

PORT OF LEITH HOUSING ASSOCIATION LIMITED

DATA PROTECTION POLICY

**Policy AC/F 6.16
Reviewed 03/2008
3 year cycle**

Port of Leith is committed to a policy of protecting the rights and privacy of individuals in accordance with the Data Protection Act 1998 ('the Act'.)

The Act lays down regulations and safeguards for the collection, recording and use of personal information whether on paper, in a computer or recorded on other material. Port of Leith needs to collect and use certain types of information about people with whom it deals in order to operate. These include employees, employment applicants, tenants, housing applicants, committee members, suppliers and others with whom it communicates. Certain information may be required for regulatory or monitoring purposes as laid down by statute. Other information may be required for the purpose of establishing a contract. In any case Port of Leith recognises that the information must be dealt with lawfully and correctly under the principles laid down within the Act.

We have registered with the Information Commissioner as a Data Controller under the Data Protection Act, and ensure that our practices in the handling of personal information are of a high standard and comply fully with the Act.

Principles

The Association has adopted and operates procedures in accordance with the Data Protection Act principles. Personal data and information held by the Association is:

- I. Obtained and processed fairly and lawfully.
- II. Obtained only for specified and lawful purposes, and shall not be used for any other purpose.
- III. Adequate, relevant and not excessive in relation to the purpose for which it is obtained or kept.
- IV. Accurate and up to date.
- V. Held no longer than is necessary for the purpose.
- VI. Processed in accordance with the rights of data subjects under the Data Protection Act.
- VII. Kept securely.

The Association and all staff who use any personal information must ensure that they follow these principles at all times. Training will be provided on these principles and the Association's procedures for relevant staff on a regular basis. New staff will have this incorporated into their induction process.

The Six Conditions

At least one of the following conditions must be met for personal information to be considered fairly processed:

- 1 The individual has consented to the processing
- 2 Processing is necessary of the performance of a contract with the individual
- 3 Processing is required under a legal obligation (other than one imposed by the contract)

- 4 Processing is necessary to protect the vital interests of the individual
- 5 Processing is necessary to carry out public functions eg administration of justice
- 6 Processing is necessary in order to pursue the legitimate interests of the data controller or third parties (unless it could be unjustifiably prejudice the interests of the individual)

Responsibilities and Compliance

1. The Finance Director has overall responsibility for data protection within the Association, and for ensuring that our notification to the Information Commissioner, and our entry in the Data Protection register is accurate and up to date.
2. All Directors will assist in implementing the requirements of the Act by:
 - Providing advice and support to all departments on all matters relating to compliance with the Act.
 - Disseminating information relating to the Act.
 - Responding to requests from individuals to access personal information we hold about them.
3. The Personnel Manager has specific responsibility for personal information held on employees. *We will comply with all current Codes of Practice on Recruitment, Employee Records, Monitoring at Work and Information on Employers Health.* Staff will be informed about data protection issues, and their rights to access their own personal data through the staff handbook and induction courses.
4. Department Managers will ensure that personal data processed by their department is included in the Association's data protection register entry, is kept up to date and complies with the above principles.
5. All staff have a responsibility to fully comply with the requirements of the Data Protection Act and this policy. When involved in requesting information, staff will explain why the information is necessary, what it is to be used for, and who will have access to it.

Rights under the Data Protection Act

There are seven rights under the Act:

- 1 The right to access
- 2 The right to prevent processing
- 3 The right to prevent processing for direct marketing
- 4 Rights in relation to automated decision making
- 5 Right to compensation
- 6 Right to rectification, blocking, erasure and destruction
- 7 Right to ask Commission to assess whether the Act has been contravened.

Access Rights

Tenants, employees and other individuals about whom the Association hold personal information will have the right to access the information, unless it is exempt under the Data Protection Act.

The Association will respond to information requests promptly and no longer than 30 working days.

Charges for Providing Information

No charge will normally be made for requests for information. However, the Association reserves the right to make a charge of up to £10 to cover administration, stationery and postage costs, where it is felt necessary to do so.

Confidentiality

This policy complements the Association's confidentiality policy. Only information which can or must be legally disclosed under the Data Protection Act will be shared with a third party without the individuals consent.

