

RUTHERGLEN AND CAMBUSLANG HOUSING ASSOCIATION

POLICY: Freedom of Information

Policy History;	
First Publication	November 2019
First Review	October 2022



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 Rutherglen and Cambuslang Housing Association will be 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 Rutherglen and Cambuslang 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 Rutherglen and Cambuslang Housing Association under FOISA and EIR

Policy Statement

Rutherglen and Cambuslang 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 Rutherglen and Cambuslang 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 the 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 Director has lead management responsibility for FOISA and EIR within Rutherglen and Cambuslang Housing Association. This will include effective implementation and regular review of this Policy in conjunction with the management committee.
- In addition members of the Senior Staff Team will be responsible for collating information or delegating this within their own team for information requests relevant to their own

function e.g. maintenance contracts, tenant information. The Director will, however, have overall responsibility to ensure that this is done in line with our policy and timescales

- The initial response to a FOI request will be issued by the Director with reference to any member of staff to whom further queries should be made where appropriate.
- The Director will be responsible for making sure that our publication scheme is kept up to date although the senior staff team will have an obligation to inform the Director of changes to their policies/procedures.
- Requests for review will be considered by the Director and referred to the management committee if necessary.
- All employees are responsible for:
 - familiarising themselves with this policy;
 - forwarding information requests received to the Director as quickly as possible. If you are unsure how to recognise an information request you should seek guidance from the Director;
 - seeking guidance from the Director if they are unsure about any of the duties placed on Rutherglen and Cambuslang 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 Rutherglen and Cambuslang 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 Director
- Compliance with this policy is compulsory for all employees of Rutherglen and Cambuslang 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 Rutherglen and Cambuslang Housing Association which relates to one or more of the functions set out above, 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 Rutherglen and Cambuslang Housing Association.

This policy applies to all Rutherglen and Cambuslang Housing Association employees.

Background

Why is Rutherglen and Cambuslang Housing Association subject to FOISA and EIR?

Rutherglen and Cambuslang 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 Rutherglen and Cambuslang Housing Association does is subject to FOISA and EIR. Instead, Rutherglen and Cambuslang 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 Rutherglen and Cambuslang 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 Rutherglen and Cambuslang 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 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.

What is the difference between FOISA and EIR?

EIR provides a right of access to 'Environmental Information' held by Rutherglen and Cambuslang 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 obligation 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.

Legal Duties

Rutherglen and Cambuslang 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 Rutherglen and Cambuslang Housing Association. Where the information requested is within the scope of the Order and Rutherglen and Cambuslang Housing Association holds that information it must release the information unless an exemption (under FOISA) or an exception (under EIR) applies. Rutherglen and Cambuslang 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.

Rutherglen and Cambuslang 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 Rutherglen and Cambuslang Housing Association is entitled to extend the timescale for responding by an additional 20 working days).

Where Rutherglen and Cambuslang 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 Rutherglen and Cambuslang Housing Association is refusing to provide information to

individuals it will clearly explain to said individual what provision in FOISA or EIR allows Rutherglen and Cambuslang Housing Association to withhold that information and why Rutherglen and Cambuslang Housing Association believes that provision applies (including, where required, an explanation of how Rutherglen and Cambuslang Housing Association has carried out the Public Interest Test).

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

Rutherglen and Cambuslang Housing Association may choose to charge for fulfilling information requests received from individuals. Any charges made by Rutherglen and Cambuslang 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 [INSERT LINK TO PUBLISHED SCHEDULE HERE] of Rutherglen and Cambuslang Housing Association

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

Responding to Requests for Review

Where someone has requested information from Rutherglen and Cambuslang Housing Association and:

- Rutherglen and Cambuslang 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 Rutherglen and Cambuslang Housing Association reviews the response to their request to determine whether or not the provisions of FOISA or EIR have been followed.

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

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

In any event Rutherglen and Cambuslang 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 Rutherglen and Cambuslang 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

Rutherglen and Cambuslang 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. Rutherglen and Cambuslang 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

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

Data Protection

Rutherglen and Cambuslang 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 Rutherglen and Cambuslang 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 The Associations Privacy Policy when dealing with these rights.