



Agenda item 4.6

Data Protection Policy and Procedure

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Data Protection Policy and Procedure

Introduction

1. Purpose

Island Homes handles information about individuals in many ways. This policy ensures that such information is dealt with in accordance with the Data Protection Act 1998. A procedure is also included for dealing with requests from individuals who wish to know what information is held on them by One Housing Group.

2. Audience

This policy applies to all staff.

3. Equal Opportunities and Diversity

Staff must be aware of the diverse communication needs of residents. The Association provides document translation and interpretation services on request. Staff are advised to produce written documents and letters that follow plain English guidelines on language and layout so they can be understood by as wide an audience as possible. Staff must be sensitive to the needs of residents who cannot read, which includes having an awareness of the issues surrounding both illiteracy and dyslexia. Where staff are aware of individual language needs, they must adapt their communication methods as appropriate.

Data Protection Policy Statement

1. Island Homes holds personal information about staff, residents and other service users. Island Homes is subject to the requirements of the Data Protection Act 1998, and respects the rights of all these people to privacy and confidentiality.
2. This policy covers all personal data held by One Housing Group which relates to any individual.
3. The law makes a distinction between how we deal with 'personal data' and 'sensitive personal data'. Full definitions of these terms and their implications are at Appendix C.
4. Island Homes is registered with the Information Commissioner for the purposes of processing personal data under the Data Protection Act.
5. Responsibility for compliance with the Act rests with the Group Company Secretary. All staff have a duty to understand and implement this policy. Any breach may be a disciplinary or criminal offence. All breaches of data protection must be reported to a senior manager.
6. Information is held by the Group in paper files and on its computer systems, including ArcHouse and the email system. Each department has responsibility for the information it holds.
7. Individuals have the right to request to see the data held about them. This is known as a subject access request (SAR). All staff must be aware of how to recognise and respond to a subject access request. A full procedure is at page 6, and flowcharts are at Appendices E and F.
8. A leaflet will be made available for service users outlining their data protection rights, and with information on how to make a subject access request.
9. Information will be securely destroyed when it is no longer needed. This is covered in more detail in the Group policy on Retention and Disposal of Information.
10. All personal data is to be treated as confidential. This policy should be read in conjunction with the Group's Confidentiality Policy.
11. Individuals are made aware of what personal data is collected and held by the Group. Personal information is not to be shared without the consent of the individual, except in exceptional circumstances. These may include where the Group is required to share information in order to comply with the law, in connection with legal proceedings, where an individual's safety may be at risk, or anonymously for statistical or research purposes.

12. All new staff, including temporary staff, are to be made aware of this policy as part of their induction. Staff training on data protection is also provided through Organisational Development and Learning.
13. It is recommended that each team draw up local procedures for how they process personal data within the scope of this policy.
14. The principles of the Data Protection Act are listed at Appendix B.
15. This policy will be reviewed annually.

Procedure for Dealing with Subject Access Requests

1. Under the Data Protection Act, anyone on whom the Group holds information has a right to see the information which is held about them. This is known as a 'Subject Access Request' (SAR), the 'subject' being the person whose information is held. See Appendix E for flowchart.
2. Individuals have the right to be given a description of:
 - the personal data held (information about the subject)
 - what purposes these data are used for
 - those to whom these data may be disclosed.

The individual may also request a copy of any such information, although such a request may be denied if meeting it involves 'disproportionate effort.' Refusals due to disproportionate effort should only be used in exceptional circumstances.

Confidential medical information:

A request may also be denied if the information to be disclosed might affect the subject's physical or mental condition (unless a health professional has been consulted). This may be relevant, for example, within a care scheme where a resident asks to see their personal care plan. Generally, care plans are drawn up with the client who therefore has an automatic right of access. In a small number of cases there is sensitive information from other parties, such as doctors and other external professionals. If this information has been provided in confidence then it should not be shared with the service user without agreement from the person who provided the information. In this case the information should be held separately from the care and support plan. However, staff should note that best practice demands that medical practitioners (even in the forensic and psychiatric fields) should be working with service users in an open manner.

Staff are advised to take appropriate advice before disclosing such information.

3. Island Homes reserves the right to charge a £10 fee for providing information under a Subject Access Request. Departments may decide to waive this fee, particularly where dealing with requests from vulnerable residents.
4. It is important that staff know how to recognise a Subject Access Request, so that they can respond appropriately.
5. All Subject Access Requests must be put in writing. This will minimise the risk of giving out the wrong information through mistaken identity. Where a request is made verbally or over the telephone to a member of staff, s/he must advise the Subject to put their request in writing. A standard letter is available to respond to SARs, see Appendix D. This should ask for proof of ID and payment of £10 where appropriate.
6. Island Homes will make every reasonable effort to provide the information which is requested.

