



## Freedom of Information and Environmental Information Regulations Policy

<b>Linthouse Housing Association</b>	
<b>Policy Implementation Checklist:</b>	
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Policy Author:	Corporate Services Officer
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## Section 1: Introduction

### 1.1 Freedom of Information and Environmental Information Regulations Policy

- 1.1.1 Linthouse Housing Association is committed to supporting a strong culture of openness and transparency. This includes providing public access to information under the Freedom of Information (Scotland) Act 2002 ('FOISA') and the Environmental Information (Scotland) Regulations 2004 ('EIRs').
- 1.1.2 The FOISA and EIR legislation places a general obligation on Scottish Public Authorities to allow the public access to information they hold. Both FOISA and EIR are overseen by the Scottish Information Commissioner ("SIC").
- 1.1.4 Linthouse Housing Association was designated a Scottish Public Authority from 11 November 2019. This means we now need to make certain information available on request.
- 1.1.2 As part of our commitment and requirements under FOISA, we will make information available under our "publication scheme" duties, so that where possible, it can be accessed without request.
- 1.1.5 The aim of our Freedom of Information and Environmental Information Regulations Policy is to:
- provide a general understanding of FOISA and EIR; and
  - outline where responsibility lies for complying with the legal duties of under FOISA and EIR

### 1.2 Scope of the Policy

This policy applies to any information we hold which relates to one or more of the functions set out in section 1.3.2, 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 Linthouse Housing Association.

This policy applies to all Linthouse Housing Association employees.

## 1.3 Background

### 1.3.1 Why is Linthouse Housing Association subject to FOISA and EIR?

We are 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.

### 1.3.2 What types of information is subject to FOISA and EIR?

In accordance with the terms of the Order, not everything that we do is subject to FOISA and EIR. We are subject to these regimes in respect of certain functions, namely the ‘housing services’ (as defined in s.165 of the Housing (Scotland) Act 2010) we carry out – subject to some restrictions.

Looking at the definition of ‘housing services’ and the restrictions which are set out in the Order, the following functions we carry out are covered by FOISA and EIR:

- the prevention and alleviation of homelessness
- the management of social housing accommodation
- the provision and management of sites for gypsies and travelers; and
- the supply of information to the Scottish Housing Regulator (SHR) by an RSL or a connected body (i.e. a subsidiary) in relation to its financial wellbeing and standards of governance.

### 1.3.3 What is the difference between FOISA and EIR?

EIR provides a right of access to ‘Environmental Information’ we hold. Environmental Information has a very wide definition which is set out in Regulations. This includes:

- the state of elements of the environment and their interaction (air, water, soil, land and landscape, natural sites, flora and fauna)
- discharges, emissions, noise, radiation, waste measures and activities affecting the environment (e.g. policies, legislation, plans, activities)
- reports on implementation of environmental legislation
- cost benefit and economic analysis
- effects of the environment on conditions of human life (including flood, buildings)

Where a request under FOISA is received for Environmental Information it should be processed in accordance with EIR.

The Regulations are governed by the Scottish Information Commissioner, who is also responsible for the FOISA. Whilst the obligations under FOISA and EIR are similar – there are some key differences that employees must be aware of when dealing with requests for information. Further guidance on the differences are available on SIC's website.

## 1.4 Equality and Diversity

- 1.4.1 Equality and diversity reflect the core values of Linthouse Housing Association. We strive to ensure these values are embedded throughout all of the services we provide in addition to our policies, procedures and decision-making. We are committed to promoting an inclusive and diverse culture that treats every individual with dignity, respect and fairness. We will actively challenge discrimination and empower people to succeed.
- 1.4.2 In order to ensure there are no barriers to making an application with Linthouse Housing Association, we will ensure that we allocate houses in a manner that is consistent with our Equality and Diversity Policy. We will not discriminate against anyone because of their age, sex, marital status, sexuality, disability, race, nationality, language or social origin, or other personal features including beliefs or opinions such as religious beliefs or political opinions.
- 1.4.3 All reasonable steps will be taken to ensure that help and support is provided to anyone who wishes to make an FOI or EIR request, including information

pack can be made available in different formats and languages on request and we will arrange an interpreter if this is required.

