



Chartered property,  
land and construction  
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# A GUIDE TO COLLECTING PERSONAL DATA DURING THE PROPERTY LETTING PROCESS

Guidance Note | April 2024



# Document status defined

The SCSI/RICS produce a range of professional standards, guidance and information documents. These have been defined in the table below. This document is a Guidance Note (GN).

Document status defined		
Type of document	Definition	Status
<b>Standard</b> International standard	An international high level principle based standard developed in collaboration with other relevant bodies	Mandatory
<b>Professional</b> SCSI/RICS professional statement (PS)	A document that provides members with mandatory requirements or a rule that a member of firm is expected to adhere to.	Mandatory
<b>Guidance and information</b> SCSI/RICS code of practice	Document approved by SCSI/RICS, and endorsed by another professional body/ stakeholder, that provides users with recommendations for accepted good practice as followed by conscientious practitioners.	Mandatory or recommended good practice (will be confirmed in the document itself). *  Recommended best practice.
SCSI/RICS guidance note (GN)	Document that provides users with recommendations or approach for accepted good practice as followed by competent and conscientious practitioners	Recommended best practice. *
SCSI/RICS information paper (IP)	Practice-based information that provides users with the latest technical information, knowledge or common findings from regulatory reviews.	Information and/or recommended good practice. *
SCSI/RICS insight	Issues-based input that provides users with the latest information. This term encompasses thought leadership papers, market updates, topical items of interest, white papers, futures, reports and news alerts.	Information only.
SCSI/RICS economic/ market report	A document usually based on a survey of members, or a document highlighting economic trends.	Information only.
SCSI/RICS consumer guide	A document designed solely for use by consumers, providing some limited technical advice.	Information only.
Research	An independent peer-reviewed arm's length research document designed to inform members, market professionals, end users and other stakeholders.	Information only.

\* Usual principles apply in cases of negligence if best/good practice is not followed.

# Introduction

This Guidance Note provides information in relation to the considerations and responsibilities of SCSi members who are processing personal data from prospective tenants during the letting process of a property (including arranging viewings, identifying new tenants, and completing the letting).

SCSi members/agents who seek any form of personal data at any stage of a property letting process are classified as **data controllers** under the General Data Protection Regulation (GDPR) and the Data Protection Act 2018. When processing personal data, controllers must comply and demonstrate compliance with the data protection principles set out in the GDPR.

These principles, which are set out in Article 5 of the GDPR legislation, are outlined below:

<b>Lawfulness, fairness and transparency</b>	Any data collected must be processed lawfully, fairly and in a transparent manner in relation to the data subject.
<b>Purpose limitation</b>	Data should only be collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes.
<b>Data minimisation</b>	Data controllers must not collect any more personal data than is necessary to achieve the purpose for which the personal data is needed.
<b>Accuracy</b>	Data controllers should take reasonable steps to ensure data is accurate and up to date, and ensure that inaccurate data is rectified promptly in such instances where it arises.
<b>Storage limitation</b>	Data should not be retained in a form which identifies the data subject for any longer than is necessary for the purposes for which the data is processed.
<b>Integrity and confidentiality</b>	Data should be processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage.

Members, as data controllers, should also be aware of and provide for the rights of data subjects under GDPR legislation.

# GDPR Data Compliance Guidance

## a. Viewing Process

The Data Protection Commission (DPC) has issued guidance on the collection of personal data prior to viewing a property. It includes the following guidance:

- In accordance with the principle of data minimisation, members should collect no more personal data beyond what is necessary to arrange a viewing of a property,
- The personal data that a member collects to arrange a property viewing for prospective tenants will be significantly less than the data that may be required at a later stage of the letting process,
- the DPC does not consider there can be any justification (COVID-19-related restrictions included) for the extensive collection of personal data such as financial statements, proof of funds, utility bills, PPS numbers etc. from prospective tenants at the initial stages of advertising or hosting viewings of a property for let.

