



## **FREEDOM OF INFORMATION POLICY**

### **1.0 INTRODUCTION**

- 1.1 This policy describes Almond Housing Association Limited's (**AHA Ltd**) responsibilities under the Freedom of Information (Scotland) Act 2002 and the Environmental Information (Scotland) Regulations 2004. Both of these pieces of legislation enable the public to access information held by Scottish public authorities, including AHA Ltd. The Scottish Information Commissioner is responsible for enforcing both regimes.
- 1.2 This policy is supported by detailed procedures which explain how AHA Ltd responds to Freedom of Information requests.

### **2.0 RESPONSIBILITIES**

#### **2.1 Board of Management**

- To ensure there is in place a policy on Freedom of Information which complies with current regulations, guidance and good practice.
- To monitor compliance with the policy and deal with any matters that require a Board decision.

#### **2.2 Management**

- Head of Corporate Services: To manage the implementation of the policy and procedures on a day-to-day basis, advising the Board of Management, other Heads of Section and all employees as required on specific matters.

#### **2.3 FOI Officer**

- Aileen Carson is the FOI Officer at AHA Ltd. You can contact the FOI Officer at [enquiries@almondha.org.uk](mailto:enquiries@almondha.org.uk). The FOI Officer is the member of staff at AHA Ltd with lead management responsibility for handling FOI requests.

#### **2.4 Employees**

- To ensure they have read and understood the policy and procedures, and to implement them as required in the course of their work.
- To ensure they can recognise a request that has been made to them and to follow any procedures for forwarding requests or enquiries to the FOI Officer or other staff who are able to answer them.
- To ensure all employees in contact with the public can explain to applicants how to make a request to AHA Ltd.

### 3.0 BACKGROUND

- 3.1 The Freedom of Information (Scotland) Act 2002 (**FOISA**) came into effect in January 2005 to encourage the development of a more open culture across the public sector by providing a statutory right of access to information held by Scottish public authorities. The Environmental Information (Scotland) Regulations 2004 (**EIRs**) sit alongside FOISA and provide a statutory right of access to environmental information held by Scottish public authorities. In April 2019 the Scottish Government approved the Freedom of Information (Scotland) Act 2002 (Designation of Persons as Scottish Public Authorities) Order 2019 (**the Order**) bringing Registered Social landlords (**RSLs**) and certain RSL subsidiaries under the scope of FOISA and the EIRs from 11 November 2019.
- 3.2 AHA Ltd has been designated a public authority under the Order. The legislation applies specifically to the supply of information to the Scottish Housing Regulator in relation to AHA Ltd's 'financial well-being and governance arrangements' and 'housing services' as defined in section 165 of the Housing (Scotland) Act 2010.
- 3.3 'Housing services' for the purposes of the application of FOISA to AHA Ltd are defined as:
- Prevention and alleviation of homelessness
  - The management of housing accommodation let under a Scottish secure tenancy or short Scottish secure tenancy
  - The provision of management of sites for Gypsies and Travellers, whatever their race or origin
- 3.4 Some activities which are carried out by RSLs are not included in the scope of the legislation. These activities are:
- Care
  - Mid-market rent
  - Factoring
  - Shared ownership

### 4.0 MODEL PUBLICATION SCHEME

- 4.1 AHA Ltd has adopted the Scottish Information Commissioner's Model Publication Scheme (**MPS**). The MPS sets out what information AHA Ltd must make publicly available and how the public can access information that is not published on our website. This is done through our Guide to Information which details what information is available and any charges for this information. The Guide to Information contains links to documents on our website and will be updated when new versions become available.

### 5.0 FOI REQUESTS

- 5.1 FOISA gives the public the right to access certain information that AHA Ltd holds. A request for information that is not contained within the Guide to Information must be made in writing. Requests should include the requester's name and address (either postal or email) and a description of the information requested. It does not need to mention FOISA for it to be considered a Freedom of Information (FOI) request. Requests can be made by post, email, social media or through our website form. If a request is made verbally, the requester will be asked to submit it in writing. Requests made via voicemail must include the requester's name and address for correspondence to be treated as valid.

- 5.2 If the request is unclear, AHA Ltd will ask for clarification as soon as possible to proceed with the request. AHA Ltd will provide advice and assistance to enable individuals to make requests under FOISA.
- 5.3 AHA Ltd must respond to the request within 20 working days. If it is not possible to adhere to the 20-day timescale, the requester will be informed as soon as possible and an alternative timeframe given.
- 5.4 Information subject to FOISA includes all recorded information held by AHA Ltd in both electronic and hard copy format. This includes agenda, minutes, emails, diaries and handwritten notes, but excludes information which may be exempt from disclosure under FOISA (such as the personal data of third parties).
- 5.5 If a fee is to be charged for providing the requested information, AHA Ltd will inform the requester and request payment before any information is provided. This means that the 20-day timescale for providing the information stops and does not start again until payment is received.

## **6.0 EXEMPTIONS**

- 6.1 In certain circumstances, AHA Ltd may refuse FOI requests, for example if the requester has not provided enough detail to identify the information requested and does not respond to a request for clarification from AHA Ltd. It may be necessary to refuse a request if it will cost more than £600 to provide or if AHA Ltd does not hold the information requested.
- 6.2 Information may be exempt from disclosure under FOISA in some circumstances, for example, where AHA Ltd can demonstrate that disclosing the information would breach data protection law or cause harm to someone's commercial interests. Where information is withheld on the basis of an exemption, AHA Ltd must explain why the exemption has been applied and (if relevant) why the public interest favours withholding the information.
- 6.3 There are two types of exemption under FOISA:
  - Qualified exemption – this is subject to a public interest test to assess whether the public interest in the disclosure outweighs the reason for maintaining the exemption.
  - Absolute exemption – this is not subject to a public interest test.
- 6.4 Any request made by an individual for their own personal data will be treated as a data subject access request under the Data Protection Act 2018.
- 6.5 Any request relating to an element of the environment or any factors affecting the elements of the environment will be treated as a request under the EIRs.

