



ACCESS TO INFORMATION POLICY

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Clydesdale Housing Association Limited is a Registered Scottish Charity (SCO34228)

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ACCESS TO INFORMATION POLICY AND PROCEDURES

INTRODUCTION

The approach taken by Clydesdale Housing Association (hereinafter referred to as “the Association”) to Access to Information, is to adopt an all encompassing policy and internal procedure which incorporates Data Protection, and Openness and Confidentiality. This Policy has been compiled with reference to the SFHA’s Raising Standards in Housing, Access to Information, Communities Scotland Guiding Standards and the Data Protection Act 1998 and other related legislation. A list of definitions in relation to the various terms used in the Data Protection Act is contained in Appendix II of this Policy.

1.0 Policy Statement

- 1.1 The Association has registered with the Information Commissioner as a Data Controller and is committed to complying with the intent of the Data Protection Act 1998 (DPA), and fully endorses the Principles contained therein.
- 1.2 The Association will uphold customers rights to access information held about them, in line with the terms of the DPA. It will inform individuals about the type of information held about them, why it is being used and to whom it has been or will be disclosed.
- 1.3 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.

2.0 Policy Objectives

- 1.4 To comply with the 8 Data Protection Principles outlined in the Legislative Framework section regarding the protection and disclosure of information including personal data.
- 1.5 To comply with requests to access personal information within 40 calendar days as prescribed by the DPA.
- 1.6 Not to disclose or use personal data without firstly obtaining the consent of the individual concerned unless it is exempt from the DPA as outlined in Appendix I of this Policy.
- 1.7 To provide members, tenants, sharing owners and staff with access to information on how it conducts itself. This means that unless information is commercially sensitive or personally confidential, it will be made available on request. This information will include:
 - Performance against operational targets

- Performance against strategic objectives
 - How to become a member of the Committee or influence decision in other ways
 - Communities Scotland Inspection reports
 - Performance against any action plans arising from the Inspection process
 - Policies and procedures
 - Non confidential committee papers and minutes
 - Results of the annual external audit
 - Customer satisfaction survey results
 - Performance against Service Delivery Plans
- 1.8 Introduce a system of passwords or similar method of identifying individuals requesting personal information in relation to their rent account or other personal information to which only they are entitled.
- 1.9 Enter into a data sharing protocol agreement with other agencies for the purposes of providing a better service; for research purposes or to detect and prevent fraud.
- 1.10 Association staff will not gain or attempt to gain access to information they are not entitled to have.
- 1.11 In some instances, requests to access personal information may involve providing information which relates to a third party. This may involve a conflict of interest between the individual's right to access information and the third party's right to privacy. The Association will deal with any such requests in a sensitive manner and will properly consider this potential conflict of interest when deciding whether to disclose third party information.

3.0 Legal and Good Practice Framework

Data Protection Act 1998

3.1 The general effect of the DPA is to ensure data controllers use information about individuals in line with the eight data protection principles detailed below. The Association will ensure that all personal information in relation to its service users, Committee members and staff is:

- 1st Processed fairly and lawfully
- 2nd Is obtained for specified and lawful purposes, and is not processed for other purposes.
- 3rd Is relevant to the purpose for which it was obtained.
- 4th Is accurate and kept up to date.
- 5th Is not being retained unnecessarily.
- 6th That the statutory rights of data subjects (individuals) must be respected.

- 7th That the data controller must take appropriate technical and organisational measures against improper processing and the risk of loss of destruction of, or damage to, the data.
- 8th Is not transferred to a country where there is inadequate protection for the rights of data subjects in relation to processing of information.

The DPA gives individuals rights in respect of information held about them on computer and in a structured filing system. Information in relation to your rights as an individual can be obtained from the Information Commissioner website www.informationcommissioner.gov.uk or by telephoning 01625 545 700. The following information on your rights has been extracted from the website:

1. The right to find out what information is held about you on computer and in some papers records.
2. You can find out what credit reference agencies report about you and how you can correct mistakes.
3. The right to take steps to prevent your personal data being processed if this is likely to cause you or someone else to suffer substantial damage or substantial distress which is not justified
4. The right to require the data controller not to use your personal data to market you with products, services or ideas.
5. The right to challenge decisions which are based on automatic computer processing.
6. The right to have the any information processed about you to be accurate and to have any inaccuracies amended or destroyed.
7. You have the right to claim compensation from the data controller where you have suffered distress resulting from a failure by the data controller to comply with the DPA.
8. You ultimately have a right through the Courts to claim compensation where a solution cannot be reached with the data controller.

