



# **Property Services Regulatory Authority**

## **Data Protection Policy**

**May 2018**

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## 1. Introduction

The Property Services Regulatory Authority (PSRA) controls and regulates Property Services Providers (i.e. Auctioneers/Estate Agents, Letting Agents and Management Agents).

As a Regulatory Body whose responsibilities include;

- the licensing of all such services providers
- the provision of a complaints investigation and redress system for consumers
- the setting and enforcement of standards in the provision of property services
- the establishment and maintenance of a compensation fund
- the creation of three Public Registers

the PSRA necessarily collects, processes and stores significant volumes of personal data from our licensees, staff and service providers.

In accordance with the EU General Data Protection Regulation, 2016/679 (GDPR) and given further effect in Part 3 of the Data Protection Act 2018, the PSRA is a 'Data Controller' and, as such, has significant responsibilities for ensuring the privacy of data subjects and the protection of personal data processed.

GDPR defines personal data as

***“any information relating to an identified or identifiable natural person (data subject)”***

This definition provides for a wide range of personal identifiers to constitute personal data, including name, identification number (e.g. PPSN), location data or online identifier and covers all electronic, manual and image data which may be held on computer or on manual files.

Note: The key definitions used in the GDPR are set out in Appendix A.

## 2. Scope

This policy applies to all personal data collected, processed and stored by the PSRA in respect of all individuals, (i.e. staff and customers) by whatever means including paper and electronic records.

This Policy takes account of best practice in the area of data protection using resources available on the website of the Data Protection Commission and the European Commission.

### 3. Data Protection Principles

The six principles<sup>1</sup> of the General Data Protection Regulation (GDPR) require that personal data is:

1. Processed in a way that is lawful, fair and transparent;
2. Collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes;
3. Adequate, relevant and is limited to what is necessary;
4. Accurate and kept up to date;
5. Kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; and
6. Processed in a manner that ensures appropriate security of the data.

Article 5(2) of the GDPR also obliges the PSRA to “*be responsible for, and be able to demonstrate, compliance with the principles*”.

#### Application of Data Protection Principles in the Property Services Regulatory Authority

GDPR requires that the processing of personal data is conducted in accordance with the data protection principles set out above. The PSRA’s policies and procedures are designed to ensure compliance with these principles.

##### 3.1 Personal data must be processed in a way that is lawful, fair and transparent<sup>2</sup>

Article 6 of the GDPR allows for the processing of personal data where ‘*processing is necessary for compliance with a legal obligation to which the controller is subject*’. Section 37(1) of the Data Protection Act 2018 further states that processing is lawful where it is required for ‘*the performance of a function of a controller conferred by or under an enactment or by the Constitution.*’ The majority of personal data processing by the PSRA is carried out as part of their legal obligations under the Property Services (Regulation) Act 2011. The functions of the PSRA under the Property Services (Regulation) Act 2011 are listed in Appendix B, Table 1 to this document.

Occasionally the PSRA will carry out the processing of data in the public interest. Article 6.1(e) of the GDPR allows for the processing of personal data where ‘*processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller*’. Table 2 in Appendix B, lists tasks carried out in the public interest by the PSRA, for which personal data may also be processed.

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<sup>1</sup> Article 5

<sup>2</sup> Article 6 of the GDPR and Section 34 of the Data Protection Act 2018 refer.

In some circumstances the PSRA may request the consent of the data subject to process their data. In such cases, consent will be sought at the time that the data is collected and the data subject will be advised that they can withdraw their consent at any stage during processing. The PSRA will be fully transparent in relation to how personal data collected is used, in particular ensuring that the data is not used in a way that a data subject would not expect.

