



“Offering our community more than a home”

Freedom of Information and Environmental Information Regulations Policy

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CHA Objectives:

- To manage the houses provided, in a professional and cost effective manner, for the benefit of our local community and the environment.
- To ensure local decision making and community control, we will encourage our tenants and other customers to influence our policy and participate in decisions, which may affect them.
- To provide a first class maintenance service which offers value for money and ensures the comfort and safety of our residents while achieving high levels of satisfaction
- To ensure that our resources are adequate to deliver our objectives by investing in our people, increasing digitalisation, demonstrating value for money and through robust procurement practices.
- To promote social inclusion by applying principles of equality and diversity to everything we do.

Regulatory Standards:

- The governing body leads and directs the RSL to achieve good outcomes for its tenants and other service users.
- The RSL is open about and accountable for what it does. It understands and takes account of the needs and priorities of its tenants, service users and stakeholders. And its primary focus is the sustainable achievement of these priorities.
- The RSL manages its resources to ensure its financial well-being, while maintaining rents at a level that tenants can afford to pay.
- The governing body bases its decisions on good quality information and advice and identifies and mitigates risks to the organisation's purpose.
- The RSL conducts its affairs with honesty and integrity
- The governing body and senior officers have the skills and knowledge they need to be effective.

Any breach of the Policy and/or non-compliance with legislation constitutes a Notifiable Event and the Regulator will be informed via the SHR Portal.

This policy can be made available on request in a variety of different formats, such as on tape, in large print and translated into other languages.

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1. Introduction

Clydebank Housing Association (hereinafter the “Association”) is committed to ensuring the secure and safe management of data held by the Association in relation to customers, staff and other individuals. The Association’s staff members have a responsibility to ensure compliance with the terms of this policy, and to manage individuals’ data in accordance with the procedures outlined in this policy and documentation referred to herein.

The Freedom of Information (Scotland) Act 2002 (“FOISA”) demonstrates a commitment to greater openness in the public sector. It enables members of the public to find out more about the activities and the decisions of public authorities and to ensure that services are delivered properly and efficiently

From 11 November 2019 the Association was designated as a Scottish Public Authority and now needs to make information available in accordance with FOISA and Environmental Information (Scotland) Regulations 2004 (“EIR”).

FOISA gives the public the right to request any non-personal of information from Clydebank Housing Association, in particular:

- the right to be told whether the information exists; and
- The right to receive that information.

This policy also covers requests for information made under the Environmental Information Regulations 2004.

2. Legislation

It is a legal requirement that the Association process data correctly; the Association must collect, handle and store personal information in accordance with the following relevant legislation:

- (a) the Freedom of Information (Scotland) Act 2002 (Designation of Persons as Scottish Public Authorities) Order 2019
- (b) Scottish Ministers’ Code Of Practice on The Discharge Of Functions By Scottish Public Authorities under The Freedom Of Information (Scotland) Act 2002 and The Environmental Information (Scotland) Regulations 2004
- (c) the General Data Protection Regulation (EU) 2016/679 (“the GDPR”);
- (d) the Privacy and Electronic Communications (EC Directive) Regulations 2003 (as may be amended by the proposed Regulation on Privacy and Electronic Communications); and
- (e) any legislation that, in respect of the United Kingdom, replaces, or enacts into United Kingdom domestic law, the Freedom of Information (Scotland) Act 2002 (Designation of Persons as Scottish Public Authorities) Order 2019, the

General Data Protection Regulation (EU) 2016/679, the proposed Regulation on Privacy and Electronic Communications or any other law relating to the access of public information, data protection, the processing of personal data and privacy as a consequence of the United Kingdom leaving the European Union.

- (f) The Environmental Information Regulations (EIR) 2004

3. Principles

This Policy has been produced to protect the rights of our customers and ensure compliance to FOISA and EIR. This should be followed in order to help carry out the Data Protection/Management of Information, and Information Security Policies. The Policy,

- Applies to all staff members of the Association and refers to information held by the Association.
- Aims to establish basic guidelines to provide relevant and up to date accessible information as per FOISA.
- Details the responsibilities and obligations users have when processing and replying to requests for information as per FOISA.
- Aims to preserve integrity, transparency and accessibility of all information held by the Association.