7. Island Homes will respond to all Subject Access Requests within 40 calendar days from the receipt of the written request, proof of identity and any fee payable.
8. Subject Access Requests may be received from any individual about whom the Group holds information, including residents, staff, board members, partners, contractors and other service users.
9. The member of staff who receives the SAR must deal with the request personally, or they must refer the request to a more appropriate colleague.
10. All SARs (and the response given) are to be logged with the Group Company Secretary.
11. If the information requested is found to contain errors, these should be corrected before the information is passed to the Subject.
12. Where the information contains inappropriate comments by staff (for example, rude or defamatory remarks on a housing file) these must be removed before the information is given to the subject. Island Homes can be held liable for making such defamatory remarks. It is imperative that all information about individuals is written bearing in mind that the Subject has a right to read it. Staff must adopt a professional approach to recording information, ensuring that they only record facts. Personal opinion and speculation should be avoided.
13. Where the information requested contains information about a third party (ie another individual other than the Subject), this information may not be disclosed without either:
 - the consent of the third party
 - the removal of the third party information.See Appendix F flowchart for responding to SARs containing third party information.

Appendix A

1. Framework

This document should be read in conjunction with the following Island Homes Policies:

- Confidentiality Policy
- Retention and Disposal of Information Policy.
- Freedom of Information Policy
- CRB (Criminal Records Bureau) Policy on Secure Storage of Disclosures
- Tenancy Alert and Tenancy Caution Status Policy and Procedures
- Email / Internet / Intranet Access Policy

This policy relates to the following legislation:

- Data Protection Act 1998
- Freedom of Information Act 2000
- Human Rights Act 1998
- Crime and Disorder Act 1998
- Regulation of Investigatory Powers Act 2000
- Immigration and Asylum Act 1999
- Mental Capacity Act 2005

2. Good practice and guidance

Reference is made to the National Housing Federation publications:

- "A Guide to the Data Protection Act 1998"
- "Dealing with Subject Access Requests from Tenants" (briefing).

The website of the Information Commissioner (www.ico.gov.uk) was also consulted in the preparation of this policy and procedure.

Appendix B

The 8 Principles of Data Protection (from the Data Protection Act 1998)

1. Data must be obtained and processed fairly and lawfully
2. Data must only be processed for the reasons intended and prescribed in the data register entries
3. All data held must be adequate, relevant and not excessive
4. All data held must be accurate and kept up-to-date
5. Data must not be kept for longer than is necessary
6. Data must be processed in accordance with the subject's rights
7. Data must be kept secure
8. Data must not be transferred outside of the European Economic Area without adequate security.

Appendix C - Definitions of key terms

DPA = Data Protection Act 1998

SAR = Subject Access Request

Data

Data is information which is intentionally processed or recorded as part of an accessible record.

Processing

Processing of data is a broad term which includes a wide range of actions, including collecting, reading, recording, sharing, amending and storing. The government's Information Commissioner, who oversees the implementation of the Data Protection Act 1998, says that "it is difficult to imagine any action involving data that does not amount to processing."

Data Controller

A person who determines the purposes for and the manner in which personal data are, or are to be, processed. This may be an individual or an organisation (eg Island Homes) and the processing may be carried out jointly or in common with other persons.

Personal Data

Data which relates to a living individual who can be identified

- from those data, or

- from those data and other information which is in the possession of, or likely to come into the possession of the data controller.

It includes any expression of opinion about the individual and any indication of the intentions of the data controller or any other person in respect of the individual.

Sensitive Data

Specific provision is made under the DPA for processing sensitive personal information. This includes racial or ethnic origin, political opinions, religious or other beliefs, trade union membership, physical or mental health condition, sex life, criminal proceedings or convictions.

For personal information to be considered fairly processed, at least one of several extra conditions must be met. These include:

- Having the explicit consent of the individual
- Being required by law to process the information for employment purposes
- Needing to process the information in order to protect the vital interests of the individual or another person
- Dealing with the administration of justice or legal proceedings.

Appendix D

Sample letter of response to a Subject Access Request:

Date

Dear (customer)

Thank you for your recent request to see information which Island Homes holds about you.

We are happy to comply with your request.

