

Privacy Act guidance for tenants

The Privacy Act 2020 governs how landlords and property managers collect, use, disclose, store, and give you access to your personal information. Personal information covered by the Privacy Act is any information that tells us something about a specific individual.

Landlords and property managers have obligations under the Act to manage your personal information responsibly. This guidance is designed to help you know your rights as a tenant or as an applicant for a rental property when landlords and property managers collect and use your personal information.¹

What information can a landlord collect from me when I apply for a property?

Landlords need to collect personal information when choosing tenants. But landlords should only collect necessary personal information.

When taking applications to rent a property, landlords should collect the minimum amount of personal information necessary to decide who is most suitable to rent it. If you're shortlisted from a pool of applicants, it's okay for a landlord to collect more information from you, to verify that you're likely to be a suitable tenant.

Landlords can only collect personal information in ways that are lawful, fair, and not unreasonably intrusive.

Landlords shouldn't collect unnecessary and privacy-intrusive information from you. When deciding whether to rent a property to you, a landlord should never ask you about:

- sex (including pregnancy and childbirth)
- relationship or family status
- religious or ethical belief
- colour, race, or ethnic or national origins (including nationality or citizenship)
- physical or mental disability or illness
- age
- political opinion
- employment status (being unemployed, on a benefit, or on ACC)
- sexual orientation or gender identity

When you apply to rent a property, the landlord shouldn't ask you to provide bank statements so they can assess your spending habits. Asking about how tenants spend their money is unfair and unreasonably intrusive, except in exceptional

¹ This guidance sometimes uses the term 'landlords' to include property managers. The Privacy Act applies to both landlords and property managers, and your privacy rights against either are the same.

circumstances. An exception might be if you become unable to afford the rent after you start the tenancy, and you ask to negotiate a repayment plan or rent reduction with the landlord – in that case, it could be fair enough for the landlord to ask for information about your other expenses.

See our fact sheet [here](#) for a more detailed list of what landlords can and cannot collect from applicants and tenants.

What personal information can my landlord collect during my tenancy?

Once you've signed a tenancy agreement and started living in the property, the landlord may continue to collect your personal information from time to time. For example, information your landlord collects as part of a flat inspection may be personal information. When carrying out a flat inspection, landlords should collect no more information about you than is necessary to assess how well you're caring for the property.

This means that landlords have the right to take photographs of the property during an inspection. Taking photos is a useful way of documenting the state of a property in case a matter is disputed later, and it's common for photos to be used as part of the inspection report. But these photos shouldn't be too intrusive, particularly in personal spaces like bedrooms, and shouldn't focus on the occupants' personal items.

What if I don't want to give some information over?

How much information you give to a landlord when you apply for a property is your choice, but the amount you provide may affect a landlord's decision to offer you a property.

Under the Privacy Act, landlords must tell you the consequences (if any) if you don't provide all or any part of the information requested.

If your application will be unsuccessful if you don't provide information the landlord requires to assess your suitability as a tenant, the landlord must tell you so. But you shouldn't be disadvantaged if you refuse to provide information the landlord shouldn't be asking for in the first place (see above).

Can a landlord collect my personal information from other people?

When landlords collect your personal information, they generally need to collect it from you directly.

This raises the question: can landlords look you up on the internet to get more information about you? The answer is yes. Information you post on sites like Facebook or Instagram may be publicly available, depending on the privacy settings for your account. Collecting publicly available information is an exception to the rule that personal information should be collected directly from the person concerned. Other sources of publicly available information might be LinkedIn, Twitter, or news stories.

But it's not okay for a landlord to go beyond that. For instance, if you don't have public social media profiles, a landlord can't ask to befriend you or ask an existing friend to check you out for them.

Another exception is where you authorise the landlord to collect information about you from someone else. ('Authorise' means you agree or give your consent for something.) For example, you might authorise a landlord to do a credit check on you through a credit reporting agency, or to get references from your former landlord or other people who know you.

What does the landlord need to tell me about what will happen to my information?

Before collecting your personal information, or as soon as possible afterwards, landlords must take reasonable steps to ensure you know:

- that your information is being collected
- the purpose your information is being collected for
- who will receive your information
- the name and address of the person collecting and holding the information
- the consequences (if any) if you don't provide all or part of the requested information
- that you have a right to access and correct the information you provided

If online tenancy application websites want to disclose your personal information to third parties, they need to clearly inform you that that's one of the purposes for which they're collecting the information. Alternatively, they can ask you to give informed consent to these disclosures. Consents are usually at the end of the application forms, where you click 'OK'.

Do landlords and property managers have to keep my personal information safe?

Landlords must have reasonable security safeguards (both physical and electronic) to protect your personal information against loss, unauthorised use or disclosure, and misuse.

If a landlord or property manager suffers a privacy breach that they believe caused (or is likely to cause) serious harm to you, they need to tell the Office of the Privacy Commissioner (OPC) as soon as possible. They will usually also need to tell you about the breach so that you can take steps to protect yourself from the consequences. OPC can provide advice to the landlord or property manager to help them understand what they need to do to rectify the situation.

If you're personally affected by a privacy breach, you can complain to OPC if you weren't told about it or if it shows that the landlord or property manager isn't complying with their obligations under the Privacy Act to protect your personal information.

How do I know what information landlords have about me?

You have the right to ask landlords and property managers for your personal information that they hold. They need to respond to your request promptly and generally no later than 20 working days after you make the request.

