

OPENNESS & CONFIDENTIALITY POLICY

1.0 INTRODUCTION

1.1 We recognise that we have a responsibility to be as open as possible about our actions, and accountable for our decisions.

“Openness about decision-making and providing access to information is central to customer and community empowerment.” [From the introduction to Chapter 18 of Raising Standards – Access to Information]

1.2 At the same time we recognise that we have a duty to ensure that personal and other sensitive information is kept confidential, and in particular that we comply with the Data Protection Act 1998 (which protects the privacy of the individual against the misuse of personal data by organisations) and the related codes of practice. Our duty relates to our dealings with:

- service users, applicants and tenants;
- our staff and other members of the public;
- all the local and national agencies and authorities which we currently deal with;
- all commercial contacts.

1.3 This policy describes how we will seek to ensure openness and accountability in our activities while maintaining the confidentiality of personal and sensitive details, including commercially confidential information.

1.4 This policy is supported by [detailed procedures](#) covering access to specific categories of information, under the Data Protection Act.

1.5 This policy complies with Standard 2 on communication. This policy also complies with the following chapters of the SFHA publication ‘Raising Standards’:

- Chapter 4 on ‘Governance & Accountability’, in particular section 7 on ‘Openness & Accountability’;
- Chapter 18 on ‘Access to Information’.

1.6 This policy should be read in conjunction with the following:

- Board Members [Code of Governance](#), section 6.2
- Board Members [Code of Conduct](#), section E.6
- [Staff Code of Conduct](#), sections B.1 – B.12
- Staff Contract of Employment, section on Confidentiality & Disclosure of Information
- Scottish Social Services Council Code of Practice, section 2.3.

2.0 OPENNESS

2.1 Our aim is to conduct our affairs openly and to make information publicly available unless there are justifiable reasons for withholding it. We will use a variety of methods to achieve this aim and will regularly review and revise how we communicate in the light of changes and developments in technology etc.

2.2 We will make information available in the following ways:

Annual Report: Our annual report will include information on our recent activities, performance and future plans. We will circulate the report widely and make it available on request.

Annual General Meeting: Our AGM will be used as an opportunity to provide our members and others who attend with current information on our activities, performance and plans for the future.

Board minutes: Minutes of our Board meetings are available on request.

Leaflets: We will produce a comprehensive range of information leaflets on the services we provide. Relevant leaflets will be displayed in the public areas of our offices, available for download from our website, and will be available on request from our Head Office.

On request leaflets will be produced in a variety of designs and formats to suit all requirements.

Website: As well as providing the information that is also available in 'hard copy', our website will provide on line access for those wishing to find out more information about our services, activities and employment opportunities.

Tenant Handbook: We will produce a comprehensive Tenant Handbook covering all our housing management and maintenance services and how to access them, clearly setting out the rights and responsibilities of tenants and of ARK as landlord.

Newsletters: We will produce at least two service user and tenant newsletters each year, and we will issue staff newsletters as and when we have relevant information to share. These will include information on current activities, relevant recent Board decisions, future plans etc. and will encourage comments and suggestions from service users, tenants and staff on our services.

Policies: We will make available on our website, and in hard copy on request, key policies relevant to our services to tenants and service users.

2.3 We will aim to produce all our written information in clear, plain English as well as in pictorial and other versions to suit the capabilities and understanding of those receiving it. In accordance with our [Equality & Diversity policy](#) we will also arrange for relevant documents to be produced in other languages as required, and in other formats e.g. large print, audio etc. to meet specific requirements.

2.4 We will seek to involve service users, tenants, staff and other relevant groups or individuals in our activities and decision-making in the following ways:

Tenant participation: Through our [Tenant Consultation & Participation policy and Tenant Participation Strategy](#) we will seek to maximise the involvement of service users and tenants in relevant areas of decision-making, including encouraging those who are Association members to stand for election to the Board of Management.

Consultation: We will consult with service user, tenant and staff groups, and with any other individuals who have indicated a willingness to be involved, on relevant matters concerning our services, employment and any other relevant activities.

Focus Groups: We will set up focus groups of interested service users and/or tenants, and others as appropriate, to examine specific areas of our activities and to contribute to decisions on policies or procedures.

Surveys: We will carry out a range of regular and 'one-off' surveys (including staff engagement surveys) covering our services, the results of which will be used to guide our decision-making.

3.0 CONFIDENTIALITY

Collecting and holding information

3.1 We recognise that we need to keep certain information about our employees, member groups, external organisations, professional contacts, service users, tenants, donors and other individuals that we deal with. We may require to keep information for a variety of purposes, such as monitoring and evaluation, creation of mailing lists, sustaining professional links with others outside the organisation, and fundraising. We also need to process information about staff so that salaries can be paid, courses organised, financial records maintained and government and funding bodies' requirements met.