Sharing of Information

The Association has protocols in place for sharing information with Police which comply fully with the Data Protection Act.

Sensitive Information

Sensitive information is data collected concerning any of the following and this will cover all data subjects:

Racial or ethnic origin of the data subjects

Political opinions

Religious or other beliefs

Membership of trade unions

Physical or mental health conditions

Sexual life

Offences or criminal records (includes disclosure information)

Other classes of information that may be classed as sensitive are those relating to financial information. Sensitive data must be collected only when explicit consent has been given and should be carefully handled.

Security

All personal data will be accessible only to those who need to use it and should be kept:

- in a lockable room with controlled access, or
- in a lockable drawer or filing cabinet or
- if computerised, password protected, or
- kept on disks which are themselves kept securely.

Retention and disposal periods of data

Statutory periods of retention for various documents is attached within Appendix I.

CCTV

Port of Leith, as a Registered Social Landlord may wish to carry out surveillance of its offices and properties using CCTV apparatus, for the prevention, detection and investigation of crime and to gather evidence to apprehend and prosecute people who break the law, including those who are involved in antisocial acts, such as harassment or graffiti.

All overt surveillance measures adopted must comply with the Data Protection Act 1998, and in particular with the Information Commissioner's guide, *CCTV Code of Practice*. Covert, or intrusive surveillance, which is carried out in a manner calculated to ensure that the persons subject to the surveillance are unaware that it is taking place, is not covered by the Data Protection Act but by the Regulation of Investigatory Powers Act 2000, which requires that any use of covert CCTV apparatus must be authorised, for example by the Police. Although there is some debate as to whether this Act actually applies to RSL's, which are not classed as Public Authorities for the purposes of the Act, it is recommended that its provisions are followed as closely as possible in any event.

With regard to the use of overt CCTV apparatus, Port of Leith should ensure that:

- appropriately-sized signs are positioned around the area under surveillance informing of the presence of CCTV;
- the purpose of CCTV is stated on the signs, ie, to prevent and detect crime;
- contact details on who owns the system, such as our name and a contact telephone number are provided.

Review Period

This policy will be reviewed every three years.

PORT OF LEITH HOUSING ASSOCIATION LIMITED

ASSOCIATION DOCUMENTS : STATUTORY PERIODS OF RETENTION

	<u>Document</u>	<u>Statutory Retention Period</u>	<u>Statutory Retention Source</u>	<u>Recommended Retention Period</u>	<u>Comments</u>
1.	<u>Incorporation Documents</u>				
1.1	Certificate of Incorporation of Registration (I&P Societies)	Permanently	IPSA	Permanently	Best practice
1.2	Certificate of Change of Company Name	N/A	N/A	Permanently	Implied by CA, Sec. 117
1.3	Rules (original)	N/A	N/A	Permanently	Best practice
1.4	Rules (current) (plus supporting authorisations for changes)	Permanently	CA	Permanently	Best practice
1.5	Inland Revenue Letter of Charitable Registration	N/A	N/A	Permanently	Required for Charitable Status
1.6	Certificate of Registration with Communities Scotland (formerly Scottish Homes)	N/A	N/A	Permanently	Best practice
2.	<u>Meetings</u>				
2.1	Notices of meetings	N/A	N/A	6 years	In case of challenge to validity of meeting or resolutions
2.2	Committee of Management Minutes and Resolutions	Permanently	CA	Permanently	Signed originals must be kept
3.	<u>Registrations and Statutory Returns</u>				
3.1	Annual Returns to Communities Scotland	N/A	N/A	5 years	Best practice
3.2	Annual Returns to Communities Scotland (working papers)	N/A	N/A	5 years	Best practice
3.3	Audited Accounts (incl. I&P Societies' Annual Returns to Registrar of Friendly Societies (now Financial Services Authority)	N/A	N/A	Permanently	Best practice
3.4	Declarations of Interest	N/A	N/A	6 years	Limitation for legal proceedings
3.5	Register of Members of Committee of Management	Permanently	CA	Permanently	

