



Data Protection, Confidentiality and Access to Information Policy

1 Introduction

- 1.1 Erimus Housing needs to collect and use certain types of information about people in order to operate an effective and efficient service and ensure that services appropriate to the needs of our customers are provided. This also includes information about current, past and prospective employees, suppliers, clients/customers and others with whom it communicates.
- 1.2 Erimus Housing also aims to provide a high standard of service and to be as open as possible in its dealings with customers.
- 1.3 For the purpose of this policy those people as mentioned in paragraph 1.1 are referred to as 'data subjects'.
- 1.4 Personal information must be dealt with properly however it is collected, recorded and used; whether on paper, in a computer, or recorded on other material. There are safeguards in the Data Protection Act 1998 to ensure this.
- 1.5 The lawful and correct treatment of personal information by Erimus Housing is very important to successful service provision, and to maintaining confidence between the organisation and those with whom it deals.

2 Statement of Intent

- 2.1 All information will be treated lawfully and correctly by Board Members and employees of Erimus Housing and those who act on behalf of Erimus Housing.
- 2.2 Erimus Housing will:
 - Clearly define and maintain the Policy with regard to confidentiality of information;
 - Ensure that Board Members and officers understand the need to maintain the integrity of Erimus Housing through the proper operations of the Policy;
 - Ensure that Erimus Housing meets its obligations under the Data Protection legislation;
 - Be as open as possible in its dealings with customers and meet obligations concerning the provision of information.
- 2.3 Related documents supporting the Policy are:
 - Data Protection Act 1998: Definitions and Principles (Appendix A)
 - Data Protection Act 1998: Good Practice Guide (Appendix B)
 - Data Subject Access Application Form (Appendix C)
 - Procedure for Subject Access Request (Appendix D)

3 Policy Statement

3.1 Erimus Housing believes that people have a right to see what information is kept about them. We fully endorse and will adhere to the principles of data protection, as specified in the Data Protection Act 1998 and other related legislation.

3.2 Specifically, the principles require that personal information:

- Shall be processed fairly and lawfully and, in particular, shall not be processed unless specific conditions are met;
- Shall be obtained only for one or more specified and lawful purpose(s), and shall not be further processed in any manner incompatible with that purpose or those purposes;
- Shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed;
- Shall be accurate and, where necessary, kept up-to-date;
- Shall not be kept for longer than is necessary for that purpose or purposes;
- Shall be processed in accordance with the rights of data subjects under this Act;
- Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data;
- Shall not be transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection for the rights and freedom of data subjects in relation to the processing of personal data.

4 Data Protection

4.1 Appendix A attached to this Policy provides detailed information on the definitions and principles of the Data Protection Act 1998. Good practice guidance from the Act is included within Appendix B.

4.2 Access to the information held

4.2.1 Erimus Housing has a responsibility to ensure that data subjects have proper access to the information that the organisation holds about them. The procedure for processing requests is included in Appendix C and requires a written request and the appropriate fee paying, which is currently £10. This must be paid in advance and returned with a completed “Data Subject Access Application Form” included at Appendix D.

4.3 Obligations

4.3.1 In compliance with the Act, Erimus Housing will, through appropriate management, strict application of criteria and controls:

- Observe fully conditions regarding the fair collection and use of information;
- Meet its legal obligations to specify the purposes for which information is used;
- Collect and process appropriate information in a confidential manner ensuring that the data held is not excessive but sufficient to fulfil operational needs or to comply with any legal requirements;
- Will dispose of data when it is no longer required (subject to any statutory requirements);
- Ensure that necessary and sufficient steps are taken to ensure the quality of information used;
- Apply strict checks to determine the length of time information is held;
- Ensure that the rights of people about whom the information is held can be fully exercised under the Act. These include:
 - The right to be informed that processing is being undertaken;
 - The right of access to one's personal information;
 - The right to prevent processing in certain circumstances and the right to correct, rectify, block or erase information which is regarded as wrong information.
- Take appropriate technical and organisational security measures to protect personal information against damage, loss, misuse or inappropriate disclosure;
- Ensure that transfer of data is done in a lawful manner with due regard for security;
- Ensure that personal information is not transferred abroad without suitable safeguards and appropriate contact for use is in place.

4.3.2 In addition, Erimus Housing will ensure that:

- There is someone with specific responsibility for Data Protection and related legislation in the organisation. Currently, the nominated person is the IT Manager;
- Everyone managing and handling personal information understands that they are contractually responsible for following good Data Protection practice;
- Everyone managing and handling personal information is appropriately trained to do so;

- Everyone managing and handling personal information is appropriately supervised;
- Anybody wanting to make enquiries about handling personal information knows what to do;
- Queries about handling personal information are promptly and courteously dealt with;
- Methods of handling personal information are clearly described;
- All activities relating to the processing of personal data have sufficient safeguards and controls in place for security of data including a request for identification where required;
- All contracts between Erimus Housing and third parties that involve processing of personal data will make reference to the obligations and necessity of compliance with the Act;
- A regular review and audit is made of the way personal information is managed;
- Methods of handling personal information are regularly assessed and evaluated;
- Performance with handling personal information is regularly assessed and evaluated;
- Erimus Housing work towards implementing the key principles of BS7799 – The British Standard on Information Security Management;
- This Policy and the safeguards and controls relating to it are regularly reviewed to ensure that they are still relevant, efficient and effective.