Refer to our Equality and Diversity Policy for further details.

## 1.5 Our Mission

The Freedom of Information and Environmental Information Policy forms part of our mission to:

“deliver high quality and cost-effective housing services designed to meet the needs of existing and future customers. To work in partnership with others to create thriving communities that people want to live and work in”.

## 1.6 Our Vision and Values

1.4.1 Our vision is the creation and sustainment of lasting, unique, vibrant homes in stable, popular and ambitious urban communities. Our vision is underpinned by four core values which we apply to all areas of our business. These are to be:

- i. Customer Driven
- ii. Honest
- iii. Accountable
- iv. Transparent

## 1.7 Our Organisational Culture and Customer Service Standards

1.7.1 Our **C.H.A.T** values as outlined form the foundation of our **Listen, Hear, Act (L.H.A)** customer excellence and organisational culture programme. All staff receive training at induction on customer service standards and the organisational culture we promote. This includes reference to our Equality and Diversity Policy and a requirement to treat all of our customers, including people applying for a home, with dignity and respect.

1.7.2 The organisational culture we promote is based on finding solutions to suit customer needs regardless of individual differences. In order to do this we will:

1. **Listen** - We are committed to listening to those we do business with, be that our customers, staff, stakeholders, regulators or funders, to ensure that our responses are reflective of what people are saying to us.
2. **Hear** - Once we listen and understand the need/demand/offer that is presented, we will ensure that we fully understand what is being said.
3. **Act** - Whilst we will think about what we do, we want to be known for acting swiftly to deliver solutions and for always keeping our promises.

1.7.3 Our Customer Service Standards aim is to ensure all of our service users receive an excellent standard of service. The Standards help define what our customers can expect when contacting or engaging with the staff in our office. It is available on our website, direct from the office, or in other formats as required.

The next section of the Policy outlines the aim, objectives and principals used in applying the policy.

## 2. Policy Statement and Staff Responsibilities

### 2.1 Policy Statement

2.1.1 Linthouse Housing Association is committed to the underlying principles of openness and transparency underpinning FOISA and EIR and complying fully with the requirements of the legislation. To this end we 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 our 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; and
- provide advice and assistance to individuals seeking to access information

## 2.2 Responsibilities

2.2.1 The Head of Business Support has lead management responsibility for FOISA and EIR within Linthouse Housing Association. This will include effective implementation and regular review of this Policy.

- The Business Support Team have responsibility of the upkeep and maintenance of the Guide to Information and notifying staff of any changes to the Guide
- The Business Support Team are responsible for providing quarterly stats to the Scottish Information Commissioner (SIC) and responding to any enquiries from the SIC
- The Business Support Team are responsible for overseeing that requests under FOISA and EIR are made and responded to within timescales
- The Senior Manager for each department is responsible for ensuring the collection and collating of appropriate information for sending out to requesters is carried out timeously



- All employees are responsible for:
  - familiarising themselves with this policy;
  - ensuring any requests received verbally or by email, telephone, social media etc, are recorded on the Request for Information spreadsheet and the appropriate Senior Manager and Head of Business Support is notified of the request
  - forwarding information requests as quickly as possible. Any employee who is unsure of how to recognise an information request should seek guidance from the Head of Business Support or Business Support Manager
  - seeking guidance from the Head of Business Support or Business Support Manager if they are unsure about any of the duties placed on Linthouse Housing Association by FOISA or EIR;
- Employees should be aware that where an information request is received and an employee deletes or alters information we hold 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 Head of Business Support or Business Support Manager
- Compliance with this policy is compulsory for all employees of Linthouse Housing Association. Any employee who fail to comply with this policy may be subject to disciplinary action.

### 3. Legal Duties

We have a number of legal duties to comply with under FOISA and EIR. These are set out in more detail below:

#### 3.1 Responding to Information Requests

3.1.1 People have the right to make a request for information from us. Where we hold the information and it is within the scope of the Order, we must release

the information unless an exemption (under FOISA) or an exception (under EIR) applies. When responding to requests for information from individuals, we will follow Section 60 Code of Practice and any relevant guidance produced by SIC.