(delete if necessary) We make a charge of £10 for this service. Please send a cheque payable to 'Island Homes' (or relevant subsidiary) for that amount to....., or bring it in person to an Island Homes office.

(delete if necessary) We will only release the information when we are sure of the identity of the person making the request. Please can you provide us with a copy of passport, driving licence, etc., either by mail or in person at an Island Homes office.

On receipt of the above (delete if necessary):

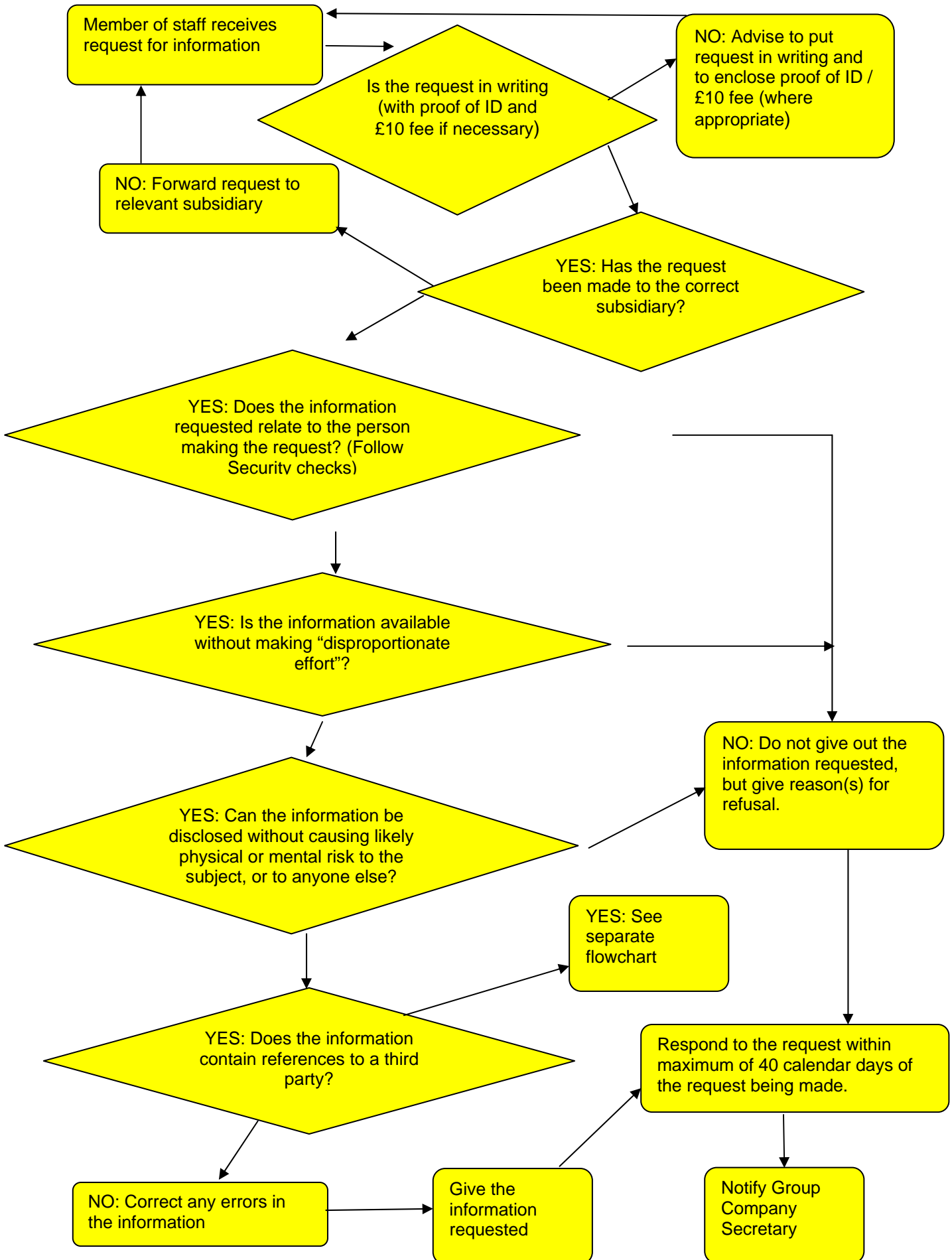
(EITHER) We will provide you with a copy of the information you have asked for.

(OR) We will make an appointment for you to come and view the information you have asked for.

Yours sincerely

Island Homes

Appendix E: Flowchart for Responding to Subject



Appendix F: Flowchart for Responding to Subject Access Requests where the data contains information about a Third Party