4.4 Security

4.4.1 Paper records

Sensitive information such as rent arrears, medical details, ethnic origin, domestic violence, etc will be kept secure at all times, and access to files will be restricted to identified officers of Erimus Housing. This will be achieved through a combination of restricted access to offices and locked file storage systems.

4.4.2 Computerised records

Sensitive information such as rent arrears, medical details, etc will be held secure within the IT systems, and access to data will only be given to those who need it for the performance of their duties. All systems will be password protected to minimise the risk of information being accessed by unauthorised users.

Officers are advised that passwords are not to be disclosed to others, and using other officers' access permissions is a serious disciplinary offence.

4.4.3 Housing Applications

- Applicants for rehousing may have access to information held about themselves and their family held for the purpose of the application;
- Information relating to the applicant and a third party is only available with the written agreement of the other person;
- Applicants cannot see information that identifies a third party or has been given by a third party who has not agreed to it being seen;
- Applicants cannot have access to information where there are legal reasons for the information not being released;
- Applicants have the right to request in writing for the removal or correction of any information recorded about them which they believe to be inaccurate. If Erimus Housing agrees that this is the case, the record will be corrected and the applicant will be able to see the correction. If Erimus Housing does not agree that the information is inaccurate, an explanation as to why this is the case will be provided and a note made of the applicant's view on the applicant's records.

4.4.4 Third party requests for information

Erimus Housing will pass on any correspondence on behalf of third parties who wish to contact a tenant or former tenant but under no circumstances will the address be divulged.

All press enquiries will be referred to the Communications and Media Officer who will act as the liaison officer between Erimus Housing and the press.

4.4.5 Board Members requests

Board Members have no rights to be given any personal information about tenants, unless the information is required for a specific confidential report to be presented to the Board.

4.4.6 Contracts and other Records

All contracts will contain a confidentiality clause preventing:

- Disclosure of Erimus Housing's records by any contractor to a third party without the written agreement of Erimus Housing;
- Disclosure by Erimus Housing to any third party of any tender information provided by the contractors submitting the tender.

4.4.7 All staff must keep secure all records of a confidential nature. The disclosure of information to third parties as part of a collaborative process, which enables a contractor to submit a successful bid, will be a disciplinary offence.

4.4.8 In certain circumstances, information is not made available such as where there are reasons for believing that access to the information would be harmful.

5 Exemptions

- 5.1 In some circumstances, it may be appropriate to divulge a request for information to specific third parties, for example, to prevent a criminal offence from being committed, or to prevent the continuation of a criminal offence. In many such cases, the disclosure could be forced through a legal application for sub-poena. In such circumstances, Erimus Housing may disclose the information at its discretion.
- 5.2 Erimus Housing will co-operate with the police, where there is reasonable evidence of a crime being committed by a tenant of Erimus Housing, or where the information is to be provided under the provisions of the Crime and Disorder Act 1998.
- 5.3 Erimus Housing will co-operate with Housing Benefit providers where there is reasonable evidence of a benefit fraud being committed by a tenant of Erimus Housing.
- 5.4 Officers may also need to discuss individuals' circumstances with the Housing Benefit or the Benefits Agency or with agencies such as the Citizens Advice Bureau. In most cases, Erimus Housing will seek a signed form authorising the disclosure and this will be held on file.
- 5.5 In addition, Erimus Housing may use tracing agents for the collection of former tenants' arrears and other debts owed to Erimus Housing, and information will be passed to them as part of the debt recovery process.
- 5.6 Erimus Housing may give information to third parties where a protocol has been drawn up and agreed between the parties and agreed by the Board and where the protocol forms part of the proper operation of Erimus Housing's activities.
- 5.7 It is difficult to cover all eventualities where a disclosure may be necessary and any disclosure outside this policy may therefore be authorised by Erimus Housing's Chief Executive or any Director.

6 Responsibility

- 6.1 The Chief Executive has responsibility for ensuring that this Policy is implemented.

7 Monitoring

7.1 The Policy will be monitored regularly and will be reviewed annually and reported to the appropriate committee to ensure compliance with the following:

- Data Protection Act 1998
- Housing Act 1996
- Tenant Guarantee 1994
- Compliance with Housing Corporation Regulatory Code

7.2 Complaints concerning breaches of the Data Protection provisions or other failure to comply with the policy will be dealt with through the Complaints Procedure.

