

## Landlords: how to comply with the Privacy Act

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### What information can I ask tenants for?

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

### What can I ask when people are viewing the property?

Name and contact information only - so you can follow up with people after the viewing.

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.

### What can I ask when people are applying for a tenancy?

To help you decide whether applicants are likely to be suitable tenants and selecting preferred applicants, you can collect:

- 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 should not 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)

### What can I ask when checking preferred applicants?

To help confirm that preferred applicants are likely to be suitable tenants, you can collect:

- 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.

### What can I ask when preparing tenancy agreements?

To obtain additional information needed to manage the tenancy, you can collect:

- Vehicle information (only if necessary to provide for parking on the property).
- Address for service (where you can send correspondence to the tenant e.g address of property being rented, PO Box, or other address where mail can be received on behalf).
- 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.

### What can I ask when managing a tenancy?

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. Tenants are lawfully allowed to ask for access to these photos.



Property managers can share information with landlords if this is clearly communicated to the tenant before their information is collected, such as in the form of a contract or privacy statement.

## What should landlords not collect?

When selecting tenants, a landlord should never ask for:

- personal characteristics protected under the Human Rights Act:
  - o sex (including pregnancy or childbirth)
  - o relationship or family status
  - o political opinion or religious or ethical belief
  - o colour, race, or ethnicity (including nationality or citizenship)
  - o physical or mental disability or illness
  - o age (other than whether the tenant is over 18)
  - o employment status (being unemployed, on a benefit or on ACC)
  - o 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.

Landlords and property managers should not ask for or collect information about how tenants spend their money. For more information, [read detailed guidance on our website](#).

We have a large number of tenancy-related answers to common questions available on our [AskUs database](#).