Policy Statement

Clydebank 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 the Association will:

- follow the relevant Scottish Ministers Codes of Practice relating to FOISA and EIR, as well as any relevant guidance issued by Scottish Information Commissioner (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 Data Protection and Compliance Officer has lead responsibility for FOISA and EIR within the Association. This will include effective implementation and regular review of the Policy to ensure all users are aware of this and will advise on implementation issues.
- The Data Protection and Compliance Officer should be passed all FOI requests or enquiries in the first instance, and will be responsible to ensure the relevant information is collated and returned to the requester within 20 working days, and liaising with Chief Executive over any potential request refusals. The Data Protection and Compliance Officer will also carry out Monthly checks of info available in accordance with SFHA Open All Hours publication scheme, including Committee papers and recently approved policies.
- Head of Housing Services as named contact is responsible for all direct communication with Scottish Information Commissioner (SIC) and Information Commissioners Office (ICO).
- Department Managers are responsible for ensuring all users are aware of the application of this Policy within their job roles.
- The Data Protection and Compliance Officer or any staff members attending Management Committee or Sub-Committee meetings as minute taker are responsible for the uploading of all reports and minutes discussed at that meeting.
- All employees are responsible for:
 - familiarising themselves with this policy and associated FOI procedure;
 - Forwarding information requests received to Data Protection and Compliance Officer or Senior Management as quickly as possible. Staff should seek guidance Data Protection and Compliance Officer if they are unsure of any information request.
 - Being aware that where an information request is received and an employee deletes or alters information held by Clydebank 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 Data Protection and Compliance Officer.

- the security and management of all information held by the Association, including receiving requests under FOISA in line with this Policy and must raise any related issues with their line manager or Data Protection and Compliance Officer
- Compliance with this policy is compulsory for all employees of the Association. Any employee who fails to comply with this policy may be subject to disciplinary action.

In the Absence of Data Protection and Compliance Officer, all related responsibilities will be covered by the Head of Housing Services (in the first instance) and the Chief Executive, who are all named custodians responsible for the information security of each IT asset as per Data Protection Policy.

CHA will ensure that all new employees, governing body members, agency workers, contractors, and consultants will receive an induction on this policy. The policy will be integrated into all policies and procedures within CHA.

4. Freedom of Information (FOI) and Environmental Information

This is the Freedom of Information (FOI) and Environmental Information Policy of Clydebank 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 the Association under FOISA and EIR.

EIR provides a right of access to 'Environmental Information' held by the 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 are available on ICO's website

<https://ico.org.uk/for-organisations/guidance-index/freedom-of-information-and-environmental-information-regulations/>

FOISA and EIR gives everyone the right to ask to see recorded information from the Association including paper, computer files, and video with exception of personal information that is covered by GDPR. It also excludes commercially sensitive information and information that might prejudice the safety or security of Clydebank Housing Association.

The Association recognises its 3 mandatory duties under FOI as follows: -

- Duty to publish information
- Duty to respond to requests
- Duty to advise and assist

In order to meet its duties, the Association will publish its Guide to Information via its website and will adhere to the provisions as detailed in the 'Open All Hours' Model Publication Framework Guide produced by Scottish Federation of Housing Associations (SFHA).

5. Publication Scheme

FOISA and EIR law requires authorities to publish information as well as respond to requests. This is called the "publication scheme" duty. The Association must make information available to the public so that it can be accessed without having to ask for it. Authorities have to adopt a publication scheme approved by the Commissioner.

All Scottish authorities have adopted the Commissioner's own Model Publication Scheme. This requires them to publish a Guide to Information that they make available. The Association has adopted SFHA's Open All Hours Guide, which is available online <http://gwsf.org.uk/wp-content/uploads/Template-Guide-to-Information-published-by-GWSF-and-SFHA-Aug-2019.pdf> or in hardcopy from the Association.

The Association aims to make as much information available as possible free of charge on our website under the classes of available information set out in the ICO's definition document for wholly owned companies. A number of key company documents can also be found in the "downloads" section of our website.

If any information is found not to be available, individuals can under FOISA and EIR make a request by contacting the Association in writing, detailing the information required, along with the requesters name and contact address to return the information to. All information provided via FOISA and EIR requests will subsequently be made available on the Associations website.

