



Data Protection Act – Individual Rights Procedure

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Issue No -- Author: V2 Sarah Henderson
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1. Introduction

This procedure provides guidance on how to support individuals to exercise their rights under the Data Protection Act. The sixth data protection principle, provides the following rights to individuals in relation to their personal data:

- right of access to a copy of the information comprised in their personal data;
- a right to object to processing that is likely to cause or is causing damage or distress;
- a right to prevent processing for direct marketing;
- a right to object to decisions being taken by automated means;
- a right in certain circumstances to have inaccurate personal data rectified, blocked, erased or destroyed; and
- a right to claim compensation for damages caused by a breach of the Data Protection Act.

For the purposes of clarity in order for information to be regarded as personal data, it must relate to a living individual and allow that individual to be identified, either on its own or along with other information likely to come into the organisation's possession.

A request for personal information is often also referred to as a 'subject access request'.

2. Related Policies

The main policy this procedure supports is the:

- Data Protection Policy

3. Related Forms / Documents & Databases

The key documentation related to this procedure is as follows:

- Personal Information Request Form

The main systems at Salix Homes which contain personal information are as follows:

- CRM
- SAP
- Northgate

4. Service Standards & Performance Measures

- We will endeavour to ensure that 100% of requests for personal information are complied with within 40 days.
- We will respond to concerns about how personal data is processed within 10 working days.
- We will make amends to personal data held on our systems within 10 working days of validating the request
- We will ensure that, as part of the induction process, 100% of new starters receive data protection legislation awareness training.
- We will ensure that an annual refreshment of knowledge on data legislation and responsibilities take place for all employees.

5. Risks

The main risks associated with this procedure are as follows:

Risk of failing to respond to requests in a timely manner – Responsible: Governance Manager

Requests for personal information should be responded to within 40 days, all other requests under this procedure will be responded to within 10 days.

Compliance with requests for personal information are monitored by the Governance Team and discussed annually at SMT as part of the review of the progress and performance of the Information Governance Framework.

Risk of failing to correct inaccurate personal data or have personal data, blocked, erased or destroyed – Responsible: Customer Service Manager

Customers have a right to have inaccurate personal data rectified, blocked, erased or destroyed.

Our CRM system records the reasons why a customer contacts Salix Homes, where a customer makes contact for their personal information to be amended this request can be captured and amended in the system.

Risk of disclosing personal information in error – Responsible: Governance Manager

Personal information may be disclosed to an unauthorised person either because the identity of the person requesting the information has not been correctly validated or the personal information released has not been appropriately edited to remove the personal information of other individuals.

The response process to requests for information has been centralised to the Governance Team and the Governance Manager is responsible for approving responses to requests for information prior to their release. The Governance Officer can deputise for the Governance Manager to ensure resilience against absence.

6. Responsibilities

The application of this procedure is the responsibility of all Salix Homes employees.

In particular, the Governance Manager has overall responsibility for ensuring compliance with this procedure and shall ensure that:

- Individuals with enquiries about accessing their personal information know how to ask
- Requests for personal information are dealt with promptly and courteously

The Customer Services Manager has overall responsibility for ensuring that customer requests for their personal data to be amended are actioned.

7. Procedure

Personal Information Request

How should a request for personal information be made?

A request for personal information must be made in writing, preferably through the use of Salix Homes Personal Information Request Form, this makes it easier to recognise a request for personal information

and understand the information that is wanted.

Whilst the use of the online Personal Information Request Form can be encouraged, an individual can still make a request in other written formats, including Social Media.

A request made orally does not have to be responded to but, depending on the circumstances, for example where the individual has a disability which makes it difficult to make a request in writing, it might be reasonable to do so (as long as the person's identity has been validated), and it is good practice at least to explain to the individual how to make a valid request, rather than ignoring them.

If a request does not mention the DPA specifically or even say that it is a subject access request, it is nevertheless valid and should be treated as such if it is clear that the individual is requesting their personal information.

The Data Protection Act does not prevent an individual making a subject access request via a third party. Often, this will be a solicitor acting on behalf of a client, but it could simply be that an individual feels comfortable allowing someone else to act for them. In these cases, it must be validated that the third party making the request is entitled to act on behalf of the individual. It is the third party's responsibility to provide evidence of this entitlement. This might be a written authority to make the request or it might be a more general power of attorney.

Once a request has been received, if this has not automatically been sent to the Governance Team via the online form, then all colleagues are requested to forward such requests as soon as practically possible to the Governance Team.

What action will be taken before a request for personal information is processed?

The Data Protection Act allows confirmation of two things before becoming obliged to respond to a request. First, the person requesting the information can be asked enough information to judge whether they are the person to whom the personal data relates. This is to avoid personal data about one individual being sent to another, accidentally or as a result of deception.

