



PEABODY

Privacy and Confidentiality

Housing Policy

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1. Policy Objectives

- 1.1 This policy sets out the principles, practices and objectives Peabody follows when dealing with information held both on computer and paper about its individuals, including tenants and applicants. This policy covers all tenants that live on Peabody estates including social housing tenants, supported and sheltered housing tenants and market and cost rent tenants. This policy also covers freeholders, leaseholders or shared owners, and others.
- 1.2 The aims of the policy are to ensure that we comply with the Data Protection Act 1998 and other legislation regarding;
 - the protection and disclosure of information; and
 - providing a framework within which personal information is collected, stored, handled and disposed.
- 1.3 All information Peabody holds about its tenants and applicants is confidential and must be treated in accordance with the guidelines stated in this policy.

2. Relevant Legal and Regulatory Information

Data Protection Act 1998

- 2.1 The Data Protection Act 1998 applies to both computerised data and manual filing systems.
- 2.2 The Data Protection Act is designed to safeguard the holding and use of personal data.
- 2.3 Under the Act most organisations holding individuals personal data are required to register and responsibly use the information following the Data Protection Principles. The Information Commissioner's Office produce a helpful fact sheet on the [Act](#).
- 2.4 Tenants and applicants have the right under the Act to:
 - be told whether information on them is being held; the purpose of which it is being held or used; and those to whom information is or may be disclosed. They are also entitled to know what information is being held and, unless disproportionately expensive, be given copies of such information;
 - correct any inaccurate or misleading information; and
 - seek compensation for any damage suffered if information is misused.

Bogus Data Protection Agencies

- 2.5 Peabody is registered with the Information Commissioner for data protection purposes. The Company Secretary registers Peabody every year. There are a number of bogus data protection agencies, who target organisations claiming further registration is needed. These agencies are completely bogus.
- 2.6 If you receive any correspondence from an agency about registering for data protection purposes, you should forward it to the Company Secretary. If any agency contacts you by telephone, you should ask them to call the Company Secretary.

Duty of Confidence

- 2.7 The Duty of Confidence which can be defined as the obligation not to breach trust by revealing confidential information is recognised in British law as well as by Article 10(2) of the European Convention for the Protection of Human Rights and Fundamental Freedoms.
- 2.8 The Duty of Confidence between landlord and tenant has not been tested in law, however, Peabody expects its staff as well as companies and individuals who supply goods and services to Peabody to maintain and respect the privacy of applicants, tenants and their homes.

Housing Act 1985

- 2.9 Section 106 of the Housing Act 1985 gives applicants and secure tenants the right to ask for a copy of any information they supplied and which was recorded as relevant to their application.
- 2.10 Peabody as a matter of policy undertakes to extend these rights to assured tenants as a matter of principle.

Freedom of Information Act 2000

- 2.11 Under this Act individuals are allowed to request access to personal and non-personal information held by public authorities. To comply, the public authority must confirm whether or not the information is held and, if so, provide that information.
- 2.12 Under the Act, a public authority includes:
 - Central government and government departments
 - Local authorities
 - Hospitals, doctors' surgeries, dentists, pharmacists and opticians
 - State schools, colleges and universities
 - Police forces and prison services

- 2.13 At the moment, RSLs are NOT considered to be a public authority, though this is likely to change. If you are unsure, please contact the Policy Helpline or the Company Secretary.

[Data Protection \(Processing of Sensitive Personal Data\) \(Elected Representatives\) Order 2002 S.I. 2002 No. 2905](#)

- 2.4 This Statutory Instrument allows data controllers to release sensitive personal data about an individual to an MP or Councillor without obtaining their explicit consent, provided that the information is relevant to responding to the MP's or Councillor's enquiry and the First Data Protection Principle has been satisfied.

Housing Corporation Guidance

- 2.14 This policy and associated guidelines comply with the requirements of the Corporation's [Residents' and Applicants' Charters](#) and Performance Standards regarding access to information and confidentiality.

3. Key Definitions

Unrestricted Information

- 3.1 This is information which is freely available to staff and members of the public such as Tenants' Information Leaflets, Tenants' Handbook, Annual Reports etc. Such information should be available to anyone who requests it.

General Personal and Private Information

- 3.2 General personal and private information is any information about an identifiable individual and arises from dealings between tenants, applicants and Peabody. For example, a tenant's or applicant's address, date of birth, family circumstances or rent arrears records.
- 3.3 Such information should be handled carefully as inappropriate use may be harmful. Information of this type should only be passed on a 'need to know' basis.

