



## **DATA SUBJECT REQUEST POLICY 2024**

### **1 Introduction**

- 1.1 Data subjects have certain rights in respect of their personal information. When the Association processes data subjects' personal information, the Association must respect those rights. This Policy provides a framework for responding to requests from data subjects exercising those rights. The Association will ensure that requests by data subjects covered by this Policy to exercise their rights in relation to their personal information are handled in accordance with data protection legislation.
- 1.2 The Association's Data Protection Officer (DPO) is responsible for handling and responding to data subject requests. Staff must forward any requests received by them to the DPO immediately on receipt, and should not attempt to handle and respond to requests themselves.
- 1.3 This Policy only applies to data subjects whose personal information the Association processes, including: housing applicants, their household members, next of kin / emergency contacts and referees; tenants and their household members; shared owners and their household members; factored owners; job applicants (and their referees), apprentices and current and former employees; contractors, consultants and service providers, including the Association's solicitors, auditors and other professional advisers; elected members, including Councillors and Members of the Scottish Parliament; business contacts at membership bodies (such as the Scottish Federation of Housing Associations), tenant support organisations, local authorities, the Scottish Government and other public bodies; Board members; and members.

### **2 Definitions**

For the purposes of this Policy:

<b>data subject</b>	means an individual to whom the personal information relates;
<b>personal information</b>	means information relating to an individual, who can be identified (directly or indirectly) from that information; and
<b>processing</b>	means obtaining, recording, organising, storing, amending, retrieving, disclosing and/or destroying

personal information, or using or doing anything with it.

### **3 Timescales, format and fees for responding to data subject requests**

- 3.1 The Association must respond to data subject requests without undue delay and, in any case, within one month of the date of receipt of the request.
- 3.2 The Association may extend the timescale for response by up to two additional months by informing the data subject of this and the reasons for the extension within one month of receipt of the request. In deciding whether to extend the timescale for response, the Association must consider the complexity and the number of requests.
- 3.3 If the Association decides not to act in response to a data subject request, the Association must inform the data subject of the reason(s) for this and of the possibility of lodging a complaint with the Information Commissioner's Office (ICO) without delay and at least within one month of the date of receipt of the request.
- 3.4 Where a data subject makes a request by electronic means, the Association must respond by electronic means, unless the data subject requests otherwise.
- 3.5 Where the Association has reasonable doubts concerning the identity of a data subject making a request, the Association may ask the data subject for information to confirm their identity.
- 3.6 The Association may not charge a fee for acting in response to a data subject request. The Association may, however, charge a reasonable fee where the Association considers a request to be manifestly unfounded or excessive, particularly because of its repetitive character or the burden that it places on the Association's human or other resources. Alternatively, the Association may refuse to act in response to a manifestly unfounded or excessive data subject request.

### **4 Responding to requests to access personal information**

- 4.1 Data subjects have the right to request access to their personal information processed by the Association. Such requests are called subject access requests (SARs). When a data subject makes a SAR, the Association will take the following steps:
  - 4.1.1 log the date on which the SAR was received; confirm the identity of the data subject who is the subject of the personal information;
  - 4.1.2 search databases, systems, applications and other places where the personal information which is the subject of the SAR may be held;
  - 4.1.3 confirm to the data subject whether personal information of the data subject making the SAR is being processed; and

- 4.1.4 if personal information is being processed, respond to the SAR with the information contained in Paragraph 4.2.
- 4.2 If personal information of the data subject is being processed, the Association will provide the data subject with the following information in a concise, transparent, intelligible and easily accessible form, using clear and plain language:
- 4.2.1 the purposes of the processing of their personal information;
  - 4.2.2 the categories of personal information concerned (for example, name, contact details, bank account information and complaints);
  - 4.2.3 the recipients or categories of recipient to whom the personal information has been or will be disclosed, such as the Association's contractors and other service providers;
  - 4.2.4 where possible, how long the personal information will be stored, in line with the Association's Data Retention Policy;
  - 4.2.5 the existence of the right to request rectification or erasure of personal information or restriction of processing of personal information or to object to the Association's processing of their personal information;
  - 4.2.6 the right to lodge a complaint with the ICO about the Association's processing of their personal information;
  - 4.2.7 where the personal information has not been collected from the data subject, any available information as to its source;
  - 4.2.8 the existence of automated decision-making (if any) and meaningful information about the logic involved, as well as the significance and the envisaged consequences of such processing for the data subject; and
  - 4.2.9 where personal information is transferred outside the European Economic Area, details of the appropriate safeguards to protect the personal information after transfer.
- 4.3 The Association will also, unless there is an exemption (see Paragraph 11 below), provide the data subject with a copy of the personal information processed by the Association in a commonly used electronic form (unless the data subject either did not make the SAR by electronic means or has specifically requested not to be provided with the copy in electronic form).
- 4.4 Before providing the personal information to the data subject making the SAR, the Association will review the personal information requested to see if it contains the personal information of other data subjects. If it does, the Association may redact the personal information of those other data subjects prior to providing the data subject with their personal information, unless those other data subjects have consented to the disclosure of their personal information or it would be reasonable to disclose the personal information of the other data subjects to the data subject.

