

Data Subject Rights Policy & Procedure

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Corporate Fit	Internal Management Plan	✓
	Risk Register	✓
	Business Plan	✓
	Equalities Strategy	✓
	Legislation	✓

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Our policies provide a framework to underpin our vision and values, to help us achieve our strategic objectives.

Our Vision

Local people, local control.

By providing quality homes and services, we will create stronger communities and a better quality of life for our customers.

Our Values

- Focused on the needs of our customers and communities.
- Supportive of our staff and Committee members.
- Responsible, efficient, and innovative.
- Open and accountable.
- Inclusive and respectful.
- Fair and trustworthy.

Strategic Direction

Consolidation and improvement: Applicable to our core business as a landlord & property manager.

Growth: Through the new build opportunities, we are taking forward.

Partnerships: Where this can help to address shared goals and increase capacity and value.

Resilience: A key priority across all parts of our business.

Strategic Objectives

Services: Deliver quality, value for money services that meet customers' needs

Homes & neighbourhoods: Provide quality homes and neighbourhoods.

Assets: Manage our assets well, by spending wisely.

Communities: Work with local partners to provide or enable services and activities that benefit local people and our communities as a whole

Our people: Offer a great workplace environment that produces a positive staff culture and highly engaged staff.

Leadership & Financial: Maintain good governance and a strong financial business plan, to ensure we have the capacity to achieve our goals.

Our Equalities and Human Rights Commitment

We understand that people perform better when they can be themselves and we are committed to making the Association an environment where employees, customers, and stakeholders can be open and supported. We promote equality, diversity, and inclusion in all our policies and procedures to ensure that everyone is treated equally and that they are treated fairly on in relation to the protected characteristics as outlined in the Equality Act 2010.

Privacy Statement

As data controller we will collect and process personal data relating to you. We will only collect personal information when we need this. The type of information we need from you will vary depending on our relationship with you. When we ask you for information, we will make it clear why we need it. We will also make it clear when you do not have to provide us with information and any consequences of not providing this. We are committed to being transparent about how we collect and use your data, and to meeting our data protection obligations with you. Further information about this commitment can be found within our full Privacy Statements.

Policy Scope & Review

For the purpose of this policy the term Association will include all members of the Tollcross Housing Association Limited. Therefore, all employees, governing body members, volunteers, customers and other relevant stakeholders will be expected to adhere to this policy and/or procedure. All policies and procedures are reviewed every 3 years in line with best practice and current legislation. The Association reserves the right to make additions or alterations to this policy and procedure from time to time. Any timescales set out in this policy may be extended where required.

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1. Introduction

- 1.1. The UK General Data Protection Regulation (UK GDPR) provides all living individuals (data subjects) with certain rights over their personal data. Not all rights are absolute, and some can be subject to exemptions.
- 1.2. This document should be read in conjunction with our Data Protection Policy.

2. Purpose & scope

- 2.1. The purpose of this procedure is to explain how a data subject can make a rights request in relation to their personal data, as defined in Article 15 to 21 of the UK GDPR, and how we will handle requests to ensure compliance with the UK GDPR and any other relevant legislation.
- 2.2. Where personal data is being processed by the Association and the identity of the data subject has been verified, we will respond to the request and provide the data subject with a response within the obligated timeframe.
- 2.3. This policy applies to all employees, volunteers, governing body members, members of the Association, and any other relevant stakeholders (referred to as 'personnel' for the remainder of this policy).
- 2.4. The following rights involving personal data are covered for the data subject within the UK GDPR legislation:
 - Right of Access – Article 15
 - Right of Rectification – Article 16
 - Right of Erasure – Article 17 (also known as 'right to be forgotten')
 - Right to restrict processing – Article 18
 - Right of transfer data (data portability) – Article 20
 - Right to object to processing – Article 21

3. Responsibilities

- 3.1. All personnel must adhere to this policy and procedure.
- 3.2. Employees must:
 - Create and maintain a culture supportive of openness, transparency, and promoting the right to know.
 - Provide relevant advice, assistance, and signposting to customers regarding their data and their rights.
- 3.3. Our Data Protection Lead is responsible for maintaining a register of all rights requests and co-ordinating the collection of personal data and providing any required responses.
- 3.4. Our Data Protection Officer (DPO) will provide guidance and support in relation to information requests and relevant legislation.

