



## Group Freedom of Information and Environmental Information Policy

<b>POLICY IMPLEMENTATION CHECKLIST</b>	
Policy Guardian:	Chief Executive
Author:	Governance Officer
Version number:	1.0
Approved by Chief Executive:	October 2019
Governing Body Approved:	October 2019
Effective from:	11 November 2019
Date Revised:	
Next Review Due:	October 2022
Diversity compliant:	Yes
Equality Impact Assessment required:	Yes
Data Protection compliant:	Yes
Health & Safety compliant:	N/A
Procedure implemented:	Yes
QL system changes made:	N/A
KPIs / reporting arrangements implemented:	Yes
Training Completed:	Yes
Posted on intranet:	October 2019
Published on website:	October 2019
Publicity material issued:	
Implementation Review Date:	

This document can be provided in large print, braille, audio or other non-written format, and in languages other than English on request.

## **1. Introduction**

- 1.1 This is the Freedom of Information and Environmental Information Policy of the Group, comprising Caledonia Housing Association and its constitutional partner Cordale Housing Association.
- 1.2 The policy aims to provide a general understanding of The Freedom of Information (Scotland) Act 2002 (“FOISA”) and the Environmental Information (Scotland) Regulations 2004 (“EIR”). It outlines where responsibility lies for complying with the legal duties of the Group companies under FOISA and EIR; and the general approach the Group will take to fulfilling these duties.
- 1.3 FOI and EIR place a general obligation on Scottish Public Authorities to allow the public access to information that they hold. Both FOISA and EIR are overseen by the Scottish Information Commissioner (“SIC”).
- 1.4 From 11 November 2019 Caledonia and Cordale are each individually designated as a Scottish Public Authority and are each required to make information available in accordance with FOISA and EIR.

## **2 Policy Statement**

- 2.1 The Group is committed to the principles of openness and transparency underpinning FOISA and EIR and will comply fully with the requirements of the legislation. To this end the Group will:
- follow the relevant Scottish Ministers Codes of Practice relating to FOISA and EIR, as well as any relevant guidance issued by SIC;
  - take into account the needs of individuals when presenting information under FOISA and EIR;
  - make all employees aware of their responsibilities under FOISA and EIR and support them in fulfilling those responsibilities;
  - publish a wide range of information through its Publication Scheme;
  - monitor compliance with FOISA and EIR with a view to continuous improvement;
  - respect data protection in accordance with the GDPR and Data Protection Act 2018 when complying with FOISA and EIR;
  - only withhold information where entitled to do so under FOISA and EIR and explain why information is withheld;

- provide advice and assistance to individuals seeking to access information and
- submit accurate and timely information on FOI request handling to the Scottish Information Commissioner.

### **3 Responsibilities**

#### Policy Lead

- 3.1 The Director of Finance and Governance (“DFG”) has lead management responsibility for FOISA and EIR within the Group. This will include ensuring effective implementation and regular review of this Policy; and monitoring and reporting performance against relevant compliance measures.

#### Executive Management Team (“EMT”)

- 3.2 EMT members are responsible for ensuring the requirements of this Policy are adhered to within their respective Directorate. This will include:

- ensuring staff are aware of this Policy, and the associated processes and procedures;
- ensuring any information produced within their Directorate that falls within the publication scheme is marked as such and provided for inclusion in the Guide to Information; and
- ensuring any requests for assistance in locating and retrieving information held by their Directorate, or teams therein, are complied with in line with required timescales.

- 3.3 EMT members may also be asked to undertake management checks of responses to requests; and to undertake decision reviews where appeals are received.

#### Governance Team (“GT”)

- 3.4 The GT, comprising the Governance Manager (“GM”) and Governance Officers (“GO”), is responsible for fulfilling the operational requirements of this Policy on a day to day basis. This will include:

- receiving requests for information from external sources, or which have been forwarded internally, via the FOI mailbox;
- providing advice to staff throughout the Group to ensure the correct identification and appropriate handling of requests for information under FOISA and EIR;
- logging requests for information and co-ordinating all aspects of the request handling process, including collating information and drafting and issuing responses to requesters, in consultation with relevant teams and departments;
- co-ordinating the appeals and decision review process;
- maintaining relevant registers and compiling and submitting all required performance reports; and
- maintaining the Guides to Information for organisations within the Group and ensuring information is made available in accordance with the Publication Scheme.

## All employees

3.5 All employees are responsible for:

- familiarising themselves with this policy and the associated processes and procedures;
- undertaking training as required on FOISA and EIR, and the associated policies, processes and procedures;
- identifying information requests as such and handling any requests received in accordance with the Group FOI Process and associated procedures; and
- seeking guidance on the identification of requests, this policy and the associated processes and procedures, or any of the duties placed on the Group by FOISA or EIR, from the GT as and when required.

3.6 Any employee may be asked to assist in locating and retrieving information required as part of a response to a request.

3.7 Employees should be aware that where an information request is received and an employee deletes or alters information held by the Group, with the intention of preventing disclosure of that information, a criminal offence is committed. Where employees are unsure if deletion or alteration of information may result in an offence they should seek guidance from the GT in the first instance.