Specific and Sensitive Information

- 3.4 Information about individuals which must be handled sensitively, either because it is private or because disclosure may have adverse consequences for the person or organisation concerned. These are defined under the Data Protection Act 1998 as:
- racial / ethnic origin of the individual;
 - his / her political opinions;
 - his / her religious beliefs;
 - whether the individual is a member of a Trade Union;
 - any physical / mental health condition;
 - his / her sexual life;
 - commission or alleged commission of offences; and
 - any legal proceedings.

Confidentiality

- 3.5 This is the quality of being confident or safe to trust with private affairs. It allows for exceptional circumstances where disclosure is more important, either to benefit the individual concerned or to benefit others who may be affected. This applies to all the following types of information.

Need to Know

- 3.6 An organisation or individual has a need to know if it is essential that they know personal information about an individual or confidential organisational information in order to carry out their duties.

Informed Consent

- 3.7 Informed consent means giving consent to the disclosure of information in the full knowledge of the implications of giving or not giving the information.

Tenant

- 3.8 Anyone who holds an occupation agreement for a property, including licencees.

4. Policy

- 4.1 All personal information relating to tenants and applicants that is not a matter of public record will be:
- Obtained fairly.
 - Held for specified purposes and used only for those purposes.
 - Relevant, accurate and kept up to date.
 - Corrected if proved to be inaccurate.
 - Protected against loss or disclosure.
 - Treated as confidential at all times.
- 4.2 Peabody will allow residents and applicants access to personal information held about themselves or members of their family (other than that provided in confidence by third parties).
- 4.3 Staff will generally have access to all information that they genuinely need to know to carry out their work. All staff have a duty to respect the confidentiality of all personal information held by Peabody.
- 4.4 Interviews and conversations with customers about personal and confidential matters will be carried out in private.
- 4.5 Staff must follow the Information Technology Security Policy and Procedure to ensure that security of information on Peabody's PC's, servers and network is maintained.

Preventing Unauthorised Disclosure of Information

- 4.6 Confidential information (for example a tenancy file) will only be passed to other sections of the organisation where it is necessary for the provision of a service to the tenant.
- 4.7 Memos and correspondence (including e-mails and faxes) about customers which are of a confidential or sensitive nature will be marked "Private and Confidential", placed in an A4 envelope which is then signed by the responsible officer and placed on the tenant's file. Access to this information is on a strictly 'need to know' basis and permission should firstly be obtained from the responsible officer named on the security envelope, their manager or a Neighbourhood Manager equivalent.
- 4.8 When such information is required it must be sealed in a new envelope and replaced in the tenant's file at the end of each working day.
- 4.9 Sensitive information should never be left unattended in areas that the public has access to, and should be returned to the file or locked away if it is not being used.

Breach of Confidentiality

- 4.10 All employees have a duty to respect the confidentiality of all personal and business information held by the Group. Breaches of confidentiality will be regarded by the Group as a disciplinary offence and will be dealt with in accordance with the Disciplinary Procedures.

Personal Information collected held by Peabody

- 4.10 Peabody will ensure that personal information it collects and holds is processed according to the Data Protection Act 1998. This entails that personal information will be:
- collected fairly and lawfully;
 - collected and kept for a clear purpose or purposes, and used only for that / those purpose(s);
 - adequate, relevant and not excessive for the purpose(s) it was collected for;
 - maintained so that it is accurate and up to date;
 - removed and destroyed when no longer required
 - safeguarded against unauthorised access, alteration, loss or disclosure;
 - not transferred outside the EEA without adequate checks that the country or territory has adequate measures for the safeguarding of that information; and
 - not duplicated unnecessarily.
- 4.11 Informed consent must be obtained, when the information is initially collected for each and every step in the process of handling information: recording, storing, or sharing information within the Group, and passing it on outside.
- 4.12 When being requested to provide information, individuals have the right to have it made known to them (where it is not obvious);
- why the information is required;
 - if there is any legislation governing the need for that information;
 - who will have access to it and how it will be used;
 - when it may be disclosed to third parties;
 - the implications of giving it or not giving it;
 - how it will be stored and for how long;
 - what rights they have regarding access to it and correcting inaccurate and / or out of date information; and
 - how their privacy will be protected.
- 4.13 If it is necessary to use the information for a further purpose, first check that the consent for the processing obtained in response to the above covers the new purpose. If not, it is necessary to obtain the individual's written consent unless the processing is one of the disclosures which does not require it.