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3.6	Register of Seals	N/A	N/A	Permanently	Best practice
3.7	Register of Share Certificates	N/A	N/A	Permanently	Best practice
3.8	Nursing Home and Residential Care Homes Registration Certificates	N/A	N/A	Permanently	Best practice
3.9	Nursing Home and Residential Care Homes Inspection Reports	N/A	N/A	6 years following end of Management	Limitation for legal proceedings. Reports are public documents
4.	<u>Strategic Management</u>				
4.1	Business Plans and supporting documents (e.g. organisation structures, aims, objectives, funding issues)	N/A	N/A	5 years after completion	Best practice
5.	<u>Insurances</u>				
5.1	Current and former Policies	N/A	N/A	Permanently	Limitation can commence from knowledge of potential claim, not cause of it. N.B. RSLs Committee of Management must annually reaffirm their continuation of the Voluntary Board Members Liability Policy (automatically provided via SFHA Membership)
5.2	Certificates of Employers' Liability Insurance	40 years	EL(CI)R	Permanently	The Employers Liability (Compulsory Insurance) Act 1998 came into force on 1 January 1999. Authorised inspectors now have the power to require employers to provide them with a copy of both current and past Certificates.

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5.3	Annual Insurance Schedule	N/A	N/A	6 years	Best practice
5.4	Claims and related correspondence	N/A	N/A	2 years after settlement	Zurich Municipal recommendation
5.5	Indemnities and Guarantees	N/A	N/A	6 years after expiry	Limitation for legal proceedings. 12 years if related to land.
6.	Finance, Accounting and Tax Records				
6.1	Accounting records for Limited Company	3 years	CA	10 years	TMA Sec 20 may require any documents relating to tax over 6 (plus) years
6.2	Accounting records for I&P Society or Charity	N/A	N/A	6 years	Required by Registrar of Friendly Societies and Charity Commissioner
6.3	Balance Sheets and supporting documents	N/A	N/A	6-10 years	Best practice. To relate to accounting records.
6.4	Loan account control reports	N/A	N/A	6 years	Best practice
6.5	Housing Association Grant (HAG) documentation	N/A	N/A	Permanently	Best practice
6.6	Signed copy of report and accounts	N/A	N/A	Permanently	Best practice
6.7	Budgets and internal financial reports	N/A	N/A	2 years	Best practice
6.8	Tax returns and records	N/A	N/A	10 years	TMA Sec.20 may require any documents relating to tax over 6 (plus) years
6.9	VAT records; orders and delivery notes; copy invoices; credit and debit notes; cash records & till rolls; journal transfer documents; creditors, debtors & cash income control accounts; VAT related correspondence	6 years	VATA	6 years	Customs & Excise requirement for VAT registered bodies
7.	Bank Records (including Giro + BACS)				
7.1	Cheques and paying-in counterfoils; instructions to bank	N/A	N/A	6 years	Limitation for legal proceedings
7.2	Bank statements and reconciliations	3 years	CA	6 years	Limitation for legal proceedings

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	<u>Document</u>	<u>Statutory Retention Period</u>	<u>Statutory Retention Source</u>	<u>Recommended Retention Period</u>	<u>Comments</u>
8.	<u>Contracts and Agreements</u>				
8.1	Contracts under seal and/or executed as deeds	N/A	N/A	12 years after completion (including any Defects Liability Period)	Limitation for legal proceedings.
8.2	Contracts for the supply of goods or services, including professional services	N/A	N/A	6 years after completion (including any Defects Liability Period)	Limitation for legal proceedings. (12 years if related to land).
8.3	Loan Agreements	N/A	N/A	12 years after last payment	Best practice
8.4	Licensing agreements; rental and hire purchase agreements; indemnities and guarantees	N/A	N/A	6 years after expiry	Limitation for legal proceedings
8.5	Documents relating to successful Tender	N/A	N/A	6 years after end of Contract	Best practice
8.6	Documents relating to unsuccessful Tenders	N/A	N/A	2 years after notification	Best practice
8.7	Forms of Tender	N/A	N/A	6 years	Best practice
9.	<u>Charitable Donations</u>				
9.1	Deeds of Covenant	6 years after last payment	TMA	12 years after last payment	Limitation for legal proceedings if related to land
9.2	Index of donations granted	N/A	N/A	6 years	Best Practice
9.3	Account documentation	3 years	CA	6 years	Best Practice
10.	<u>Applications and Tenancy Records</u>				
10.1	Applications for accommodation	N/A	N/A	6 years after offer accepted	Best practice
10.2	SCORE data record form	N/A	N/A	NONE	Communities Scotland required form to be destroyed immediately statistics have been recorded.
10.3	Housing Benefit notifications	N/A	N/A	2 years	Recommendation of Institute of Rent Officers