3.8 Compliance with this policy is compulsory for all Group employees. Any employee who fails to comply with this policy may be subject to disciplinary action.

## **4 Scope of the Policy**

4.1 This policy applies to any information held by the Group which relates to one or more of the functions set out below, regardless of format. This will include information created internally and information received from third parties. It will also relate to information which is held on behalf of the Group.

4.2 This policy applies to all Group employees.

### Background

4.3 The Group is subject to both FOISA and EIR by virtue of the: Freedom of Information (Scotland) Act 2002 (Designation of Persons as Scottish Public Authorities) Order 2019 (the "Order"). The Order came into effect on 11 November 2019 and brought all Registered Social Landlords ("RSLs") and certain RSL subsidiaries under the scope of FOISA and the EIR.

4.4 In accordance with the terms of the Order, not everything that the Group does is subject to FOISA and EIR. Instead, the Group is only subject to these regimes in respect of certain functions, namely 'housing services' (as defined in s.165 of the Housing (Scotland) Act 2010) which the Group carries out, subject to some restrictions. Accordingly, the following functions carried out by the Group are covered by FOISA and EIR:

- the prevention and alleviation of homelessness;

- the management of social housing accommodation; and
- the supply of information to the Scottish Housing Regulator (SHR) in relation to its financial wellbeing and standards of governance.

## **5. Legal Duties**

- 5.1 The Group recognises the specific legal duties it must comply with under FOISA and EIR. EIR provides a right of access to ‘Environmental Information’ held by the Group. Environmental Information has a very wide definition which is set out in Regulations. Where a request under FOISA is received for Environmental Information it will be processed in accordance with EIR.

### Responding to Information Requests

- 5.2 People have the right to request information from the Group. Where the information requested is within the scope of the Order and the Group holds that information it must release the information unless an exemption (under FOISA) or an exception (under EIR) applies. The Group shall, when responding to requests for information from individuals, follow the Section 60 Code of Practice and any relevant guidance produced by SIC.
- 5.3 The Group will aim to respond to all information requests promptly, and in any event within 20 working days of receiving the request. It acknowledges that in some circumstances under EIR it is entitled to extend the timescale for responding by an additional 20 working days.
- 5.4 Where the Group is providing an individual with the information they have requested they will, in so far as is reasonable to do so, provide information in the format that the individual has requested and will adhere to its duties under the Equality Act 2010. Where the Group is refusing to provide information to individuals it will clearly explain to said individual what provision in FOISA or EIR allows the Group to withhold that information and why it believes that provision applies (including, where required, an explanation of how it has carried out the Public Interest Test).
- 5.5 Where the Group is asked to provide information which it does not hold, but which it is aware is held by another Scottish Public Authority, it shall provide contact details of said Authority to the individual requesting the information and explain that the individual may wish to request the information from that Scottish Public Authority. Where a request is being handled under EIR and these circumstances apply the Group shall offer to transfer the individual’s request to the other Scottish Public Authority.
- 5.6 The Group may choose to charge for fulfilling information requests received from individuals. Any charges shall be made in accordance with the Group Charging for Information Policy. In doing so the Group will ensure any fee charged is reasonable and does not exceed the costs it incurs in providing the requested information.

### Responding to Requests for Review

- 5.7 Individuals have the right to request that the Group reviews the response to their request for information where:
- the Group 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
  - they are unhappy with the response to the request (for example, where information has been withheld under one of the exemptions or exceptions available under FOISA/EIR);
- 5.8 The purpose of the review will be to determine whether or not the provisions of FOISA or EIR have been followed.
- 5.9 Where the Group performs a review and determines that a response to a request is not in accordance with FOISA or EIR it will take immediate steps to rectify this. This could include releasing information which was previously withheld.
- 5.10 Where the Group performs a review and determines that a response to a request is in accordance with FOISA or EIR then it will notify the individual who asked for a review as quickly as possible.
- 5.11 In any event the Group will handle all requests for review in accordance with the timescales set out in FOISA and EIR.
- 5.12 Where an individual is unhappy with the response to their review request they may appeal to SIC. If an appeal is made by SIC and a decision handed down by them both the Group and the individual in question have a right to appeal to the courts on a point of law.

### Provision of Advice and Assistance to Individuals

- 5.13 The Group recognises it must provide individuals seeking to access information with advice and assistance. This advice and assistance will be provided with a view to ensuring that all barriers which may potentially prevent an individual from accessing information are removed. The Group will comply with this duty by following the guidance contained in the Section 60 Code of Practice issued by Scottish Ministers.

### Publication of Information

- 5.14 The Group shall publish information in accordance with its Publication Scheme through its Guides to Information. Each organisation within the Group shall prepare its own Guide to Information and publish this through its respective website. Paper copies will also be made available on request.

## **6. Data Protection**

- 6.1 The Group is committed to upholding its data protection obligations set out in the GDPR and the Data Protection Act 2018. Under data protection laws, individuals have the right to request access to all of the information that the Group holds about them. This and other rights that individuals have under data protection are covered by the Group Data Protection Policy and relevant Privacy Notices.

## **7. Policy Review**

- 7.1 This policy shall be subject to review every three years, or sooner if required by legislative or other change.