Data Protection Act 1998: Definitions and Principles

1. Introduction

- 1.1 This section outlines in more detail the definitions of terms used within the Data Protection Act 1998: Good Practice Guidance, which offers advice on how the Act should be applied to the practical every day activities of Erimus Housing.
- 1.2 Under the Act the Information Commissioner has powers to issue an enforcement notice or an information notice where a Data Controller (i.e. Erimus Housing) has contravened any of the Data Protection principles. The main contraventions are likely to be unauthorised processing and/or disclosure of data. Failure to comply with such a notice is an offence under the Act.
- 1.3 It is therefore vital that individual members of staff acquaint themselves with the requirements of the Act and ensure that they comply with it. If necessary, Erimus Housing will rely on a defence of due diligence, based on the information about the Act which is made available to staff.

2 Definitions of terms used within the Data Protection Act 1998

2.1 Data

Information which (a) is being processed by means of equipment operating automatically in response to instructions given for that purpose, or (b) is recorded as part of a relevant filing system.

2.2 Personal Data

Data that relates to a living individual which can be identified from the data and includes any expression of opinion about the individual and any indication of the intentions of the data controller in respect of the individual. Note that this includes photographs, e-mail messages and data recorded by CCTV. It also covers data identified by reference numbers where a separate list can be used to match the reference numbers to named individuals.

2.3 Sensitive Personal Data

Personal data consisting of information as to (a) the racial or ethnic origin of the data subject, (b) their political opinions, (c) their religious beliefs, (d) whether they are a member of a Trade Union, (e) their physical or mental health, (f) their sexual life, (g) the commission or alleged commission by them of any offence, or (h) any proceedings for any offence committed or alleged to have been committed by them.

2.4 Data Controller

The person or organisation responsible for the manner in which any personal data is processed. Note that Erimus Housing is the Data Controller; individual members of staff process data on behalf of Erimus Housing are referred to as Data Users, an internal term which does not appear in the Act as such.

2.5 Data Processor

Any person who processes the data on behalf of the Data Controller. Note that this is any third party who processes data on behalf of Erimus Housing.

2.6 Data Subject

An individual who is the subject of personal data.

2.7 Processing

Obtaining, recording or holding the data or carrying out any operation on the data, including organising, adapting or alteration of the data; retrieval, consultation or use of the data; disclosure of the data, and alignment, combination, blocking, erasure or destruction of the data. If in doubt, assume that it is processing.

2.8 Relevant filing system

Any set of information relating to individuals to the extent that, although the information is not processed by means of equipment operating automatically, the set is structured, either by reference to individuals or by reference to criteria relating to individuals, in such a way that specific information relating to a particular individual is readily accessible. Note that this definition extends the Act to include manual files which contain information about an individual, such as personal files.

2.9 Data Protection Principles

There are Eight Principles specified in the Act with which a Data Controller must comply. The Eight Data Protection Principles are based on three key concepts:

- Purpose – personal data must only be held for a clear purpose or purposes
- Fairness – personal data must only be processed for legitimate purposes
- Transparency – data subjects must be given certain basic information about the personal data held about them

3 First Principle – fair and lawful processing

- 3.1 “Personal data shall be processed fairly and lawfully and shall not be processed unless certain conditions are met.”

3.2 This Principle aims to ensure that individuals are made aware of how their personal data will be used and covers both the original obtaining of data, for both computer and manual files, and its subsequent processing. To ensure fairness, certain information must be given to the data subject at the point of collection. This comprises:

- The identity of the data controller, ie Erimus Housing;
- A note of the purposes, in fairly general terms, for which the data is being collected; and
- Any other information thought necessary.

3.3 Erimus Housing meets this requirement as far as its staff and customer records are concerned by the use of standard wording on appropriate forms. Where departments subsequently make use of data, which was originally collected centrally, there is no need for them to provide additional information to the data subjects, provided that they will be using the data within the original purposes. If they wish to use the data for new purposes, this must be notified to the data subjects concerned by the department.

4 Second Principle – purposes for holding data

4.1 “Personal data shall be obtained only for one or more specified and lawful purposes and shall not be processed in any manner incompatible with that purpose or those purposes.”

4.2 This Principle covers the identification of the purposes for which data is processed and the restriction of processing to those purposes. Erimus Housing makes use of fairly general definitions of purpose in collecting data centrally, for example, the provision of accommodation or for employment purposes. It is important to note however that such data can only be processed for those explicit purposes. In other words, data collected for accommodation purposes cannot be subsequently used for financial purposes unless both purposes were identified at the time of original collection of the data. If data is required to be processed for any purpose other than the original one, the data subject must be notified before processing can take place. The Data Protection Officer will be happy to advise if the situation arises.

5 Third Principle – status of data

5.1 “Personal data shall be adequate, relevant and not excessive in relation to the purpose(s) for which it is processed.”

5.2 This Principle requires that all data held must be justified in relation to the stated purpose for which it is held. In collecting data therefore it is important to ask whether the data is really needed for the purposes concerned. If the answer is “no”, the data must not be collected. It is equally important to review the amount of data being collected from time to time to ensure that it is still relevant.

6 Fourth Principle – accuracy of data

6.1 “Personal data shall be accurate and, where necessary, kept up to date.”

6.2 This Principle requires that the data held is always accurate and, except in the case of historic data kept for archive purposes, up-to-date.

