

The Data Protection Act 2002 (the DPA) imposes certain obligations on all data controllers. These include the requirement to maintain an entry in the register of data controllers and compliance with the data protection principles and the rights of individuals.

Entry in the register of data controllers

A landlord or letting company is likely to hold information on individuals, such as tenants, suppliers or other members of the public. This information includes, for example, tenancy agreements and CCTV recordings, if installed in the premises. These individuals are 'data subjects' and information relating to them is their 'personal data'.

The landlord is a "data controller" and an entry in the register of data controllers may be required if automated equipment is used for processing personal data. This includes any form of computerised documentation or correspondence, email, databases, etc. If the only reason for processing personal data is for the landlord's own accounts and records, advertising and marketing or for the administration of any staff, then an entry will not be required. However, a register entry will be required if other processing, such as CCTV occurs.

It is an offence to process personal data without an entry in the register of data controllers, unless an exemption from that requirement applies.

A register entry, if required, should be made, and maintained, in the name of the landlord, or letting company, and guidance on notification and the registration process is available on the website.

Compliance with the Data Protection Principles

Landlords must comply with all the data protection principles when processing personal data, irrespective of whether an entry in the register of data controllers is required or not.

These principles say personal data must be:

- Fairly and lawfully processed
- Processed for specified purposes
- Adequate, relevant and not excessive
- Accurate and, where necessary, kept up to date
- Not kept for longer than is necessary
- Processed in line with the rights of the individual
- Kept secure
- Not transferred to countries outside the EEA unless there is adequate protection for the information

Further guidance on the data protection principles is available on the website.

Compliance with the rights of individuals

Individuals have many rights under the DPA; one of the most commonly exercised, the right of access to personal data is explained briefly below.

This right can be exercised at any time by an individual. A written request, a "subject access request", can be made and could extend to any records, correspondence, emails or CCTV images,

about that individual. Data controllers are required to supply that individual with their personal data in permanent form within a strict timeframe. Comprehensive guidance on dealing with a “subject access request”, and on the other rights, is available on the website.

FAQs

Can a landlord pass the names of new tenants to the utility companies?

Yes. A landlord has a legitimate interest in making sure that utility charges are directed to those responsible. However, landlords should tell individuals when they first agree to the tenancy that their details will be passed on.

Can landlords see references which were provided to the letting agents?

The agent can pass this information on to the landlord, as long as, when the reference is asked for, they make it clear to the tenant and the referee that this will happen.

Can landlords put up a list of tenants who are in arrears?

No. Information about an individual’s debts should only be given out in limited circumstances. It is only justifiable to tell tenants if someone has not paid their rent if this has a direct effect on them, for example, if they become legally responsible to help meet any shortfall.

Can landlords disclose details of a tenant who left without paying the rent?

Where a tenant leaves without paying the rent, and without making any arrangement to pay, landlords may provide their details to a tracing agent or debt collection company to help them recover the money owed to them. However, it would be good practice to make tenants aware when they sign the tenancy agreement that in such circumstances this will happen. This may also make tenants think twice about not paying the rent.

Can a landlord pass forwarding addresses of former tenants to the utility companies?

Yes. Sometimes a landlord will become aware that a tenant has moved leaving behind an unpaid utility bill or an account in credit. In addition a utility provider may need to contact a former tenant regarding continuing social support. In these circumstances a landlord can pass a forwarding address (where known) to the utility companies as the DPA is not intended to be an obstacle to disclosure in these situations. However, landlords must make tenants aware of these possible disclosures at the start of the tenancy.

When can a landlord give out information?

In general, landlords should make clear to tenants when they sign the tenancy agreement when and how their information may be given out. However, if an emergency repair needs to be carried out, it would not breach the DPA to provide tenants’ contact details to the repairer. On the other hand, if a domestic contractor is looking for work the tenants should be left to contact the contractor rather than the landlord giving out the tenants’ details without their knowledge or agreement.