



Privacy Commissioner
Te Mana Mātāpono Matatapu

AUGUST 2019

PRIVACY ACT GUIDANCE FOR LANDLORDS AND TENANTS



Introduction

The Privacy Act governs how agencies collect, use, disclose, store and give access to personal information. An agency includes a government department, business, religious group, school, and also a landlord or property management company.

As a landlord or property manager, you have obligations under the Privacy Act to manage personal information responsibly.

If a person thinks their privacy rights have been breached and they have suffered harm as a result, they can make a complaint to our office. Our office works to resolve these complaints. If unresolved, these can end up in the Human Rights Review Tribunal. It's a time-consuming process, so our advice is that the best policy is to try and avoid a complaint in the first place.

The principles as a framework

Principles 1 to 4

Landlords need to collect information in order to choose a tenant, and they also need to collect information during the tenancy. But you need to ensure you only collect information that is necessary and not that which is unnecessary and privacy-intrusive.

Are you asking for information that is highly sensitive, like what a prospective tenant spends their income on? Or what religion they belong to?

A useful rule is to only ask for the minimum amount of information you need.

When choosing a tenant, read our guidelines on what a landlord can ask for. Advice is also available on our website in our AskUs FAQs. This is also a good starting point:

- [How much personal information can I collect from my tenants?](#)
- [Can an agency collect information about my finances?](#)
- [Can a landlord look up a potential tenant on the internet?](#)
- [Can a landlord ask for my criminal record?](#)

Landlords have a right to carry out regular flat inspections. One way of recording the condition of a property might be to take photographs.

- [Are photos of a tenant's room their personal information?](#)
- [Can a landlord ask for information about flatmates even though they are not on the tenancy agreement?](#)

There's also the issue of using CCTV cameras. It would be unjustified to film or record your tenants in a house they're renting but it could be justifiable to have security cameras in the public areas of an apartment complex or property.

- [Can an organisation make a video or audio recording of me without telling me?](#)
- [Are there any rules about where CCTV can be used?](#)

Principle 5

An agency is required to have reasonable security safeguards to protect against the loss, disclosure and misuse of personal information (see principle 5).

For instance, it is a good practice to keep property information separate from tenant information. That way, tenant information, which can include sensitive personal information like criminal record and credit checks, can be safeguarded separately and only accessed by those who need it see it.

- [How can I physically secure personal information?](#)
- [How can I prevent employee browsing?](#)
- [I am concerned that employees are accessing personal information inappropriately.](#)
- [What should I do if there has been or if I have caused a data breach?](#)
- [How can I prevent data breaches through email?](#)
- [What should I do if I've sent an email to the wrong address?](#)
- [What does the Privacy Act say about cloud computing?](#)

Principle 6

People have the right to ask for their personal information (principle 6). Organisations need to respond to a request for personal information within 20 working days. But in some circumstances, there may be grounds to refuse an access request.

Your tenant will be entitled to see information you have collected about them during the tenancy including rental payment records, damage reports and complaints. Even prospective tenants can ask you for information about them, for example details that might have influenced your decision not to offer them the tenancy.

- [If someone requests their personal information, do we have to give it to them?](#)
- [How long does an agency have to respond to my request?](#)
- [Can the agency extend the time it has to respond?](#)
- [What if I need more than 20 working days to respond?](#)

Principle 7

Principle 7 gives individuals the right to request their information be corrected. A tenant or former tenant might want to challenge information held by a landlord and to ask for it to be changed. If the information is disputed, you don't have change the information, but the tenant does have the right to have a statement of correction attached to their information.

- [How do I respond to a request to correct or delete information?](#)
- [What can I do if an agency has incorrect information about me?](#)
- [What can I do if an agency won't correct my personal information?](#)

Principle 8

A landlord must take reasonable steps to ensure the information is accurate, relevant and up-to-date before using it (principle 8). If there is a dispute, it is important to have accurate records. A good idea might be to give tenants the opportunity to comment on any prejudicial information before making a decision, or update their information.

- [What can I do if an agency released inaccurate information about me?](#)

Principle 9

Principle 9 is about the retention of personal information. An agency must not keep information for longer than is required for the purpose it was collected for. The longer you keep information, the greater the possibility that it will become inaccurate and irrelevant. Once a tenant has moved on, there might be no need to keep their information. There may be no need to retain information about unsuccessful applicants for a tenancy once the property has been rented.

- [How long does my organisation or business have to keep records for?](#)
- [How can I dispose of information and documents safely?](#)

Principle 10

Principle 10 says an agency must not use information that was collected for one purpose for another purpose. Once landlords collect personal information, they can use it for the original purpose specified to their tenants, or a directly related purpose. If a landlord wants to use or disclose the information for a different purpose, the landlord should contact the tenant to discuss it. For instance, if you collected the driver's licence to enable a credit check, you should only use it this purpose.

- [How specific does my purpose for using information need to be?](#)

Principle 11

Principle 11 says an agency must not disclose information unless it is for the purpose it was collected for. Other exceptions are that the information is publicly available, that it has been authorised by the tenant; that it was necessary to disclose it to maintain the law, or to lessen a serious threat.

- [How should I respond to a request for information about someone else?](#)
- [What are my obligations as a business owner to hand over customer information to Police?](#)
- [What should I do if Police ask me for information?](#)
- [How do I respond if a government agency asks for information about customers, clients or staff?](#)
- [Do I need permission from an individual to disclose their personal information?](#)
- [How specific does authorisation need to be to use or disclose personal information?](#)
- [What can I tell if I think someone is at risk or in danger?](#)
- [Can a landlord 'blacklist' a former tenant?](#)

- [Can a landlord put tenant information on a shared database?](#)

For more information

Landlords need to collect, use and disclose personal information to determine a potential tenant's suitability to rent a property. It is also reasonable for a landlord to request more detailed information once a person becomes a tenant. Personal information requested by a landlord must always be reasonably connected to a tenancy.

If a tenant is concerned about the type of information being requested, they can ask the landlord why it is required. If they think the information being requested is too intrusive, they can complain to the Privacy Commissioner.

More information is available on the Office of the Privacy Commissioner's website (www.privacy.org.nz), or by calling the enquiries number (0800 803 909) during office hours or by using the online enquiry form.

<https://privacy.org.nz/about-us/contact/enquiry-form/>

You can take the first step by learning more about the Privacy Act and to use that knowledge to avoid risky practices in handling personal information. One way is to do our quick Privacy ABC online learning module. Our online learning modules are free and easy to use. <https://elearning.privacy.org.nz/>