6.3 In holding data, therefore, procedures must be put in place (i) to ensure that data is accurate and (ii) to enable data to be updated. This is particularly important in the case of, for example, contact data, where data subjects must be made aware of the procedures to notify changes of address, etc. It is accepted that data subjects will not always avail themselves of these procedures, and that data may be inaccurate through no fault of the data user, but as long as procedures are in place and have been notified to the data subject, there is no need to take further action.

7 Fifth Principle – retention and disposal of data

7.1 “Personal data processed for any purpose(s) shall not be kept for longer than is necessary for that purpose or those purposes.”

7.2 This Principle covers the retention of data for the purpose concerned and its subsequent disposal. No data must be kept for longer than is necessary to carry out the purpose concerned. The length of time will vary greatly with the type of data being held; in some cases it might be appropriate to retain it for only a very short time, in other cases it might be necessary to retain it indefinitely, some retention periods are even governed by statute.

7.3 Once a retention policy is in place, appropriate procedures to dispose of the data must also be put in place. Security is very important in the disposal of personal data.

7.4 If data is to be retained for archive purposes, the Third Principle must be taken into account.

8 Sixth Principle – rights of data subjects

8.1 Personal data shall be processed in accordance with the rights of data subjects under the Act.

8.2 This Principle covers a number of rights, which data subjects have with respect to their own data. These are (i) rights of subject access, (ii) rights to prevent processing, including direct marketing, (iii) rights of compensation for substantial damage or distress, (iv) rights to have data amended or deleted, and (v) rights relating to automated decision-taking.

- Subject access: Data subjects have the right to have access to their personal data. This is probably the most important of the data subject rights. It is also the right of which most data subjects are aware. See Data Protection Good Practice Guidance at Appendix B for details of how subject access requests are handled by Erimus Housing.
- Prevention of processing including direct marketing: The Act includes an important right to prevent processing, in particular direct marketing. This

relates to any information sent out to a data subject that is not directly concerned with Erimus Housing business. For example, flyers sent to customers about unrelated products for sale by a third party. Anyone likely to engage in direct marketing must have procedures in place to enable a data subject to object to being the target of direct marketing and to have their name removed from any such lists.

- Compensation for substantial damage or distress: Data subjects are entitled to claim compensation for any substantial damage or distress caused to them by improper use of their personal data. For example, if the data held is found to be inaccurate or excessive, possibly following a subject access request, the data subject can sue Erimus Housing for compensation if they can prove that substantial damage or distress has been caused. This is especially important with respect to sensitive data, which is most likely to cause damage or distress to a data subject.
- Amendment/deletion of data: Data subjects are entitled to request the amendment or deletion of inaccurate or irrelevant data. Such requests are most likely to follow subject access requests.
- Automated decision-taking: Data subjects have the right to be informed if any decisions that are taken about them solely by means of automated decision-taking procedures and to request that such procedures be stopped. Where decisions are taken entirely by automated means, data subjects must be informed of this and the practice must cease if a data subject objects.

9 Seventh Principle – disclosure of data

9.1 “Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.”

9.2 This Principle covers both the disclosure of data and the unauthorised or unlawful processing of data. It is probably the single most important Principle and the easiest to get wrong. The Data Protection Good Practice Guidance provides advice relating to a number of Erimus Housing-specific scenarios to ensure maximum understanding of the disclosure issue and to highlight its importance.

9.3 Data security is another way of looking at disclosure and is equally important as far as the Seventh Principle is concerned. Various measures must be taken to ensure that data is kept secure:

- Technical measures: network security; the proper use of passwords;
- Organisational measures: the physical security of computers and files in cabinets; locked rooms; ensuring that computer screens cannot be overlooked;
- Accidental loss, destruction or damage to data has the same effect as an unauthorised disclosure. Good back-up procedures must be in place and used effectively. These should include procedures to recover lost data.

- 9.4 It is particularly important to be aware of data security when processing data off-site, especially when using a laptop in a public place such as a train.
- 9.5 Data Processor is the technical term for anyone who processes data on behalf of a Data Controller; the term used to be “Computer Bureau”. Erimus Housing will ensure that any third parties who have access to confidential information regarding tenants or employees meet with the Data Protection Act by:
- Including in any SLA an explicit clause that refers to the Data Protection Act 1998;
 - The Processor agrees to adhere to the Eight Data Protection Principles; and
 - The Processor operates at the same level of data security as Erimus Housing.

10 Eighth Principle – transfer of data

- 10.1 “Personal data shall not be transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.”
- 10.2 A requirement of the Act is that data must not be transferred to any country that lies outside the European Economic Area (EEA). The EEA comprises the countries of the EU together with Norway, Iceland and Liechtenstein.
- 10.3 This means that data cannot be transferred electronically to the greater part of the world unless similar and adequate data protection legislation is in place there. The concern is with the level of data security in the country concerned and transfer can take place if, following an individual assessment of the circumstances, it is felt that the data will receive the same level of protection and security as in the UK.

