



Freedom of Information and Environmental Information Regulations Policy

Policy Implementation Checklist	
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Policy and Other Linkages:	Equality and Diversity Policy Customer Services Standards

Freedom of Information and Environmental Information Policy

Introduction

The Freedom of Information (Scotland) Act 2002 (“FOISA”) and the Environmental Information (Scotland) Regulations 2004 (“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”).

From 11 November 2019 Linthouse Housing Association was designated as Scottish Public Authority and will need to make information available in accordance with FOISA and EIR.

This is the Freedom of Information and Environmental Information Policy of Linthouse Housing Association. The policy will:

- provide a general understanding of FOISA and EIR; and
- outline where responsibility lies for complying with the legal duties of Linthouse Housing Association under FOISA and EIR

Policy Statement

Linthouse Housing Association is committed to the underlying principles of openness and transparency underpinning FOISA and EIR and complying fully with the requirements of said legislation. To this end Linthouse Housing Association 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

Responsibilities

- The Data Protection Officer, DPO, has lead management responsibility for FOISA and EIR within Linthouse Housing Association. This will include effective implementation and regular review of this Policy. The DPO will also provide

approval on the release of any response to be issued to the party making the request.

- The DPO will be supported by the Corporate Services Officer in
 - coordinating who information requests should be forwarded to
 - Acknowledging and responding to requests under FOISA and EIR.
 - making information available in accordance with our publication scheme
 - dealing with requests for review
 - submitting quarterly statistics to the ICO
- Senior Managers will be responsible for collating information for requests relating to their departments.
- All employees are responsible for:
 - familiarising themselves with this policy;
 - forwarding information requests received to foi@linthouseha.com for Freedom of Information requests and eir@linthouseha.com for Environmental Impact Requests as quickly as possible. If you are unsure how to recognise an information request, you should seek guidance from either the DPO or the Corporate Services Officer;
 - seeking guidance from the DPO 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 held by Linthouse Housing Association 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 DPO.
- Compliance with this policy is compulsory for all employees of Linthouse Housing Association. Any employee who fails to comply with this policy may be subject to disciplinary action.

Scope of the Policy

This policy applies to any information held by Linthouse Housing Association 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 Linthouse Housing Association.

This policy applies to all Linthouse Housing Association employees.

Background

Why is Linthouse Housing Association subject to FOISA and EIR?

Linthouse Housing Association 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.

What is subject to FOISA and EIR?

However, in accordance with the terms of the Order, not everything that Linthouse Housing Association does is subject to FOISA and EIR. Instead, Linthouse Housing Association 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 Linthouse Housing Association carries 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 carried out by Linthouse Housing Association 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 all travelling people; 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.

What is the difference between FOISA and EIR?

EIR provides a right of access to ‘Environmental Information’ held by Linthouse Housing Association. Environmental Information has a very wide definition which is set out in Regulations. Where a request under FOISA is received for Environmental Information, it should be processed in accordance with EIR.

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 is available on SIC’s website.

Legal Duties

Linthouse Housing Association has a number of legal duties which it must comply with under FOISA and EIR. These are set out in more detail below:

Responding to Information Requests

People have the right to request information from Linthouse Housing Association. Where the information requested is within the scope of the Order and Linthouse Housing Association holds that information it must release the information unless an exemption (under FOISA) or an exception (under EIR) applies. Linthouse Housing Association shall, when responding to requests for information from individuals, follow the Section 60 Code of Practice and any relevant guidance produced by SIC.

Linthouse Housing Association will aim 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 Linthouse Housing Association is entitled to extend the timescale for responding by an additional 20 working days).

Where Linthouse Housing Association 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 any duties under the Equality Act 2010. Where Linthouse Housing Association is refusing to provide information to individuals it will clearly explain to said individual what provision in FOISA or EIR allows Linthouse Housing Association to withhold that information and why Linthouse Housing Association believes that provision applies (including, where required, an explanation of how Linthouse Housing Association has carried out the Public Interest Test).

Where Linthouse Housing Association is asked to provide information which it does not hold, but Linthouse Housing Association knows that another Scottish Public Authority does hold the requested information, Linthouse Housing Association 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 Linthouse Housing Association shall offer to transfer the individual's request to the other Scottish Public Authority.

Linthouse Housing Association may choose to charge for fulfilling information requests received from individuals. Any charges made by Linthouse Housing Association shall be made in accordance with:

- for requests being handled under FOISA: the Freedom of Information (Fees for Required Disclosure) (Scotland) Regulations 2004
- for requests being handled under EIR: the Schedule of Charges at Appendix 1 of Linthouse Housing Association

Any fee charged by Linthouse Housing Association will be reasonable and will not exceed the costs to Linthouse Housing Association of providing requested information.

Responding to Requests for Review

Where someone has requested information from Linthouse Housing Association and:

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

then they have the right to request that Linthouse Housing Association reviews the response to their request to determine whether or not the provisions of FOISA or EIR have been followed.

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

Where Linthouse Housing Association performs a review and determines that a response to a request is in accordance with FOISA or EIR then Linthouse Housing Association will notify the individual who asked for a review as quickly as possible.

In any event Linthouse Housing Association will handle all requests for review in accordance with the timescales set out in FOISA and EIR.

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 Linthouse Housing Association 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

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

Publication of Information

Linthouse Housing Association shall publish information in accordance with its Publication Scheme through its Guide to Information. The Guide to Information of Linthouse Housing Association will be available on its website and a paper format will also be available on request.

https://www.lighthouseha.com/assets/000/000/613/LINTHOUSE_HOUSING_ASSOCIATION_GUIDE_TO_INFORMATION_2022_original.docx?1687177424

Data Protection

Lighthouse Housing Association 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 Lighthouse Housing Association holds about them. This and other rights that individuals have under data protection are not covered by this policy and you should refer to GC11 Privacy Policy when dealing with these rights.

https://www.lighthouseha.com/assets/000/000/545/PRIVACY_POLICY_-_VERS_3_original.pdf?1674127575

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

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 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 are 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%20and%20charging/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 His Majesty etc. and honours

Appendix 3: Equalities Impact Statement

TITLE OF POLICY:	Freedom of Information and Environmental Information Regulations Policy
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 TC Young 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 compliant with RSL legislative and regulatory requirements
Do you have a set budget for this work?	No