Tenants' Right to Inspect their File

- 4.14 The Data Protection Act 1998 gives individuals a right to access information about themselves.
- 4.15 Tenants and applicants are able to view and challenge any information held about them except where there is a genuine risk of harm or a third party would be identified who has not given their consent.
- 4.16 The tenant cannot be shown;
- confidential information or information of a sensitive nature given to us (e.g. by Doctors or Social Workers); or
 - information that involves other people.
- 4.17 In such cases the information should be removed and a note attached to the front of the file indicating that they have been removed.
- 4.18 In all cases where a request to see information is made the Neighbourhood Manager or appropriate staff member should go through the file and remove all sensitive.
- 4.19 Tenants and applicants must be provided with a copy of the information held on application in writing to Peabody Direct using the standard [Request to View Personal File Form](#). The staff member should send a copy of the information held to the tenant's or applicant's home address and place the Request to View Personal File form on the tenant's file as a record. If the information is collected from an office the tenant or applicant must provide proof of identification before they are given access to it.

Responding to a request

- 4.20 We have 40 days to respond to a request for information. If we do not provide the information within this time, we can be fined. The 'clock starts ticking' from the date that we receive the resident's request.
- 4.21 If you feel that you are not able to meet the deadline, ensure that you contact the applicant before the 40 days are up and agree an extension.
- 4.22 On receipt of a written request, Peabody will give access to any personal information held about a current or former resident, employee or committee member to the person concerned or their authorised representative, except where;
- the information relates to or identifies a third party who has refused their consent to the disclosure;
 - the information was provided by a third party on the understanding it would not be disclosed to the person concerned (information that identifies a third party may not be withheld if the information related to the physical / mental health condition of an individual and the third party is a health professional unless the following condition applies);
 - the information relates to a physical / mental health condition and a health professional has been consulted, or has given their opinion in writing within the preceding 6 months, as to whether allowing access would cause serious harm to the individual or another person;
 - the information is subject to legal professional privilege or a statutory requirement, or is likely to lead to legal proceedings being taken;
 - the information is held in connection with ongoing negotiations and allowing access may prejudice the outcome.
- 4.23 The Group will correct any information shown to be inaccurate and review any opinions or conclusions drawn from information proven to be incorrect.

Challenging Information

- 4.24 A tenant may challenge any information held in their file or on computer if they feel it to be incorrect and can provide evidence to support this.
- 4.25 If Peabody accepts that the information is incorrect it will correct or erase the information. If, however, Peabody does not accept that the information is incorrect it will attach a note recording the tenant's view and the decision not to alter it.

To prevent direct marketing

- 4.26 An individual has the right to request that the organisation ceases to send them any marketing material which communicates, advertises or markets the sales of goods and services, and the promotion of the organisation's aims and ideals.
- 4.27 The individual must specify this requirement in writing.
- 4.28 On receipt of the individuals' written request the Group must immediately comply, or face being compelled to by a court order.
- 4.29 Any member of staff planning on mailing out information to residents must ensure with the Policy Team that none of the intended recipients have requested to not receive such material. If a resident has receives information that they have requested not to be sent to them as a result of the sender not checking first, they may complain. The sender will have to respond to the complainant to explain why they did not follow the policy.

Charges

- 4.30 Peabody will not make a charge for granting access to files or for reasonable requests for copies of documents, but reserves the right to charge up to £10 for second and subsequent requests or for extensive photocopying.

Movement of Files between Offices

- 4.31 Staff dealing with tenants' files and information of a sensitive nature should check and clear their work area before leaving at the end of each day. Anything confidential or for limited circulation should be removed and returned to the file or locked away.
- 4.32 All filing cabinets, lockable drawers etc. must be locked at the end of each day and the keys stored securely.
- 4.33 The nature of Peabody's business requires that tenants' files are frequently passed between central office and estate offices. Where these files are required to be moved they should be placed in a sealed envelope and moved by hand or courier.
- 4.34 When sending files to another office, staff should consider whether it is appropriate to send the entire contents of the file or to photocopy relevant documents. The file must always be placed in a sealed envelope and handed to a member of staff within the relevant section.
- 4.35 Tenant's files will not be sent through the external mail system.

Direct Line Telephone Numbers

- 4.36 Where a direct line number is available, tenants and applicants should at first be advised of the number of Peabody Direct. This ensures that tenants know that they are speaking to a member of Peabody's staff.