The amount of information asked for to validate the person making the request for personal data must be reasonable. For example, lots more information should not be requested if the identity of the person making the request is obvious. This is particularly the case, for example, when there is an ongoing relationship with the individual.

However, it should not assume that, on every occasion, the person making a request is who they say they are. In some cases, it is reasonable to ask the person making the request to verify their identity before sending them information.

The level of checks depends on the possible harm and distress which inappropriate disclosure of the information could cause to the individual concerned.

The second thing to do before responding to a request for personal data is to ask for information may be reasonably needed to find the personal data covered by the request. In some cases, personal data may be difficult to retrieve and collate. However, it is not acceptable to delay responding to a subject access request unless this information is reasonably required to find the data in question.

Salix Homes also charge a £10 fee for requests for personal information where the request is no specific and/or substantial.

What personal information will be sent?

The individual will be supplied with all personal information requested which is held by Salix Homes unless it falls into one of the following categories, in which case the provision of information can be refused:

- Information which would be likely to affect a police investigation or criminal/civil legal proceedings;
- certain health and social work information may also be limited

The Data Protection Act specifies that a subject access request relates to the data held at the time the request was received. However, in many cases, routine use of the data may result in it being amended or even deleted whilst the request is being processed. It is therefore reasonable to supply information held at the time the response is sent out, even if this is different to that held when the request was received. However, it is not acceptable to amend or delete data if this otherwise would not have been amended or deleted.

In what format will the personal information be sent?

The information provided to the individual will be in "intelligible form". At its most basic, this means that the information provided should be capable of being understood by the average person. The Data Protection Act does not require that the information is provided in a form that is intelligible to the particular individual making the request.

How long will this take?

Only once the identity of the person has been confirmed, any support to locate the data has been requested, and a fee has been received (where necessary) can the request for personal data be processed and the 40 day period for responding to a request will commence.

What about repeated or unreasonable requests?

The Data Protection Act does not limit the number of subject access requests an individual can make to an organisation. However, it does allow some discretion when dealing with requests that are made at unreasonable intervals. The Act says that an organisation is not obliged to comply with an identical or similar request to one which has been already dealt with, unless a reasonable interval has elapsed between the first request and any subsequent ones.

Requests for personal inaccurate personal information to be rectified, blocked, erased or destroyed

How can incorrect personal information be rectified, blocked, erased or destroyed?

Individuals who believe that personal information held about them are encouraged to raise their concerns in order for action to be taken to correct the data. If the individual is an employee of Salix Homes they should contact the HR Team directly with any concerns. All other individuals should contact Salix Homes either in writing, preferably using the online form Notification of Incorrect Personal Information, or by calling us on 0800 218 2000.

Colleagues upon receipt of a request should take the necessary steps to validate that the person requesting the amendment...etc. is the person to whom the personal data relates. See earlier in this section for guidance on validating the identity of an individual. Once identity has been validated the request can be actioned.

Requests to prevent direct marketing.

How can direct marketing be prevented?

Salix Homes does not pass information to third parties where it believes this information may be used as a form of direct marketing. If an individual is concerned that their data has been provided to a third party for this purpose they should contact the Governance Manager as soon as possible in order for this to be investigated.

Salix Homes does, on occasion, send information to customers about its own services and events that it believes a customer may find useful or interesting. If a customer does not want to receive such information they are requested to notify us on 0800 218 2000 and their records will be updated accordingly within our systems.

Objections to processing personal data that is likely to cause or is causing damage or distress

What type of objections can be raised?

The Data Protection Act limits the extent to which an organisation must comply with an objection in the following ways:

- an individual can only object to the processing of their own personal data;
- processing an individual's personal data must be causing unwarranted and substantial damage or distress; and
- the objection must specify why the processing has this effect.

In addition, an individual has no right to object to processing if:

- they have consented to the processing;
- the processing is necessary: in relation to a contract that the individual has entered into; or because the individual has asked for something to be done so they can enter into a contract;
- the processing is necessary because of a legal obligation that applies to Salix Homes (other than a contractual obligation); or
- the processing is necessary to protect the individual's "vital interests".

How can an objection be raised?

Objections should be raised in writing and directed to Salix Homes Governance Manager.

Objections to decisions being taken by automated means

What type of objections can be raised?

An individual has a right to request information about the reasoning behind any decisions taken by automated means. The Data Protection Act complements this provision by including rights that relate to automated decision taking. Consequently:

- an individual can give written notice requiring Salix Homes not to take any automated decisions using their personal data;
- an individual can ask you to reconsider a decision taken by automated means.

How can an objection be raised?

Objections should be raised in writing and directed to Salix Homes Governance Manager.

8. Flow Chart

Section 7 of this procedure has been laid out in simple steps for colleagues to follow. Any queries or concerns should be forwarded to the Governance Team.

