

Openness and Confidentiality Policy

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Owner:	Assistant Director of Governance & Performance	Department:	Governance
Issued To:	☒ Board of Management ☒ All Staff ☐ ET/LT ☐ Head Office Managers ☐ C&S Managers	Method of Delivery:	☐ Annual Declaration ☒ LearnPro Individual Sign Off ☒ Board Portal
Stakeholder Consultation	☐ All Staff ☐ Customer Engagement ☐ Union ☐ Employee Voices Group ☒ Head Office Managers ☒ C&S Managers	This policy will be reviewed every 3 years from the date of implementation or earlier if deemed appropriate for any legislation or regulatory changes. If this policy is not reviewed within the above timescale, the latest approved policy will continue to apply.	
Equality Impact Assessment		No	

Version Control

Date	Owner	Version	Reason for Change
June 2026	Assistant Director of Governance & Performance	5.0	Cyclical Review

Summary of Changes

Section	Change
1.1	Summarised Legal & Regulatory Framework section
2.0	Summarised scope
4.0	Updated Policy & Procedure reference numbers
5.1	Included communication in plain English and communication methods
5.2	Removed information about appendix 2 – Data Protection principles
5.4	Added information - Ark will undertake a Data Protection Impact Assessment (DPIA) to identify and mitigate risks.
5.8	Removed training section as covered under section 6.0
6.2	Added monitoring section - Compliance with this policy is monitored through audits, complaints, subject access requests (SARs), and breach reporting. Learning from these activities is used to improve communication and services, and evidence of compliance contributes to the Annual Assurance Statement submitted to the Scottish Housing Regulator.
Appendix 1&2	Removed – Information included within policy detail

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1.0 Policy Statement

Ark is fully committed to being open and transparent about our actions, and to be accountable for our decisions. We also recognise that we have a legal duty to ensure that personal and sensitive information is kept confidential, and that we fully comply with any laws which relate to data protection and the processing of personal data and privacy, including guidance issued by the UK Information Commissioner's Office or ICO.

Breaching this policy may result in disciplinary action, depending on the severity of the violation.

1.1 Legal & Regulatory Framework

This policy is informed by and complies with key legislation, frameworks, and guidance, including:

- UK General Data Protection Regulation;
- UK Data Protection Act 2018 (DPA 2018);
- Privacy and Electronic Communications Regulations 2003 (PECR);
- Data (Use and Access) Act 2025.
- Freedom of Information (Scotland) Act 2002 – Provides public access to information held by authorities, with certain exemptions, and requires the use of publication schemes.
- Housing (Scotland) Acts 2001–2014 – Gives tenants the right to access information and requires landlord consultation, supported by the Scottish Social Housing Charter.
- Scottish Public Services Ombudsman Act 2002 – Sets out arrangements for investigating complaints.
- Human Rights Act 1998 – Protects the right to privacy.
- Health and Social Care Standards (2018) – Defines expected standards for care and support services.
- Scottish Housing Regulator Regulatory Framework (effective April 2024)

2.0 Scope

This policy applies to:

- Tenants and supported people
- Applicants and former tenants
- Staff, Board Members, contractors and volunteers
- All personal, sensitive, confidential and commercially sensitive information held in any format

3.0 Roles & Responsibilities

There is a range of standard expectations which underpin all policies. Read more about standard [role and responsibilities](#) in addition, the following specific responsibilities apply to this policy.

The Assistant Director of Governance & Performance and Data Protection Lead is responsible for overseeing and monitoring compliance with openness, confidentiality and data protection requirements. This includes ensuring that personal and sensitive information is handled lawfully and securely, that information is shared appropriately in line with legal obligations, and that confidentiality is maintained at all times. They will provide advice and guidance to staff, support the management of data breaches and subject access requests, and identify any trends, risks or areas for improvement to support continuous compliance and good information governance practices.

4.0 Related Policies, Procedures & Documentation

This policy should be read in conjunction with the following:

- G24 Data Protection Policy
- HR04 Staff Code of Conduct Policy
- IT01 Acceptable use Policy
- IT02 Security Policy
- IT02a Security Procedure
- G12 Complaints Policy
- G24a Information Security Incident and Personal Breach Management Procedure
- G24b Subject Rights Procedure
- G25 Records Management Policy
- G25a Records Management Procedure
- G23a CCTV and Surveillance Systems Procedure
- GO1 Board Members Code of Governance (Section 6.2)
- GO2 Board Members Code of Conduct (Section E.6)
- HR15 Whistleblowing Policy
- Staff Contract of Employment, Section on Confidentiality & Disclosure of Information
- Scottish Social Services Council Code of Practice Section 2.

[Ark's Vision, Mission & Values](#)

5.0 Openness and Confidentiality

5.1 Openness

Ark will make information about its services, performance, decision-making, and governance publicly available unless there is a lawful reason not to do so and will publish this in line with its Guide to Information and Model Publication Scheme. Communication will be clear, in plain English, and provided in accessible formats to meet the needs of all tenants. Ark will also support tenants and supported people to understand not only what decisions are made

but the reasons behind them, while recognising issues of digital exclusion and offering non-digital alternatives on request.

Information will be made available through a range of methods to ensure accessibility and transparency.

We will publish information in line with the Model Publication Scheme and Guide to Information, available on our website. The website will act as a central source for key information, including policies, performance reports, governance details, and service information, with additional reports available on request.

We will also share information through our Annual Report and Annual General Meeting, providing updates on performance, activities, and future plans. Board of Management minutes will be published online and available in hard copy on request.