Contractor and Supplier Compliance

- 4.37 As a trusted supplier to Peabody, contractors will have access to confidential information about Peabody customers. Contractors and suppliers must adhere to all of the contents of this policy. Contractors and suppliers:
- must not alter, amend, change, copy, modify or delete the information in any way;
 - copy information unless in pursuance of the works and this information must be controlled and subject to the same usage guidelines;
 - disclose the contents of any emails, documents, spreadsheets, or any other information;
 - should delete any information held upon reasonable request by Peabody in writing;
 - agree not to access information for which there is not a sufficient business justification;
 - not misuse the information available to you or copy the contents;
 - agree to keep all passwords confidential;
 - agree to keep all operational business information confidential;
 - agree to use any and all computer equipment owned or operated by Peabody solely within the Peabody IT policy;
 - will not install or modify any software (third party or otherwise) to computer equipment without Peabody's explicit permission;
 - you will not connect any third party equipment to the Peabody network, including but not limited to laptops, PDA's, USB sticks, floppy disks, or removable media in any form etc;
 - you will comply to the Data Protection Act 1998 and any other legal frameworks Peabody operates under;
 - you indemnify Peabody against breach of this policy to the extent permitted by your insurance policies; and
 - you must alert the nominated Peabody contact if there is the proof, or suspicion, that any of the above has not been complied with immediately and in writing. In event of this you should take direction from Peabody within a set timescale, and confirm when this has occurred.

5. Other information

- 5.1 The [Information Commissioner](#) operates a Data Protection Helpline which offers assistance to organisations in interpreting and complying with the Data Protection Act. The Helpline number is 01625 545745 and can be used if staff have any questions about disclosing information.

Residents Living in Supported Housing Accommodation

- 5.2 Residents living in supported housing accommodation are bound by the same principles of privacy and confidentiality, as for other residents living in general needs accommodation. The difference is that staff working with residents in supported housing will have a greater level of involvement in the day to day lives of the residents living in the scheme.
- 5.3 Staff should check Management Agreements and any Information Sharing Protocols that are in place.

Agency Managed Schemes

- 5.4 Residents living in accommodation managed by an external agency will be bound by the policies and procedures of that organisation. The staff managing the scheme are responsible for advising the residents living there.
- 5.5 It is important to note that residents of agency managed schemes are still Peabody tenants, which means that the tenant/landlord relationship ultimately remains with Peabody.
- 5.6 If any resident contacts Peabody directly, always refer them back to the scheme manager. If the resident is unhappy with the advice they received and want to discuss their case with a Peabody employee, contact SAS.

Disclosure of Information to External Agencies

- 5.7 External agencies such as contractors providing services on behalf of Peabody are bound by the privacy and confidentiality policy in the same way as all Peabody employees.

Verification

- 5.8 Requests from external agencies and individuals must be put in writing.
- 5.9 The identity of people asking for personal information by phone or in person should usually be confirmed in writing before any information is disclosed. Alternatively, if information is being disclosed by phone or in person, Peabody staff should phone the caller back using the main switchboard to verify their identity, or ask to see appropriate identification.
- 5.10 With the closure of the area offices, the primary way tenants now have to contact us is by telephone. As well as reporting repairs, tenants can request certain confidential information we hold about them – for example with regards to their rent accounts.
- 5.11 If a caller wishes to talk about a subject that involves disclosing confidential information (i.e. rents, neighbour nuisance, and domestic violence) you must confirm that the person on the phone is actually the tenant. To do this you should ask all of the following questions;
 - ask the caller to give their date of birth (however, in some cases Academy does not have the tenant's date of birth –in which case move on to the next question);
 - when the tenant moved in to the property (and confirm this by checking the tenancy commencement date on Academy); and
 - how they pay their rent (direct debit, Housing Benefit etc). If you are still unsure about the identity of the caller, refer the matter to your line manager.

The Police

- 5.12 Peabody wishes to co-operate in the prevention and detection of crime and in complying with the law.
- 5.13 Requests for information other than the name and address of the resident and household composition should be channelled through the Assistant Director - Neighbourhood Services (Neighbourhood Services).

Housing Ombudsman Service

- 5.14 The Housing Ombudsman Service has statutory powers to investigate complaints under Section 51 and Schedule 2 of the Housing Act 1996.
- 5.15 Peabody can therefore disclose information regarding the complainant and any relevant third parties without contravening the provisions of the Data Protection Act 1998.
- 5.16 The Ombudsman is bound by the terms of the Act and cannot disclose information Peabody has provided without explicit consent from the third party or if it is reasonable in all circumstances to dispense with this consent.
- 5.17 In order that Peabody's position is clear, all responses to the Ombudsman's request for third party information should be accompanied by the [Provision of Information letter](#).

Electricity and Water Companies, British Gas

- 5.18 The following information may be provided only:
- name of tenant;
 - date of commencement of tenancy; and
 - name of previous tenant and date of commencement and termination of the tenancy.
- 5.19 If a tenant has died, this may be disclosed. However, do not give the name or address of the executor. Offer to forward a letter or suggest they write to the executor at the property.

