

Transcript: 'Know Your Data' – Requesting personal data from prospective tenants

Welcome to 'Know Your Data', a podcast by the Irish Data Protection Commission. My name is Graham Doyle and I'm the Head of Communications here at the DPC.

In this episode of 'Know Your Data' I'm going to be looking at the issue of requesting personal data for prospective tenants. This is something that we receive a large number of queries here to our help desk at the DPC. Individuals are quite often asking us whether it is lawful from a data protection perspective for landlords and letting agents to require certain information or documentation from them as prospective tenants. So in this episode I'm going to look at how the general data protection regulation or the GDPR and data protection legislation in general applies to both landlords and letting agents and what right it gives to prospective tenants.

In this area both the Data Protection Act 2018 and the GDPR contain obligations which apply to landlords and letting agents to ensure that they comply with data protection requirements during the letting process. So what it comes down to is that a prospective tenant should only be asked to give personal information if the landlord or letting agent has specific reason or specific reasons for requesting this data. It is particularly important only personal data that is necessary for negotiating or entering into a new tenancy is collected and that the landlord or agency are transparent with the prospective tenants about why they are collecting the information and what they will use it for.

There are a number of questions that landlords and letting agents can ask themselves to help ensure that they comply with data protection requirements. For example what is the purpose of collecting the personal information in the first instance? What legal reason do you have to collect that personal information? Is the person that is being asked to give the information likely to be offered a tenancy? Is it fair to collect personal information from the prospective tenant and do they know what they're being asked to give it? For how long will you keep the information? Are you keeping this information safe and secure? Finally, you have a plan to delete the personal information once it is no longer needed.

You can find more about how the principals of the of the GDPR and data protection legislation apply to the landlord and a tenant on our website which is at www.dataprotection.ie.

Many queries we receive in this area highlight that in many cases excessive amounts of personal information including; photo ID, financial statements, and PPSN's are being requested from prospective tenants at the initial application stage of letting a residential property. This should only be requested from an individual that a landlord is actually entering into a letting agreement with and that it is a condition of the tenancy agreement. Landlord letting agencies should not be collecting this type of information from prospective tenants at the application point. The main point here is that a landlord or a letting agent can only see data from the eventual person or persons becoming a tenant of the property. It is important to note that there should be a basis for a landlord or letting agent, acting under their client's behalf, should only ask for a PPSN, once an individual has been accepted as a tenant. This request fall under the Residential Tenancy Act in 2004. This information is required for registration with the Residential Tenancy Board, however the landlord or the letting agent is authorized to only use the PPSN of the tenants for registration with this Residential Tenancy Board. No other use should be made of the PPSN. They must also be kept confidential and kept for no longer than is necessary. Ultimately it is a matter for landlords and letting agents to ensure that they have a legal basis to collect and process this personal data in a proportionate, justified, and necessary manner, and that they comply with the principles and requirements as set out in the GDPR and the Data Protection Act of 2018.

Perspective tenants should also be aware of their rights under the GDPR. When they hand over personal information to landlords and letting agents. This includes the right to amend information that is incorrect and the right to be forgotten, for example where the information is no longer necessary for the purpose for which it was collected.

More guidance on your rights, as well as some restrictions that apply, can be found on our website. Also, if you're concerned that a landlord letting agent isn't meeting the data protection obligations, you can contact us here at the DPC and you can e-mail us at info@dataprotection.ie.

You can find more information about data protection rights and obligations on our website at www.dataprotection.ie, where you find more extensive guidance

note on requesting personal data for prospective tenants and a case study on excessive data collection by a letting agency. You can also find out more information about general data protection rights and obligations. If you weren't sure about any of the key terms that were used in this podcast you can find a list of definitions of key data protection terms there as well. This has been 'Know Your Data' the Irish Data Protection Commission podcast.

Don't forget you can find us on Twitter and Instagram @DPCIreland and on LinkedIn.

Thank you for listening.