3.2 Information which indicates that a person is potentially violent comes under the scope of the DPA. The Association is therefore bound by the terms of the DPA and must ensure that:

- Any decision regarding marking an individual as potentially violent, will be made by a nominated person within the Association according to criteria clearly laid down
- Any individuals who are considered to be potentially violent must be informed; must be told why they are considered to be potentially violent ; who this information will be passed to; and when their inclusion on a list of violent individuals will be reviewed
- Any information held on file regarding a potentially violent individual will be kept secure and only disclosed on a “need to know” basis.
- Passing on information regarding a potentially violent individual will only happen on a case by case basis where there is a real risk of an unlawful act.

The Human Rights Act 1998

The principles of data protection are echoed in Article 8 of the European Convention on Human Rights. It can be difficult and sometimes confusing to consider all aspects of the DPA with the ethos of openness and confidentiality. As a generality, the Association will:

- Respect an individual's right to a private and family life, their home and correspondence
- Not interfere with that right unless it is in the interests of national security; public safety; for the prevention of disorder or crime; for the protection of health or morals; or for the protection of the rights and freedom of others.

The Association will adopt the following principles in relation to the DPA and the Human Rights Act.

1. To treat everyone fairly, politely and without discrimination.
2. To be open in the services we provide while retaining confidentiality when required.
3. To make sure that the decisions we take are fair and justifiable.
4. Not to express an opinion either orally or on paper which cannot be substantiated by fact.

Freedom of Information Act

The Freedom of Information Act does not currently apply to Registered Social Landlords (RSLs). It is possible that RSLs will be included over time. This legislation gives individuals not only a right of access to personal information but to all types of information held by public authorities. As a matter of good practice, the Association has a policy on making information readily available to its service users, unless it could be deemed commercially sensitive. This could include internal strategic or financial plans and development plans.

Crime and Disorder Act 1998

This Act makes provisions for RSLs to disclose information to assist with the prevention of crime. It primarily relates to sharing information with the Police and obtaining Anti-Social Behaviour Orders. The Act gives RSLs the power to disclose information but this does not extend to a duty to disclose. The Association will only disclose information where it is consistent with the DPA and the Human Rights Act.

Housing (Scotland) Act 2001

This Act introduced a single regulatory framework for RSL's and Local Authorities to ensure there are consistent standards being adopted across the housing sector and to ensure that tenants and service users can expect the highest standards of service.

Communities Scotland is the regulatory body for RSLs and inspectors from The Regulation and Inspection Division of Communities Scotland carry out inspections from time to time to satisfy themselves that the RSL is conducting its affairs in a proper manner and providing a high quality service.

In order to do this, Communities Scotland have the right of access to the RSLs premises and to any documents relating to the RSL which the Inspectors feel is necessary to carry out their inspections. This will involve them gaining access to individuals personal information but is allowed within the terms of the Data Protection Act.

Health and Safety at Work Act 1974

The terms of this Act places an obligation on employers to ensure the health and safety of their employees. Staff of the Association have to conduct interviews with individuals either at the Association's premises or during a home visit. Information relating to a perceived threat of violence could be passed on to the staff member concerned, provided it did not breach one of the 8 Data Protection Principles.

Communities Scotland Guiding Standard GS3.5

The Association endorses Guiding Standard GS3.5 which relates to Openness and confidentiality.

"We are open about what we do and publish information about our activities. We provide information that people ask for, unless there are justifiable reasons for withholding it."

