

# DATA HANDLING FOR LANDLORDS

By **Graham Kinnear**

**A** client of mine recently inspected one of their properties only to discover it was not being well maintained by the tenant. They were also subjected to some rather combative language during their discussions. Accordingly, they elected to serve a Section 21 Notice and bring the tenancy to an end.

What followed was a series of emails making requests and demands of the landlord. So this month I thought I would share two such items raised – namely the receipt of a Subject Access Request, and the obligation for landlords to register with the Information Commissioners Office – as these are two aspects where knowledge appears to be lacking, likely through not being aware of the current guidance.

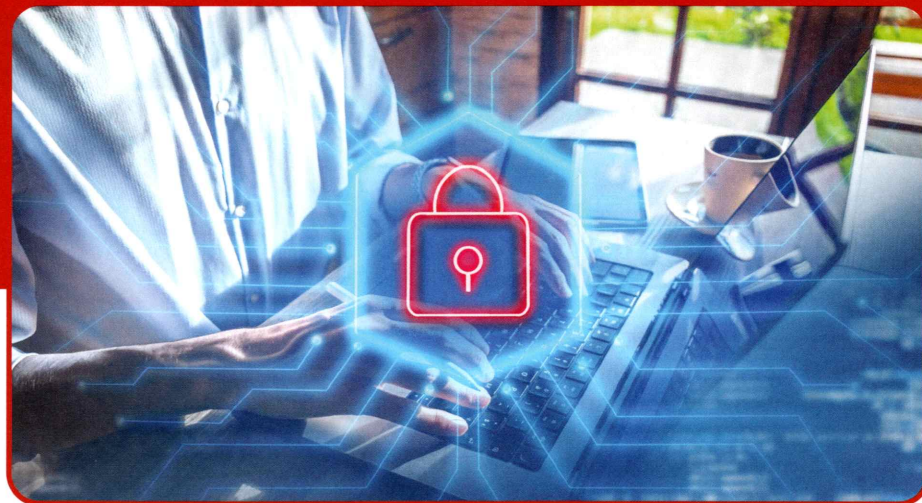
## Registering with the ICO

The Information Commissioners Office (ICO) is responsible for ensuring landlords comply with data protection laws. Given landlords process personal data on their tenants, they are obliged to register with the ICO. If you haven't done so already, I strongly suggest you get this in place as the penalties for non-compliance can be painful and will bring reputational harm your way too. In the most serious cases, a criminal conviction could also follow.

In addition to registration, you must provide your tenants with a clear and transparent policy of how their data will be collected, used, stored and protected. Bear in mind if you hold properties in several different companies, then each company will have to register with the ICO.

## Subject Access Request

A Subject Access Request (SAR) is a request made by or on behalf of an individual for the information they are entitled to ask for under Article 15 of the UK GDPR. Interestingly, GDPR does not set out any formal requirements for a valid request. Therefore, an individual can



make a SAR verbally or in writing, including via social media. They can make it to any part of your organisation, and do not have to direct it to a specific person or contact point.

Furthermore, a request does not have to include the phrases 'subject access request', 'right of access' or 'Article 15 of the UK GDPR'. It just needs to be clear that the individual is asking for their own personal data.

Any individual can make a SAR to a company regarding the information that is held on them. Since the advent of Section 24, many landlords have incorporated their property business and whilst it may feel no different to how you operated previously, you are now a company and can receive a subject access request.

Whilst you could technically refuse to deal with a request on the basis that it is vexatious, good practice must be to respond to each and every SAR you receive.

The reason for your tenant making such a request could be that they wish to see documentation to find out whether anything derogatory has been said about them that may assist them in any claim they wish to make against their landlord. But more commonly, they wish to understand the data you hold on them so they can perhaps make a more robust challenge against a decision you have made that affects them. In our case the tenant, I believe, wanted to establish whether there may have been grounds upon which he could challenge the Section 21 Notice.

Companies are obliged to respond to Subject Access Requests within a month of their

receipt and should get the tenant to confirm the method by which they wish to receive the response, for example by electronic or hard copy means. You must respond within the month as whilst there are circumstances where this can be extended for complex or multiple requests, such circumstances are unlikely to apply in a typical landlord and tenant situation.

Whilst you are obliged to provide everything relevant including emails, telephone attendance notes, file records, database entries and the like, you are also obliged to redact any information that may breach the rights or freedoms of other individuals. This is a salutary lesson to adopt a strict policy whereby you only write emails that you are prepared for the world to see!

In undertaking this work, do retain records of the request made and the process you followed to respond to it. This will demonstrate compliance with your GDPR requirements. By adopting a policy of transparency and accuracy, you will hopefully be able to maintain trust and accountability as well as your firm's reputation.

In our situation, my client responded to the Subject Access Request using an electronic file transfer system requested by the tenant. The tenant failed to open the link before its expiry date and so has never seen the response but at least the landlord complied with their obligations.

**As always, I am happy to assist YPN readers and can be contacted on 01843 583000 or [graham@grahamkinnear.com](mailto:graham@grahamkinnear.com)**

