

GDPR and Data Protection for Landlords, - Pragmatic Compliance.

What are the implications of GDPR for Landlords ? they're all asking at this time, with GDPR coming into effect on 25th May, 2018

The short answer is not as much as you may fear. This summary is intended as a pragmatic briefing for landlords to be able to carry on their business and remain compliant.

Why are there not a lot of implications for landlords, - because if landlords are compliant with existing Data Protection regulations, there's little extra to consider.

The main concerns of Data Protection, and GDPR are 'Who you share' other personal data with, and that data is used for the 'Purpose' for which it was obtained. - subject to certain exceptions mentioned below.

1. Registering with the Information Commissioners Office, each year at a cost of £40 per annum. ? - Existing, and in future ;

If a landlord ' processes (stores) personal data electronically (would include keeping tenants telephone numbers in your phone) then the regulations state you should register.

You could consider it to be a matter of scale and personal judgement, are you a landlord of a few / handful of properties where you keep paper copies of certain documents such as the tenancy agreement, Gas certificate in a file or folder ?

If a landlord can operate their business in this manner, then registering with the ICO can legitimately be avoided. (see www.ico.org.uk Registration Self-Assessment)

If you complete this Self-Assessment,

Q1. Do you use CCTV for Crime Prevention ? - If answer, No and

Q2. Are you Processing personal information ? - If answer, Yes (which All Landlords do) and

Q3. Do you process the information electronically ? - If answer, No =

" **You are under no requirement to register**, ... although you may do so voluntarily " (at cost)

2. Under GDPR, all Landlords will be Data Controllers and collect, use and store information that is necessary, securely and without improper disclosure. (This is what landlords already do)

One of the main principles of GDPR that will affect some businesses, and probably Estate / Letting Agents, is that data can only be used for the purpose it was collected and with the specific consent of that persons data [for that purpose] In other words, a business (Agent) couldn't store clients details and mass-mail them about an unconnected matter - offer.

As a Data Controller, there are up to 6 lawful basis' upon which data may be processed (held, stored - used) Landlords will use up to 4 of them [you don't have to pre-specify which individual ground different items of information are being collected], viz

Consent.

Tenants provides personal data on request. S/he can withdraw this consent, but if there's another lawful reason why a landlord requires to retain it (Legal obligation or legitimate interest - it may be retained)

If a data subject (Tenant) asks for information to be removed – deleted and a landlord has one of the lawful basis for retaining [see below] they should be told they can complain to the Information Commissioner.

Contract.

Collecting details to decide / form a contract (Tenancy agreement)

Legal Obligation.

e.g. Right to Rent, HMRC and compliance with various regulations and legislation. Court action for tenancy issues – Possession. A civil action can be brought up to 6 years after an event and retaining information about a tenancy could be justified on this ground.

Legitimate interest.

Notifying [legitimate] interested parties, eg Council tax, utility providers.

Landlords will require a LOT of personal data, financial, credit, next of kin, employment etc, etc in order to make a business decision on granting a tenancy and GDPR does Not prevent this. Just store it and use it in accordance with the above.

3. Data must be kept safe - secure. If a landlord was storing personal information electronically, then the device should be password protected. Storage in paper form insecure location in locked cabinet. Most houses are hopefully secure.

4. Third parties - processing (passing information) requires , and always has, the consent of the subject.[unless another lawful basis applies] This isn't 'rocket-science' and if tenant reports plumbing issue, landlord would email tenant (thus keeping a record) if they agree to their contact number and name being provided to a plumber. Otherwise there's going to be a lot of 3-way conversations on arranging suitable appointments.

Having provided this information, the Data processor (landlord) has to be assured that the ' Third party is data compliant.'

The legislation suggests that you should 'ask for a copy of the contractors data management policy before disclosing personal data' !

For longer term relationships such as letting agents, Data policies should be requested (and retained) for assurance that each are complying with the Data protection principles. But for ad hoc repairs - are landlords going to contact various plumbers and ask them to email the Data protection policy before the customers contact details are provided !

I'd suggest its hard enough to get a plumber already.

Landlords can pragmatically comply with the spirit of the legislation by asking the contractor, via email to delete the tenants contact details on completion of the work. As a business, with similar obligations for accounting as landlords, they will have to retain the address and Landlords contact / payments details, which of course you will have consented to.

A Data Privacy Fair Processing Notice should be given to a data subject (tenant) explaining how you will handle their data. - See example attached for editing.

