



**Drumchapel
Housing**

Co-operative Limited

**Data protection and access to
personal information policy**

Approved by the Board May 2023
Latest review date May 2028

Data protection and access to personal information policy

1. Introduction

- 1.1 UK GDPR and the Data Protection Act 2018 (DPA) builds upon the 1994 and 1998 Acts and came into force on 25 May 2018. The prime objective of the Act is to protect the right of privacy of the individual citizen against the misuse of personal data by organisations and to restrict the flow of certain information. It gives certain rights to individuals in relation to personal data or information held about them on computer and some manual systems. It requires those who record and use personal information to be open about their use of that information and to develop sound practices. The Data Protection Act contains seven key principles which regulate the way data can be collected, handled and used and these are outlined in section 3 of this Policy.
- 1.2 In practice, all registered social landlords (RSLs) and their tenants and prospective tenants are affected by the Act. All RSLs are subject to the duties under the Act and must register with the Information Commissioner. Notification must include a general description of security measures and include the name and address of the Controller, i.e. details of the Co-operative, a description of personal data held and who the typical data subjects are, together with the reason and method of processing and holding the information.
- 1.3 The DPA alongside UK GDPR sets out the framework for data protection law in the UK. Non-compliance with UK data protection laws may have adverse impacts on the Co-operative and employees. There are a number of offences, which, if the provisions of the DPA and the Computer Misuse Act are not complied with, will affect the Co-operative and its employees. The general provisions of the DPA and UK GDPR, relevant to the Co-operative are:
 - a) personal data must only be processed if there is a lawful basis for the processing
 - b) a record of all processing activities must be kept
 - c) personal data must only be processed for the purpose it was collected
 - d) appropriate security measures must be taken to protect personal data
 - e) personal data must not be disclosed to any unauthorised person
 - f) individuals have on request, a number of rights relating to their personal data, including a right to a copy of the data held, a right to have inaccurate information corrected and a right to erasure of their data.
 - g) the ICO (and sometimes affected individuals) must be notified of data breaches in certain circumstances within 72 hours of the breach occurring.

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- 1.4 The undernoted are offences under the terms of the Computer Misuse Act
- a) unauthorised access to computer material
 - b) unauthorised access with intent to commit or facilitate commission of further offences
 - c) unauthorised modification of computer material
- 1.5 Apart from where there is a legitimate business reason, anyone using another person's user login and password, whether registered or not, will be committing an offence in the first category. The copying of any data not specifically authorised, even into one's own files could be an offence in the third category above.
- 1.6 All staff should note, and be aware of, their access rights for any given hardware, software or data and should not experiment or attempt to access hardware, software or data for which they have no approval or need to conduct their duties.

2. Legislative and regulatory framework

- 2.1 The principal legislation is the Data Protection Act 2018 alongside UK GDPR. Other relevant legislation includes the Human Rights Act 1998 (as consolidated by the Scotland Act 1998), the Crime and Disorder Act 1998 and the Computer Misuse Acts 1990 and various Housing (Scotland) Acts.
- 2.2 Standard 2 of the Regulatory Standards of Governance and Financial Management states:

The RSL is open about and accountable for what it does. It understands and takes account of the needs and priorities of its tenants, service users and stakeholders and its primary focus is the sustainable achievement of these proprieties.

- 2.3 Specifically relating to this data protection and access to personal information policy, Standards 2.2 and 2.3 state:

The governing body recognises it is accountable to its tenants and has a wider public accountability to the taxpayer as a recipient of public funds, and actively manages its accountabilities.

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The governing body is open and transparent about what it does, publishes information about its activities and, wherever possible, agrees to requests for information about the work of the governing body and the RSL.

- 2.4 The Co-operative stores personal information both on computer and within manual files and has registered all data processing information with the Information Commissioner. The Co-operative is registered as a Data Controller (registration number Z7608144) and will take all reasonable steps to ensure that our practices in the handling of personal information is of a high standard and complies fully with the legal and regulatory requirements.

3. Principles

- 3.1 Staff are required to have an understanding and appreciation of the Data Protection Act 2018 and UK GDPR in relation to how long to keep data and when the data can be passed on. This legislation protects the information held in manual and computerised records and it applies to:

- Members of staff
- Board members
- The Co-operative's membership/tenants
- Former tenants
- Housing list applicants

- 3.2 The Co-operative will adopt and operate procedures in accordance with the seven Data Protection Act principles. This means that personal data and information held by the Co-operative will be:

- i) obtained and processed lawfully, fairly and transparently
- 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) kept and processed securely

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The seventh principle is known as the Accountability principle and requires the Co-operative have appropriate measures and records in place to be able to demonstrate compliance.

- 3.3 The Co-operative and all staff who use any personal information must ensure that they follow these principles at all times. Training will be provided on the Data Protection Act and UK GDPR, and the operation of the Co-operative's procedures in relation to the data protection laws and access to personal information, openness and confidentiality, and information security. All new staff will have this incorporated into their induction programme.

4. Risk management

- 4.1 The Co-operative has considered the risks of the storing of personal information and recognises the possible consequences should we fail to adhere to the principles within the Act. These include (i) enforcement action being taken against us, (ii) being prosecuted by the Commissioner if a criminal offence, such as unlawfully obtaining personal data, has been committed or (iii) being required by a court of law to compensate an individual where damage is considered to have been caused by our failure to meet our data protection obligations.
- 4.2 In order to minimise risk we will implement this policy and ensure all staff and Board members are fully aware of our requirements prior to signing the declaration.
- 4.3 In addition, the Co-operative will undertake an annual risk assessment, whereby the Depute Director assesses the risks contained. Data Protection Audits are also undertaken where information collected/held is assessed and retained or removed as appropriate. The separate procedure document contains details of these audits.