Data Protection Act 1998: Good Practice Guidance

1 Introduction

- 1.1 The following guidance provides simple and accessible advice to Erimus Housing officers involved in the handling of personal data and is designed to develop better understanding of Erimus Housing's obligations under the Data Protection Act 1998 ("the Act"). It provides solutions to the kinds of every day problems encountered by staff who handle personal data, particularly in relation to disclosure of data, and urges regular contact with the Data Protection Officer who is responsible for Erimus Housing compliance with the Act. Please note that "data" has been referred to throughout as a single noun.
- 1.2 The guidance is intended to provide advice only and does not suggest that all staff will be involved in all the scenarios listed. It is still important that the relevant department handles specific tasks and requests, in the usual way.
- 1.3 The guidance is a 'live' document that is always being updated to cover new issues as they arise. If you wish to seek advice on a particular issue or problem that is not covered, please contact the Data Protection Officer (see below for contact details).

2 Data Protection Act: The Facts

2.1 A broad view of the Act

- 2.1.1 The Act provides various safeguards relating to the management of individuals' personal data. Naturally, it places a number of obligations on Erimus Housing to ensure data is managed effectively and lawfully.
- 2.1.2 The Act defines "personal data" as any data that relates to a living individual who can be identified from it. This includes personal images and audio recordings as well as text.
- 2.1.3 It is also important to note the term "processing", which is a generic term used in the legislation to describe any action taken in relation to personal data, such as for example obtaining, recording, holding, adapting, retrieving, altering, disclosing or destroying. If you are in any doubt when handling personal data always assume you are "processing" it.
- 2.1.4 The 1998 Act updated the previous 1984 Act, which had come about as a result of concern over the management of personal data held in computerised records. Significantly, the 1998 Act brought 'structured' manual data within the scope of its provisions. The Freedom of Information Act 2000 then amended the Act to cover manual data held in an 'unstructured' form. Consequently, the Act does not now differentiate between any kind of electronically or manually held data.

2.2 Data Protection Principles

2.2.1 The Act is based on a number of principles, which act as an excellent guide towards ensuring compliance. The principles instruct Erimus Housing to ensure that personal data is:

- Processed fairly and lawfully;
- Obtained for a specified and lawful purpose and not processed in any manner incompatible with the purpose;
- Adequate, relevant and not excessive for the purpose;
- Accurate and up-to-date;
- Not kept for longer than necessary for the purpose;
- Processed in accordance with the data subject's rights;
- Kept safe from unauthorised processing, or accidental loss, damage or destruction;
- Not transferred to a country or territory outside the European Economic Area unless that country has equivalent levels of protection for personal data.

Further information in greater detail is available at Definitions and Principles.

3 How subject access right requests are handled

3.1 Any person may exercise the right to request personal data held about them by submitting a written request to the Data Protection Officer.

3.2 In line with the Act, Erimus Housing will only accept written request from individual who wish to access their data. If an individual approaches you requesting such access, you should issue them with the Erimus Housing "Data Subject Access Application Form" which details what they are required to do. It is Erimus Housing's policy to make a charge of £10 for each official subject access request.

3.3 This form should be completed by the data subject, signed, dated and returned together with the fee and proof of identify as required to the Data Protection Officer. The form acts as a record of the request, but also enables the individual's records to be identified more easily and provides a declaration from the individual that they are who they say they are.

3.4 Once the Data Protection Officer has received the form and cleared payment, Erimus Housing has forty calendar days to respond to the request. This deadline period does not commence and Erimus Housing is not obliged to release any information until the form has been received and payment has cleared. Equally, Erimus Housing is not obliged to provide any data unless sufficient information is provided to identify the data subject and locate any data, which it might hold.

4 Processing general personal data

- 4.1 Personal data is being processed throughout Erimus Housing all the time by a significant proportion of Erimus Housing officers.
- 4.2 At the beginning of an individual's relationship with Erimus Housing, they are notified of the need and intention to process their personal data and are also informed of the purposes for that processing. Consent is also obtained where necessary for data to be held, either through their tenancy agreement or in the case of staff through the employee handbook.
- 4.3 Once information is in the possession of Erimus Housing, staff must process it in accordance with the data protection principles paying particular attention to security, accuracy, length of time held and the purpose for which it was originally obtained.
- 4.4 Consent is normally the best (and most common) route to enable data of this kind to be processed. When in doubt, if you have the individual's consent, you are covered as far as data protection legislation is concerned. It should be noted though that the Act does allow other ways to process data without obtaining consent. These are:
- For the performance of a contract
 - For compliance with any legal obligation to which Erimus Housing is subject, other than an obligation imposed by contract
 - To protect the vital interests of the data subject
 - For the administration of justice
 - To exercise any functions brought about by other legislation
 - To exercise any functions of the Crown, a Minister of the Crown or a Government Department
 - To exercise any functions of a public nature exercised in the public interest by any person, and
 - For the purposes of legitimate interests pursued by Erimus Housing or by a third party requesting data (except where the processing may prejudice the rights and freedoms or legitimate interests of the data subject)

5 Processing sensitive personal data

- 5.1 The Act provides a separate definition for "sensitive personal data". This relates to information concerning a data subject's racial or ethnic origin, political opinions, religious beliefs, Trade Union activities, physical or mental health, sexual life, or details of criminal offences.