3.2 Personal or sensitive information (see Appendix 3 for definitions) will only be collected if it is necessary to:

- comply with current statutory regulations;
- enable us to meet our responsibilities;
- enable us to provide the services required by service users, tenants or staff.

The information to be recorded and the manner in which it is recorded will be covered by [procedures](#) approved by the Board of Management, and all such procedures will comply with the Data Protection Act 1998.

Examples of such instances are:

- information required to assess the support requirements of a prospective service user;
- information required as part of an application for housing;
- information required as part of an application for employment.

3.3 Personal and sensitive information will be collected and processed in accordance with all current laws, statutory regulations and good practice. In particular, whenever we collect and keep personal information we will comply with the eight principles of the Data Protection Act (see Appendix 1).

Whenever we collect and keep sensitive data, as defined by the Act, we will comply with the further requirements imposed by the Act for processing that information.

Manual records

3.4 Manual records will be kept in secure, lockable storage. They will not be accessible to unauthorised persons, and access will be restricted to those who require the information in order to carry out their duties.

3.5 Each employee who is permitted access to files containing personal or sensitive information will ensure that the files are left secure when they have obtained the required details. Manual files will not be left unattended on individual desks, but will either be returned to secure storage or locked in the employee's desk or filing cabinet.

3.6 Keys for cabinets, cupboards etc. holding personal files will either be held by a specific post-holder while they are on duty or will be kept in a secure location accessible only by authorised staff.

3.7 Members of the general public will not be permitted access to 'secure' areas where personal files are kept, except with the prior permission of the relevant Manager. Non-

employees given access to 'secure' areas will be accompanied at all times by a member of staff.

Computer records

- 3.8 Computer personal records will be stored as detailed in the [Computer System Security, Email and Internet policy](#), with access being restricted to those members of staff who require the information to carry out their duties.
- 3.9 The approval of levels of access, and the allocation and regular changing of passwords, will be as described in the policy and [procedures on computer security](#). Computer screens will always be cleared and the user will 'lock' their screens before leaving their office for any reason to prevent unauthorised use of the machine. Screens will never be left with any personal or sensitive information displayed.

Office security

- 3.10 All offices will be locked when no staff are present. Our Head Office will be protected by an alarm system linked to a central control station.

Requests to access data

- 3.11 In accordance with the Data Protection Act and related statutory regulations, we will comply with requests from service users, tenants, applicants or employees, or those authorised on their behalf, for access to the appropriate information we hold about them.
- 3.12 Requests will be dealt with by the Data Protection Officer, whose responsibilities include distributing information relating to data protection to all staff and responding to requests for access to information from data subjects.
- 3.13 A request for access to personal data will be accepted only if it is made in writing by the individual concerned or by a person formally authorised in writing to make the request on behalf of the individual, in accordance with the regulations. Applicants should use the Personal Data Request Form (Appendix 2) accompanied by the administration fee indicated on the form, currently £10.

This requirement will not apply to enquiries of a 'routine' nature, such as a tenant phoning to check on their rent account, so long as the necessary checks are made by the member of staff dealing with the call to ensure that the person is entitled to receive the information.

Full details of the application process are contained in the [Data Protection Procedure](#) supporting this policy.

Sharing data with others

- 3.14 Normally information held will not be passed on to any other agency or individual without the written permission of the person concerned. The only exceptions will be where the passing on of such information is:
- covered by an agreement, protocol or contract that complies with the principles of the Act, entered into with third parties with whom our staff need to share information;
 - permitted by law, e.g. where a police investigation into criminal activity requires the divulging of information held by ARK, including where such a request is accompanied by a Court Order.
- 3.15 We will also ensure that any contract with a company providing a service includes a 'non-disclosure' clause covering any personal or sensitive data company staff may access in the course of their work (see Appendix 1 to the [Prices, Quotations & Tenders procedure](#) ref: F17 for examples of non-disclosure clauses).

- 3.16 We will ensure that, apart from the exceptions described below, all reports to the Board of Management relating to service users, tenants or staff are 'anonymous', i.e. that individual names do not appear.

The exceptions will be where identification is essential to the Board's consideration of the matter, e.g. in considering an appeal.

- 3.17 We will ensure that in making any general information available to the media etc., the anonymity of individuals is maintained, unless written permission is obtained in advance for names to be released or individuals to be identified.

Financial and other management information

- 3.18 The principles described above will also apply as appropriate to all financial and general management information.

- 3.19 The proceedings of the Board of Management and any other Sub-Committee or Working Group meetings will be regarded by all those present as being confidential, with the approved minutes of each meeting being the publicly available record of each discussion.