5. Equality and Human Rights

- 5.1 The Co-operative's equality and human rights policy, which was approved by the Board in April 2021, outlines our commitment to promote a zero tolerance to unfair treatment or discrimination to any person or group of persons, particularly

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on the basis of any of the protected characteristics¹. This includes ensuring that everyone has equal access to information and services, and, to this end, the Co-operative will make available a copy of this document in a range of alternative formats including large print, translated into another language or by data transferred to voice.

- 5.2 We are also aware of the potential for policies to inadvertently discriminate against an individual or group of individuals. To help tackle this and ensure that it does not occur, best practice suggests that organisations carry out Equality Impact Assessments to help identify any part of a policy that may be discriminatory so that this can be addressed (please see section 6 of the equality and human rights policy for more information).
- 5.3 In line with section 6.2 of the equality and human rights policy, the Co-operative will apply a screening process based on that recommended by the Equality and Human Rights Commission to ascertain whether each policy requires an Impact Assessment to be carried out. The screening process was applied to this policy, and it was decided that an impact assessment is not required.

6. Responsibilities for compliance

- 6.1 The RGDP has overall responsibility for data protection within the Co-operative, and for ensuring that both our notification to the Information Commissioner and our entry in the Data Protection Register are accurate and up to date.
- 6.2 The Director has specific responsibility for personal information held on employees and Board members.
- 6.3 RGDP will perform the role of the Data Protection Officer and will assist in implementing the requirements of the Act by providing advice and support to all departments relating to compliance with the Act, disseminating information relating to the Act, and responding to requests from customers to access personal information we hold about them.
- 6.4 All senior staff will ensure that personal data processed by their section is included in the Co-operative's Data Protection Register entry and the entry is

¹ The Equality Act 2010 identifies the "protected characteristics" as age, disability, marriage and civil partnership, race, religion or belief, gender, gender reassignment and sexual orientation.

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kept up to date and that all personal data is processed in accordance with the DPA and UK GDPR.

- 6.5 All staff have a responsibility to fully comply with the requirements of the Data Protection Act, UK GDPR 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.

7. Types of information

7.1 Categories

7.1.1 The Co-operative is unable to categorise every type of information held on file. However, we would highlight the four main categories as follows:

- a) Personal information in relation to staff, Board members, housing list applicants, current tenants and former tenants
- b) Special Category personal data, such as health data. In order to obtain and process personal sensitive data, the Co-operative must obtain the individual's explicit consent or rely on another lawful basis
- c) Organisational information, such as performance information, Board minutes and policies/procedures
- d) Commercially sensitive information which remains confidential under the terms of the DPA. It is acceptable to withhold commercially sensitive information provided the Co-operative can justify it.

7.2 Sensitive data

7.2.1 The Data Protection Act defines nine categories of 'special category personal data': -

- a) Racial or ethnic origin
- b) Political opinions
- c) Religious or philosophical beliefs
- d) Membership of a trade union
- e) Genetic data
- f) Biometric data concerning health

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- g) Data concerning a person's sex life
- h) Data concerning a person's sexual orientation

7.2.2 For obtaining and processing Special Category personal data, the Co-operative must obtain the person's *explicit* consent unless:

- It is necessary in respect to legally imposed employment rights and obligations
- It is already publicly available due to actions of the data subject
- It is necessary for legal proceedings
- It is for equal opportunities monitoring
- It is in the vital interests of the individual

7.2.3 Collection and processing of criminal offence data must meet the following criteria will normally only occur where we received the explicit consent of the individual unless another legal basis applies such as the safeguarding of children and of individuals at risk.

7.3 Information systems

7.3.1 Information can be held in a variety of formats, including:

- Databases
- Spreadsheets
- Manual records, files, card indexes
- Computerised files and records
- E-mail
- CCTV (cameras are situated in the vicinity of the office but not within the housing stock)

8. Confidentiality

8.1 This policy complements the Co-operative's openness and confidentiality policy. Only information which can or must be legally disclosed under the DPA or UK GDPR will be shared with a third party without the individual's consent.

8.2 Employees and Board members will be obliged to sign a confidentiality declaration and to agree to the security measures to ensure the security of

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personal information against unlawful processing, disclosure, accidental loss or destruction of, or damage to, personal data.

- 8.3 All staff will have a password to ensure information is only accessible to those who need to know the information in order to carry out their requirements of their post.

9. Complaints

- 9.1 Should any individual be dissatisfied with the way their data access application has been dealt with they should make a formal complaint under the Co-operative's complaints handling procedure. If they remain dissatisfied, they can complain to the Information Commissioner's Office, 45 Melville Street, Edinburgh, EH3 7HL (telephone 0131 244 9001).

10. Policy review

- 10.1 This policy will be reviewed every five years, or earlier in line with legal, regulatory or best practice requirements. The latest date for review is May 2028.

11. UK GDPR Privacy Statement

- 11.1 The Co-operative will gather and use certain information about individuals in accordance with UK GDPR. Staff members have a responsibility to ensure compliance with the terms of the privacy policy and to collect, handle and store personal information in accordance with relevant legislation. The Fair Processing Notice (FPN) details how personal data is held and processed with third parties in accordance with relevant policies and procedures.