



*1986-2016: Celebrating 30 years working in the community*

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| <b>Group Policy on:</b> | <b>Freedom of Information</b> |
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| <b>Compliant with Charter:</b>                  | n/a   |
| <b>Compliant with Consultation with Staff :</b> | n/a   |
| <b>Compliant with Equal Opportunities:</b>      | Taken into account in policy development  |
| <b>Compliant with Internal Business Plan:</b>   | S16 of Business Plan. Addresses one of the 5 x top risks  |
| <b>Regulatory Framework - Standards</b>         | 2.2. The governing body recognises it is accountable to its tenants, and has a wider public accountability to the taxpayer as a recipient of public funds, and actively manages its accountabilities. It is open 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 |

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| <b>Date draft Approved :</b> | October 2019 |
| <b>Final approval:</b>       | October 2019 |
| <b>Date for review:</b>      | April 2022   |

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| <b>Responsible Officer:</b> | Corporate Services Manager |
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## **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 **Barrhead Housing Group** 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 **Barrhead Housing Group**. The policy will:

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

## **Policy Statement**

**Barrhead Housing Group** 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 **Barrhead Housing Group** 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 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 **Corporate Services Manager** has lead management responsibility for FOISA and EIR within **Barrhead Housing Group**. This will include effective implementation and regular review of this Policy. This includes:
  - RESPONDING TO REQUESTS UNDER FOISA AND EIR AND WHO INFORMATION REQUESTS SHOULD BE FORWARDED TO
  - COLLATING INFORMATION FOR SENDING OUT TO REQUESTERS
  - MAKING INFORMATION AVAILABLE IN ACCORDANCE WITH YOUR PUBLICATION SCHEME
  - DEALING WITH REQUESTS FOR REVIEW
- All employees are responsible for:
  - familiarising themselves with this policy;
  - forwarding information requests received to the Corporate Services Manager (CoSM) as quickly as possible. If you are unsure how to recognise an information request you should seek guidance from the CoSM;
  - seeking guidance from the CoSM if they are unsure about any of the duties placed on **Barrhead Housing Group** by FOISA or EIR;
- Employees should be aware that where an information request is received and an employee deletes or alters information held by **Barrhead Housing Group** 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 the CoSM
- Compliance with this policy is compulsory for all employees of **Barrhead Housing Group**

## **Scope of the Policy**

This policy applies to any information held by **Barrhead Housing Group** which relates to one or more of the functions set out above, 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 **Barrhead Housing Group**.

This policy applies to all **Barrhead Housing Group** employees.

## **Background**

**Barrhead Housing Group** 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 **Barrhead Housing Group** does is subject to FOISA and EIR. Instead, **Barrhead Housing Group** 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 **Barrhead Housing Group** 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 **Barrhead Housing Group** are covered by FOISA and EIR:

- 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.

### What is the difference between FOISA and EIR?

EIR provides a right of access to 'Environmental Information' held by **Barrhead Housing Group**. 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 obligation 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.

## **Legal Duties**

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

**Barrhead Housing Group** 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 **Barrhead Housing Group** is entitled to extend the timescale for responding by an additional 20 working days).

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

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

**Barrhead Housing Group** may choose to charge for fulfilling information requests received from individuals. Any charges made by **Barrhead Housing Group** shall 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 of **Barrhead Housing Group**

Any fee charged by **Barrhead Housing Group** will be reasonable and will not exceed the costs to **Barrhead Housing Group** of providing requested information.

### Responding to Requests for Review

Where someone has requested information from **Barrhead Housing Group** and:

- **Barrhead Housing Group** 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 **Barrhead Housing Group** reviews the response to their request to determine whether or not the provisions of FOISA or EIR have been followed. This review will be carried out by the Chief Executive, or a senior officer nominated by the Chief Executive.

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

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

In any event **Barrhead Housing Group** 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 **Barrhead Housing Group** and the individual in question have a right to appeal to the courts on a point of law.

## Provision of Advice and Assistance to Individuals

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

## Publication of Information

**Barrhead Housing Group** shall publish information in accordance with its Publication Scheme through its Guide to Information. The Guide to Information of **Barrhead Housing Group** will be available on our website [here](#), and a paper format will also be available on request.

## Data Protection

**Barrhead Housing Group** 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 **Barrhead Housing Group** 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 Policies and Privacy Statement when dealing with these rights.