4. Definition of personal data

- 4.1. Personal data, for the purposes of this procedure is defined as, any information relating to an identified or identifiable living individual who can be identified, directly or indirectly. Personal data includes facts, opinions or intentions relating to the data subject.

- 4.2. The UK GDPR applies to personal data which is:
- processed wholly or partly by automated means e.g., IT system, CCTV, voicemail, forms; or
 - intended to form part of a filing system e.g., categorised file that enables personal data to be readily accessible.

5. Request procedure

5.1. Receiving a valid request

- 5.1.1 A data subject can make a request via any method, including but not limited to, verbal, email, social media, and online forms.
- 5.1.2 Personnel should recognise a request, even when the individual does not use the expected terminology (e.g. subject access request).
- 5.1.3 A request cannot be progressed if we do not have enough information to clearly locate and identify the personal data within the request. The data subject can be asked for further information in order to help locate the information.

5.2. Verifying the identity of the data subject

- 5.2.1 Where there are any reasonable doubts concerning the identity of the data subject, additional information will be requested to confirm the identity of the data subject.
- 5.2.2 Once we are satisfied, a note will be made that this requirement has been met and any copies of identification documents will be shredded (there is no requirement to retain copies of any ID verification).
- 5.2.3 If we can demonstrate that we are not able to identify the data subject, even after additional information is provided, a refusal notice to act upon the request will be issued.

5.3. Requests from parties other than the data subject

- 5.3.1 There are occasions where a data subject may agree to a third party making a request on their behalf, such as a solicitor or family member.
- 5.3.2 To protect a data subject's personal data, we will make all the necessary checks to be satisfied that the individual making the request on behalf of the data subject is entitled to do so. This may include requesting a written authority to make the request (e.g., evidence of consent from the individual) or a more general power of attorney.
- 5.3.3 No information will be released until we are satisfied. We may feel it appropriate to contact an individual directly to discuss the request, for example, if asked to release special category data.
- 5.3.4 In the event of this, the data subject will be given an overview of the type of information that will be released and the option to:
- view their personal data first and upon consent it will be released to the third party
 - grant permission for it to be sent directly to the third party
 - withdraw consent and no information will be sent to the third party

6. Charges

- 6.1. In most cases there will be no fee charged for responding to a request, however where we can demonstrate that the request is manifestly unfounded or excessive in nature it can either (1) charge a reasonable fee, reflective of the administrative costs of dealing with the request; or (2) refuse to act on the request.
- 6.2. A data subject will be informed of such decision, the reason why and how a complaint can be raised with the Information Commissioner's Office (ICO) if they wish to appeal.
- 6.3. If the request relates to access to personal data, where we have provided one copy of the personal data free of charge, for further copies of the same data, we shall charge a reasonable fee to the data subject based on administrative costs.

7. Timescales

- 7.1. We shall provide a response to the data subject without undue delay and in any event within one month of receipt of a valid request. The day the request is received is day one (for example, if the request is received on 10th August the last day for responding is 10th September).
- 7.2. Where there is no corresponding date in the following month the last day of that month will be the last date for responding (e.g., received on 31st August the last day will be 30th September).
- 7.3. This period may be extended by two further months, considering the complexity and number of the requests. Our Data Protection Lead shall inform the data subject of any extension within one month of receipt of the request, together with the reasons for the delay.
- 7.4. If it is not possible to action the request of the data subject, our Data Protection Lead shall inform the data subject without delay and at the latest within one month of receipt of the request of the reasons for not progressing and of the possibility of complaining to the ICO.