### **3.2 Personal data can only be collected for specific, explicit and legitimate purposes**

The PSRA processes personal data only for the purposes for which it is collected. Any further proposed processing of data (regardless of apparent compatibility with original purpose) will be the subject of an impact assessment to ascertain if it poses a risk to the rights and freedoms of the data subject. This assessment may take the format of a Data Protection Impact Assessment (see Section 5.5 below)

### **3.3 Personal data must be adequate, relevant and limited to what is necessary for processing (data minimisation)**

The PSRA will ensure that the data collected and held is the minimum amount required for the specified purpose. The PSRA will not collect personal data unnecessary to the business purpose. All personal data requests issued by the PSRA will clearly state the business purpose for the collection of such data.

### **3.4 Personal data must be accurate and kept up to date**

In order to ensure that the functions of the Property Services Regulatory Authority are delivered efficiently and effectively, the PSRA will ensure that, where possible, all personal data held is kept accurate and up to date. PSRA Divisions holding personal data are responsible for ensuring that all manual/computer procedures are adequately maintained and that, where notified of inaccuracies, the personal data is corrected in a timely manner.

Data subjects have the right to have inaccurate data held by the PSRA updated or erased, as appropriate.

### **3.5 Personal data is only held for as long as is necessary**

The PSRA will ensure that a data retention policy is in place, which establishes the length of time that personal data is retained and the purpose(s) of its retention. The PSRA will ensure that data will not be retained for longer than it is required and will be properly destroyed/deleted when it is no longer needed.

In this regard, it is important to note that the PSRA has limited control in relation to record destruction due to obligations which arise under the Freedom of Information Act, 2014.

### **3.6 Personal data is processed in a manner that ensures appropriate security of the data**

The PSRA works with the Dept. of Justice & Equality to maintain the highest standards of technical, organisational and physical security measures. IT systems used by the PSRA are managed and maintained by the Dept. of Justice & Equality ICT division. Service level agreements are in place with the Department and are reviewed and updated as necessary, to provide assurance to the PSRA that systems are secure and personal data is protected.

PSRA staff have undergone training in relation to their personal responsibilities for the protection of personal data.

## **4.0 GDPR - Rights of 'data subjects'**

Subject to Section 60 of the Data Protection Act, 2018 and any associated Regulations, the GDPR specifies the following rights for data subjects:

- right to be informed/right of access
- right to rectification
- right to erasure
- right to restrict processing
- right to data portability
- right to object to processing
- rights in relation to automated decision making and profiling.

### **4.1 Right to be informed and right of access**

As noted previously Data Subjects have the right to be informed by the PSRA about the collection and use of their personal data. In addition, they have the right to access their personal data and other supplementary information, as appropriate.

The PSRA has implemented procedures to ensure that all such Subject Access Requests (SAR) are responded to within the one month period as required under Article 12 of the GDPR.

Further information on making a Subject Access Request can be found on our website at [http://psr.ie/website/npsra/npsraweb.nsf/page/Data\\_Protection-en](http://psr.ie/website/npsra/npsraweb.nsf/page/Data_Protection-en)

## **4.2 Right to rectification**

Data subjects have the right to have inaccurate personal data held by the PSRA rectified and to have incomplete personal data updated so that it is complete.

On receipt of a request from a data subject for rectification of their personal data, the PSRA will take reasonable steps to ensure that the data held is accurate and will ensure that data is rectified, where necessary.

## **4.3 Right to erasure**

Article 17 of the GDPR provides for the right of data subjects in certain circumstances to have their personal data erased ('right to be forgotten').

The right to erasure is not an absolute right and does not apply in circumstances where PSRA's processing of personal data is necessary in particular:

- For the performance of legal duties carried out by the PSRA or tasks carried out in the public interest (Appendix B, Tables 1&2)
- For archiving purposes in the public interest, scientific research, historical research or statistical purposes; or
- Where the data is required for the establishment, exercise or defence of legal claims.

Where a data subject is of the opinion that elements of personal data held by the PSRA is incorrect, they may make a request in writing to have such data permanently erased. The PSRA will review all such requests and, where appropriate, will erase the data in question.

