

**Policy & Procedure for
CESSA Charity/Housing Everyone**

E 07 – RIGHTS REGARDING DATA including SUBJECT ACCESS REQUESTS

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Policy

The Organisation's Policy is to comply with the Data Protection Act 2018/General Data Protection Regulations (GDPR). This document therefore is intended to inform Data Subjects of their rights, which includes how to request access to their data.

A) AIM

This policy outlines the rights that data subjects have, under the Act, in relation to the data about them that we hold. Data subjects, for these purposes, includes (current, prospective and former) living employees, workers, contractors, tenants and members.

B) THE RIGHT TO BE INFORMED

In order to keep you informed about how we use your data, we have relevant privacy notices. That for tenants is on the website, that for employees has been provided (copies can be obtained from Head Office and relevant privacy statements are included in all forms used to collect data from individuals. Our privacy notices set out:

- a) the types of data we hold and the reason for processing the data;
- b) our legal reason for processing it;
- c) details of who your data is disclosed to and why;
- d) how long we keep your data for, or how we determine how long to keep your data for;
- e) where your data comes from;
- f) your rights as a data subject;
- g) your absolute right to withdraw consent for processing data where consent has been provided and no other lawful reason for processing your data applies;
- h) your right to make a complaint to the Information Commissioner if you think your rights have been breached;

C) THE RIGHT OF ACCESS

You have the right to access your personal data which is held by us. You can find out how to request access to your data in our Subject Access Request procedure further on. Note: for expectation management, it is worth highlighting that if seeking access to information in relation to a complaint, it is almost inevitable that this includes the personal data of other people. Understandably, such information may therefore have to be redacted in accordance with the Information Commissioner's section 40 guidance¹.

D) THE RIGHT TO 'CORRECTION'

If you discover that the data we hold about you is incorrect or incomplete, you have the right to have the data corrected. If you wish to have your data corrected, you should request the Data Correction Form*. Usually, we will comply with a request to rectify data within one month unless the request is particularly complex in which case we may write to you to inform you we require an extension to the normal timescale. The maximum extension period is two months. You will

¹ <https://ico.org.uk/media/for-organisations/documents/1179/access-to-information-held-in-complaint-files.pdf>
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be informed if we decide not to take any action as a result of the request. In these circumstances, you are able to complain to the Information Commissioner and have access to a judicial remedy. Third parties to whom the data was disclosed will be informed of the rectification.

E) THE RIGHT OF 'ERASURE'

In certain circumstances, we are required to delete the data we hold on you. Those circumstances are:

- a) where it is no longer necessary for us to keep the data;
- b) where we relied on your consent to process the data and you subsequently withdraw that consent. Where this happens, we will consider whether another legal basis applies to our continued use of your data;
- c) where you object to the processing (see below) and the Organisation has no overriding legitimate interest to continue the processing;
- d) where we have unlawfully processed your data;
- e) where we are required by law to erase the data.

If you wish to make a request for data deletion, you should request the Data Erasure Form*. We will consider each request individually, however, you must be aware that processing may continue under one of the permissible reasons. Where this happens, you will be informed of the continued use of your data and the reason for this. Third parties to whom the data was disclosed will be informed of the erasure where possible unless to do so will cause a disproportionate effect on us.

F) THE RIGHT OF 'RESTRICTION'

You have the right to restrict the processing of your data in certain circumstances:

- a) where you tell us that the data we hold on you is not accurate. Where this is the case, we will stop processing the data until we have taken steps to ensure that the data is accurate;
- b) where the data is processed for the performance of a public interest task or because of our legitimate interests and you have objected to the processing of data. In these circumstances, the processing may be restricted whilst we consider whether our legitimate interests mean it is appropriate to continue to process it;
- c) when the data has been processed unlawfully;
- d) where we no longer need to process the data but you need the data in relation to a legal claim.

If you wish to make a request for data restriction, you should request the Data Restriction Form*. Where data processing is restricted, we will continue to hold the data but will not process it unless you consent to the processing or processing is required in relation to a legal claim. Where the data to be restricted has been shared with third parties, we will inform those third parties of the restriction where possible unless to do so will cause a disproportionate effect on us. You will be informed before any restriction is lifted.

G) THE RIGHT TO DATA 'PORTABILITY'

You have the right to obtain the data that we process on you and transfer it to another party. Where our technology permits, we will transfer the data directly to the other party. Data which may be transferred is data which:

- a) you have provided to us; and
- b) is processed because you have provided your consent or because it is needed to perform the contract between us; and

c) is processed by automated means.