6. Responding to Information Requests

People have the right to request information from the Association. Where the information requested is within the scope of FOISA and EIR the Association holds that information it must release the information unless an exemption (under FOISA)

or an exception (under EIR) applies (Appendix 1). The Association shall, when responding to requests for information from individuals, follow the Section 60 Code of Practice and any relevant guidance produced by SIC.

The 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 the Association is entitled to extend the timescale for responding by an additional 20 working days).

Where the 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 the Association is refusing to provide information to individuals, a clear explanation to said individual what provision in FOISA or EIR allows the Association to withhold that information and why the Association believes that provision applies.

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

The Association's charging schedule (appendix 2) is included in the Association's "Guide to Information" found online <https://clydebank-ha.org.uk/freedom-of-information/> and details the charge for fulfilling information requests received from individuals.

The Association will charge for the following:

- Requests being handled under FOISA: the Freedom of Information (Fees for Required Disclosure) (Scotland) Regulations 2004.
- Requests being handled under EIR: the Schedule of The Charges <https://ico.org.uk/media/for-organisations/documents/1627/charging-for-environmental-information-reg8.pdf>.

Any fee charged by the Association will be reasonable and will not exceed the actual costs of providing requested information. However, there is no charge for requesting your own personal data under the General Data Protection Regulation (GDPR) Subject Access Request.

Responding to Requests for Review

Where someone has requested information from the Association and:

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

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

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

In any event the Association will handle all requests for review within 20 working days, or in exceptional circumstances, there can be an extension of an additional 20 working days.

Where an individual is unhappy with the response and it is within 40 working days 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 Association and the individual in question have a right to appeal to the courts on a point of law.

7. Provision of Advice and Assistance to Individuals

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

8. Categories of Information

Certain information is exempt from the FOISA. Some exemptions are absolute which means that we cannot release this information at all and some are qualified which means we have to decide whether it is in the public interest to release the information.

In accordance with the terms The Freedom of Information (Scotland) Act 2002 (Designation of Persons as Scottish Public Authorities) Order 2019, not all the Association's activities are subject to FOISA and EIR. Instead, the Association is only subject to these in respect of the following 'housing service' functions, as defined in section 165 of the Housing (Scotland) Act 2010:

- 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.

Further information about exemptions is available on the Information Commissioner's web site.

9. Data Protection

The FOISA does not apply to personal information. This is covered by the Data Protection legislation and information about this is provided. If you wish to access personal information held about you by the Association, information about how to make a subject access request is available at <https://clydebank-ha.org.uk/freedom-of-information/subject-access-requests/>

The Association is committed to upholding its data protection obligations set out in current Data Protection legislation. Under data protection laws, individuals have the right to request access to all of the information that the 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 Association's Data Protection/Management of Information Policy for more guidance.

10. Data Sharing and Responding to Competent Authorities

Data protection legislation allows appropriate data sharing with competent authorities when it is necessary to protect the public, to support ongoing community policing activities, or in an emergency.

A competent authority is one that has statutory functions to exercise public authority or public powers for law enforcement purposes, for example Social Security Scotland.