## **4.4 Right to restriction of processing<sup>3</sup>**

A data subject has the right obtain a restriction of processing of their personal data where any one of the following applies:

- the data subject contests the accuracy of their data. The restriction will apply for a period enabling the PSRA to verify the accuracy of the personal data;
- the processing is unlawful and the data subject does not wish to have the data erased, but rather wishes to restrict its' use;
- the PSRA no longer requires the data in question but the data subject seeks its' retention in order to establish, exercise or defend a legal claim; or
- the data subject has objected to the processing of their data by the PSRA pending verification from the PSRA on whether the legitimate grounds for processing overrides the data subjects concerns.

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<sup>3</sup> Article 18

As a matter of good practice, the PSRA will restrict the processing of personal data whilst a review of the accuracy of the data and/or the legitimate grounds for processing the data is carried out. This restriction of processing will take into account any Regulations made under Section 60 of the Data Protection Act, 2018.

#### **4.5 Right to data portability**

The collection of a significant proportion of personal data by the PSRA is lawful in accordance with Article 6.1(c) of the GDPR i.e. *'necessary for compliance with a legal obligation to which the controller is subject'*.

In cases where the PSRA has collected personal data from a data subject by consent or by contract, that data subject can request the PSRA to provide the data in electronic format in order to provide it to another Data Controller. The PSRA will comply with all such legitimate requests.

#### **4.6 Right to object to processing**

Under Article 21 of the GDPR, data subjects have a right to object to the processing of their personal data in specific circumstances. Where such an objection is received, the PSRA will assess each case on its' individual merits.

#### **4.7 Right not to be subjected to automated decision making<sup>4</sup>**

Data subjects will have the right not to be subjected to a decision based solely on automatic processing, including profiling, that have a legal or similarly significant effect on them.

The PSRA will ensure that no decision issued to a data subject is based on automatic processing alone.

#### **4.8 Complaints**

Data subjects who may be concerned that their rights under the GDPR are not upheld by the PSRA can contact the PSRA's Data Protection Officer (DPO). The DPO will engage with the data subject in order to bring their complaint to a satisfactory conclusion.

The DPO can be contacted at [info@psr.ie](mailto:info@psr.ie)

Where the complaint to the DPO cannot be resolved, the data subject will be informed in writing and will be further informed of their right to bring their complaint to the Data Protection Commission.

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<sup>4</sup> Article 22

## **5.0 Responsibilities of the Property Services Regulatory Authority**

The PSRA is responsible for the following:

### **5.1 Implementing and maintaining appropriate technical and organisational measures for the protection of personal data.**

The PSRA, together with the Dept. of Justice and Equality have implemented appropriate technical and organisational measures to ensure that all data held under its control is secure and is not at risk from unauthorised access, either internal or external. Measures for the protection of personal data are reviewed and upgraded, where appropriate, on an ongoing basis.

### **5.2 Maintaining a record of data processing activities**

The PSRA maintains a written record of all categories of processing activities for which it is responsible in accordance with GDPR Article 30

### **5.3 Data Protection agreements with Personal Data Recipients**

On an ongoing basis, the PSRA puts in place appropriate contracts / memoranda of understanding / bilateral agreements with third parties with which personal data is shared. This includes state agencies and other government departments. The agreements specify the purpose of sharing the data, the requirements for security of the data and the requirements for termination of the agreement and the return / deletion of the data shared.

### **5.4 Data Protection by design and default**

In accordance with Article 25 of the GDPR, the PSRA implements technical and organisational measures to give effect to the principles of the protection of personal data and to ensure that, by default, only personal data necessary for each specific purpose of the processing are processed.

Such measures include the development of organisational policies and procedures such as Acceptable Usage Policy and Digital Communications Policy and the implementation of security measures to secure the data.

### **5.5 Data Protection Impact Assessment (DPIA)**

Where the PSRA considers that proposed processing (in particular processing that involves new technology), poses a high risk to the rights and freedoms of the data subjects involved, the PSRA will carry out a DPIA.

The PSRA's Data Protection Officer will be consulted in relation to each DPIA completed. Where technical and/or organisational measures proposed will not mitigate the high risks previously identified, the Data Protection Commission will be consulted as appropriate.