4.0 Types of information.

4.1 It is not possible to categorise every type of information the Association holds on file. To simplify matters, the type of information the Association holds can be broken into four basic categories:

1. Personal information in relation to staff, members of the Management Committee, applicants to the housing list, current tenants and former tenants, sharing owners and owner occupiers.
2. Sensitive personal information or data. In order to obtain and process personal sensitive data, the Association must obtain the individual's explicit consent.
3. Organisational information examples of which are detailed in 1.7 above.
4. Commercially sensitive information which remains confidential under the terms of the DPA. It is acceptable to withhold commercially sensitive information provided the Association can justify it.

4.2 In order to comply with the requirements of the DPA the Association will introduce good information handling practices. It will carry out an

audit of all the information held by the Association and check this against the Data Protection Principles. Timescales for the retention of records will form part of this process.

5.0 Responsibilities for Compliance

- 5.1 The Chief Executive has overall responsibility for data protection within the Association, and for ensuring that our notification to the Information Commissioner, and our Data Entry Protection register is accurate and up to date. The Depute Chief Executive will assist the Chief Executive to discharge this responsibility.
- 5.2 The Depute Chief Executive will assist in implementing the requirements of the DPA 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 we hold.
- 5.3 The Depute Chief Executive 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.
- 5.4 Members of the Management Team will ensure that personal data processed by their department is included in the Association's data protection register entry, is kept up to date and complies with the above principles.
- 5.5 All staff has 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.
- 5.6 All staff will receive training in relation to complying with the 8 Data Protection Principles and requests for access to information.

6.0 Access Rights

- 6.1 Service users, employees and other individuals, who the Association holds personal information on, will have the right to access the information, unless it is exempt under the Data Protection Act.
- 6.2 The Association will respond to information requests promptly and certainly within 40 calendar days as detailed in the internal procedure for requests to access personal information.
- 6.3 The Association as Data Controller can refuse to supply a permanent copy of personal data if this is not possible, or would involve a "disproportionate effort". Individuals are however still entitled to inspect the information.
- 6.4 The Association is entitled to charge a fee of £10 for providing the information.

7.0 Confidentiality

- 7.1 It is not possible to produce a definitive list of all items considered confidential. The following are examples of what is considered confidential and should not be divulged inappropriately:
- 7.2 Personal confidentiality of residents and other members of the public will be respected. This means that the names, addresses, details on family composition and 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.
- 7.3 All data records (both paper and computer) will be kept confidential to the appropriate staff members. No Committee members will view an individual’s data records.
- 7.4 Items deemed to be confidential on an “ad hoc” basis.
- 7.5 Exceptions to this are where a service user or other member of the public complains or appeals to the Association about an issue and a personal representation is being made to the Management Committee as the final stage in the complaints procedure. In these circumstances, it is impossible to withhold information on the person’s identify.
- 7.6 Where the Association has a legal obligation to provide information to a third party.

8.0 Equal Opportunities

A copy of this policy can be made available in different formats and languages on request.

9.0 Breaches of this Policy

- 9.1 Any breaches of this Policy, whether deliberate or inadvertent, will be dealt with seriously by the Association.
- 9.2 The circumstances surrounding the breach will be taken into account. It may result in either staff Disciplinary or Grievance proceedings being taken, or in the case of a Committee member, that member being asked to leave.

10.0 Revision History

This policy will be reviewed every three years or sooner, if required by changes in legislation.

Approved by the Committee of Management on:	
Signed:	Signed:
Secretary/Chairperson	Director/Senior Staff Member

Appendix 1: The Data Protection Act Principles and Relevant Exemptions

1. Personal data shall be processed fairly and lawfully. Exemptions from the 1st principle:
 - Personal data collected for the purposes of the prevention or detection of crime
 - Discharging a statutory function
 - Certain data in Health, Education and Social work records
 - Regulatory activity
 - Personal data processed for research, history or statistics
 - Information already available to the public under statute eg members register
 - Management forecasts and planning
 - Negotiations in relation to the data subject
 - Necessary disclosure of information or data
 - Disclosure of personal data required by law or a court order
 - Information which the organisation is obliged to make publicly available
 - Data collected solely for an individual's personal, family or household affairs

2. Personal data shall be obtained only for one or more specified and lawful purposes and shall only be used for that specified and lawful purpose

3. Personal data shall be adequate, relevant and not excessive on relation to the purpose or purposes for which they are processed.

