



TENANTS' ACCESS TO PERSONAL FILES

1. INTRODUCTION

- 1.1 The Data Protection Act 1984 gives individuals the statutory right (subject to certain exemptions) to see and check details about themselves that are held in the form of computerised data. For tenants of local authorities these rights were extended to manual records under the Access to Personal Files Act 1987, and the statutory instrument The Access to Personal Files (Housing) Regulations 1989. The rights and regulations of both acts are enshrined in "The Tenants Guarantee" which came into effect on 15 January 1989.
- 1.2 The Tenants Guarantee for Assured tenancies, paragraph G6, stipulates that associations should allow their tenants, former tenants and applicants for tenancies reasonable access to other personal information held about themselves or members of their family, other than that provided in confidence by third parties. If the tenant, former tenant or applicant considers the record inaccurate he or she should be allowed to correct or record his/her disagreement with the information held by the association.

2. OPENNESS

- 2.1 Tenants will have access to all personal information held by IDS including staff views and all information held should be:-
- obtained fairly
 - held for specific purposes (relating to tenancy issues)
 - used for those purposes
 - relevant, accurate and up-to-date
 - not kept longer than necessary (former tenants)
 - protected against loss/disclosure
 - treated as confidential at all times
 - not revealed to third parties except in specified circumstances or with the authority of the tenant.
- 2.2 Access will be given to personal information held on:
1. Tenancy Files
 2. Maintenance files where these include personal records of statements by tenants on repairs requests.
 3. Personal rent accounts
 4. Processed applicants/nominations/referrals files.
 5. Transfer documents
 6. Tenants Incentive Scheme Records
 7. Former tenants/processed applicants files.
- 2.3 Access will be available to:
1. Current tenants (whether "secure" or "assured") and licensees.
 2. Former tenants/licensees who request information within 2 years of vacation.
 3. Applicants (including nominations/referrals).

4. Former applicants whose cases were processed within the last 2 years.
5. Relatives/agents of the above with the tenants/applicants WRITTEN CONSENT.

2.4 File Notes and Reports

Staff must be clear, concise and accurate when writing reports or notes for files. Files should be kept in plain language and staff expressing a personal view of a situation should make it clear that it is a personal view and not written in such a way as to make it appear as a fact.

3. EXEMPT INFORMATION

3.1 The following information need not be disclosed.

1. Information relating to or identifying a THIRD PARTY unless the person concerned has given their written consent. This will include complaints from neighbours (N.B. Normally information on partners and dependant members of a family (eg children under 16) will be disclosed to the tenant/applicant EXCEPT where the informant does not want the information disclosed eg, where there is known conflict between family members. Information about adult members of the family (eg children over 16 and other adults) will not be disclosed without their written consent).
2. Information from other agencies (eg, social services, doctors, DSS, lawyers) which could be reasonably expected to be treated in confidence.
3. Information that could cause physical or mental harm or lead to victimisation. In particular, there will be special regard for women and children at risk of violence or abuse.
4. Information required by the individual in connection with legal proceedings of any kind.
5. Information in connection with legal proceedings being taken against the individual or any other person or likely to lead to legal proceedings (eg, Legal Action reports).

Legal advice may be needed before disclosures relating to 4 or 5 are made.

Where a document is to be withheld, a note will be included on the file briefly describing its purpose and effect together with a note of the reasons for it being withheld (see para 4.3 below).

4. VIEWING PROCEDURES

1. Tenants/Applicants wishing to see personal information should complete a "Request to view Personal Information" form. This will give details of the type of information requested/reasons for wanting access.
2. The Area Housing Manager will gather the relevant files/documents from other departments if appropriate.
3. Exempt information should be separated where possible (eg, doctors letter).

4. The files/documents will be passed to the Director of Housing or Department Head to confirm which information will be withheld.
5. If necessary, photocopies of documents (eg file notes etc) blanking out exempt information will be prepared. A list of exempt documents will be drawn up without naming third parties (eg letter from LEB, letter from doctor etc).
6. Records will normally be made available within 10 working days of receipt of a written request, but certainly no longer than 40 days (the maximum permitted under the Act).
7. Tenants/Applicants will be invited to view the records in the presence of the Area Housing Manager at Head Office. Proof of identity will be requested where the tenant/applicant is not known to the Area Housing Manager. If documents have been removed (which will be returned to the file) the individual will be told that the documents are exempt and shown the list of removed documents.
8. A separate register will be kept by the Director of Housing showing who was given access to information, when it was shown to them, and which documents were withheld.
9. Wherever possible photocopying facilities will be made available (at a nominal fee) so that copies can be kept by the individual.

4.1 Altering Records

Individual tenants or applicants will have an opportunity to request that information is corrected or that relevant information that has been omitted is added. Such requests should be in writing.

If the Director of Housing agrees to an amendment, a copy of the original document with inaccuracies clearly marked will be sent to the tenant. Where the amendment is refused by the Director of Housing, a note recording the tenants disagreement with the information held on them will be attached to the original document and kept on the file. Copies of both plus written reasons for the refusal will be sent to the tenant.

4.2 Requests to see Personal Information from a Third Party

Where a tenant/applicant asks to see an item that has been removed because it came from a third party, it will be explained that IDS will require the written consent of the third party before it can be disclosed. A letter requesting such consent will be sent to the third party within 14 days of the tenants request for access to information.

4.3 Appeals

Any tenant/applicant who believes the information held is inaccurate, excessive or incomplete has the right to expect the file to be corrected. They will have recourse to the Association's normal appeals procedure if they believe that the appropriate action is not taken.

The Chief Executive will investigate the appeal from the tenant. The decision taken by the Chief Executive will be given in writing to the tenants within 10 working days of receiving the appeal. If the tenant is still dissatisfied the tenant will be given a further right of appeal to the Board.