects under the Data Protection Act;
7. be kept securely;
8. not be transferred outside of the European Economic Area (that's the EU plus some small European countries) unless the country that the data is being sent to has a suitable data protection law. This part of the *DPA* has led to some countries passing similar laws to allow computer data centres to be located in their area.

The Association and all staff who use any personal information must ensure that they follow these principles at all times. Training will be provided on these principles and the Associations procedures for all relevant staff as appropriate. New staff have this incorporated into their induction process.

## **5.0 RESPONSIBILITIES FOR COMPLIANCE**

The Management Committee has overall responsibility for data protection within the Association.

The Director (or Depute Director as the designated data controller) will assist the Management Committee fulfil its obligations in implementing the requirements of the Act in the following way:

- ✓ ensuring that our notification to the Information Commissioner and our entry in the Data Protection register is accurate and up to date.
- ✓ 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 individual to access personal information we hold about them.

The Director has specific responsibility for personal information held on employees. Staff will be informed about data protection issues, and their rights to access their own personal data through the staff handbook and induction courses.

Departmental Managers will ensure that personal data processed by their department is included in the Associations data protection register entry, is kept up to date and complies with the above principles.

All staff have a responsibility to fully comply 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.

## **6.0 ACCESS RIGHTS: FREEDOM OF INFORMATION REQUESTS**

Tenants, employees and other individuals about whom the Association holds personal information will have the right to access the information, unless it is exempt under the Data Protection Act.

The Association will respond to information requests within 20 days following receipt of the administration payment.

## **7.0 CONFIDENTIALITY**

It is not possible to produce a definitive list of all items considered confidential. The following, however, are considered confidential and should, at no time, be divulged inappropriately:

- ✓ Personal confidentiality of residents and other members of the public will be respected. This means that the names, addresses, details on family composition or economic status (or any other means of identification) of individuals will not be given in Committee reports or minutes or in any way divulged to anyone other than staff members, or other professionals, on a “need to know” basis.

- ✓ All data records (both paper and computer) will be kept confidential to the appropriate staff members. No Committee member will view an individual's data records.

Particular care will be observed when dealing with sensitive data, which is information relating to an individual's:

- ✓ racial or ethnic origin
- ✓ political opinions
- ✓ religious beliefs or other beliefs of a similar nature
- ✓ trade union membership
- ✓ physical or mental health or condition
- ✓ sexual orientation
- ✓ commission or alleged commission of any offence
- ✓ trial or sentence relating to any offence committed or alleged to have been committed

Exceptions to the above are:

- ✓ Where a person wishes to make a representation / complaint (whether in person or in writing) to the Committee and therefore willingly presents their identity and personal details, these, and only these will be disclosed. (If staff have to reveal any other data in relation to the matter, the person involved will be informed and their permission sought.)
- ✓ Where we have a legal obligation to provide or share information with a third party, or where such disclosure is in the interests of public safety or in pursuance of legal action by or in defence of the Association, then only such information as is necessary will be divulged.

## **8.0 COOPERATING WITH RESPONSIBLE AUTHORITIES**

The Association will disclose personal data, including sensitive personal data, to the responsible authorities where we have reasonable grounds for the view that the disclosure is required for reasons of Child Protection or the Protection of a Vulnerable Adult.

The Association has entered into Information Sharing Protocols with Police Scotland. Arrangements for the disclosure, receipt, sharing, retention and use of information are set out in the Protocols.

The Association has a Duty to Co-operate with Responsible Authorities in the provision of accommodation for Registered Offenders as set out in the National Accommodation Strategy for Sex Offenders (NASSO). Therefore we will provide information about our tenants and residents, and will receive information from the Responsible Authorities, as is necessary to meet our Duty requirements and to contribute to Multi-Agency Public Protection Arrangements.

In these cases above we consider that disclosure without the data subject's consent is legitimate and there is an overriding public interest as the disclosure is required:

- ✓ by the administration of justice;
- ✓ to maintain public safety;

- ✓ to assist in the apprehension of offenders;
- ✓ to assist in the prevention of crime, disorder and anti social behaviour;
- ✓ to assist in the detection of crime;
- ✓ for the protection of vulnerable members of the community

and the public interest is of sufficient weight to over-ride the presumption of confidentiality and to justify any interference with the right to privacy etc. in Article 8 of the European Convention of Human Rights.