## **5 Responding to requests to rectify personal information**

- 5.1 Data subjects have the right to have their inaccurate personal information rectified. Rectification can also include having incomplete personal information completed, for example, by a data subject providing a supplementary statement regarding the information. Where such a request is made, the Association will, unless there is an exemption (see Paragraph 11 below), rectify the personal information.
- 5.2 The Association will also communicate the rectification of the personal information to each recipient to whom the personal information has been disclosed (for example, the Association's service providers who process the personal information on the Association's behalf), unless this is impossible or involves disproportionate effort. The Association will also inform the data subject about those recipients if the data subject requests this information.

## **6 Responding to requests for the erasure of personal information**

- 6.1 Data subjects have the right, in certain circumstances, to request that the Association erase their personal information. Where such a request is made, the Association will, unless there is an exemption (see Paragraph 11 below), erase the personal information if:
- 6.1.1 the personal information is no longer necessary in relation to the purposes for which it was collected or otherwise processed;
  - 6.1.2 the data subject withdraws their consent to the processing of their personal information and consent was the basis on which the personal information was processed and there is no other legal basis for the processing;
  - 6.1.3 the data subject objects to the processing of their personal information on the basis of the Association's performance of a task carried out in the public or the Association's legitimate interests, which override the data subject's interests or fundamental rights and freedoms, unless the Association can either show compelling legitimate grounds for the processing which override those interests, rights and freedoms, or the Association is processing the personal information for the establishment, exercise or defence of legal claims;
  - 6.1.4 the personal information has been unlawfully processed; or
  - 6.1.5 the personal information must be erased to comply with the law.
- 6.2 When a data subject makes a request for erasure in the circumstances set out above, the Association will, unless there is an exemption (see Paragraph 11 below), take the following steps:
- 6.2.1 log the date on which the request was received;
  - 6.2.2 confirm the identity of the data subject who is the subject of the personal information;

- 6.2.3 search databases, systems, applications and other places where the personal information which is the subject of the request may be held and erase such information;
  - 6.2.4 where the Association has made the personal information public, the Association must, taking reasonable steps, including technical measures, inform those who are processing the personal information that the data subject has requested the erasure by them of any links to, or copies or replications of, that personal information; and
  - 6.2.5 communicate the erasure of the personal information to each recipient to whom the personal information has been disclosed, unless this is impossible or involves disproportionate effort. The Association shall also inform the data subject about those recipients if the data subject requests it.
- 6.3 In addition to the exemptions in Paragraph 11 below, the Association can also refuse to erase the personal information if the Association needs to keep the personal information:
- 6.3.1 for exercising the right of freedom of expression and information;
  - 6.3.2 to comply with the law or to perform a task carried out in the public interest;
  - 6.3.3 for reasons of public interest in public health;
  - 6.3.4 for archiving purposes in the public interest, scientific or historical research purposes, or statistical purposes in so far as the right to erasure is likely to render impossible or seriously impair the achievement of those purposes; or
  - 6.3.5 for the establishment, exercise or defence of legal claims.

## **7 Responding to requests to restrict the processing of personal information**

- 7.1 Data subjects have the right, unless there is an exemption (see Paragraph 11 below), to restrict the processing of their personal information if:
- 7.1.1 the data subject contests the accuracy of the personal information, for a period to allow the Association to check the accuracy of their personal information;
  - 7.1.2 the processing is unlawful, and the data subject opposes the erasure of the personal information and requests the restriction of its use instead;
  - 7.1.3 the Association no longer needs the personal information for the purposes the Association collected it for and intend to dispose of it, but the data subject requires it for the establishment, exercise or defence of legal claims; and

- 7.1.4 the data subject has objected to the processing, pending checking whether the Association has legitimate grounds to override the data subject's objection.
- 7.2 Where processing has been restricted, the Association will only process the personal information (excluding storing it):
  - 7.2.1 with the data subject's consent;
  - 7.2.2 for the establishment, exercise or defence of legal claims;
  - 7.2.3 for the protection of the rights of another person; or
  - 7.2.4 for reasons of important public interest.
- 7.3 Prior to lifting the restriction, the Association will inform the data subject of the lifting of the restriction.
- 7.4 The Association will communicate the restriction of processing of the personal information to each recipient to whom the personal information has been disclosed, unless this is impossible or involves disproportionate effort. The Association will also inform the data subject about those recipients if the data subject requests it.

