

## Protocol for the request and exchange of Data from Third Parties

### Household Charge

#### Introduction

The EU/IMF Programme of Financial Support for Ireland commits the Government to the introduction of a property tax for 2012. The Programme reflects the need, in the context of the State's overall financial position, to put the funding of locally delivered services on a sound financial footing, improve accountability and better align the cost of providing services with the demand for such services.

In light of the complex issues involved, a property tax, requiring a comprehensive property valuation system, would take time to introduce and accordingly, to meet the requirements in the EU/IMF Programme, the Government decided to introduce a household charge in 2012. The household charge is an interim measure and proposals for a full property tax will be a matter for consideration by the Government in due course.

The [Local Government \(Household Charge\) Act 2011](#) (HCA) and regulations made thereunder provide the legislative basis for the household charge. The household charge is on a self assessment basis and it is a matter for an owner of a residential property on 1 January to declare his/her liability and pay the household charge by 31 March.

The Local Government Management Agency (i.e. the Local Government Computer Services Board and the Local Government Management Services Board) is operating the household charge system on a shared services/agency basis on behalf of all county and city councils. In order to ensure the maximum collection of the household charge, the HCA provides that the Local Government Management Agency (LGMA), acting on behalf of the councils, shall be provided with data in the possession of relevant persons to assist it in identifying residential properties that may be liable to the charge and who have not discharged that liability. The LGMA will electronically match data from relevant Government Departments and public bodies/agencies against the data held in its computer systems.

In carrying out these data matching exercises, the Local Government Management Agency is very mindful of its responsibilities to protect the rights and privacy of individuals in accordance with the Data Protection Acts 1988 and 2003 (see [LGMA Data Protection Policy](#)). Requests for data for the above data matching purposes are only made where the information is required and in strict compliance with relevant legislation. Detailed operational guidelines on this matter have issued to staff in the Local Government Management Agency and are summarised here. These Guidelines were produced following consultation with the Office of the Data Protection Commissioner.

### **Legislative Basis for Requests**

The primary legislative basis for data exchanges is Section 14 of the HCA (see Appendix 1). It inter-alia provides that information held by relevant persons (defined in the HCA) which is required for the purposes of the Act may be provided to the Local Government Management Agency on request.

Under the provisions of the Data Protection Acts 1988 and 2003 (DPA), there is a general requirement on data controllers not to disclose information to third parties. Section 8 of the DPA does, however, provide for a number of exemptions from the restrictions on the processing of personal data. In particular Section 8(e) provides:-

- that the restrictions do not apply where the processing of the information is required by or under an enactment or by a rule of law or order of the court.

Accordingly, there is a legal basis for the LGMA to be provided with personal data pursuant to a request under section 14 of the HCA. As the precise conditions for the seeking of and provision of this data is not specified in the HCA, this Protocol outlines the circumstances which must be followed.

### **Summary of Procedures regarding Requests for Personal Information from relevant persons as provided for under Section 14 of the Local Government (Household Charge) Act 2011:**

1. All requests for personal information from a Relevant Person will be made in writing by a senior official (i.e. an officer of at least Grade VIII level, following written approval from an Assistant Chief Executive and notification to the Chief Executive Officer). It is intended that a request for personal information will only be made once to a relevant person. However, the LGMA may make further requests as provided for in Section 14(1) (a) of the HCA.
2. Personal information requested will be confined to residential property addresses and names related thereto and any connected unique identifiers where such were collected with an appropriate legal basis.
3. Requests will only be considered where there are reasonable grounds to assume that the public body holds information that is relevant to the Local Government Management Agency in the performance of its functions under the HCA. The information must be required for the purposes of the Household Charge, must be relevant and not excessive in relation to the purpose for which it is intended to be used.

4. Requests for information shall be made in writing and will clearly state what information is being sought, the legislative basis for the request and why the information is considered necessary.

5. Information supplied to the LGMA by a Relevant Person under the HCA shall be transmitted by secure means. The Relevant Person in each case shall ensure that only the data specified in Clause 2 above is supplied to the LGMA. Where that information is supplied electronically, the transfer will be by way of an encrypted hard drive. The standard in place is endpoint encryption - Checkpoint 7.4 hfa3 build 1618 using AES 256.

6. The LGMA will adhere to the LGMA Data Protection Policy and all other relevant LGMA information policies, procedures and guidelines i.e. regarding information security and data retention in relation to information provided to it under the HCA. LGMA staff are subject to information security procedures as detailed in the "ICT Security Policy for LGMA LAN". To ensure the minimum exchange of datasets between the LGMA and the relevant persons set out under Section 14 of the HCA, the relevant persons will determine, taking account of the requirements of the specific exercise, the minimum datasets required for the purposes of the household charge. Data exchanged with the LGMA will not be held for any period longer than necessary for the data matching to be completed and in any case no longer than 30 days from the date of receipt unless there is a specific purpose to hold it for a longer period to complete the task.

