



**Muirhouse
Housing
Association**

Title of Policy:	Freedom of Information and Environmental Information Policy
Date of Adoption or Last Review:	New policy
Lead Officer:	Stevie McAvoy
Date of Next Review:	November 2022
Scottish Social Housing Charter Outcomes and Standards:	Outcome 2: Communication <i>‘Social landlords manage their businesses so that tenants and other customers find it easy to communicate with their landlord and get the information they need about their landlord, how and why it makes decisions and the services it provides.’</i>
Regulatory Standards of Governance and Financial Management:	Standard 2: 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. <i>2.3 The governing body is open and transparent about what it does, publishes information about its activities and, wherever possible, agrees to requests for information about the work of the governing body and the RSL.</i>

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.

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

2. Purpose

This is the Freedom of Information and Environmental Information Policy of Muirhouse 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 Muirhouse Housing Association under FOISA and EIR.

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

- follow the relevant Scottish Ministers Codes of Practice relating to FOISA and EIR, as well as any relevant guidance issued by the Scottish Information Commissioner;
- 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. Background

3.1 Why is Muirhouse Housing Association subject to FOISA and EIR?

Muirhouse 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.

3.2 What is subject to FOISA and EIR?

In accordance with the terms of the Order, not everything we do is subject to FOISA and EIR. Instead, Muirhouse 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 we carry 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 Muirhouse Housing Association are covered by FOISA and EIR:

- the prevention and alleviation of homelessness
- the management of social housing accommodation; and
- the supply of information to the Scottish Housing Regulator (SHR) in relation to our financial wellbeing and standards of governance.

3.3 What is the difference between FOISA and EIR?

EIR provides a right of access to 'Environmental Information' held by Muirhouse 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 are available on Scottish Information Commissioner's website.

4. Scope

This policy applies to any information held by Muirhouse Housing Association which relates to one or more of our functions, 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 Muirhouse Housing Association.

This policy applies to all Muirhouse Housing Association employees.

4.1 Responsibilities

The Chief Executive has lead management responsibility for FOISA and EIR within Muirhouse Housing Association. This will include effective implementation and regular review of this Policy.

The Housing Services Team Leader and Corporate Services Team Leader will be responsible for:

- responding to requests under FOISA and EIR
- collating information for sending out to requesters
- making information available in accordance with our publication scheme
- dealing with requests for review.

All employees are responsible for:

- familiarising themselves with this policy;
- forwarding information requests received to the Housing Services Team Leader or Corporate Services Team Leader as quickly as possible.
- seeking guidance from the Housing Services Team Leader or Corporate Services Team Leader if unsure about any of the duties placed on Muirhouse Housing Association by FOISA or EIR.

Where an information request is received, and an employee deletes or alters information held by Muirhouse Housing Association with the intention of preventing disclosure of that information, then 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 Housing Services Team Leader or Corporate Services Team Leader.

Compliance with this policy is compulsory for all employees of Muirhouse Housing Association. Any employee who fails to comply with this policy may be subject to disciplinary action.

5. Legal Duties

Muirhouse 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:

5.1 Responding to Information Requests

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

Muirhouse 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 we are entitled to extend the timescale for responding by an additional 20 working days).

Where Muirhouse Housing Association is 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 Muirhouse Housing Association is refusing to provide information to individuals we will clearly explain to the individual what provision in FOISA or EIR allows us to withhold that information and why we believe that provision applies (including, where required, an explanation of how we have carried out the Public Interest Test).

Where Muirhouse Housing Association 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 the 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.

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

- the Freedom of Information (Fees for Required Disclosure) (Scotland) Regulations 2004 for requests being handled under FOISA.

- our Schedule of Charges for requests being handled under EIR.

Any fee charged by us will be reasonable and will not exceed our costs for providing requested information.

5.2 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 Muirhouse Housing Association reviews 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 the Scottish Information Commissioner. If an appeal is made to the Scottish Information Commissioner and a decision handed down by them both Muirhouse Housing Association and the individual in question have a right to appeal to the courts on a point of law.

5.3 Provision of Advice and Assistance to Individuals

Muirhouse 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. We will comply with this

duty by following the guidance contained in the Section 60 Code of Practice issued by Scottish Ministers.

5.4 Publication of Information

Muirhouse Housing Association has adopted the Model Publication Scheme 2018 which has been produced and approved by the Scottish Information Commissioner. The Model Publication Scheme is a standard framework for Scottish public authorities to publish the information they hold.

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.

6. Confidentiality and Data Protection

Muirhouse 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 we hold about them. This and other rights that individuals have under data protection are covered by our Privacy Policy.

All information provided to us by individuals will be treated in strict confidence and will only be discussed with other parties with the individual's (or their appointed representative's) prior consent.

We will comply with the Data Protection Act 2018 and the General Data Protection Regulation 2016 when holding personal information of any kind in our paper files and on our computer systems.

7. Policy review

This policy will be reviewed every 3 years unless key changes are required earlier to comply with legislation, guidance or new learning.