8. Responding to requests

- 8.1. The data in any response shall be presented in a concise, transparent, intelligible and easily accessible form, using clear and plain language.
- 8.2. Requesters are encouraged to confirm the method and any special arrangements required for their data when they log their request (e.g. large font, braille). Where we are unable to meet a special request, we will contact the requester to discuss more suitable options.
- 8.3. Where an email or online request for copy data is received, the data shall be provided by email, unless the data subject has requested that it be provided in another form. Any such personal data which is emailed shall be encrypted and subject to appropriate security measures.

9. Data subject rights

9.1. Access Requests (Subject Access Requests)

- 9.1.1 This right enables a data subject to verify that we are lawfully processing their personal data and to check its accuracy.

- 9.1.2 Where data is being processed by us and the data subject makes a request to access the data, we shall provide the data subject with access to the personal data and provide:
- the purpose of the processing;
 - the categories of personal data being processed;
 - the recipients or categories of recipients to whom we have disclosed or will disclose personal data;
 - the retention period for the data (or how we determine that);
 - the existence of the right to have us rectify, erase or restrict processing of that data;
 - the right to lodge a complaint with the ICO;
 - the source of the information if we have not collected the data direct from the subject; and
 - the existence of any automated decision making.
- 9.1.3 Where personal data is transferred to a third party or to an international organisation, we will ensure the appropriate safeguards relating to the transfer are in place.
- 9.1.4 We have a duty to ensure other individual's information is treated fairly or protected accordingly. Therefore, before we release anything to the data subject or representative we must ensure that we are not inappropriately releasing information about another individual who can be identified from that information.
- 9.1.5 On occasions where somebody else can be identified from that information, we will not release data relating to the data subject unless the other individual has consented to the release of the information or it is reasonable in all circumstances to release the information without consent. We will take the below approach:
- Seek documented consent from other individuals.
 - Where appropriate redact information so other individuals cannot be identified, such as names / addresses/ identification.
 - Where appropriate provide a summary of the personal data.
 - Review whether it would be reasonable to release the information without consent, considering.
 - is the information already known by the data subject?
 - is the individual acting in their professional capacity and had dealings with the data subject?
 - is there a duty of confidentiality owed to the other individual?
- 9.1.6 The data subject's interests and that of the other individual will be reviewed and considered.
- 9.1.7 All decisions will be made on a case-by-case basis, taking into consideration other legislation that may force the release of information to the data subject.
- 9.1.8 The Data Protection Act 2018 makes it an offence to intentionally alter, deface, block, erase, destroy or conceal information with the intention of preventing disclosure of all or part of the information that the person making the request would have been entitled to receive.

9.2. Rectification Requests

- 9.2.1 Where the request is for the rectification of inaccurate personal data we will restrict further processing of personal data whilst verifying the accuracy.

- 9.2.2 Where the rectification request is upheld, we shall inform any third parties who have been sent personal data that the data subject has made a rectification request and instruct all parties what rectification is required.
- 9.2.3 The exception to notifying third parties is if this proves impossible or involves disproportionate effort.

9.3. Erasure Requests

- 9.3.1 When requested to do so by the data subject, we will erase personal data without undue delay where the request does not conflict with any legal, regulatory, or other such constraints.
- 9.3.2 This right can only be exercised by data subjects where:
- the personal data is no longer necessary in relation to the purpose for which it was collected or processed;
 - where the data subject's consent to processing is withdrawn;
 - where the data subject objects to the processing and there are no overriding legitimate grounds for processing;
 - where there is no legal basis for the processing; or
 - where there is a legal obligation to delete data.
- 9.3.3 Where personal data is to be deleted, data held in different locations and in different formats will be reviewed to ensure that all relevant personal data is erased.
- 9.3.4 Where we have made any personal data public, we shall take reasonable steps (taking into account technology and cost) to notify other controllers processing the data of the data subject's request for erasure.
- 9.3.5 We are not required to and will not delete personal data where the processing carried out is necessary for:
- exercising the right of freedom of expression;
 - complying with a legal obligation in the public interest or in the exercise of an official authority;
 - for public health reasons;
 - for archiving purposes; or
 - for the establishment, exercise or defence of legal claims
- 9.3.6 Once the relevant personal data has been deleted the data subject shall be advised that the data has been erased unless doing so is impossible or involves disproportionate effort.