7. Access to data will be restricted to those persons approved by the Chief Executive Officer of the LGMA. Only those designated members of staff will have access to data, based on the level of access required to allow them to carry out their role. These will include network personnel, database administrators and business analysts and staff reporting to them on the project. The LGMA will maintain a register of personnel to which access has been granted by the CEO along with the level of access granted. In terms of physical access to the server infrastructure, the LGMA has comprehensive security arrangements in place including biometric access, accompanied access and CCTV monitoring. Access for system support and maintenance is granted on a one time only basis with the prior permission of a senior executive of the LGMA.

8. Public bodies that are required to register with the Office of the Data Protection Commissioner will be advised to list the LGMA and County and City Councils as organisations

to which personal information is being disclosed and that going forward this is recorded in its data collection channels (e.g. forms, websites, etc.).

9. All data received in response to a request for bulk information from a Department/public body/agency will not be retained and will promptly be securely deleted or destroyed by the LGMA on completion of the data matching exercise as per Clause 6 above. The LGMA will confirm in writing to the Relevant Person that the data has been securely deleted or destroyed. All encrypted hard drives will be securely destroyed by a specialist disposal company in accordance with US Department of Defence standard 5220.22.

10. The LGMA will not disclose, share or otherwise provide data received by it in response to a request for bulk data from a Department/public body/agency to any other public body or third party.

11. The LGMA will maintain a central register of all data exchanges received from Relevant Persons. This register will list when data was sought, the reasons for seeking it, the legal basis relied upon, the date of receipt and the date of destruction. This will be available on request to the Office of the Data Protection Commissioner.

## **Appendix 1**

### **Local Government (Household Charge) Act 2011**

#### **Data Sharing and Exchange**

**14.—(1)** Notwithstanding any enactment or rule of law—

(a) a relevant person shall, upon a request from a local authority, provide the local authority with such information in the possession or control of the relevant person or, where the relevant person is a body corporate, any subsidiary (within the meaning of section 155 of the Companies Act 1963) of the relevant person as the local authority may reasonably require for the purpose of enabling the local authority to perform its functions under this Act,

(b) a local authority shall, at such intervals as the Revenue Commissioners may specify, provide the Revenue Commissioners with such information obtained by the local authority pursuant to this Act, including tax reference numbers, as the Revenue Commissioners may reasonably require for the purpose of enabling them to perform their functions under a specified enactment, and

(c) a local authority shall, upon a request from, and at such intervals as may be specified by, a Minister of the Government, a local authority or a prescribed person, provide the Minister of the Government, the local authority or the prescribed person, as may be appropriate, with such information obtained by the local authority pursuant to this Act as the Minister of the Government, the local authority or the prescribed person concerned may reasonably require for the purpose of enabling him or her to perform his or her functions.

(2) The Minister shall not prescribe a person for the purposes of *paragraph (c) of subsection (1)* unless he or she is satisfied that the provision by a local authority of information obtained by the local authority pursuant to this Act to such person will assist the person in discharging a function conferred on, or delegated to, him or her by or under any enactment.

(3) In this section—

“Act of 2010” means the Value-Added Tax Consolidation Act 2010;

“relevant person” means—

(a) the Private Residential Tenancies Board established under section 150 of the Residential Tenancies Act 2004,

(b) the Electricity Supply Board established in accordance with the Electricity (Supply) Act 1927,

(c) the Revenue Commissioners,

(d) the Minister for Social Protection, or

(e) any other person standing prescribed for the time being;

“specified enactment” means—

- (a) the Tax Acts,
- (b) the Capital Gains Tax Acts,
- (c) the Act of 2010,
- (d) the Stamp Duties Consolidation Act 1999, or
- (e) the Act of 2003;

“tax reference number” means—

- (a) in relation to an individual, that individual’s personal public service number (within the meaning of section 262 of the Act of 2005), or
- (b) in relation to a body corporate—
  - (i) the reference number stated on any return of income form or notice of assessment issued to that person by an officer of the Revenue Commissioners, or
  - (ii) the registration number of the body corporate for the purposes of the Act of 2010.

## **Appendix 2: Data exchanges with third party organisations**

Relevant persons are set out in Section 14 of the HCA and associated Regulations made by the Minister from time to time under the HCA.