5.2 As with general personal information, there are a number of circumstances that enable the processing of sensitive personal data without consent. However, if consent is used as a way to process such data, it is important to note that the Act requires explicit consent. In cases where individuals have submitted sensitive data about themselves, this can be considered as consent in itself for the data to be processed, although it is still important to keep the individual informed about how the data is being used.

5.3 Circumstances that enable sensitive data to be processed lawfully, other than explicit consent are:

- Erimus Housing's activity relating to employment;
- To protect the vital interests of an individual where consent cannot be given (such as a medical emergency);
- Where Erimus Housing cannot reasonably be expected to obtain consent;
- To protect the vital interests of an individual where consent has been unreasonably withheld
- Legitimate activities carried out by Erimus Housing
- Where the data has already been made public by the data subject
- For legal proceedings (including prospective legal proceedings)
- To exercise any functions brought about by other legislation
- To exercise any functions of the Crown, a Minister of the Crown or a Government Department
- To exercise any functions of a public nature exercised in the public interest by any person
- For medical purposes undertaken by a health professional, or equivalent, and
- For equal opportunity purposes

5.4 Sensitive information must be protected with a higher level of security. It is recommended that sensitive records be kept in a lockable cupboard, drawer or filing cabinet or in a password-protected computer file.

6 The Subject Access Rights

6.1 The Act provides the "subject access right" which enables individuals, subject to certain specific exemptions, to receive an intelligible copy of all personal data held about them by Erimus Housing. The right extends to all data whether held manually or electronically.

- 6.2 By allowing such access to data the “subject access right” has significant implications for Erimus Housing. It is important to note that personal data contained within e-mails is subject to access requests.
- 6.3 If an individual requests to see data relating to them which then turns out to be for example inaccurate, out of date, held unnecessarily or offensive, Erimus Housing may be liable for prosecution.

7 Third party data and the subject access rights

- 7.1 Potentially, when an individual makes a “subject access request”, it may not be possible to provide some of the data without disclosing information relating to another individual. Under these circumstances, Erimus Housing is not obliged to provide the data in question unless the other individual has consented to its disclosure or it is reasonable to do so without the consent of the other individual. In determining whether it would be reasonable, Erimus Housing must consider any duty of confidentiality owed to the other individual; any steps taken by Erimus Housing to seek consent; whether the other individual is capable of giving consent; or any express refusal of consent by the other individual.
- 7.2 It is important to note the implications of third party data when supplying information for a “subject access request”, and raise any doubts with the Data Protection Officer.

8 Practical Tips: Applying Data Protection requirements to Erimus Housing’s Activities

8.1 Data Sharing within Erimus Housing

- 8.1.1 In data protection terms, Erimus Housing is considered to be the data controller; a single entity processing personal data about a large number of individuals. This means that “disclosure of data” is considered to have taken place if it has passed outside Erimus Housing to an external third party. This does not mean however that data can be shared freely within Erimus Housing. The first data protection principle states that data must be processed fairly. It would be grossly unfair if personal data were passed unnecessarily between Erimus Housing staff without good reason. Consequently, if somebody asks you for access to an individual’s personal data, it is vital to ascertain the purpose of the request. Disclosure must only then be made if you are satisfied that the other person needs it to do their job. If this is not the case or it is unclear, contact the Data Protection Officer who will help to confirm whether disclosure is possible.

8.2 Displaying photographs

- 8.2.1 In some departments and sections of Erimus Housing, it is common practice to post photographs of staff on notice boards and web pages, along with some biographical information. While this is not illegal under the Act it is worth noting that an individual is entitled to refuse to have their photograph or personal information published in this way even if access is limited to the Erimus Housing’s internal publishing. It is good practice (and ensures Erimus Housing is operating in the spirit of the Act) to check with the individuals concerned before proceeding.

8.3 Remote and home working

- 8.3.1 When working from home or remotely, the same level of adherence to the data protection principles must be maintained in relation to personal data. Special care should be taken in the transport of personal information.

8.4 Implications of e-mail

- 8.4.1 When writing and dealing with e-mails always have regard for the principles of the data protection legislation and think about how they affect what you are doing. Writing or processing an e-mail should always be viewed in the same light as a letter or a fax. A simple test is to establish whether you would be happy including the information in a letter. If not, do not include it in an e-mail. Ask yourself if you would feel happy if recipient or member of staff saw what had been written about them in an e-mail. If not, delete it immediately.
- 8.4.2 Equally, you should always consider the implications of distribution lists if sending an e-mail that includes personal data. For example, sending somebody's address or contact details to the "all staff" distribution list is unacceptable under the terms of the Act. Even if the motive is well meaning, it is considered to be unfair processing of the individual's data and action could be taken against Erimus Housing. There is also the potential for unwarranted disclosure of data outside Erimus Housing if distribution lists are used in this way. For further information, please refer to Managing Electronic Mail: Good Practice Guide.