- 3.1.2 Our aim is to respond to information requests promptly, and in any event within 20 working days of receiving the request (except in some circumstances under EIR where we are entitled to extend the timescale for responding by an additional 20 working days).
- 3.1.3 Where we are providing an individual with the information they have requested we will, in so far as is reasonable to do so, provide information in the format that the individual has requested and will adhere to any duties under the Equality Act 2010 and our Equalities and Diversity Policy.
- 3.1.4 In circumstances where we are refusing to provide information to individuals, we will clearly explain to said individual what provision in FOISA or EIR allows us to withhold that information and why we believe that provision applies (including, where required, an explanation of how we have carried out the Public Interest Test).
- 3.1.5 Exemptions to providing information do apply and this means that a request for information does not have to be complied with – either in its entirety or in part. Some exemptions are absolute and others are subject to a Public Interest Test as outlined. Additionally, requests that are “vexatious” or “repeat requests” do not have to be complied with. Any refusals based on exemptions will be clearly explained to the applicant (see appendix 2).
- 3.1.5 Where we are asked to provide information which we do not hold, but we know that another Scottish Public Authority does hold the requested information, we shall provide the 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, we will offer to transfer the individual’s request to the other Scottish Public Authority.

3.1.6 We may choose to charge for fulfilling information requests received from individuals. Any charges will be made in accordance with:

- for requests being handled under FOISA: the Freedom of Information (Fees for Required Disclosure) (Scotland) Regulations 2004
- or requests being handled under EIR: the Schedule of Charges [[https://www.lighthouseha.com/information/LHA GTI 2019 11.pdf](https://www.lighthouseha.com/information/LHA_GTI_2019_11.pdf)] of **Lighthouse Housing Association**

3.1.7 Any fee we charge will be reasonable and will not exceed the costs we incur to provide the requested information. See appendix 1: Charging Schedule.

## 3.2 Responding to Requests for Review

3.2.1 Where someone has requested information the following applies:

- we 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 (for example where information has been withheld under one of the exemptions or exceptions available under FOISA/EIR)

the individual has the right to request a review of the response to their request to determine whether or not the provisions of FOISA or EIR have been followed.

3.2.2 Where we perform a review and determines that a response to a request is not in accordance with FOISA or EIR, we will take immediate steps to rectify this (which could, for example, include releasing information which was previously withheld).

3.2.3 Where we perform a review and determine that a response to a request is in accordance with FOISA or EIR, we will notify the individual who asked for a review as quickly as possible.

- 3.2.4 In any event, we will handle all requests for review in accordance with the timescales set out in FOISA and EIR.
- 3.2.5 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 us and the individual in question have a right to appeal to the courts on a point of law.

### 3.3 Provision of Advice and Assistance to Individuals

We 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. We will comply with this duty by following the guidance contained in the Section 60 Code of Practice issued by Scottish Ministers.

### 3.4 Publication of Information

We will publish information in accordance with our Publication Scheme through our Guide to Information. Our Guide to Information is available on our website at:

[https://www.lighthouseha.com/information/LHA\\_GTI\\_2019\\_11.](https://www.lighthouseha.com/information/LHA_GTI_2019_11.)

It is also available in paper format on request.

## 4. Data Protection

We are committed to upholding our 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 we hold about them. This and other rights that individuals

have under data protection are not covered by this policy and you should refer to our Privacy Policy when dealing with these rights.

Our Privacy Policy can be found at:

[https://www.linthouseha.com/documents/privacy\\_policy.pdf](https://www.linthouseha.com/documents/privacy_policy.pdf)

## 5. Complaints, Monitoring and Review

### 5.1 Complaints

5.1.1 Anyone who is unhappy with the way their request for information was handled have the right to complain under our complaints procedure and/or request an internal review.

5.1.2 The internal review will be carried out by the Head of Business Support or another senior manager not involved with the original decision.