## **8 Responding to requests for the portability of personal information**

- 8.1 Data subjects have the right, in certain circumstances, to receive their personal information that they have provided to the Association in a structured, commonly used and machine-readable format that they can then transmit to another organisation. Where such a request is made, the Association will, unless there is an exemption (see Paragraph 11 below), provide the personal information without undue delay if:
  - 8.1.1 the legal basis for the processing of the personal information is consent or performance of a contract; and
  - 8.1.2 the Association processes that personal information in electronic format.
- 8.2 When a data subject makes a request for portability in the circumstances set out above, the Association will take the following steps:
  - 8.2.1 log the date on which the request was received;
  - 8.2.2 confirm the identity of the data subject who is the subject of the personal information; and
  - 8.2.3 search databases, systems, applications and other places where the personal information which is the subject of the request may be held and provide the data subject with such data (or, at the data subject's request, transmit the personal information directly to another organisation, where technically feasible).

## **9 Responding to objections to the processing of personal information**

- 9.1 Data subjects have the right to object to the processing of their personal information where such processing is based on the Association's performance of a task carried out in the public interest or based on the Association's legitimate interests, which override the data subject's interests or fundamental rights and freedoms, unless the Association either:
- 9.1.1 can show compelling legitimate grounds for the processing which override those interests, rights and freedoms; or
  - 9.1.2 is processing the personal information for the establishment, exercise or defence of legal claims.
- 9.2 Data subjects also have the right to object to the processing of their personal information for scientific or historical research purposes or statistical purposes, unless the processing is necessary for the performance of a task carried out for reasons of public interest.
- 9.3 Where such an objection is made, the Association shall, unless there is an exemption (see Paragraph 11 below), no longer process a data subject's personal information.

## **10 Responding to requests not to be subject to automated decision-making**

Data subjects have the right, in certain circumstances, not to be subject to a decision based solely on the electronic processing of their personal information, if such decision produces legal effects concerning them or similarly significantly affects them. The Association does not take decisions based solely on the electronic processing of personal information.

## **11 Exemptions**

- 11.1 The framework of exemptions from each of the above rights is complex, and it is the responsibility of the DPO to assess whether an exemption is relevant in any given circumstances.
- 11.2 Exemptions may apply from the above rights in the following circumstances (this list only sets out a selection of the exemptions):
- 11.2.1 the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security;
  - 11.2.2 other important objectives of general national public interest and important national economic or financial interest, including monetary, budgetary and taxation matters, public health and social security;
  - 11.2.3 the protection of the data subject or the rights and freedoms of others where the disclosure by the Association of personal information about the data subject would involve disclosing personal information relating to another data subject identifiable from the information;

- 11.2.4 the maintenance of effective immigration control, or the investigation or detection of activities that would undermine the maintenance of effective immigration control;
- 11.2.5 the personal information is required to be disclosed by law or in connection with legal proceedings;
- 11.2.6 self-incrimination, where compliance would reveal evidence of the commission of an offence;
- 11.2.7 the personal information consists of a confidential reference for the purposes of the training, education or employment of the data subject;
- 11.2.8 management forecasting or planning in relation to the Association's business; or
- 11.2.9 any negotiations that the Association have entered into with the data subject where disclosure would be likely to prejudice those negotiations.

## 12 Review

This policy will be regularly monitored and formally reviewed in accordance with the Association's data protection obligations and the Association may amend, update or supplement it from time to time and at least every 3 years or earlier, if required by changes in legislation.

Anne Smith

Chief Executive

**October 2024**

### **Policy Review Consultation Process**

Considered by the Management Team on	25 <sup>th</sup> October 2024
Considered by the Finance, Audit & Corporate Governance Committee on	7 <sup>th</sup> November 2024
<b>APPROVED BY THE BOARD OF MANAGEMENT COMMITTEE ON</b>	<b>28<sup>th</sup> November 2024</b>
<b>Date of Next Review</b>	<b>October 2027</b>