

Landlord Disclosure Policy

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Introduction

Some landlords contact us and ask to know details about claims that could be seen as intrusive on the customer's privacy. Disclosing the information also poses a risk to staff in a legal sense due to the restrictions under the Data Protection Act and Human Rights Act.

Often staff will feel uncomfortable about what information they can tell landlords.

In essence we do not have to tell the landlord anything (as long as we are acting reasonably). However, we should compromise in the interests of working with landlords, and providing good customer service. This policy has been devised to address these issues.

Objectives of the policy

- To inform staff of what they should and should not discuss with landlords.
- To outline possible examples where it is not appropriate to discuss private information with landlords.
- To provide clear information to landlords regarding what we will discuss with them.
- To improve relationships with landlords and provide good, consistent customer service.

What the law says

- As a public body we must keep information about customers, and any other person named on their claim, confidential.
- The Data Protection Act says data must be kept secure, should only be processed fairly and lawfully, and should only be processed with consent.
- The Information Commissioner's website says that a person "if asked to consent, the person should have a genuine and free choice".
- Article 8 of the European Convention of Human Rights says we must respect a person's right to a private and family life.
- One of the main reasons for the introduction of Local Housing Allowance was to encourage independence, fairness, and financial inclusion for benefit customers.

Please note that individual members of staff are responsible for the information they disclose. Individual officers can be subject to disciplinary action in addition to a criminal prosecution often resulting in a fine and/or

imprisonment if they fail to adhere to the regulations. Council staff should always act in the best interests of the customer.

If a member of staff has any doubts as to whether they should disclose information they should act with caution and always seek advice from their manager.

Information about Data Protection is available on the intranet.

Consent letters

Some landlords ask tenants to sign a consent letter. If the Council is satisfied with the consent given then it is free to decide, within the limitations of the consent given, what is reasonable and legal to disclose. The consent forms are **not** legally binding on the Council.

Where a customer has given consent this will only apply to their personal details and not any other person in the household. Staff should not disclose any information about third parties not covered by the consent form, unless we also have their written consent to do so. This would include the customer's partner and non-dependants. However, if the partner has signed the council's HB application form and the form allows disclosure, then partner has also consented to the disclosure in accordance with the policies outlined in this document.

It is recognised that many of the letters received, however, are not explicit in what consent is being given and therefore it is often unclear what the Council should discuss with the Landlord. Some letters contain phrases like:

- “disclose any information regarding my rent entitlement/decision, whatsoever, with my landlord” and
- “This means that normally the Council might tell us [*list of reasons*].....or for any other reason not mentioned here”.

These phrases are ambiguous and open to interpretation and **great care must be taken to ensure that staff do not breach appropriate legislation when disclosing information.** For example, the customer may give consent for the Council to “disclose any information regarding my rent entitlement/decision, whatsoever, with my landlord”. However, staff should remember that compliance with the Data Protection Act means staff must not disclose any information about a third party.

Some tenancy agreements contain a clause which states that full disclosure must be given to the landlord. It is questionable that the tenant has been given a ‘free and genuine choice’ when signing this agreement. In these cases we must request that a separate consent form is signed by the tenant/customer.

There may be occasions where we have evidence that customers are being forced into giving consent. The evidence must be explicit i.e. a statement by the customer (verbally or in writing) or a person acting on behalf of the customer. Without explicit evidence that the customer has been forced to

complete the consent form the Council should disclose information in accordance with this Policy. If staff are in any doubt about what or to whom they are disclosing they must seek the advice of their line manager in the first instance.

Some letters say that the landlord will end the tenancy without serving notice if they withdraw their consent. NOTE: this is not permissible because although landlords can issue a notice without giving a reason for the eviction they must always serve notice in accordance with the law. These cases should always be referred to a line manager.

When disclosing information to a third party, even where an authorisation letter has been received, you should remember that it will never be appropriate to reveal certain personal information (such as amount of earnings, name of employer, DOB's, children's names/schools, etc).

The Policy

The Principles

1. Consent must be given by the customer freely and genuinely. Only if we have doubts that the customer has been forced to sign a consent letter, should we seek further consent ourselves and this should always be on the advice of the line manager.
2. Likewise if a member of staff believes that a customer has been harassed into signing a consent form; the case should be referred to their line manager.
3. If written consent is received from the customer staff will only disclose the information outlined in this policy unless there is explicit written consent to disclose a specific piece of information, from the person the information relates to.
4. **Council staff should always ensure that they do not breach any legislation e.g. the Data Protection Act or the Human Rights Act, when disclosing information to Landlords.**
5. Due consideration must always be given to the reason a landlord is enquiring on a customer's behalf. The customer may have difficulty with their claim and the landlord is genuinely helping them to sort out issues. On the other hand, a landlord may be enquiring to further his or her own interests and may have coerced the tenant into signing consent.
6. If a landlord wants to know more than the information the Council is prepared to disclose, they should be asked to make any request in writing, giving reasons why they need to know. The Council can then decide if it is reasonable and lawful to disclose the additional information.
7. Most importantly, staff should always consider and act in the best interests of the customer.