4. Personal data shall be accurate and, where necessary, kept up to date.

Personal data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose
Exemptions from the 2nd — 5th principles:

- Personal data collected for the purposes of the prevention or detection of crime
- Information already available to the public under statute eg members register
- Disclosure of personal data required by law or a court order
- Information which the organisation is obliged to make publicly available

6. Personal data shall be processed in accordance with the rights of data subjects under this Act

Exemptions to these rights are:

- Crime and taxation data
- Health and Social work data
- Regulatory activity
- information already available to the public under statute eg electoral register
- Data collected solely for an individual's personal, family or household affairs
- Management forecasts and planning

Appendix II – Glossary of Terms

Data	This means information which is processed or is intended to be processed by means of automatic devices, such as an IT system, or is recorded on a relevant filing systems for manual data.
Data Controller	This means the person(s) who determines(s) the purposes and manner in which any personal data is to be processed. The Data Controller is Clydesdale Housing Association.
Data Subject	This means an individual who is the subject of personal data
Data Processor	This means any person (other than an employee of Clydesdale Housing Association) who processes data on our behalf. This DPA imposes a higher duty of care upon data controllers when the processing of personal data is carried out on their behalf by data processors.
Data Processing	This term covers almost any conceivable use of data, including obtaining, recording, holding, organising, adapting, altering retrieving, consulting, using, disclosing, blocking, erasing or destroying the information or data.
Personal Data	This means data from which it is possible to identify a living individual, either directly from that information or from additional information which is in the possession of or is likely to come into the possession of anyone processing that data.
Relevant Filing System	This means any structured set of information which is organised either by reference to individuals or by reference to criteria relating to individuals, in such a way that specific information relating to a particular individual can be easily found.
Sensitive Personal data	This means personal data consisting of information as to a person's racial or ethnic origin, political opinions, religious beliefs or beliefs of a similar nature, membership of a trade union, physical or mental health or condition, sexual life or the commission or alleged commission of any offence (or proceedings for those offences) by that person.
Subject access	This means the right of any individual to have access to personal information about themselves held by a data controller.

Subject access These are the rights that individuals have under the DPA in respect of personal data held about them by others. These include, for example, the right to access information, prevent processing and correct inaccurate data.

Third party This term is used in relation to personal data and means any person other than the data subject, the data controller or any data processor or other person authorised to process data on behalf of the data controller or data processor

Appendix III Openness and Accountability Statement of Intent

Clydesdale Housing Association is a non-profit distributing organisation, managed by a voluntary Committee. Clydesdale Housing Association wishes to make sure that our affairs are conducted in a manner, which is open and transparent. In order to achieve this, we will make the following information available:

Register of Members - available to the public on request.

Annual Accounts - available to members on request.

Annual Report - issued to all members, tenants and sharing owners

Newsletters - issued to all members, tenants and sharing owners at least three times a each year.

Policy Documents - policy documents, except those relating to the administration of personnel issues, will be available to the public on request, free of charge.

Complaints Policy and Procedure - displayed in the reception area and copies provided on request

Equality and Diversity Policy - provided to staff, contractors and consultants employed by the Association and available to members of the public on request.

Performance Audit Report - from time to time the Association will publish on its website, a summary of the report provided by Communities Scotland following a Performance Inspection Visit .

Survey Findings - from time to time the Association will publish (in newsletters) summaries of reports on issues such as customer satisfaction surveys.

Performance Measurement – This will be done mainly in the Annual Report and quarterly newsletters. Monthly figures will be available on request. The degree to which our tenants and sharing owners feel that they are kept appropriately informed is explored in our Customer Satisfaction Survey.

Register of Interests - the Register of Committee Members' Interests will be available to the public at the Association's head office, on request.

Tenants and Owners Handbook - handbooks will be provided for all tenants and sharing owners receiving a service from the Association.

Association Rules - the Association's Rules will be provided free to every member on joining Clydesdale Housing Association and will be available for reading at the Association's office by the public.

Minutes of Meetings - minutes of Management Committee Meetings of Clydesdale Housing Association are available to any member of the Association for reading at the Association's office. This does not include Minutes of the Staffing Sub Committee or matters which are agreed by the Committee as confidential.