

## Privacy Act 2020: Landlord Fact Sheet

### What information can I ask for from tenants?

The test is always: **do you need the information for a lawful purpose connected to finding tenants and managing tenancies?** Only ask for what you need.

#### ...when people are viewing the property?

*This is when you are arranging property viewings.* **Purpose of collection:** following up with people after the viewing.

- Name and contact information only

You can give prospective tenants the option of completing a full application form before viewing a property, but they shouldn't be required to do so

#### ...when people are applying for a tenancy?

*This is when potential tenants are completing and submitting application forms.*

**Purpose of collection:** deciding whether applicants are likely to be suitable tenants and selecting preferred applicants.

- Name and contact information
- Proof of identity
- Whether the applicant is aged 18 years or older
- Number of people who would live at the property
- Names only of occupants who will not be on the tenancy agreement (e.g. flatmates, dependents), but **not** other personal details about non-tenants
- Contact details for landlord and non-landlord references
- Consent to contact referees (you can contact referees at this stage)
- Consent for a credit report and criminal record check (to be obtained only if you are in negotiation with a tenant about an offer of tenancy)
- Pet ownership (if there are restrictions on the pets allowed at the property)
- Whether any occupants are smokers (if there are restrictions on smoking at the property)
- Whether the tenant has a legal right to remain in New Zealand for the duration of a tenancy (only if the tenancy is for a fixed term)

#### ...when checking preferred applicants?

*This is when you vet a shortlist to decide who to offer the tenancy to.* **Purpose of collection:** confirming that preferred applicants are likely to be suitable tenants.

- Any additional information needed to carry out credit or criminal record checks (e.g. date of birth or copies of ID documents)
- Evidence of ability to pay rent – in addition to a credit report, you can ask for one other form of evidence (e.g. pay slip, letter from employer or Work and Income, evidence of rental payments in previous tenancy).
- You can't ask for evidence of tenants' spending habits, such as detailed bank statements.

## **...when preparing tenancy agreements?**

*This is when a tenant has accepted your offer of tenancy, and you and the tenant are completing the tenancy agreement. **Purpose of collection:** obtaining additional information needed to manage the tenancy.*

- Vehicle information (if necessary to provide for parking on the property)
- Address for service (where you can send correspondence to the tenant)
- Contact details for someone the landlord can contact in an emergency
- Work and Income client number, if rent is being paid using an accommodation supplement and you can show that the client number is necessary for managing the tenancy

## **...when managing a tenancy?**

*This is when tenants are living at the property and you are managing the ongoing relationship. **Purpose of collection:** allowing landlords and tenants to enforce their rights and meet obligations under the Residential Tenancies Act.*

A range of personal information can be collected during the tenancy – for example, photos and notes from flat inspections. Photos should provide no more information than necessary to document how tenants are looking after the property. They must not intrude unreasonably into tenants' personal affairs; for example, photos shouldn't focus on personal items.

## **What should landlords not collect?**

When selecting tenants, a landlord should never ask for:

- personal characteristics protected under the Human Rights Act:
  - sex (including pregnancy or childbirth)
  - relationship or family status
  - political opinion or religious or ethical belief
  - colour, race, or ethnicity (including nationality or citizenship)
  - physical or mental disability or illness
  - age (other than whether the tenant is over 18)
  - employment status (being unemployed, on a benefit or on ACC)
  - sexual orientation or gender identity
- whether the tenants have experienced or are experiencing family violence
- tenants' spending habits (e.g. bank statements showing transactions)
- employment history
- social media URLs.

Once the tenancy starts, there may occasionally be reasons for you to collect information about these matters. For example, you might ask about disability if it's relevant to how you manage the tenancy or communicate with the tenant.

In exceptional circumstances, it could be okay to collect information about how tenants spend their money – for example, if a tenant wants to negotiate a rent reduction or repayment plan.

For more information, see detailed guidance on our website [here](#).