

## **Introduction**

From 11 November 2019 the Association has been designated a public authority as defined by the Freedom of Information (Scotland) Act 2002. The Association is subject Freedom of Information legislation (FOI) and the Environmental Information (Scotland) Regulations 2014 (EIR).

The following functions carried out by the Association are subject to FOI and EIR:

- The prevention and alleviation of homelessness;
- The management of social housing accommodation (for which an RSL has granted a Scottish secure tenancy or short Scottish secure tenancy);
- The provision and management of sites for gypsies and travelers; and
- The supply of information from an RSL to the Scottish Housing Regulator (SHR) in relation to its financial well-being and standards of governance.

Where an information request does not relate to these functions, the Association is not obliged under FOI or EIR to provide the information. However, there may be many circumstances in which the Association is happy to disclose the information requested even though it is not legally obliged to do so.

It is also important when considering whether to respond to such requests, to remember the general duty placed on the Association under the Scottish Social Housing Charter (SSHC), under the Communications outcome which states that:

Social landlords manage their business so that:

*“tenants and other customers find it easy to communicate with their landlord and get the information they need about their landlord, how and why it makes decisions and the services it provides.”*

## **Responding to a Request for Information**

The following procedures detail the processes that should be followed by staff who receive a FOI or EIR request for information. The Association must ensure that a response to a request for information is issued within 20 working days of the request being received.

### Stage 1 – Receive, Identify & Log (1-2 days)

Once an information request is received the receiving officer should pass the request to the Senior Housing Services Officer. The Senior Housing Services Officer will:

1. Evaluate the request and identify which legislation it will be processed under:
  - Freedom of Information (Scotland) Act 2002 (FOI);
  - Environmental Information Regulations (EIR); or
  - Data Protection Act (DPA).
2. Log the request in the information tracking spreadsheet.
3. If the request is a complex or controversial case, inform the Director.
4. Send an acknowledgement letter confirming receipt of the request, and the legislation under which it will be processed or proceed to Stage 2.

Stage 2 – Clarify (1-2 days)

The Senior Housing Services Officer will ensure that the request is clear regarding what information is being asked for. If the request is unclear clarification will be sought by contacting the person requesting the information. Clarification can be sought in writing by contacting the person by telephone.

Stage 3 – Assess (3-5 days)

The Senior Housing Services Officer will assess if the request relates to functions covered by The Freedom of Information (Scotland) Act 2002 (Designation of Persons as Scottish Public Authorities) Order 2019 (the Order).

If the request is covered by the Order staff should proceed to Stage 3 of this procedure.

If information is not covered by the Order but the Association is still willing to release some or all of the information, staff should proceed to Stage 3 of this procedure.

If the information is not covered by the Order and the Association is not willing to release any of the information, a letter will be sent to the requestor informing them that we are not obliged to provide them with the information.

If the information is covered by the order the following will apply:

- If the Association does not hold the information a letter will be sent to the requestor informing them the information is not held.
- If the information is held but is already published then a Section 25 exemption letter will be sent to the requestor informing them of where to find this information. Where the information is not covered by the Order we should simply write to the requester and inform them where to find the information.
- If the information is held and has not been published then the request process will proceed to stage 4.

Stage 4 - Assign Request to Site / Section - Inform & Consult (3-5 days)

The Senior Housing Services Officer will liaise with the appropriate department(s) to request information held.

Relevant department(s) will respond to the Senior Housing Services Officer when information has been collected or to inform the Senior Housing Services Officer that department does not hold information.

The relevant department will also consult with the Senior Housing Services Officer to determine if fees are applicable. The Senior Housing Services Officer will advise on applying fees. If the Association is to charge a fee then a "fees notice" must be issued within 20 working days of receiving the request. The fees notice will detail the fee and how this has been calculated. The notice must also advise the requester of how they can appeal against a fee.

The person making the request has up to three months from the date on the fees notice to decide whether or not they wish to make the payment. If the person decides not to pay the fee then the Association does not have to provide any information.

More information of how fees are calculated are detailed in the Fees section of this procedure.

Stage 5 - Locate & Consider Information to be Disclosed (3-5 days)

The relevant department and the Senior Housing Services Officer will consider if the information can be supplied or whether any exemptions apply. Where the information requested is not covered by the Order staff do not need to determine whether or not exemptions apply and can instead decide what information the Association is prepared to release.

The Senior Housing Services Officer will advise and assist in applying exemptions.

The relevant department obtains the necessary information from all sources and collates this.

Stage 6 – Gathering Information (days 6-10)

The relevant department reviews the information to ensure that this complies with the request.

Stage 7 - Clearing Response (days 11-15)

In cases of complex or controversial requests the Senior Housing Services Officer will seek clearance and consult with the Director and / or solicitor as necessary.

Stage 8 - Issue Response (days 16-20)

The Senior Housing Services Officer will quality check the information being issued and, if appropriate, ensures that the response letter provides the details of any exemptions being applied and why information is not being provided. The Senior Housing Services Officer will ensure that the response letter includes details of the review process and the requesters right of appeal to the Scottish Information Commissioner (SIC). The Senior Housing Services Officer then ensures that the response is issued in accordance with the statutory timescales.