You can ask for any information the landlord may have collected about you during the term of your tenancy, like rental payment records and complaints.

Even when you've only applied to rent a property, and were unsuccessful, you can ask to see the information a landlord or property manager used to make their decision. That doesn't mean you can ask for information about who the landlord decided to give the tenancy to.

Landlords don't always have to give you access to your information, though. For example, they can withhold information if releasing it could:

- endanger someone's safety
- breach someone else's privacy
- involve releasing information (such as feedback from one of your referees) that was provided in confidence

If the landlord doesn't provide some of the information you asked for, they must tell you why they're withholding it. If you asked for your personal information and weren't satisfied with the landlord's response, you should contact the landlord or agency to see if you can resolve the matter directly.

The Privacy Commissioner can direct a landlord to provide you with access to your personal information if the landlord failed to provide access without a proper basis.

What if a landlord has outdated or incorrect information about me?

You have the right to ask a landlord to correct the personal information they hold about you. They can decline, though, if they believe the information they have about you is actually correct. If a landlord declines to correct the information, they need to explain why.

If the landlord won't make the correction, they must, if possible, attach a 'statement of correction' to the information in question, if you ask them to. The statement of correction can either be your request for correction or a specific statement you provide.

This process benefits both you and landlords. This is because landlords must take reasonable steps to ensure your personal information is accurate, relevant, and up to date before using it or giving it to a third party.

If you aren't satisfied with how your access or correction request has been dealt with, you can [make a complaint](#) to us.

For more information, see [this fact sheet](#) on requesting and correcting personal information.

How long should landlords be holding on to my personal information for?

Landlords and property managers must delete your information once they no longer have a use for it. The longer your information is kept for, the greater the possibility that it will become inaccurate and irrelevant.

Once you've moved out of the rental property, there might be no need for your old landlord to keep your information, apart from some information they are legally required to keep for a certain amount of time.

If you're an unsuccessful applicant for a property, there's probably no need for the landlord to retain your information for very long once the property has been rented.

Once your personal information is no longer needed, it should be securely disposed of. However, a landlord or property manager might have legitimate legal or business reasons for retaining some of your personal information. If so, you can't require them to delete it until the information is no longer required.

What can a landlord use my information for?

Landlords must not use information for a purpose that's different from the purpose it was collected for. Once landlords collect your personal information, they can only use it for the original purpose specified to you, or a directly related purpose.

There are exceptions to this rule. Some exceptions are that the information is publicly available, that the use has been authorised by the tenant, or that it was necessary to use it to maintain the law or to lessen a serious threat to life or health.

Are there restrictions on my landlord disclosing my information?

Landlords can't disclose your personal information to someone else unless it's for the purpose it was collected for. There are exceptions, similar to the exceptions for use of personal information discussed above.

Online applications may ask you to consent to the disclosure of your personal information to third parties. Make sure you read and understand these consents and don't just click 'OK'. You should have the ability to opt out, and your decision to do so shouldn't impact on your application (except where the disclosure is required for an essential part of the selection process, such as a credit check).

Can a landlord blacklist me?

'Blacklisting' is where landlords keep and share details of tenants, usually with some prejudicial information as a warning to other landlords not to rent to them. This can have a negative impact on your ability to find rental accommodation.

Blacklisting a tenant on a shared database is not compliant with the Privacy Act.

Landlords collect your personal information mainly for the purposes of selecting tenants and managing tenancies. The information shouldn't be used for another purpose, such as disclosing information about you to other landlords (except with your informed consent, such as for a reference). Information on blacklists could also be inaccurate, disputed, or wrong.

If the information is publicly available, a landlord still can't share or disclose information about you if it would be unfair or unreasonable to do so in the circumstances. For example, should a Tenancy Tribunal decision against you from five or ten years ago have a bearing on whether you would make a good tenant today?

If information about you is disclosed and you suffer harm as a result, you can [make a complaint](#) to OPC.

Privacy Act complaints and enforcement

If you think your landlord has failed to comply with the Privacy Act in relation to your personal information, you can [formally complain](#) to the Privacy Commissioner. We realise that the nature of the housing market means that this is not always an option for tenants seeking housing, so have also developed a dedicated tipline [on our website](#) where tenants can report issues directly to us, remaining anonymous if they choose. This will help us identify areas to focus our attention when we are monitoring the sector.

Privacy Act complaints must show not only that there was a breach of the Act but also that you suffered harm as a result (although this isn't necessary if your complaint is about access to or correction of your information). 'Harm' can mean a range of things, such as financial loss, missing out on something you need or are entitled to, or significant emotional distress.

If we decide to investigate the complaint, our focus will be on [facilitating a settlement](#) between you and the landlord.

If you and the landlord can't settle the complaint through our process, you can file a claim in the Human Rights Review Tribunal. If the Tribunal decides there's been an interference with your privacy rights, it can award remedies. The remedies can include requiring the landlord or property agency to pay financial damages.

The Privacy Commissioner can also take enforcement action without having received a complaint. If the Commissioner considers a landlord to have breached the Privacy Act, the Commissioner can issue a notice requiring the landlord to comply with the Act.

You can read more about the Commissioner's approach to compliance and enforcement [here](#).

For more information

More information is available on the Office of the Privacy Commissioner website www.privacy.org.nz or by calling 0800 803 909.

We also encourage you to learn more about the Privacy Act by completing our [e-learning modules](#), so you can be an informed consumer and ask the right questions in tenancy situations.