What we will NOT discuss

If payments are not being made direct to a landlord then staff should not disclose any details about a claim, unless one of the circumstances outlined below are met.

No written consent and:

1) Request to pay the landlord has been refused

If we do not have written consent to discuss the claim with the landlord, but the landlord has requested direct payments to be made to them and we have refused this request, we can tell them:

- That we have refused it and the reasons why e.g. the tenant is not deemed to be vulnerable or we have identified that the tenant is less than 8 weeks in arrears.

but not

- The details of the customer's claim.

2) Paying landlord direct or the customer has indicated on the application form that payments can be discussed.

- a) If we **do not have** written consent to discuss the claim but we are paying the landlord direct and/or the application form indicates payment details can be given to the landlord we can discuss:

- The amount, frequency, and period of the payments made to them.
- Details of any overpayment being recovered from the tenant's ongoing entitlement.
- The general reason for the overpayment. For example we can advise that the claimant has had a change of circumstance.

but not

- The reason for the change i.e. claimant started work/increase income/where they moved to etc/ that the customer has been the subject of a fraud investigation, etc.

Written Consent Given-What will we discuss?

3) If **written consent** to disclose information to a landlord is given freely the Council will disclose to **all** landlords the following:

i) Whether any requests for further information have been made

- We can inform them for example that we have asked for additional information or proofs.
- We can advise of any deadline for this information to be provided.

but not

- The details of what has been requested e.g. proof of savings.

ii) The date of the claim and any entitlement periods

- We can inform the landlord the date that the claim will be paid from, or the date it has been paid from and the date it has been paid to.
- We can also inform them of periods where Housing Benefit is not being paid i.e. no entitlement at that time.
- We can advise if the tenant has a right of appeal, and any deadline for this to be submitted.

but not

- The details regarding why the period was not paid. For example, a landlord may ask why we have not paid for a period and the reason is that the customer's income was too high. We can only advise that there was no entitlement during this period.

iii) The decision on backdating a claim

- We can inform the landlord of any period that has been backdated or not.
- Any deadline for the customer to appeal the decision if they wish.

but not

- The details for not backdating.

iv) The amount of HB paid or to be paid

- We can inform the landlord of the amount of HB paid or to be paid.

v) **Any deductions from the HB entitlement and what they are for**

- We will inform the landlord if any deductions are being made from the HB payments, how much they are and what they are for (e.g. non-dependant deductions or recovery of an overpayment(s)).

but not

- The details of the deduction. For example, we will not disclose the income of a non-dependant or the reasons for the overpayment.

vi) **Any appeals or reconsiderations that have been entered and the decisions made from them**

- We will inform a landlord if the claimant has asked us to look at a decision again or lodged an Appeal.

but not

- Any personal details regarding the request or appeal.

4) Gateway Partners - with Consent

- Where claims have been made through Gateway partners taking part in the VF scheme we will give full information regarding the claim, including the non-dependant details. This is because by making their claim through this scheme the claimant has already disclosed this information to the Gateway Partner and signed a consent form. Any requests for information which we deem are not in the best interests of the customer should be referred to a manager.

5) Gateway Partners - without Consent

Where a claim has been submitted via a gateway partner but no consent has been given they should be treated in the same way as any other landlord in this policy.

Landlords and their agents

Sometimes landlords appoint agents to manage properties on their behalf. If the tenant has signed an authorisation form to allow disclosure of information we must check whether that authorisation includes both the landlord and the agent. If the authorisation only allows us to disclose information to one party, we will be unable to discuss the claim with the other.

Summary of what we will discuss:

1. **No written consent - payment to landlord refused** - If there is no written consent and we do not pay any HB to the landlord because a request to pay them directly has been refused under the Safeguard policy or we deem the tenant is not 8 weeks in arrears.
 - ✓ The reason for the decision.
2. **No written consent – payments to landlord or application form indicates payments can be discussed:**
 - ✓ Details of the payments made.
 - ✓ Any overpayments being recovered, but not the full reason for the overpayment.
3. **Written consent** - the council will check which individuals have given their consent before disclosing the information below to landlords:
 - ✓ Whether any requests for further information have been made and the deadline for this to be received. We will not disclose the details of the information requested. The date of the claim and any entitlement periods.
 - ✓ The decision on backdating a claim, but not the details of why the claim has been backdated or not, and any deadlines for appeals.
 - ✓ The amount of HB paid or to be paid.
 - ✓ Any deductions from the HB entitlement and what they are for but the reasons for the level of the deduction.
 - ✓ Any appeals or reconsiderations that have been entered and the decisions made from them but not any personal details regarding the appeal or reconsideration.
4. **Gate way partners with consent** - Where claims have been made through Gate way partners who are part of the VF scheme we will disclose:
 - ✓ All information regarding the claim - including income, savings, and capital of partners and non-dependants. This is because this information will already be known to the partner organisation who verified the claim in the first place. Any requests for information deemed not to be in the best interest of a customer will be referred to a manager.
5. **Gate way partners without consent** - will be treated in the same manner as any other landlord detailed in this policy.