Where the person requesting information specifies how they wish the Association to respond (e.g. letter or email) then the Association must respond in this manner.

**Responding to Requests for Review**

The following procedures detail the processes that should be followed by staff who receive a request for a review of a FOI or EIR response.

Where a person has requested information from the Association, they have the right to request that the Association reviews the response to their request to determine whether or not the provisions of FOISA and EIR have been followed. A review can be requested where:

- The Association has failed to respond to the request within the 20 working day deadline (or extended deadline in respect of certain requests made under EIR); or
- The person requesting the information is unhappy with the response to the request (e.g. where information has been withheld under one of the exemptions or exceptions available under FOISA / EIR).
- The person requesting the information is unhappy with a fees notice.

Where a person is unhappy with the response that has been issued, they have up to 40 working days from the receipt of the response to request a review.

Requests for a review must be in a recordable format such as email, letter, audio tape or video tape.

Where a request for a review is received, the Senior Housing Services Officer will review the original response and determine whether or not the response is in accordance with FOISA or EIR. Where the response is considered to have not been in accordance with FOISA or EIR the Senior Housing Services Officer will ensure that immediate steps are taken to rectify the matter.

After considering the review, one of the following responses will be issued to the person requesting the review:

- Disclosure of all the information requested;
- A notice advising that the Association still intends to withhold the information and the reasons why;
- A decision about the level of fees to be charged if the requester was unhappy with the fees notice;

- A decision on the request should the Association have failed to respond to the original request; or
- A notice advising that the Association does not think that it has to review its decision because the original request was vexatious or the same as request that the person had made previously.

The Senior Housing Services Officer will ensure that all requests for a review are responded to as quickly as possible but within 20 working days of request being received. The Senior Housing Services Officer will also ensure that the response letter includes details of how the requester can make an appeal to the Scottish Information Commissioner (SIC) should they remain dissatisfied after the conclusion of the review process.

### **Appeals to the Scottish Information Commissioner (SIC)**

Where a person is unhappy with the response to their review request, they may appeal to the Scottish Information Commissioner (SIC).

Appeals to the SIC must be made within 6 months of when the requester receives their review response from the Association. Within its review response letter the Association will detail the timescale in which an appeal can be made to SIC and also how an appeal can be lodged.

Appeals to the SIC must be in a format that can be kept for future use such as letter, email or a recording on an audio or video tape. Appeals can be lodged in the following ways:

- Accessing the Online Appeal Service on the Commissioners website;
- By email; or
- By post

If an appeal is made by SIC and a decision handed down by them, both the Association and the individual in question have a right to appeal to the courts on a point of law.

## Fees

*Charges for information that is provided under FOISA.*

There is no charge for any person wishing to view information on our website or at our premises. The Association may charge for providing information. When applying a fee the Association must issue a fees notice within 20 working days from receiving the request which details the fee charged and how this has been calculated.

The Association's charges for providing information are summarised below:

Format	Charge
Online	Free
View at our office	Free
Print in black and white	10p per A4 sheet
Print in colour	20p per A4 sheet
CD Rom	50p per CD-ROM
Posted document / CD Rom	Cost of postage incurred (Royal Mail First Class)

- There is no charge for information request which cost us £100.00 or less to process.
- Where information costs between £100.00 and £600.00 to provide the Association may charge 10% of the cost. (e.g. if information costs £600.00 to provide, the Association can charge £50.00 calculated on the basis of a waiver for the first £100.00 and 10% of the remaining £500.00).
- The Association is not obliged to respond to requests which cost over £600.00 to process.
- When calculating any fee, staff time will be calculated at actual cost per staff member hourly salary rate to a maximum of £15.00 per person per hour.
- The Association will not charge for the time taken to determine whether we hold the information requested, nor for the time it takes to decide whether the information can be released. Charges can be applied for locating, retrieving and providing information.

*Charges for Environmental Information that is provided under the EIRs.*

The Association will not charge for the time taken to determine whether we hold the environmental information requested or deciding whether the information can be released. Charges may be made for locating, retrieving and providing information (e.g. photocopying and postage). Charges will be based on the following calculations:

- Photocopying is charged at 10p per A4 sheet for black and white copying, 20p per A4 sheet for colour copying.
- Postage is charged at actual rate for Royal Mail First Class.
- Staff time is calculated at actual cost per staff member hourly salary rate to a maximum of £15.00 per person per hour.
- The first £100.00 worth of information will be provided to you without charge.
- Where information costs between £100.00 and £600.00 to provide, the Association may charge 10% of the cost. (e.g. if information costs £600.00 to provide, the Association can charge £50.00 calculated on the basis of a waiver for the first £100.00 and 10% of the remaining £500.00).
- Where it would cost more than £600 to provide the information, the Association will charge the full cost of providing the information, with no waiver for any portion of the cost.

**Procedure Review**

This procedure was last reviewed on 26 October 2023 and will be subject to review every year in conjunction with the Freedom of Information and Environmental Information Policy.