9.4. Restriction Requests

- 9.4.1 The data subject shall have the right to restrict (block) processing of their personal data. This is not an absolute right and the data subject will only be entitled to restriction where:
- the accuracy of personal data is contested by the data subject for a period to enable us to verify the accuracy;
 - the processing is unlawful, and the data subject does not want it to be erased but requests restriction instead;
 - we no longer need the data for the purpose of the processing, but the data is required by the data subject for the establishment, exercise or defence of legal claims; or

- the processing has been objected to and verification of that objection is pending.

9.4.2 Where the data subject exercises their right to restriction, personal data can then only be processed with their consent or for the establishment, exercise or defence of legal claims or for the protection of the rights of another person or legal entity or for reasons of important public interest of the UK or an EU Member State.

9.4.3 Where we have restricted any form of processing and that restriction is subsequently to be lifted, we shall advise the data subject accordingly unless doing so is impossible or involves disproportionate effort.

9.5. Transfer Requests

9.5.1 This right allows a data subject to obtain and reuse personal data for their own purposes across different services.

9.5.2 Where a data subject requests a copy of their personal data for the purposes of transferring it from Tollcross Housing Association to another data controller we shall do so provided:

- the legal basis for processing is based on consent or a contract with the data subject; and
- the processing is carried out by automated means.

9.5.3 The data subject shall only be provided with the personal data they have provided to us and the personal data gathered by us in the course of our dealings with the individual or which has been generated from our monitoring of the data subject's activity. This will only be data held electronically.

9.5.4 The data subject is entitled to be provided with their personal data in a structured, commonly used and machine-readable format for transfer to another controller; or where possible to have us transfer the data direct to another controller.

9.6. Objection Requests

9.6.1 A data subject can object to the processing of their personal data, including profiling, on grounds relating to their particular situation. Where a request is received, we are under an obligation to act upon a request where one of the following conditions applies:

- where their personal data is processed based on the public interest or in the exercise of official authority; or
- where we are processing their personal data based on legitimate interests.

9.6.2 If we can demonstrate that Tollcross Housing Association has legitimate grounds for the processing which override the interests, rights and freedoms of the data subject or for the establishment, exercise or defence of legal claims, it is not necessary to cease processing.

9.6.3 This does not apply to direct marketing. Data subjects are entitled to object to direct marketing (in any form) which is sent to them. This is an absolute right and where such a request is received, we must comply with the request.

10. **Applying exemptions**

10.1. The UK Data Protection Act 2018 provides exemptions which enable organisations not to respond to data subject rights in certain circumstances.

10.2. We may be exempt from compliance with the data subject rights if certain exemptions apply. Careful consideration should be given to these exemptions and whether they apply before responding to any request by a data subject. Advice from the Data Protection Officer or legal adviser is recommended. The exemptions for compliance with the request are set out in schedule 2 parts 1, 2 and 3 of the Data Protection Act 2018.