Use of information, breach of confidentiality and subject consent

- 3.20 All information held by us will only be used for the purposes for which it has been obtained. In particular, Board Members and members of staff will not use any information obtained in the carrying out of their duties for personal gain, or pass any such information on to any other person who might use it in such a way.

- 3.21 Any breach of confidentiality by a Board Member will be dealt with in accordance with the [Board Members Code of Conduct](#) and may result in that person having to resign from the Board.

Any breach of confidentiality by a member of staff will be dealt with under our [Disciplinary Policy](#) and [Procedures](#).

- 3.22 We recognise that individuals have the right to choose how they want their personal information to be used. We will publicise our Data Protection Statement (Appendix 3) which includes information about what types of personal data are kept and how the data will be used.

Use of data for research purposes

- 3.23 If we are considering using personal data for research purposes, we will always consider whether it is necessary to process that data in order to achieve the research purpose. If such processing is necessary, provided data has been obtained fairly and lawfully, meaning usually that the data subject has been made fully aware of the proposed use of the data and has consented to this use, it will be used for research purposes under the Act.

- 3.24 We will use data collected for one piece of research for other research only with the consent of the data subject. We will ensure that there will be no direct consequences for the individuals who have taken part in the research and their personal data will not be processed in a way that could cause damage or distress to any data subject.

Wherever possible we will anonymise the names of research subjects so that individuals cannot be identified.

Disposal of confidential information

- 3.25 We will ensure that all files and confidential papers that are no longer required are disposed of by one of the following methods:
- a) by using a paper shredding machine
 - b) by placing papers into confidential waste containers that are collected and disposed of by a licensed contractor.

Training

- 3.26 All staff will receive the necessary training in the operation of the Data Protection Act as it relates to their specific duties, and in the maintenance of the confidentiality and security of the manual and computer information that we hold.
- 3.27 The main training will be carried out as part of the induction process for all new staff. Refresher training will be given at regular intervals as required, as part of our ongoing staff learning and development programme.

4.0 IMPLEMENTATION AND REVIEW

- 4.1 The Chief Executive is responsible for ensuring that all Board Members and staff comply with this policy, and with all current legislation etc. relating to confidentiality of information.
- 4.2 As defined in the Data Protection Act 1998, the Association is the Data Protection Controller. The Head of Quality and Compliance is the Association's Data Protection Officer.
- 4.3 As part of the exception reporting arrangements, the Chief Executive will report to the Board on any issues arising from the implementation of this policy, and in particular on the number of requests received annually for access to personal data held by ARK.
- 4.4 The Chief Executive will ensure that this policy is reviewed by the Board at least every three years.

Approved by Board of Management: June 2016

Next review of policy due by: June 2019

Complies with: Standard 2 & Raising Standards Chapters 4 & 18

DATA PROTECTION ACT 1998 – 8 PRINCIPLES

First Principle: Data must be fairly and lawfully processed

Fair processing means that:

- the data subject has not been deceived or misled regarding the purposes for which their data is to be processed
- the data subject should be aware of the identity of the data controller
- the data subject should be told the purpose of processing their personal information

Lawful processing means that at least one of the following conditions applies:

- the data subject has consented
- processing is part of a contract to which the data subject is a party
- processing is necessary to comply with a legal obligation
- it is necessary in order to protect the data subject's vital interests (i.e. in relation to matters of life and death)
- it is an essential part of a criminal investigation
- it is necessary for the purposes of legitimate interests pursued by the data controller

Second Principle: Data must be processed for limited purposes

Data will only be collected for one or more specified and lawful purpose. These include maintaining membership and pursuing the objectives of ARK Housing Association Ltd.

Data subjects must give their consent for data to be used in specified ways. Data cannot be used for purposes other than those for which consent has been given, without obtaining consent to the proposed new purpose.

Third Principle: Data must be adequate, relevant and not excessive

Data collected must not be more than is needed for the purpose specified.

Fourth Principle: Data must be accurate

Data will be kept up to date and reviewed annually as part of the data protection audit.

Fifth Principle: Data must not be kept longer than necessary

The time for which data is held will not be longer than is necessary to achieve the purpose(s) stated.

Sixth Principle: Data must be processed in accordance with the data subject's rights.

These rights are to:

- have specific information such as ARK Housing Association Ltd's data protection statement and privacy statement
- consent, or not, to the use made of their data
- opt out of direct marketing. This applies to fundraising, soliciting support from volunteers, marketing of goods and publications and promotion of services.

