

The data protection legislation imposes certain obligations on all controllers and processors. These include the requirement to maintain an entry in the register of controllers and processors and complying with the data protection principles and the rights of individuals.

Entry in the register of controllers and processors

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, due diligence information, 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 "controller" and a register entry is 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 or for the administration of its own 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 a register entry, unless an exemption from that requirement applies.

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

Compliance with the data protection principles

Landlords must comply with the principles relating to processing personal data, irrespective of whether an entry in the register of controllers and processors is required or not.

The principles can be found in Article 5 of the Applied GDPR and are:

1. Lawfulness, fairness and transparency
2. Purpose limitation
3. Data minimisation
4. Accuracy
5. Storage limitation
6. Integrity and confidentiality

There is an overarching principle of accountability, and controllers must be able to demonstrate how they comply with the principles.

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

Compliance with the rights of individuals

Individuals have many rights under the data protection legislation; 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. Controllers are required to provide that individual with a copy of their personal data in within a strict timeframe.

Comprehensive guidance on dealing with a “subject access request”, and on the other rights, is 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 may 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 data protection legislation 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 data protection legislation 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.

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