10.3. In summary these are:

- Crime and taxation – for the prevention or detection of crime; the apprehension or prosecution of offenders or the assessment or collection of tax or duty or an imposition of a similar nature to the extent that those provisions would prejudice the activity.
- Immigration – for the maintenance of effective immigration control or the investigation or detection of activities that would undermine the maintenance of effective immigration control.
- Law or legal proceedings – (information required to be disclosed by law etc. or in connection with legal proceedings) to the extent that the application of the provisions would prevent same including disclosure which is necessary for the purpose of or in connection with legal proceedings (including prospective legal proceedings) or for obtaining legal advice or otherwise establishing, exercising or defending legal rights.
- Functions designed to protect the public – certain functions carried out to protect the public from financial loss through fraud etc.; to protect charities; for health and safety reasons; to prevent malpractice in a public office; or to protect business interests.
- Regulatory activity – relating to certain bodies where the application of the provisions would prejudice the discharge of their function.
- Legal professional privilege/confidentiality of communications – some solicitor/client communications or information prepared for the purpose of litigation
- Self-incrimination – to the extent that complying would reveal evidence of an offence
- Corporate finance – in certain circumstances
- Management forecasts - to the extent that the application of the provisions would prejudice the conduct of the business or activity concerned
- Negotiations - with the data subject to the extent that the application of the provisions would prejudice those negotiations
- Confidential references - given to or provided by the Association
- Health, Education & Social Care – Health, social work, education and child abuse data to the extent that the application of the provisions would cause prejudice.

10.4. If we apply any exemptions or refuse the request for any reason, we will provide the data subject with the following information:

- the reasons why the request is refused/exemptions applied
- their right to make a complaint to the ICO
- their ability to seek to enforce this right through judicial remedy

11. Register of requests

11.1. Our Data Protection Lead is responsible for maintaining a register of requests, to allow monitoring of the progress of requests and the volume of requests received.

12. Records retention

- 12.1. A copy of all the data retrieved must be taken for reference should the data be challenged by the data subject. These will be maintained in line with the records retention schedule and retained for 1 year.

13. Complaints and right to appeal

- 13.1. If the data subject or their representative is not satisfied with the outcome of their rights request, in the first instance, the individual will be encouraged to contact the Data Protection Lead. If they are still not satisfied, they can contact the Information Commissioner's Office directly at:

Information Commissioner's Office, Wycliffe House, Water Lane, Cheshire, SK9 5AF
E-mail: casework@ico.org.uk Website: www.ico.org.uk

14. Monitor and review

- 14.1. Regular monitoring and audits will be undertaken by the Data Protection Lead and/or DPO to check compliance with the law, this policy and associated procedures. Any concerns will be raised with the Leadership Team.
- 14.2. This policy will be reviewed every 24 months or when required to address any weakness in the procedure or changes in legislation or best practice.

Appendix 1 – Equality Impact Assessment

Policy	Data Subject Rights Policy		
EIA Completed by	Corporate Services	EIA Date	
1. Aims, objectives and purpose of the policy / proposal			
The aim of this policy and procedure is to provide a clear framework for any customers requesting personal data from us and how we will manage these requests.			
2. Who is intended to benefit from the policy / proposal?			
Data subjects.			
3. What outcomes are wanted from this policy / proposal?			
For our customers to better understand what they can expect from the Association as a data controller and what their rights are in relation to their personal data.			
4. Which protected characteristics could be affected by proposal?	<input type="checkbox"/> Age	<input type="checkbox"/> Gender reassignment	<input type="checkbox"/> Religion or belief
	<input checked="" type="checkbox"/> Disability	<input type="checkbox"/> Marriage & civil partnership	<input type="checkbox"/> Sex
	<input type="checkbox"/> Race	<input type="checkbox"/> Pregnancy and maternity	<input type="checkbox"/> Sexual orientation
5. If the policy / proposal is not relevant to any of the protected characteristics listed in part 4, state why and end the process here.			
6. Describe the likely impact(s) the policy / proposal could have on the groups identified in part 4			
Data subjects with disabilities may be negatively impacted by the standard presentation of data.			
7. What actions are required to address the impacts arising from this assessment? (This might include; collecting data, putting monitoring in place, specific actions to mitigate negative impacts).			
We have built into the policy as option for data subjects to be able to request more suitable formats to receive the data (e.g. large font for those with sight issues).			