## **7.0 VEXATIOUS REQUESTS**

- 7.1 AHA Ltd is not required to comply with a request which is deemed to be vexatious in nature. Factors to consider whether or not a request or series of requests from the same requester is vexatious include:
  - It would impose a significant burden on AHA Ltd to comply with the request.
  - It does not have a serious purpose or value.
  - It is designed to cause disruption or annoyance to AHA Ltd.

- It has the effect of harassing staff.
- It is considered to be unreasonable or disproportionate.

7.2 Repeated requests for the same information can be denied if a reasonable period of time has not lapsed between requests.

## **8.0 FEES**

8.1 There is no charge for viewing information published within the Guide to Information or for viewing information at AHA Ltd's office. AHA Ltd may charge for providing information published within the Guide to Information in other formats, such as hard copies, but requesters will not be charged more than it costs AHA Ltd to provide this information. AHA Ltd will always advise requesters of the total cost before providing any information.

8.2 AHA Ltd may charge for providing information in response to a specific FOI request, but will not charge for the first £100 it costs to provide information. If the cost is more than £100, but less than £600, AHA Ltd will charge 10% of the cost of providing the information. If the total cost of providing the information is more than £600, AHA Ltd may refuse the request, but will first discuss ways of reducing the cost with the requester.

8.3 AHA Ltd will tell requesters if there will be a charge for providing information by issuing a fee notice which will show the estimated fee and how it has been calculated. If the actual cost is more than estimated in the fee notice, the fee will not be increased. AHA Ltd may charge for staff time to gather the requested information as well as reasonable photocopying costs.

8.4 The requester will be given three months to respond to the fee notice. If the requester decides not to pay the fee, AHA Ltd will not send the information requested to them.

## **9.0 COPYRIGHT**

9.1 The supply of information under FOISA does not give the requester the right to re-use information in a way that would infringe copyright. In most cases, copyright will belong to AHA Ltd, although there may be instances where copyright belongs to other organisations or individuals. Brief extracts may be reproduced without formal permission provided they are copied or reproduced accurately, not used in a misleading context and the source of the material is identified. More extensive re-use must only be carried out with written permission from AHA Ltd or the copyright owner if copyright is not owned by AHA Ltd.

## **10.0 DATA PROTECTION**

10.1 As noted above, where a requester asks for information which includes personal data of any individual, in most cases the personal data will be exempt from disclosure. Generally, AHA Ltd should not disclose any personal data when responding to FOISA or EIR request except where the individual concerned has given consent.

10.2 The exception to this is where information is requested about senior managers and/Board members which relates to their office or role, as the Scottish Information Commissioner recognises that there is a public interest in scrutinising the performance of these roles and that the privacy expectations of these individuals is less than junior members of staff. This will be considered on a case-by-case basis by the FOI Officer.

10.3 If a request is made from a requester asking for their own personal data, then this should be treated as a subject access request under data protection legislation and not as a FOISA or EIR request. More information about handling subject access requests is set out in our Openness and Confidentiality Policy.

**10.2** For details on how we process personal data please read our Fair Processing Notice here: <https://www.almondha.org.uk/uploads/2018-05-21-11-40-40-PublicFairProcessingNotice-16165.pdf>. The Fair Processing Notice explains how we use personal data in relation to requesters in all respects. It also explains how requesters can contact us should they have any queries about how we use their personal data, and how to exercise their rights in this regard.

## **11.0 APPEALS AND COMPLAINTS**

11.1 AHA Ltd welcomes complaints and positive feedback as these help us improve our services. Requesters have the right to appeal our response if they are unhappy with it. A review request should be reviewed by someone other than the person who responded to the original FOI request. The requester should ask for AHA Ltd to review the decision no later than 40 working days after receiving our initial response. They should do so in writing and include their name and address (postal or email) as well as details of their original request and why they want us to review our response. We will respond to the person within 20 working days. Our response to a review request must always set out the applicant's right to appeal to the Scottish Information Commissioner and include the contact details set out in section 11.2 below.

11.2 If the requester is still unhappy after we have reviewed our response to their request, they have six months to make an appeal to the Scottish Information Commissioner's office by emailing [enquiries@itspublicknowledge.info](mailto:enquiries@itspublicknowledge.info), by visiting [www.itspublicknowledge.info](http://www.itspublicknowledge.info) or by writing to Office of the Scottish Information Commissioner, Kinburn Castle, Doubledykes Road, St Andrews KY16 9DS or via the appeals portal here: <http://www.itspublicknowledge.info/YourRights/Unhappywiththeresponse/AppealingtoCommissioner.aspx>.

11.3 The process for handling review requests is detailed within the Freedom of Information Procedure. When a request for a review is received, it should be passed to the Head of Corporate Services who will allocate the review to a suitable member of staff. The reviewer will check the information that has been provided to the requester and will record any actions taken and lessons learnt.

## **12.0 REVIEW**

12.1 The Head of Corporate Services will ensure that this policy is reviewed by the Senior Management Team at least every five years.

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