8.5 Maintaining Files on Individuals

- 8.5.1 For files held on both staff and customers, it is common practice to file and maintain all relevant data relating to an individual as a record of that person's time working or as a tenant. While this makes sense for most of the time, sometimes it can be very dangerous as all information contained within these files falls within the scope of the Act. Therefore, those responsible for maintaining individual staff or customer files must always consider adherence to the data protection principles. Data subject access rights enable individuals to obtain copies of their files on request, and thus see what information is held about them. It is vital that offensive, derogatory or damaging remarks are **never** kept on file. This applies equally to e-mails that are printed, notes of meetings or conversations, or any other way in which data of this kind could be processed.
- 8.5.2 When deciding if something should be filed, you must always ask yourself if you would feel happy with the individual in question seeing what had been written about them. If not, do not include it on the file. It is often more sensible to have verbal conversations about individuals if the issues in question are sensitive.

8.6 Publishing Names and Personal Data on the Erimus Housing corporate website

- 8.6.1 Publishing personal data on the Internet discloses it automatically on a worldwide basis. If not done in the correct way, you leave Erimus Housing open to charges that it has contravened the Act by failing to hold data securely or prevent it from reaching countries outside the European Economic Area that do not have in

place similar data protection measures. The simple answer to this is to refrain from publishing personal data in this way unless it relates to an individual's official role or function in relation to Erimus Housing. For example, providing the name and contact details of a specific officer of Erimus Housing, or that they serve on a particular committee, is legitimate and is an essential part of the purpose of the website, whereas providing somebody's home address or telephone number (or indeed more personal information) is not.

8.6.2 In order to comply with the 'fair processing' elements of the Act, it is also important that anybody whose name and/or data appears on the website is aware that it is there and that mechanisms are in place to enable them to object and if necessary to have it removed. Anybody objecting is then entitled to have his or her name removed. This applies to data available both on the Erimus Housing intranet and through the worldwide web, as well as to staff and customers alike or any other individual whose details may appear.

8.6.3 Please note that if an individual has given explicit consent for any of their personal data to be published in this way, it is permissible to do so.

8.7 Internal Request for Personal Information

8.7.1 Often when requests for personal information about a third party individual are made internally from one part of Erimus Housing to another, staff are told that the information cannot be disclosed because of data protection. This is not true. If you need the information to do your job, you have a right to see it. We tell staff that their personal data is "only disclosed to members of staff within Erimus Housing who need to know it in order to carry out their duties." Erimus Housing is a single data controller so we are not technically disclosing data unless it goes outside the organisation. While it is not good practice to pass data around in ways, which could lead to inadvertent disclosure, targeted disclosure made on a need-to-know basis is perfectly legal under the DPA and is the desirable way to proceed.

9 Practical Tips: Third party requests for personal data

9.1 Requests from Police or other official bodies

9.1.1 Occasionally, Erimus Housing receives requests from the police and officials for personal information. Disclosing data under these circumstances is not compulsory unless Erimus Housing is served with a Court Order. However, Erimus Housing will always aim to assist any officials as far as possible and particularly as the Act does allow disclosure of data if it relates to:

- The prevention or detection of crime;
- The apprehension or prosecution of offenders, or
- The assessment or collection of any tax or duty.

9.1.2 Consequently, disclosure can be made in limited circumstances. In these cases, before proceeding staff should confirm with the police that the reason for the request is that they wish to contact a named individual about a named criminal investigation (regardless of whether that individual is a suspect or witness) and that failure to release the data would prejudice the investigation. Good practice is

to request written confirmation of this by a senior officer. Most police forces will have their own request form which should always include a statement confirming that the information requested is required for the purposes covered in Section 29 of the Data Protection Act, a brief outline of the nature of the investigation and the subject's role in that investigation, and the signature of the investigating officer. If there is ever any doubt, please contact the Data Protection Officer.

9.2 Requests from Immigration Officials

9.2.1 Erimus Housing may receive requests from immigration officials. Section 35 of the Data Protection Act allows us to disclose information if it is required by law to do so. An immigration official making a genuine enquiry about an individual would know about and be happy to disclose details of any such legal requirement on their part. Equally, the Data Protection Act allows disclosure of personal data "for purposes of legitimate interests" pursued by Erimus Housing and any immigration official. Although a case-by-case analysis must always be made, it is likely that immigration enquiries would also fall into this category. As with all external requests for personal information, verifying the identity of the person requesting the data and the purpose of the request is important. If there are time pressures, the minimum-security option is to take a number and call the enquirer back. It is generally recommended that all enquirers should be asked to submit their request in writing on headed paper.

9.3 Staff e-mail addresses and contact details

9.3.1 Occasionally, Erimus Housing staff receive requests from individuals for staff contact details to enable distribution of information relating to a social, professional or housing-linked event. Allowing access to contact details for this purpose is permissible under the Act, as long as it is done in a limited way. To cover this eventuality staff are made aware in the Erimus Housing staff handbook that their data could be processed for this purpose. Staff should never pass personal data on to profit-making organisations or individuals. Any doubt should be discussed with the Data Protection Officer.