Council Tax

- 5.20 The following information may be provided only:
- name of tenant;
 - date of commencement of tenancy; and
 - name of previous tenant and date of commencement and termination of the tenancy.
- 5.21 If a tenant has died, this may be disclosed. However, do not give the name or address of the executor. Offer to forward a letter or suggest they write to the executor at the property.
- 5.22 Forwarding addresses must be provided for Council Tax purposes where they are requested under Regulation 3 of the [Council Tax \(Administration and Enforcement\) Regulations 1992](#).

Housing Benefit Departments and Department of Social Security Offices

- 5.23 After the name and address of the claimant is disclosed by the caller the following information should be provided (once the callers identity is verified):
- the tenancy start date;
 - the weekly or monthly rent and council tax payable;
 - details of any DSS or HB direct payments received;
 - tenant's previous address if relevant to the history of the claim;
 - who else is resident in the property; and
 - whether or not they are working.
- 5.24 The [Social Security Administration Fraud Act 1997](#) places a duty on a landlord in receipt of Housing Benefit Direct to inform the Housing Benefit Office of any change in the tenant's circumstances where they know this is likely to affect a claim. This could include whether or not the tenant has ceased to reside in the premises or failed to move in, any change in rent and whether or not the tenant has started work or ceased to work. The penalty for not doing so could be a fine or imprisonment. These disclosures are outside the scope of the Data Protection Act 1984 and 1998, as the provisions of these Acts do not apply where the disclosures are required by another statute.
- 5.25 Where tenants are making a claim for Housing Benefit, are in receipt of Housing Benefit or where Peabody receives Housing Benefit Direct on behalf of the tenant, the tenant should be asked to complete the [Consent Form - Peabody Representing A Resident](#) which gives the tenant's consent for Peabody to disclose such information as is requested by the Housing Benefit office or where requests

for other information are made in relation to any other claim.

Social Services/Probation Services

- 5.26 Upon request the Neighbourhood Manager may decide whether or not to give relevant information depending on the type of information required and the reason for asking for the information.
- 5.27 Where appropriate, staff should consult with the Neighbourhood Manager, the Assistant Director - Neighbourhood Services (Neighbourhood Services), Assistant Director of Support & Agency Services (Support and Agency Services dept) or the Head of Lettings (Lettings & Sales).

Residents' Associations

- 5.28 In some cases a residents association may request information on behalf of a resident. The resident should be asked to complete a Consent Form - Residents Association Representing a Resident which gives the resident's consent for Peabody to disclose information to the residents association.
- 5.29 Only information relevant to the specific query can be disclosed.

Members of Parliament and Councillors

- 5.30 If an MP or Councillor contacts Peabody on behalf of a resident, the letter/call should be referred to the PA/Admin Manager of the staff member's Director.
- 5.31 MPs and Councillors have the right to request personal information about a resident if it is relevant in providing a response to their query, without consent from the resident. Peabody will therefore provide information where it is necessary to respond to an MP's or Councillor's enquiry without obtaining consent from the resident concerned.

Written Requests and Letters

- 5.32 Letters from lending institutions (banks, building societies or loan companies) requesting a reference must be accompanied by a completed Consent Form -Third Party Representing A Resident. If not, a letter should be written to the institution explaining that the tenant's written authorisation is required before a reference can be given.

Individuals (Friends, Relatives, Debt Collectors etc)

- 5.33 No information is ever given to individuals. However, correspondence may be forwarded to a tenant if it is in a sealed addressed envelope.

Information Required for Research Purposes

- 5.34 Peabody will provide information to an organisation for research purposes provided it is not possible to identify the individuals to whom the information relates in the findings
- 5.35 Peabody will obtain the tenant's positive consent if it proposes to disclose personal data where a tenant is individually identified.

The Press

- 5.36 All press enquiries should be referred to the Head of Public Relations at Central Office. They will abide by the principles of this Policy and Procedure
- 5.37 Tenants living in supported housing have the same assignment rights as other Peabody tenants.
- 5.38 Tenants living in agency managed schemes are Peabody tenants and have the same assignment rights as other Peabody tenants.

Any Exceptional Requests for Information

5.39 Occasionally, exceptional requests will be made to staff that fall outside this policy. Assistant Directors will have to authorise the release of that sort of information.

6. Monitoring Information

N/A

7. Relevant Procedures

MPs Letters Process Map

8. Relevant Policies

IT Security Policy and Procedure
Disciplinary Procedures

9. Relevant Forms/Letters

Provision of Information letter
Request to View Personal File Form.
Consent Form -Third Party Representing A Resident
Consent Form - Peabody Representing A Resident
Consent Form - Residents Association Representing a Resident