Printed materials, including leaflets and the Tenant Handbook, will provide clear information about our services and tenants' rights and responsibilities, in a range of accessible formats. Regular newsletters and social media will be used to share updates, news, and opportunities for engagement.

In addition, we will gather and share information through tenant participation, consultation groups, and surveys to support involvement in decision-making and continuous improvement of our services.

5.2 Confidentiality

In order to provide services and operate effectively, in the course of our business we need to process, store and retain certain information about our employees, member groups, board members, external organisations, professional contacts, supported people, tenants, donors and other individuals that we deal with. The manner in which this will be carried out, is covered by a number of policies and procedures approved by Ark's Board of Management, and all personal and sensitive information will be collected and processed in accordance with current laws, statutory regulations and good practice.

Records will be retained for a period of time aligned with Ark's Retention Schedule, which is accessible within the G25a Records Management Procedure.

Where necessary any manual records will be kept in secure, lockable storage, and access will be restricted to those who require the information in order to carry out their duties. Employees who have access 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. 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.

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 personal records will be stored as detailed within IT02 Security Policy.

All Care & Support offices will be locked when no staff are present. Ark's Head Office will be protected by an alarm system linked to a central control station.

5.3 Data Subject Access Requests

In accordance with the General Data Protection Regulation/Data Protection Act UK 2018, Ark will comply with requests from supported people, tenants, applicants or employees, or those authorised on their behalf, for access to the appropriate information we hold about them. This is known as a Data Subject Access Request. Full information regarding Data Subject Access Requests, including the process for submitting and responding to such requests can be found in Ark's Subject Rights Procedure G.24b.

5.4 Data Sharing

During our activities Ark may need to share information about our applicants who wish to use and/or access our services, tenants, supported people, staff, board members and others, with other agencies, third parties or organisations. Under the Data Protection Act 2018 we require a lawful basis for sharing data, and the basis for each of these groups are described with our privacy notices. Where required we will seek the consent of individuals or their legal representative to share their data. In addition, Ark will enter into a formal data sharing agreement with agencies, third parties or organisations with whom we share data. Where data is requested by a law enforcement agency for example in relation to a criminal investigation, no such agreement will apply.

Where new processes or systems involve the processing of personal data that may present a high risk to individuals, Ark will undertake a Data Protection Impact Assessment (DPIA) to identify and mitigate risks.

5.5 Use of Information and Breaches of Confidentiality

Ark takes compliance with this policy very seriously. Failure to comply could put employees, Board members, tenants, supported people and the organisation at risk. The importance of this policy means that failure to comply with any requirement may lead to disciplinary action 7 against an employee under our Disciplinary Policies and Procedures which may result in dismissal, or in the case of Board members, action under the GO2 - Board Members Code of Conduct.

All information held by Ark will only be used for the purposes for which it has been obtained. 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.

All data protection or confidentiality breaches must be reported immediately in line with G24a - Information Security Incident and Personal Breach Management Procedure.

Serious breaches that pose a risk to tenants supported people or Ark's governance may require:

- Reporting to the Information Commissioner's Office
- Consideration as a Notifiable Event to the Scottish Housing Regulator

5.6 Use of Data for Research Purposes

Where 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 can be used for research purposes under the Data Protection Regulation/Data Protection Act UK 2018. Where we use data collected for one piece of research and apply it to another, we will only do so with the consent of the data subject. We will also ensure there will be no direct consequences for the individuals who have taken part in any research, and their personal data will not be processed in a way that could cause damage or distress.

5.7 Disposal of Confidential Information

We will ensure that all files and confidential papers that are no longer required are disposed of by one of the following methods:

- By using a paper shredding machine;
- By placing papers into confidential waste containers that are collected and disposed of by a licensed contractor.

6.0 Training & Monitoring Requirements

6.1 Training

Staff managing, handling or accessing personal, sensitive or organisational information will have training appropriate to their needs and to the needs of the organisation, as identified on their individual learning plans. Ark will ensure that relevant employees have an awareness of this policy and receive adequate training to enable them to effectively fulfil their roles and ensure openness, transparency, and the lawful, secure handling of information in line with the Data Protection Act 2018, UK GDPR, and other relevant legislation and guidance.

Training will support employees to understand how to handle personal and sensitive information appropriately, maintain confidentiality, recognise and report data breaches, respond to data subject rights requests, and share information lawfully and proportionately. It will also reinforce Ark's commitment to being open and transparent while protecting the rights, privacy and dignity of tenants, supported people, staff and other stakeholders.

This approach ensures that Ark continues to meet its legal and regulatory obligations, promotes accountability and good information governance, and maintains the trust and confidence of tenants, supported people and other stakeholders.

6.2 Monitoring

Compliance with this policy is monitored through audits, complaints, subject access requests (SARs) and breach reporting. Learning from these activities is used to improve communication and services, and evidence of compliance contributes to the Annual Assurance Statement submitted to the Scottish Housing Regulator.

Regular monitoring and audits will be undertaken by Ark's data protection lead and/or DPO who will regularly check compliance with the law, this policy and any associated procedures.

The Assistant Director of Governance and Performance will provide a comprehensive quarterly report on the organisation's handling of complaints. This report will be presented to the Senior Leadership Team and shared with the Business Performance & Compliance Sub-Committee. It will support effective monitoring and oversight, facilitate discussion at a senior level, and enable the timely identification and escalation of any emerging risks, trends, or areas of concern, including compliance issues, response performance, and recurring themes.

In addition, an annual summary report will be presented to the Board, providing a strategic overview of data protection and Freedom of Information activity over the year. This will include key performance indicators, levels of compliance, notable cases, learning points, and any actions taken to strengthen policy, practice, or governance arrangements.