## **5.6 Transfer of personal data outside of the European Union**

The PSRA will ensure that, prior to transferring any personal data outside of the European Union, appropriate safeguards are in place.

## **5.7 Personal data breaches**

The GDPR defines a personal data breach as meaning

*'a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed'.*

All staff in the PSRA will notify the PSRA's Data Protection Officer where they identify or suspect a breach of personal data. In accordance with GDPR, the DPO will notify the Data Protection Commission without undue delay where a breach is likely to result in a risk to the rights and freedoms of the data subject(s) involved.

The DPO will also assess if the breach is likely to result in a high risk to the data subject(s) involved. Where a high risk is identified, the DPO will arrange for the data subjects to be notified.

## **5.8 Personal Data Governance**

Compliance with the GDPR is a key requirement for the PSRA. The PSRA's compliance framework will detail the arrangements in place to oversee, monitor and ensure compliance with data protection legislation.

## **5.9 Data Protection Officer**

In compliance with GDPR Article 37.1(a) of GDPR, the PSRA has a designated Data Protection Officer (DPO). In accordance with Article 38, the PSRA will involve the DPO in a timely manner in all issues which relate to the protection of personal data and will support the DPO in performing the tasks referred to in Article 39 *Tasks of the Data Protection Officer*. The tasks assigned to the PSRA Protection Officer in Article 39 include the following;

- Informing and advising the PSRA and staff who process personal data, of their obligations under data protection legislation;
- Monitoring compliance with the GDPR and the Data Protection Act 2018 and the policies of the PSRA in relation to the protection of personal data, including the assignment of responsibilities, awareness-raising and training of staff and the related audits.
- Providing advice where requested as regards the data protection impact assessment and monitoring its performance
- Cooperating with the Data Protection Commission

- Acting as a contact point for the Data Protection Commission on issues relating to processing and prior consultation.

## **6.0 Data Protection Contacts**

### **Data Protection Officer**

Mr Declan Carney  
Property Services Regulatory Authority  
Abbey Buildings  
Abbey Road  
Navan  
Co. Meath.

Phone: 046-9033800

Email: [info@psr.ie](mailto:info@psr.ie)

The contact information for the PSRA's Data Protection Officer is published on the PSRA's website and has been notified to the Data Protection Commission.

### **Data Protection Commission**

21 Fitzwilliam Square  
Dublin 2.  
and  
Canal House  
Station Road  
Portarlinton  
Co Laois.

Phone: 00353 (0761) 104 800

Email: [info@dataprotection.ie](mailto:info@dataprotection.ie)

## APPENDIX A

### Key definitions used in Data Protection legislation

Below are definitions of the key terminology used in the GDPR.

**Personal Data** means any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

**Data Subject** is an individual whose personal data is processed.

**Processing** means any operation or set of operations which is performed on personal data, by manual or automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

**Special categories of data** means any data which reveals racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, genetic data, biometric data uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation.

**Data Controller** means the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data.

**Data Processor** means a person, public authority, agency or other body who processes personal data on behalf of the controller.

## APPENDIX B

<b>Table 1 - Functions Of the Property Services Regulatory Authority</b>
<b>Licensing of Property Services Providers</b>
<b>Setting and Enforcement of standards in the provision of property services</b>
<b>Provision of complaints investigation and redress system for consumers</b>
<b>Establishment and maintenance of a Compensation Fund</b>
<b>Creation and Maintenance of Public Registers;</b> <ul style="list-style-type: none"><li>- <b>Register of Licensed Property Service Providers</b></li><li>- <b>Residential Property Price Register</b></li><li>- <b>Commercial Leases Register</b></li></ul>

<b>Table 2 – Property Services Regulatory Authority - Public Interest Tasks</b>
<b>Communication with Citizens</b>
<b>Communication with Members of the Oireachtas</b>
<b>Internal Government Communications</b>
<b>Administration of Official Duties</b>