5.1.3 A request for an internal review may be about:

- a refusal to give the information requested
- how an exemption has been applied
- failing to respond to a request within timescales
- how staff handled the request
- a complaint about our Guide to Information
- failing to provide advice and assistance on how to make a request
- disagreement on the charging schedule or unreasonable fee

5.1.4 Any request for an internal review should be directed to the Head of Business Support in the first instance via the central email (email: [enquiries@linthouseha.com](mailto:enquiries@linthouseha.com)) within 40 working days of the receiving the final response to the request. A response to the internal review will usually be sent within 20 working days, unless an extension is required for complex cases. If the person still remains unhappy with the outcome of the internal review, information and assistance will be provided on how to escalate the complaint to the Scottish Information Commissioner for further investigation.

## 5.2 Monitoring

- 5.2.1 We will regularly monitor FOI and EIR Policy in practice against delivering our policy objectives. This includes monitoring how many, and the types of requests we receive, the number of FOI and EIR requests received, the proportion answered within statutory timescales, the number of requests refused and the reason for any refusal (see Section 60 Code; part 2, section 2), in addition to the maintenance and update of the published Guide to Information.
- 5.2.2 We will report the information we collect in relation to FOI and EIR requests quarterly to the Scottish Information Commissioner in line with our legal responsibilities.
- 5.2.3 In addition, regular reports will be submitted to our Management Committee on performance related to FOI and EIR requests. This will include any requests for review or appeals up to and including legal action.

## 5.3 Review of Policy

This Policy will be reviewed every 3 years or sooner to reflect any amendments that are required in relation to legislative or staff responsibility changes. All staff and relevant third parties will be informed. Continuously subjecting our Policy to review will ensure that its effectiveness is maintained, and that it meets legal and good practice requirements.

## Appendix 1: Charging Schedule

Our charges for providing any information detailed in this guide are summarised below:

### Guide to Information

If you would like a printed copy of any of the information listed in our Guide to Information, we may have to charge a fee to provide this. The fee will not exceed the cost of photocopying and postage and we will advise you of any cost before we forward the information to you.

The following table outlines the charges we may apply in relation to the Guide to Information:

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
Memory stick	£5-15 depending on size of information
Posted document/CD Rom	Cost of postage incurred

### Freedom of Information (FOI)

For requests made under Freedom of Information, we will only charge for things that relate to locating, retrieving and providing you with the requested information. This includes:

- Estimated number of records to be located, retrieved and provided
- The charge per hour for staff hours involved in searching files/computer systems and redacting documents
- Reproduction costs for copying information as outlined in the above table

When calculating charges we will consider things such as how many staff members are required to deal with the request; how long it will take them to carry out the required tasks to retrieve the information; and what their hourly rate is capped at £15.00 per hour.

We will not impose a charge for information that costs less than £100.00 and will only charge 10% of the cost where it amounts to between £100.00 - £600.00.

If you require more information on fees, please refer to the Fees Regulations and the Scottish Information Commissioner's guidance, available at [http://www.itspublicknowledge.info/Law/FOISA-EIRsGuidance/Fees\\_and\\_charging/ChargingFOISA.aspx](http://www.itspublicknowledge.info/Law/FOISA-EIRsGuidance/Fees_and_charging/ChargingFOISA.aspx)

### Environmental Information (Scotland) Regulations

There are no upper or lower fee limits when you request information under the Environmental Information (Scotland) Regulations 2004. We will ensure however that our fees do not exceed a reasonable amount and will not exceed the costs of producing the information requested.

Requests for information made under the Environmental Information (Scotland) Regulations 2004 ('EIRs') cover information in relation to the following:

- Air, water, soil, land, flora and fauna (including how these effect human beings)
- Information on emissions and discharges (e.g. noise, energy, radiation, waste materials)
- Human health and safety
- Cultural sites and built structures (as they may be affected by the environmental factors listed above)
- Plans and administrative measures that affect these matters

We do not charge for the time to determine whether we hold the environmental information requested or deciding whether the information can be released but there may be charges made for locating, retrieving and providing information to you e.g. photocopying and postage relative to those outlined in the above table and for FOI requests. We will advise you of the charge we intend to impose and how that has been calculated. The information requested will be provided on payment of the request and there will be no charge if you decide not to proceed.