## **9.0 BREACHES OF CONFIDENTIALITY**

Any breach of confidentiality, whether deliberate or inadvertent, will be dealt with seriously by the Association. The circumstances surrounding the breach will, of course, be taken into account. All breaches will be dealt with via the staff and Committee disciplinary procedure and may result in:

- ✓ the staff member(s) being issued with a warning or dismissed; or
- ✓ the Committee member(s) being requested to leave the Committee.

## **10.0 CHARGES FOR INFORMATION**

A standard administration charge of £10 will normally be made for requests for information. However, the Association reserves the right to make an increased charge, to cover administration, stationery, postage and the cost of the staff time involved, where it is felt necessary to do so.

## **11.0 REVIEW**

This policy will be regularly monitored and formally reviewed at least every 5 years.

George Tainsh  
Director

**4<sup>th</sup> June 2015**

### Policy Review Consultation Process

Considered by the Management Team on	9 <sup>th</sup> June 2015
Considered by the Finance, Audit & Corporate Governance Committee on	18th June 2015
<b>APPROVED BY THE MANAGEMENT COMMITTEE ON</b>	<b>25<sup>th</sup> June 2015</b>
<b>Date of Next Review</b>	<b>June 2020</b>

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**(2015)**

**DECLARATION**

**Signed** ..... **Date** .....

I .....(print name) have read and understood the  
aforementioned policy and accept the expectations and obligations contained therein.

Clarification and guidance as required, on any aspect of the policy, has been sought and  
obtained from the Director.

APPROVED

## APPENDIX 1: RETENTION PERIODS FOR INFORMATION etc

Details of Information Collected or Held	Location	Purpose Collected or Held	Period Retained For	Exchanged with/Passed on to
<b>Tenants records including any MAPPA information</b>	Tenant Files	Managing tenancy	5 years from termination of tenancy	Need to know basis only
<b>Right to Buy and Shared Ownership owners details</b>	Section 9 register	Statutory obligation	As tenant records	Scottish Government / SHR, publicly available document
<b>Telephone contacts, addresses and email addresses of suppliers, contractors and other contacts</b>	Telephone Directories, Address Books (manual and computerised)	To be able to contact people	5 years	Anyone who asks (as long approval has been obtained from the companies / individuals concerned)
<b>Benefits given to staff under Housing (Scotland) Act 2001</b>	S7 Register	Statutory requirement	5 years	Publicly available record
<b>Complaints to the RSL and the Ombudsman</b>	Lever Arch File	To monitor and record complaints	5 years	Ombudsman, Committee, Auditors, Scottish Government / SHR, Other staff
<b>Employees' personnel records</b>	Locked cabinets Personnel computer records	Details of employment and next of kin etc for efficiency of organisation	While in employment	Details supplied for references, Inland Revenue, Police, Pension Scheme, DSS, Dept of Employment, Auditors, Scottish Government / SHR, Lawyers, Employee Counselling Service
<b>Employee Pay Details</b>	Lever Arch file (Finance Dept)	Salary Payment, PAYE etc	While in employment	Need to know basis only
<b>Accident records</b>	Accident register	Statutory obligation	3 years	First Aiders, HSE Administrator, Director
<b>Statutory Sick Pay Records</b>	Level Arch File (Finance Dept)	Statutory obligation	3 years	Need to know basis

<b>Past Employees' personnel records</b>	Archive boxes in store room	Reference for future employees, Pension companies	5 years from termination of employment	Other employers, Pensions, Police, Inland Revenue, DSS, Dept of Employment, Auditors, Scottish Government / SHR, Lawyers
<b>Membership details – Name and address</b>	Computer database and manual records in central filing cabinet	Statutory obligation	5 years	Auditors, Scottish Government / SHR, publicly available document
<b>Unsuccessful job applicants' application forms</b>	Archive boxes	In case of dispute/ Industrial Tribunal or query on application	6 months	ACAS, Industrial Tribunal, Lawyers.
<b>Committee members names, address, date of birth and code of conduct details</b>	Lever Arch File Computer records	Regulatory requirement	While a Committee Member	Names included in particular publications with other information circulated on a need to know basis eg Auditors, Scottish Government / SHR
<b>Employers Liability Insurance Certificate</b>	On Public Display	Statutory obligation	For an indefinite period	Appropriate authorities