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10.4	Rent Statements	N/A	N/A	2 years	Best practice
10.5	Current tenants' Tenancy Files, including rent payment records, and details of any complaints and harassment cases	N/A	N/A	Indefinitely	Scottish Public Services Ombudsman recommendation. For rent payment details, best practice suggests live system holds 2 years records plus current year.
10.6	Former tenants' Tenancy Files (other than tenancy agreements – see below), including rent payment records, and details of any complaints including racial and other harassment and RSL action taken	N/A	N/A	3-5 years (as judged appropriate by RSL)	Scottish Public Services Ombudsman recommendation (but subject to DPA). 5 years is on an exception basis where the file contents are judged sufficiently important.
10.7	Former tenants' Tenancy Agreements, and details of their leaving	N/A	N/A	Permanently	Scottish Public Services Ombudsman Recommendation (but subject to DPA). Special care needed to protect individuals' confidentiality where joint tenancy replaced by single tenancy (also see below).
10.8	Care Plans for adults and related documents	N/A	N/A	Permanently	May be subject to DPA. Some documents may be transferred to subsequent caring agency.
10.9	Documentation, correspondence and information provided by other agencies relating to special needs of current tenants	N/A	N/A	While tenancy continues	Information held on 'need to know' basis. Medical and Social Services records liable to be confidential. To be returned or passed to subsequent agency at end of tenancy, or destroyed.

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	Document	Statutory Retention Period	Statutory Retention Source	Recommended Retention Period	Comments
10.10	Records relating to offenders, ex-offenders and persons subject to cautions	N/A	N/A	While tenancy continues	Information held on 'need to know' basis. Probation and police sourced records may be confidential. To be dealt with as required by probation service and police.
11.	Property Records				
11.1	Rent registrations	N/A	N/A	Permanently	Rent Officer recommendation
11.2	Fair Rent documentation	N/A	N/A	6 years	Rent Officer recommendation
11.3	Leases and Deeds of Ownership	N/A	N/A	While owned	Best practice
11.4	Copy of former Leases	N/A	N/A	12 years after settlement of all issues	Limitation for legal action relating to land or Contracts under Seal
11.5	Wayleaves, Licences and Easements	N/A	N/A	12 years after rights given or received cease	Limitation for legal action relating to land or Contracts under Seal
11.6	Abstracts of Title; planning and building control permissions; searches	N/A	N/A	12 years after interest ceases	Limitation for legal action relating to land or Contracts under Seal
11.7	Property maintenance records; reports and professional opinions	N/A	N/A	6 years	Limitation for legal action
11.8	Development documentation; disposals	N/A	N/A	12 years after settlement of all issues	Limitation for legal action relating to land or Contracts under Seal
11.9	Invoices	6 years	VATA	12 years	Limitation for legal action relating to land or Contracts under Seal
11.10	VAT documentation	See Finance, Accounting & Tax Records Section	See Finance, Accounting & Tax Records Section	See Finance, Accounting & Tax Records Section	See Finance, Accounting & Tax Records Section
11.11	Insurance	See Insurance Section	See Insurance Section	See Insurance Section	See Insurance Section

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12.	Vehicle Records				
12.1	Mileage records; maintenance records, MOT tests; copy registrations	N/A	N/A	2 years after disposal of vehicles	Best practice
13.	Employees : Tax and Social Security				
13.1	Record of taxable payments; record of tax deducted or refunded; record of earnings on which standard National Insurance Contributions payable; record of employer's and employee's National Insurance Contribution	6 years	TMA	6 years	Inland Revenue require retention of each payment for 3 years
13.2	NIC contracted out arrangements; copies of notices to employee (e.g. P45, P60); Inland Revenue notice of code changes, pay & tax details	6 years	TMA	6 years	
13.3	Expense claims	N/A	N/A	6 years after Audit	Best practice
13.4	Record of sickness payments; record of maternity payments	3 years following year to which they relate	SSPR	6 years	Best practice
13.5	Income Tax and NI returns	3 years following year to which they relate	IT(E)R	6 years	Best practice
13.6	Redundancy details and record of payments and refunds	N/A	N/A	12 years	Institute of Personnel and Development (IPD) recommendation
13.7	Inland Revenue approvals	N/A	N/A	Permanently	IPD recommendation
13.8	Annual earnings summary	N/A	N/A	12 years	Best practice