Data Subject Access Application Form

Under the terms of the Data Protection Act 1998, an individual is entitled to ask Erimus Housing for a copy of all the personal information which is held by the organisation about him/her for the purposes of providing services to the individual. The information, which you are entitled to receive from the organisation, includes a description of the purposes of the information, details of the who the data is disclosed to and the sources of the data. This entitlement is known as the "Right of Access to Personal Data". A charge of £10 is made for provision of this information.

If you would like to access the personal data Erimus Housing holds about you please complete the details required on this form and return it to Data Protection Officer, Erimus Housing, 4th Floor, Centre North East, 73-75 Albert Road, Middlesbrough TS1 2RU along with the required payment (payment should be by cheque or postal order made payable to Erimus Housing). Alternatively you may take the form and payment to the local housing office who will forward the request to the Data Protection Officer.

<p>1 Personal Details</p> <p>Name:</p> <p>Present Address:</p> <p>..... Post Code:</p> <p>Tel No: Date of Birth:</p> <p>Length of time at this address: Years Months</p> <p>If you have lived at this address for less than two years, please supply your previous address</p> <p>Present Address:</p> <p>..... Post Code:</p> <p>Length of time at this address: Years Months</p>

2 Data Processing

Erimus Housing uses personal data for the purposes shown below if you would like to access personal data held about you for all of these please tick the box marked all. If you have only used some of these please tick the box opposite the purpose(s) you wish to access.

All services			Rehousing	
Rents			Repairs	
Regeneration programmes			Estate Management	
Complaints				

3 Data Subject Declaration

In exercising the right granted to me under the terms of the Data Protection Act 1998, I request that you provide me with a copy of the personal data about me which you proceed for the purposes I have indicated in section 2 of this form.

I confirm that the above is all of the personal data I am requesting access to which is held by Erimus Housing for its purposes. I also confirm that I am the data subject (the person that the data is held about) and not someone acting on his/her behalf.

Signed: Mr/Mrs/Ms/Title

Date:

4 This section is to be completed by any person(s) acting on behalf of the data subject (the person that the data is held about).

I confirm that I am acting on behalf of the data subject and attach proof of my authority to do so.

Name:

Address:

..... Postcode:

Telephone No:

Signed: Mr/Mrs/Ms/Title

Erimus Housing is committed to equality and diversity. We require this information to ensure that our services are delivered fairly and equally to

everyone. This information you give is strictly confidential and we will use it for statistical and monitoring purposes only.

Equal Opportunities Monitoring Information

Gender

Male

Female

Age (please tick appropriate box)

16-24

25-29

30-39

40-49

50-59

60 and over

Disability

Do you consider yourself to have a disability?

Yes

No

Origin of Person making request

White

British

Irish

Any other White background

(please state)

Mixed

White & Black Caribbean

White & Black African

White & Asian

Any other Mixed background

(please state)

Asian or Asian British

Indian

Pakistani

Bangladeshi

Any other Asian background

(please state)

Black or Black British

Caribbean

African

Any other Black background

(please state)

Chinese or other ethnic group

Chinese

Any other Asian background

Bangladeshi

(please state)

Religion/Faith How would you describe your religion/faith?

My religion/faith is

I am not religious

I prefer not to say

Procedure for Subject Access Requests

Individuals wishing to access their personal information should submit a request in accordance with the following notes:

The request should be made by completion of the Data Subject Access application form shown in Appendix C and sent to the Data Protection Officer (see below for contact details):

- 1 The request should include details and provide documented evidence of who you are (eg driving licence, passport, birth certificate). You should also provide as much detail as possible regarding the information you wish to access (eg where and by whom information is believed to be held, specific details of information required, etc).
- 2 You are not required to state why you wish to access the information: the details we require are merely those that will aid the efficient location and retrieval of information.
- 3 Erimus Housing adopts a general policy of openness in terms of allowing individuals access to their personal information. However an administration fee of £10 is payable (permitted under the Data Protection Act 1998). Payment by cheque or postal order should be made payable to Erimus Housing and forwarded together with the request form to the Data Protection Officer. Cash payments should be taken at the area office and a copy of the receipt for payment forwarded with the request form to the Data Protection Officer.
- 4 Once the Data Protection Officer receives a request, all efforts will be made to fully comply within 40 days. If this is not possible, all the information that has been located and can be released within 40 days along with an explanation for any information that cannot be provided at that time will be sent.
- 5 In accordance with the Data Protection Act 1998, Erimus Housing does not usually release information held about individuals without their consent. Therefore if information held about you also contains information related to a third party, Erimus Housing will make every effort to anonymise the information. If this is not possible, and Erimus Housing has been unable to secure the relevant consent, Erimus Housing may decide not to release the information.

All queries should be directed to Erimus Housing Data Protection Officer in the first instance at 4th Floor, Centre North East, 73–75 Albert Road, Middlesbrough TS1 2RU