If you wish to exercise this right, please speak to Head Office. We will respond to a portability request without undue delay, and within one month at the latest unless the request is complex or we receive a number of requests in which case we may write to you to inform you that we require an extension and reasons for this. The maximum extension period is two months. We will not charge you for access to your data for this purpose. You will be informed if we decide not to take any action as a result of the request, for example, because the data you wish to transfer does not meet the above criteria. In these circumstances, you are able to complain to the Information Commissioner and have access to a judicial remedy. The right to data portability relates only to data defined as above. You should be aware that this differs from the data which is accessible via a Subject Access Request.

H) THE RIGHT TO 'OBJECT'

You have a right to require us to stop processing your data; this is known as data objection where it is carried out:

- a) in relation to the Organisation's legitimate interests;
- b) for the performance of a task in the public interest;
- c) in the exercise of official authority; or
- d) for profiling purposes.

If you wish to object, you should do so by completing the Data Objection Form*. In some circumstances we will continue to process the data you have objected to. This may occur when:

- a) we can demonstrate compelling legitimate reasons for the processing which are believed to be more important than your rights; or
- b) the processing is required in relation to legal claims made by, or against, us.

If the response to your request is that we will take no action, you will be informed of the reasons.

I) RIGHT NOT TO HAVE AUTOMATED DECISIONS MADE ABOUT YOU

You have the right not to have decisions made about you solely on the basis of automated decision making processes where there is no human intervention, where such decisions will have a significant effect on you. However, the Organisation does not make any decisions based on such processes.

Subject Access Request Procedure

Making a Request. Although subject access requests may be made verbally, we would advise that a request may be dealt with more efficiently and effectively if it is made in writing. If you wish to make a request, please request a Subject Access Request Form*. Requests that are made directly by you should be accompanied by evidence of your identity. If this is not provided, we may contact you to ask that such evidence be forwarded before we comply with the request. Requests made in relation to your data from a third party should be accompanied by evidence that the third party is able to act on your behalf. If this is not provided, we may contact the third party to ask that such evidence be forwarded before we comply with the request.

Timescales. Usually, we will comply with your request without delay and at the latest within one month. Where requests are complex or numerous, we may contact you to inform you that an extension of time is required. The maximum extension period is two months.

Fee. We will normally comply with your request at no cost. However, if the request is manifestly unfounded or excessive, or if it is repetitive, we may contact you requesting a fee. This fee must be paid in order for us to comply with the request. The fee will be determined at the relevant

time and will be set at a level which is reasonable in the circumstances. In addition, we may also charge a reasonable fee if you request further copies of the same information.

Information You Will Receive. When you make a subject access request, you will be informed of:

- a) whether or not your data is processed and the reasons for the processing of your data;
- b) the categories of personal data concerning you;
- c) where your data has been collected from if it was not collected from you;
- d) anyone who your personal data has been disclosed to or will be disclosed to, including anyone outside of the EEA and the safeguards utilised to ensure data security;
- e) how long your data is kept for (or how that period is decided);
- f) your rights in relation to data rectification, erasure, restriction of and objection to processing;
- g) your right to complain to the Information Commissioner if you are of the opinion that your rights have been infringed;
- h) the reasoning behind any automated decisions taken about you (not applicable).

Circumstances In Which Your Request May Be Refused or Clarification Sought. We may refuse to deal with your subject access request if it is manifestly unfounded or excessive, or if it is repetitive. The situation has been clarified by the Information Commissioner: <https://ico.org.uk/for-organisations/uk-gdpr-guidance-and-resources/individual-rights/right-of-access/when-can-we-refuse-to-comply-with-a-request/>. This includes the Data Controller being able to seek clarification about the information sought and why, which can 'stop the clock' until a response has been received. Where it is our decision to refuse your request, we will contact you without undue delay, and at the latest within one month of receipt, to inform you of this and to provide an explanation. You will be informed of your right to complain to the Information Commissioner and to a judicial remedy. We may also refuse to deal with your request, or part of it, because of the types of information requested. For example, information which is subject to legal privilege or relates to management planning is not required to be disclosed. Where this is the case, we will inform you that your request cannot be complied with and an explanation of the reason will be provided.

* All Forms are currently those provided by Peninsula and Head Office will need to request a copy from the advice line.

Any Related Documents: Data Privacy & Protection B 04.

Distribution: Everyone + File