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14.	Employees : Pension Schemes				
14.1	Actuarial valuation reports	N/A	N/A	Permanently	IPD recommendation
14.2	Detailed returns of pension fund contributions; annual reconciliations of fund contributions	N/A	N/A	Permanently	Best practice
14.3	Money purchase details; qualifying service details	N/A	N/A	6 years after transfer or valuation taken	IPD recommendation
14.4	Investment policies	N/A	N/A	12 years from end of benefits payable under policy	IPD recommendation
14.5	Pensioner records	N/A	N/A	12 years after benefits cease	IPD recommendation
14.6	Records relating to retirement benefits	6 years after year of retirement	RBS(IP)R	6 years after year of retirement	Statutory requirement
15.	Employees : Personnel Procedures				
15.1	Terms and conditions of service, both general terms and conditions applicable to all staff, and specific terms and conditions applying to individuals	N/A	N/A	6 years after the last date of currency	Limitation for legal proceedings
15.2	Remuneration package	N/A	N/A	6 years after last date of currency	Limitation for legal proceedings
15.3	Former employees' personnel files	N/A	N/A	6 years	IPD recommendation
15.4	References to be provided for former employees	N/A	N/A	20 years or until former employee reaches age 65 (whichever comes first)	Best practice
15.5	Training programmes	N/A	N/A	6 years after completion	Best practice
15.6	Individual training records	N/A	N/A	6 years after employment ceases	IPD recommendation
15.7	Short lists, interview notes and related application forms	N/A	N/A	1 year	IPD recommendation
15.8	Application forms of non-short listed candidates	Three months after notification	SDA & RRA	1 year	Recommendation of Commission for Racial Equality and Equal Opportunities Commission
15.9	<i>Disclosure Scotland Info</i>	<i>N/A</i>	<i>N/A</i>	<i>6 months</i>	<i>Best practice</i>

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16.	Employees : Health & Safety				
16.1	Medical records relating to control of asbestos	40 years	CAWR	40 years	
16.2	Health and Safety assessments; records of consultations with safety representatives	N/A	N/A	Permanently	IPD recommendation
16.3	Health and Safety Policy Statements	N/A	N/A	Permanently	Good practice
16.4	Accident records, reports	3 years after date of occurrence	RIDDOR	6 years after date of occurrence	Limitation for legal proceedings
16.5	Accident books	N/A	N/A	6 years after date of last entry	Limitation for legal proceedings
16.6	Sickness records	N/A	N/A	6 years from end of sickness	Limitation for legal proceedings
16.7	Health and Safety statutory notices	N/A	N/A	6 years after compliance	Limitation for legal proceedings

KEY TO STATUTORY RETENTION SOURCES

CA	-	Companies Act 1985
CAWR	-	Control of Asbestos at Work Regulations 1987
Ch A	-	Children's Act 1989
DPA	-	Data Protection Act 1998
IPSA	-	Industrial And Provident Societies Act 1965
IT(E)R	-	Income Tax (Employment) Regulations 1993
RIDDOR	-	Reporting of Injuries, Diseases & Dangerous Occurrences Regulations 1985
RBS(IP)R	-	Retirement Benefits Schemes (Information Powers) Regulations 1995
RRA	-	Race Relations Act 1976
SDA	-	Sex Discrimination Acts 1965 & 1975
SMPR	-	Statutory Maternity Pay Regulations 1982
SSPR	-	Statutory Sick Pay Regulations 1982
TMA	-	Taxes Management Act 1970
VATA	-	Value Added Tax Act 1994
GS(I+U)R	-	The Gas Safety (Installation & Use) Regulations 1998