### **Personal data**

We will not charge you when requesting your own personal data under the General Data Protection Regulation (GDPR) Subject Access Request.

However, we can charge a 'reasonable fee' when a request is manifestly unfounded or excessive, particularly if it is repetitive. We may also charge a reasonable fee to comply with requests for further copies of the same information. This does not mean that we can charge for all subsequent access requests. The fee must be based on the administrative cost of providing the information.

Further information on GDPR can be found on the Information Commissioner's Office website at <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/>



## Appendix 2: Exemptions

Linthouse Housing Association is committed to supporting a strong culture of openness and transparency, including the provision of information under FOISA and EIR.

We aim to disclose as much information as possible and will only apply exemptions in limited circumstances and in line with the legislation.

As outlined in the Policy, there are two kinds of exemptions:

- Absolute exemptions – there is a legislative exemption to the right to receive the information
- Non-absolute exemptions – where an exemption may be applied under the Public Interest Test; or the decision has been taken on whether the request serves the interests of the public and it is better to disclose the information than to withhold it.

If the decision is taken to refuse a request, the applicant will be issued with a refusal notice, setting out the section of the reasons for the refusal and the review procedure should they wish to appeal the review and escalate the request to the Information Commissioner.

### **Vexatious requests**

If we receive a request for information and consider it likely to cause a disproportionate or unjustifiable level of distress, disruption or irritation, we will treat this as vexatious request.

### **Repeated requests**

We can also refuse repeated requests if they within a reasonable timescale from the previous request, whether or not they are also vexatious.

### **Cost Limit is Exceeded**

We reserve the right to refuse requests where the cost of providing the information would exceed the statutory cost limit of £600.

See appendix 1 for our Charging Schedule and If you require more information on fees, please refer to the Fees Regulations and the Scottish Information Commissioner's guidance, available at [http://www.itspublicknowledge.info/Law/FOISA-EIRsGuidance/Fees\\_and\\_charging/ChargingFOISA.aspx](http://www.itspublicknowledge.info/Law/FOISA-EIRsGuidance/Fees_and_charging/ChargingFOISA.aspx)

### **Other Exemptions**

Other exemptions that Linthouse Housing Association Ltd might apply include:

- Information otherwise accessible
- Prohibitions on disclosure
- Information intended for future publication

- Relations within the United Kingdom
- Formulation of Scottish Administration policy etc.
- Prejudice to effective conduct of public affairs
- National security and defence
- International relations
- Commercial interests and the economy
- Investigations by Scottish public authorities and proceedings arising out of such investigations
- Law enforcement
- Confidentiality
- Court records, etc.
- Personal information (as defined in GDPR and DPA 2018)
- Health, safety and the environment
- Audit functions
- Communications with Her Majesty etc. and honours

## Appendix 3: Equalities Impact Statement

<b>TITLE OF POLICY:</b>	<b>Freedom of Information and Environmental Information Regulations Policy</b>
Strategic Outcome:	Support a strong culture of openness and transparency
What is the purpose of the proposed Policy?	To provide a general understanding of FOISA and EIR; and outline where responsibility lies for complying with the legal duties of under FOISA and EIR
Protected Characteristic Groups affected by the Policy	None
Who is the target audience of this policy or who is intended to benefit from the proposed policy and how? (ie. employees, service users, management committee etc.)	Employees, management committee, service users, and members of the general public
List any existing documents, evidence, research which have been used to inform the EqIA (this must include relevant data used in this assessment)	SFHA, GWSF and TCyoung best practice guidance, including 'Open all Hours' and Template Documentation
Has any consultation involvement been undertaken with the Protected Characteristic Groups to inform this assessment? (please provide details of who and how consulted)	No
What is the actual likely impact?	
How have you, or will you, put the Policy into practice, and who is or will be responsible for delivering it?	Information Law Solutions training provided to all staff and further training provided by the Head Of Business Support
How does the Policy fit into our wider or related policy initiatives?	To be complaint with RSL legislative and regulatory requirements
Do you have a set budget for this work?	No