List of competent Authorities

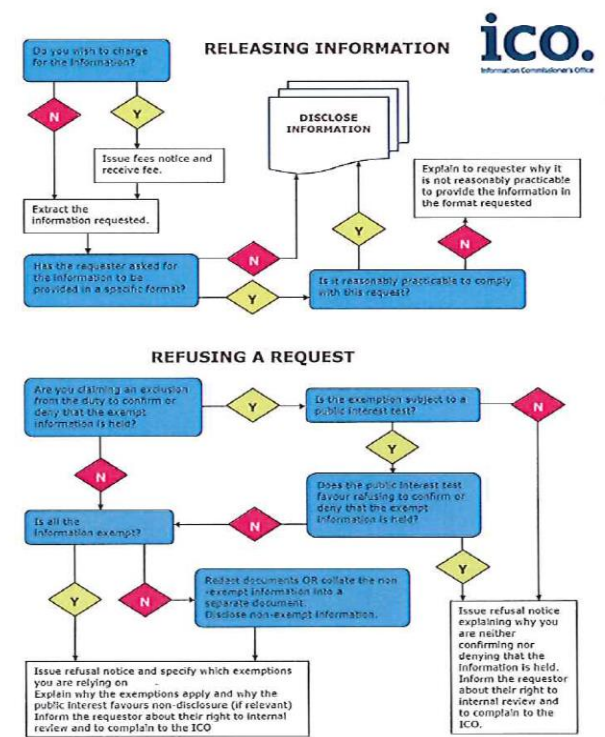
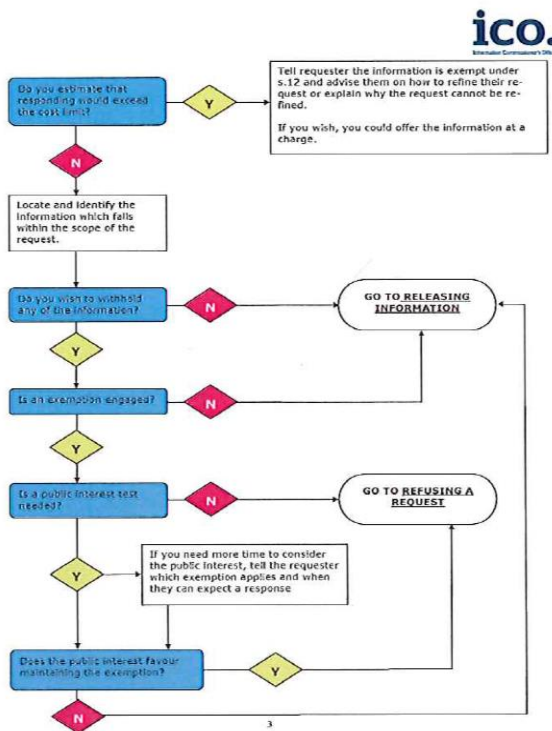
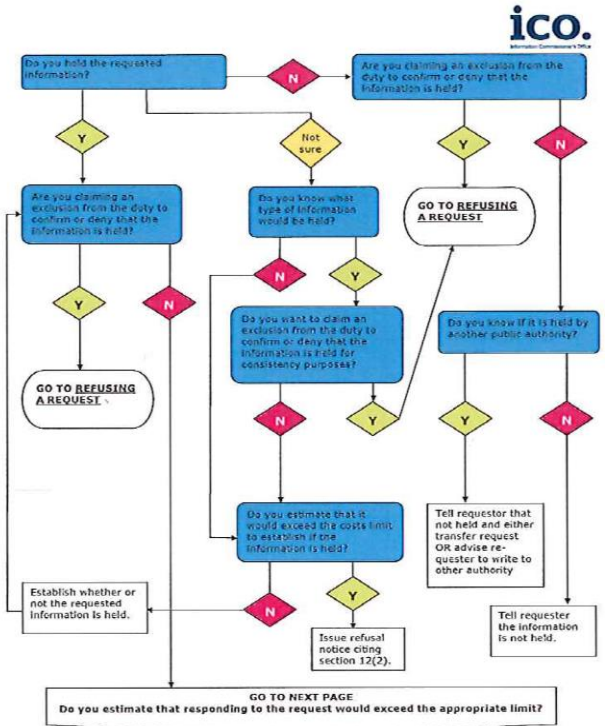
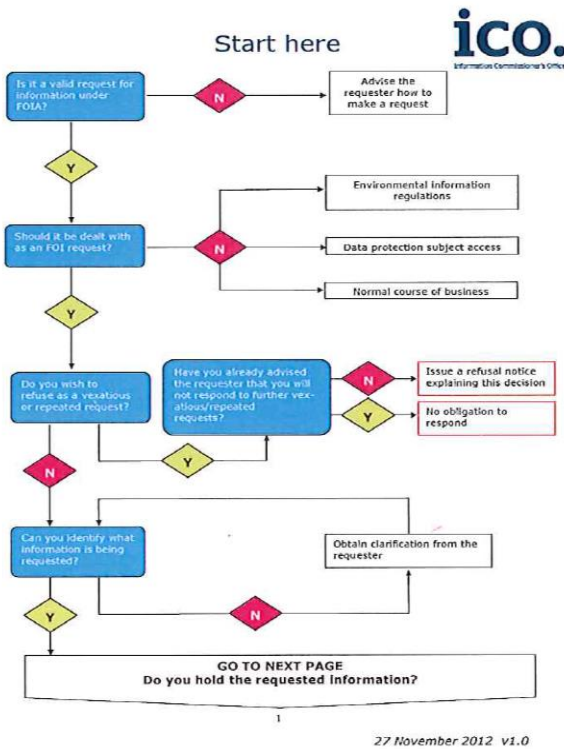
<https://www.legislation.gov.uk/ukpga/2018/12/schedule/7/enacted>

Under the Data Sharing code of practice made under section 121 of the Data Protection Act 2018 requests for information made by competent authorities must be reasonable in the context of their law enforcement purpose, and they should clearly explain the necessity for their request.

