

# Rosehill Housing Cooperative Data Protection & Access to Information

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# Data Protection

# What is data protection?

- UK General Data Protection Regulation (UK GDPR)
- Data Protection Act 2018 (DPA 2018)
- Regulates how Rosehill handles and uses personal data about living individuals
- Personal data / special category personal data / criminal convictions and offences personal data
- Rosehill, as controller, is responsible for compliance, but individual staff members and Committee members can be held responsible for own actions

# Data protection principles (DPPs)

1. Handle personal data lawfully, fairly and transparently
2. Need to specify purposes for which personal data will be used
3. Only handle and use as much personal data as needed for task at hand
4. Keep personal data accurate and up-to-date
5. Do not keep personal data for longer than necessary
6. Keep personal data secure

# Data security

- Rosehill must put in place appropriate “technical” and “organisational” data security measures
- Breach = any circumstance in which security of personal data is compromised
  - must notify Information Commissioner’s Office (ICO) of breaches within 72 hours of knowledge, if likely to give rise to risk for individuals
  - if breach likely to give rise to “high risk” for individuals, then must also notify them “without undue delay”

# Consequences of data security breaches

- Damage to reputation via unwanted publicity
- Sued for damages by affected individuals for financial / non-financial losses
- Loss / wrongful disclosure of personal data
- Individual prosecution
- SHR regulatory intervention (breach = notifiable event)
- ICO fine

# Managing data security breaches

- Act with urgency
- Focus on containment
- Notify ICO / Scottish Housing Regulator / affected individuals / Police (if required)
- Record keeping
- Learn from experience

# Individual rights

- Right of subject access
- Right to rectification
- Right to restrict
- Right to erasure

\*Age of capacity in Scotland

# Accountability

- Adopt policies and procedures, deliver training and implement appropriate and effective information governance measures to ensure and demonstrate compliance with DPPs
- Importance of top down “culture of compliance”

# Sanctions, penalties and offences

- Individuals can complain to ICO
- ICO has range of enforcement powers, including power to issue fines of up to £17.5m against Rosehill
- Individuals can sue Rosehill for compensation for financial and non-financial damage / loss
- Offences

# Access to Information

# Access to information: introduction

- Freedom of Information (Scotland) Act 2002 (FOISA) = access to information (applied to Rosehill since November 2019)
- Environmental Information (Scotland) Regulations 2004 (EISRs) = access to environmental information (applied to Rosehill since June 2014)

# Requests

- FOISA: writing or other “permanent form”, which is capable of being used for subsequent reference
- EISRs: verbal requests are sufficient
- Name, address and description of information / environmental information
- Anyone, anywhere (12 years+) in world can make request, with no requirement to have interest or any connection to Rosehill

# Duties

- Duty to publish
- Duty to provide reasonable advice and assistance
- Duty to transfer requests (EISRs only)

# Fees

- Optional – no need to charge
- Maximum FOISA fee = £50
- Maximum EISRs fee = unlimited (but must be reasonable)

# Response deadline

- FOISA: respond “promptly” and in maximum of 20 working days
- EISRs: 20 working days, can extend by additional 20 working days due to volume and complexity of requested environmental information

# Responding to requests

1. Comply and disclose
  2. Do not hold requested information / environmental information
  3. Repeat / manifestly unreasonable request
  4. Vexatious / manifestly unreasonable request
  5. Fully / partially refuse due to exemption(s)
- In all cases, include
    - details of review process (review within 40 working days of response)
    - right to make application to Scottish Information Commissioner (SIC) (apply within 6 months of review)

# Enforcement and offences

- SIC
  - information / decision / enforcement notice
  - appeal to Court of Session
- Offence
  - alter, deface, erase, destroy or conceal record after request been received with intention of preventing disclosure, unless Rosehill would not have had to provide the information / environmental information to applicant
  - Fine of up to £5,000 for Rosehill and any staff member involved

# Contact

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