Members should be aware of the following and undertake appropriate steps to adhere to the GDPR principles when collecting data for the purpose of arranging a viewing:

1. Ensure the data being sought is necessary for the purpose of arranging a viewing. This may include basic contact details such as name, email address and telephone number.
2. As with all personal data collected, members must ensure they have a lawful basis, in other words, a justification in law for the collection and processing. There are 6 legal bases for processing personal data which are set out in Article 6 of the GDPR. These are: consent of the data subject; necessary for the performance of / entry into a contract; necessary for compliance with a legal obligation; necessary for protecting a person's vital interests; necessary for the performance of a task in the public interest or the exercise of official authority; or necessary for the legitimate interests of the controller or another party.
3. In accordance with the requirement to be transparent, members must provide information to the prospective tenant about their processing of the personal data including why they are collecting the personal data, the purpose for which it will be used (including providing information where legitimate interest has been determined as the lawful basis— see point 4) and when it will be deleted. If personal data is being retained e.g., for marketing purposes, consent must be obtained from the prospective viewer. This information should be included in a privacy notice.
4. There may be limited instances where the member, as controller, in conversation with their client or otherwise, deems there is a necessary and sufficient legitimate interest for the collection of additional personal data to have a secure viewing. In such instances, there then exists heightened obligations on the member, who is obliged to ensure the legitimate interests pursued are balanced with the rights and interests of the data subject. Members must further demonstrate that the intended processing of the personal data is necessary to achieve the legitimate interest.

Grounds for legitimate interest will be specific to each property and will vary from property to property.

5. If a member is relying on a legitimate interest basis, it will be necessary to carry out and keep a full record of, an assessment to ensure that it can process personal data under principles of legitimate interest.
6. Members must be able to clearly justify the need for all data which has been gathered under the 'legitimate interest' basis and keep a record as to how they arrived at this determination.
7. SCSl members should consult their health and safety procedures when arranging viewings, particularly when operating as a lone worker, and ensure that reasonable steps are undertaken to assess and mitigate any potential risks when viewing a property. Additional personal data collection may be deemed necessary to host a safe and secure viewing.
8. It is important that members keep personal data about prospective tenants secure.
9. Members, as data controllers, are ultimately responsible for how they collect and use personal data about prospective tenants. In the instance of a conflict, the requirements of the GDPR and the Data Protection Act 2018 take precedence over instructions contained in letters of engagement or otherwise.
10. In the instance where potential tenants proactively send their data to members, under the principle of data minimisation, members should securely dispose of this data and should communicate with the data subject that this data is not necessary for the purpose of arranging the viewing and will not be processed at this time.

## b. Letting Process

If the potential tenant is progressing to the latter stages of securing the rental property, then members as data controllers, may reassess the additional data that will be required, i.e., if the viewer is deemed a suitable candidate, this may expand the amount of data required.

Members should undertake the following guidance once the letting process has commenced:

1. Identify and outline additional data requirements, if necessary, and seek the consent of the potential tenant for the collection of this additional data.
2. All hard copies of digital documents containing personal information relating to proof of finance, employment and/or identity should be kept for the least amount of time necessary in accordance with the requirements of member's business while bearing in mind the requirements of the Property Services Regulation Act 2011 in relation to retention of records.
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4. All hard/soft copies of documents containing sensitive information relating to unsuccessful candidates must be disposed of securely within a reasonable timeframe.

## c. Closing Process

When the letting process has concluded, SCSi member/agents as data controllers will issue a 'lease' to the prospective tenant outlining the terms of the letting agreement. As part of this process, members will file relevant documents of the letting:

1. Members should refer to their company's retention policy in relation to how long tenant data should be stored for. Generally, data should be kept for the least amount of time necessary in accordance with the requirements of member's business, while bearing in mind the requirements of the Property Services Regulation Act 2011 in relation to retention of records.
2. If the tenancy is entered into as part of a group and all sign a lease, the group is then mutually responsible for the tenancy. Therefore, the GDPR principles outlined in this document apply to all person(s) under the lease.
3. Data should be stored securely while in member's possession and deleted fully and safely at the appointed time.
4. As with all forms of data collection, the data subject should be informed as to why their data is being stored and what information is being stored.

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