Responding to Requests

There is no time limit to these requests because they are neither a subject access request nor a freedom of information request. However, Clydebank Housing Association follow a similar procedure as for general FOI requests. With any requests being forwarded to the Data Protection and Compliance Officer in the first instance who will be responsible for replying to the relevant authority within 20 working days liaising with Chief Executive over any potential request refusals.

Appendix 1 – FOI Flow chart



APPENDIX 1

Clydebank Housing Association Limited – Charging schedule for information requests September 2019

This document explains when we may make a charge for our publications and how any charge will be calculated. There is no charge to view information on our website or at our premises. We may charge for providing information to you, but we will charge you no more than it costs us to do so. We will always tell you what the cost is before providing the information to you. Our photocopying charge per side of paper is shown in the tables below:

Black and White Photocopying

Size of Paper	Pence per sheet
A4	10p
A3	20p

Colour Photocopying

Size of Paper	Pence per sheet
A4	20p
A3	40p

Alternative Formats

Format	Charge
Computer Discs	50p

Postage Costs

Postage costs may be recharged at the rate we paid to send the information to you. Our charge is for sending information by Royal Mail First Class.

When providing copies of pre-printed publications, we will charge no more than the cost per copy of the total print run. We do not pass on any other costs to you in relation to our published information.

Charges for information which is not available under the scheme

If you submit a request to us for information which is not available in this Guide, the charges will be based on the following calculations:

General information requests

- There will be no charge for information requests which cost us £100 or less to process
- Where information costs between £100 and £600 to provide you may be asked to pay 10% of the cost. That is, if you were to ask for information that cost us £600 to provide, you would be asked to pay £50 calculated on the basis of a waiver for the first £100 and 10% of the remaining £500
- We are not obliged to respond to requests which will cost us over £600 to process
- In calculating any fee, staff time will be calculated at actual cost per staff member hourly salary rate to a maximum of £15 per person per hour
- We do not charge for the time to determine whether we hold the information requested, nor for the time it takes to decide whether the information can be released. Charges may be made for locating, retrieving and providing information to you
- In the event that we decide to impose a charge we will issue you with notification of the charge (a fees notice) and how it has been calculated. You will have three months from the date of issue of the fees notice in which to decide whether to pay the charge. The information will be provided to you on payment of the charge. If you decide not to proceed with the request there will be no charge to you.

Charges for Environmental Information Environmental information is provided under the EIRs rather than FOISA.

The rules for charging for environmental information are slightly different.

We do not charge for the time 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 to you e.g. photocopying and postage.

If we decide to impose a charge, we will issue you with notification of the charge and how it has been calculated. The information will be provided to you on payment of the charge.

If you decide not to proceed with the request there will be no charge to you. Charges are calculated based on the actual cost to Edinburgh Leisure of providing the information:

- 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 per person per hour.

The first £100 worth of information will be provided to you without charge.

Where information costs between £100 and £600 to provide, you will be asked to pay 10% of the cost. That is, if you were to ask for information that cost us £600 to provide, you would be asked to pay £50, calculated on the basis of a waiver for the first £100 and 10% of the remaining £500.

Where it would cost more than £600 to provide the information to you, however, we will ask you to pay the full cost of providing the information, with no waiver for any portion of the cost.

Charges for requesting for your own personal data

There is no charge for requesting your own personal data under the General Data Protection Regulation (GDPR) Subject Access Request. We must provide a copy of the information free of charge.

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. Click [here](#) to access.

For Office Use Only – Required Actions

Customer Consultation Required/Arranged	
Intranet Update	
F Drive Update	
Website Update	
Leaflet change required?	
Newsletter Promotion?	
Other information updated, e.g. posters, automatic email responses, post cards, answering machine messages, etc.	
Equality Impact Assessment completed	