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Policy Name	Freedom of Information and Environmental Information Policy
Policy Author	Deputy Director
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West Whitlawburn Housing Co-operative will provide this policy on request at no cost, in larger print, in Braille, in audio or other non-written format, and in a variety of languages. Please contact the office.

Registered with the Scottish Housing Regulator No. 203
Registered Charity No. SCO38737, VAT Registration No. 180223636
Registered society under the Co-operative and Community Benefit Societies Act 2014



1 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, West Whitlawburn Housing Co-operative (WWHC) 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 WWHC. The policy will:

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

2 Policy Statement

WWHC is committed to the underlying principles of openness and transparency underpinning FOISA and EIR and complying fully with the requirements of said legislation. WWHC 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

3 Responsibilities

- The Director/Deputy Director has lead management responsibility for FOISA and EIR within WWHC. This will include effective implementation and regular review of this Policy.
- WWHC will respond openly to requests for information from the media. However, in order to manage the release of information and to ensure that the release is consistent with WWHC's interests, the procedure authorises a designated person, The Director, to speak to the media.
- Senior staff are required to notify the Director/Deputy Director of information requests received and:
 - ✓ Respond to requests for information under FOISA and EIR which fall under their area of operation.
 - ✓ Collate, with other staff as required, information for sending out to requesters
 - ✓ Make up to date information available in accordance with the publication scheme
 - ✓ Review information published which falls under their area of operation to ensure it is accurate
 - ✓ Deal with requests for review with other staff as required
- All employees are responsible for:
 - ✓ familiarising themselves with this policy;
 - ✓ forwarding information requests received to Director/Deputy Director as quickly as possible. If you are unsure how to recognise an information request you should seek guidance from your line manager ;
 - ✓ seeking guidance from your line manager if you are unsure about any of the duties placed on WWHC by FOISA or EIR;

- Employees should be aware that where an information request is received and an employee deletes or alters information held by WWHC 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 your line manager.
- Compliance with this policy is compulsory for all employees of WWHC. Any employee who fails to comply with this policy may be subject to disciplinary action.

4 Scope of the Policy

This policy applies to any information held by WWHC 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 WWHC.

This policy applies to all WWHC employees.

5 Background

Why is WWHC subject to FOISA and EIR?

West Whitlawburn Housing Co-operative 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 WWHC does is subject to FOISA and EIR. Instead, WWHC 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 WWHC 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 WWHC are covered by FOISA and EIR:

- the prevention and alleviation of homelessness

- the management of social housing accommodation
- 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 WWHC. 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 SIC's website.

6 Legal Duties

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

6.1 Responding to Information Requests

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

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

Where WWHC 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 WWHC is refusing to provide information to individuals it will clearly explain to said individual what provision in FOISA or EIR allows WWHC to withhold that information and

why WWHC believes that provision applies (including, where required, an explanation of how WWHC has carried out the Public Interest Test).

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

WWHC may choose to charge for fulfilling information requests received from individuals. Any charges made will 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 <https://www.wwhc.org.uk/freedom-of-information/> of WWHC

Any fee charged by WWHC will be reasonable and will not exceed the costs of providing requested information.

6.2 Responding to Requests for Review

Where someone has requested information from us and:

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

Where WWHC performs 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).

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

In any event WWHC 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 WWHC and the individual in question have a right to appeal to the courts on a point of law.

6.3 Provision of Advice and Assistance to Individuals

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

6.4 Publication of Information

WWHC will publish information in accordance with its Publication Scheme through its Guide to Information. The Guide to Information will be available on the website and a paper format will also be available on request.

The Guide and information published will be kept up to date.

Link to be inserted when published

7 Recording and Reporting of Quarterly Data

The Scottish Information Commissioner requires organisations to report FOI information on a quarterly basis, through an online portal including:

- The number of FOI and EIR requests received
- The proportion answered within statutory timescales
- The number of requests refused
- The reason for any refusal

The data submitted through the portal will be publicly available.

This information will be submitted to Management Committee on a quarterly basis by the Deputy Director.

8 Data Protection

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

Link to be inserted when published

9 Equality Statement

This Freedom of Information and Environmental Information Policy acknowledges and aims to complement WWHC's Equality and Diversity Policy. WWHC is committed to valuing and promoting diversity, fairness, social justice and equality of opportunity throughout every aspect of its business. This policy is particularly relevant in ensuring fair and equal access to information about WWHC activities, services, decision making and performance.

10 Review

This policy will be reviewed on a 5 yearly basis or sooner if there are changes to legislation or good practice.