- restrict automated decision making. ARK Housing Association Ltd does not use methods by which decisions are made automatically using technology and without any staff involvement.
- prevent processing that causes harm to the data subject. Harm is defined in the Act as “substantial damage or substantial distress” that is “unwarranted”
- apply for subject access, which means for a copy of the personal information held by us.
- ask the Information Commissioner to make an assessment of whether the organisation is complying with the Act.

Seventh Principle: Data must be secure.

Appropriate security measures must be taken to prevent unauthorised access to data.

There must also be safeguards in place to prevent damage or loss of data. This includes manual and computer records.

Eighth Principle: Data must not be transferred to other countries without adequate protection.

Data must not be sent to a country outside the European Economic Area unless there is comparable data protection for the rights of data subjects in that country.



1998 DATA PROTECTION ACT - PERSONAL DATA REQUEST FORM

You are entitled to see a copy of the information we hold about you. If you want to see it, please fill in this form and return it to the Data Protection Officer, ARK Housing Association Ltd, with a fee of £10 to cover our administration costs. Make cheques payable to: ARK Housing Association Ltd.

Please print clearly.

Name: _____

Address: _____

Phone No: _____

In order to help us find any of your personal information that we hold, and to supply it to you in the form that best suits you, please complete the following paragraphs.

I have had contact with, ARK Housing Association Ltd's _____ office
 (please state which office), as a client / other*, please detail _____ (*delete one).

If ARK Housing Association Ltd holds any of my personal information, I would like:

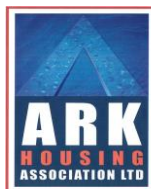
- a) to look at the information in ARK Housing Association Ltd's office (this will be the office that currently holds any such information)*, or
- b) a copy of the information to be sent to me*. (*delete one)

Declaration: I wish to see any personal information that ARK Housing Association Ltd holds on me and I enclose the fee of £10.

Signature: _____ **Date:** _____

Please note:

- a) If the address you give does not match the one in our records, we may have to ask you for identification.
- b) We will reply as quickly as we can. We aim to reply within 28 working days, but we may take up to 40 days. The 40 day period will run from the date upon which we receive the completed form, or from the date upon which we receive confirmation of your identity, if this is required, or the £10 fee, if one of these dates is later. If you have asked for a copy of the information we will send it to the address you have given above.
- c) We have information about members of our organisation, staff, volunteers, clients, and people we think might be interested in our work. We do not keep this information once we no longer need it, so if you were in touch with us some time ago we may no longer have any information about you.
- d) We will show you everything we have about you, although we may be obliged to hold back information which is also about someone else.



DATA PROTECTION STATEMENT

ARK Housing Association Ltd. will use the personal details we hold about you, and any information you may provide us with in the future for:

- the purposes of dealing with your enquiry
- sending you information that you have requested
- delivering a service to you
- evaluating the service we have delivered to you
- carrying out relevant research into our services and activities.

The personal information we hold will be information you, or others on your behalf, have given us and may include one or more of the following:

- personal details, for example, name, address and contact details
- family, lifestyle and social circumstance
- educational and training details relating to staff and volunteers
- employment details
- financial details
- goods and services provided
- racial or ethnic origin
- trade union membership - in relation to those employees who pay subscriptions through ARK's payroll service
- physical or mental health as it relates to your relationship with ARK Housing Association
- offences and criminal proceedings relating to staff and volunteers which are held for the appropriate timescales as set out in written policies.

We will normally only hold sensitive data about you if you give written consent, although certain exceptions may apply, which are set out ARK's Data Protection Procedure. We will keep your personal information in accordance with the requirements of the Data Protection Act 1998.

We will not disclose the information we hold about you to any other person, organisation, or department within ARK except in connection with the purposes listed at the start of this statement. Unless the information sharing is done as part of a contract, or certain other tests are met (such as sharing information in relation to a criminal investigation), we will seek your consent to share your personal information.

You have the right to obtain a copy of the personal information we hold about you. Should you wish to obtain a copy of this information, you should submit your request in writing using our Personal Data Request Form, a copy of which is attached.

If you have any questions about the use we make of your data, or if you wish to obtain a copy of this information, please contact the Data Protection Officer at:

ARK Housing Association Ltd, The Priory, Canaan Lane, Edinburgh, EH10 4SG.

Tel: 0131 447 9027 Ext: 196

email: john.rankin@arkha.org.uk

OPENNESS & CONFIDENTIALITY POLICY AND PROCEDURE

I confirm that I have received a copy of the Openness & Confidentiality Policy and Data Protection Procedure, that I understand the policy and procedure, and that I agree to comply with the requirements of the policy and procedure:

Signed: _____

Name: _____
[Please print]

Date: _____

Following completion, this form should be passed to the HR department, to be added to the individual's personal file.
