



# Freedom of Information and Environmental Information Policy

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## 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”).

Therefore, this policy is a Kingdom Housing Association only policy. Kingdom Initiatives Limited and Kingdom Support and Care CIC are not classified as Scottish Public Authorities.

From 11 November 2019 **Kingdom Housing Association (Kingdom)** will be designated as Scottish Public Authority and will need to make information available in accordance with FOISA and EIR.

This policy will:

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

### Policy Statement

**Kingdom** 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 **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

### **Scope of the Policy**

This policy applies to any information held by **Kingdom** 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 **Kingdom**

This policy applies to all **our** employees.

### **Legal Duties**

**Kingdom** 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 us. Where the information requested is within the scope of the Order and we hold that information we must release the information unless an exemption (under FOISA) or an exception (under EIR) applies. We will, when responding to requests for information from individuals, follow the Section 60 Code of Practice and any relevant guidance produced by SIC.

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

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. Where **we are** refusing to provide information to individuals it will clearly explain to said individual what provision in FOISA or EIR allows us to withhold that information and why **we** believes that provision applies (including, where required, an explanation of how **we** carried out the Public Interest Test).

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

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



- 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

Any fee charged by **us** will be reasonable and will not exceed the costs to **us** of providing requested information. We also reserve the right to waive any fee.

### Responding to Requests for Review

Where someone has requested information from **us and**:

- **we** 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 **we** review the response to their request to determine whether or not the provisions of FOISA or EIR have been followed.

Where **we** perform a review and determine 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 **we** perform a review and determine 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 we 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 **Kingdom** and the individual in question have a right to appeal to the courts on a point of law.

We will monitor this policy and the requests for information that we receive and comply with the reporting requirements from the Scottish Information Commissioner.

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

### Publication of Information

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

### 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 that **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.



## FREEDOM OF INFORMATION AND ENVIRONMENTAL INFORMATION POLICY

**Policy drawn up with reference to:**

The Freedom of Information (Scotland) Act 2002 (“FOISA”)

The Environmental Information (Scotland) Regulations 2004 (“EIR”)

**Legal Review: TC Young – Model Policy from SFHA**

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KHA Board of Management

Policy Approved ; 21 October 2019

Next review date: No later than October 2024.

