

1.0 INTRODUCTION

- 1.1 Scottish Borders Housing Association (SBHA) is committed to being open and transparent in the conduct of its operations and to make readily available range of information to Tenants, customers, and the general public.
- 1.2 From November 2019, the Freedom of Information (Scotland) Act 2002 (hereafter referred to as “the Act”) applies to registered social landlords and their subsidiaries in relation to certain functions. This means that SBHA has a statutory obligation to publish details of recorded information and allow the general public to access this information on request, subject to certain exemptions.
- 1.3 SBHA is required to work towards achieving the outcomes for Tenants as set out in Scottish Social Housing Charter and publication of information supports the delivery of this. In particular Charter Outcome 2:

“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.
- 1.4 The Act is overseen by the Scottish Information Commissioner, who has a variety of powers under the Act to ensure authorities comply with the Act.

2.0 POLICY STATEMENT

- 2.1 SBHA will seek to ensure that it complies fully with the Act and Scottish Ministers Codes of Practice at all times.
- 2.2 SBHA will:
 - ensure that records are created systematically, that they can be retrieved efficiently and can be provided promptly to any person making a request for information.
 - make all our people aware of their obligations under the Act, guidance will be provided depending upon the extent to which various categories of our people will be involved in managing requests for information.
 - monitor compliance with legal requirements of the Act and undertake audits from time to time;.
 - routinely publish a wide range of information through the Publication Scheme and Guide to Information.
 - only withhold information in accordance with the exemptions laid down in the Act, and if information is withheld the applicant will always be informed of the reasons why it will not be released.

3.0 RECORDS MANAGEMENT

- 3.1 Effective and efficient management of records is essential for making access to information possible. A record is defined as anything that contains information in any media, e.g. paper, audio or video recording and electronic media.

- 3.2 Records management covers all aspects of records throughout their lifecycle to their eventual disposal. It is a criminal offence for a public authority to alter, damage, erase, destroy or conceal any record after a request for the information has been made.
- 3.3 SBHA will develop a separate policy to ensure compliance with the Scottish Ministers Code of Practice on Records Management under section 61 of the Act.

4.0 PUBLICATION SCHEME

- 4.1 The publication scheme is a legal requirement of the Act and encourages the proactive and routine publication of information. SBHA's publication scheme is the Guide to Information which is available on its website (www.sbha.org.uk) and in paper format on request from the Corporate Officer.
- 4.2 Information published on a regular basis is detailed in this publication scheme. Details of the format(s) in which the information is available and whether a fee is applicable are also listed.
- 4.3 SBHA will make publically available information available for a minimum of 2 years following publication (unless it is updated during this period) in accordance with Scottish Information Commissioner's guidance. Where the information is continually updated only the current version will be available on the website to avoid confusion.
- 4.4 The publication scheme will be maintained regularly and reviewed annually to ensure that it continues to include all relevant information and remains accessible.

5.0 HANDLING REQUESTS FOR INFORMATION

Request received

- 5.1 Section 1 of the Act gives a general right of access to recorded information held by public authorities, subject to certain conditions and exemptions. Requests must be made in a permanent format. (e.g. writing, email).
- 5.2 Under section 15 of the Act SBHA has a duty to provide assistance and advice to any persons who have made or wish to make a request for information. The Code of Practice issued under Section 60 provides further guidance on conforming with the Section 15 duties.
- 5.3 All information requests made to SBHA should be directed to SBHA's Corporate Officer.
- 5.4 An applicant will receive a written acknowledgement of their request (via email or post) detailing the deadline to which they should expect a response. A response should be issued as soon as possible and always **within 20 working days**.

Clarification

- 5.5 Where a request has been received but more information is required from the applicant to identify and locate the relevant information, the applicant will be asked to provide clarification as soon as possible.
- 5.6 As per section 1(3) and 10(1)(b) of the Act the statutory 20 working days deadline will not start until sufficient clarification has been received from the applicant to allow SBHA to identify and locate the requested information.
- 5.7 SBHA will provide advice to assist the applicant to clarify the information they request and will not use this as a delaying technique.

5.8 If no clarification is received from the applicant within 60 working days, the request shall be closed. See the Scottish Ministers' Code of Practice for further information.

6.0 CHARGES

6.1 SBHA may charge an appropriate fee for dealing with a specific request. SBHA's Charging Schedule contained in its Guide to Information explains the charges SBHA may apply for providing published information within the Guide to Information and how charges will be calculated.

6.2 Where a request for information is made for information not available in SBHA's Guide to Information, the charges to applicants will be based on the cost to SBHA in providing this information, based on the following calculations:

- Cost to SBHA of up to £100 - no charge can be made to applicant.
- Cost to SBHA of £100 to £600 – first £100 deducted, SBHA may charge the applicant 10% of this cost e.g. If the cost to SBHA in providing information requested is £600, a charge of £50 would apply to the applicant.
- Cost to SBHA of over £600 - SBHA has no obligation to provide information.

6.3 In calculating any fee, staff time will be calculated at actual cost per staff member hourly salary rate to a maximum of £15 per person per hour.

6.4 If a charge is to be made, before information is released, a fees notification and how it has been calculated will be issued to the applicant. The applicant will have three months from the date of issue of the fees notice in which to decide whether to pay the charge. The information will be provided to the applicant on payment of the charge. If the applicant decides not to proceed with the request, there will be no charge to them.

7.0 EXEMPTIONS AND REFUSAL TO RESPOND

7.1 SBHA will favour disclosure wherever possible, however, does not have to comply with information requests if the information is exempt under the provisions made in Sections 25 to 41 of the Act.

7.2 A full list of exemptions can be found at the Information Commissioner's website. There are two types of exemptions:

Absolute exemptions: If an absolute exemption applies SBHA will not release the information. Absolute exemptions include confidential material and information published elsewhere amongst others.

Non-absolute exemptions: The 'public interest' test applies to determine if the public interest in disclosing the information outweighs the public interest in maintaining confidentiality. This includes commercial interests and personal information of third parties.

7.3 Exemptions will be applied on a case-by-case basis and not on a blanket basis, and any exemption may be applied to an entire request or part of a request. SBHA will apply exemptions to responses as applicable.

7.4 If applying an exemption SBHA shall inform the applicant and provide information on why the request has been refused.

- 7.5 SBHA is not obliged to comply with a request deemed to be vexatious or repeated (Section 14 of the Act).
- 7.6 Under section 17 of the Act if SBHA does not hold the requested information the applicant shall be informed of this.

8.0 RESPONSES TO REQUESTS

- 8.1 Requests for information will be responded to in writing within the required 20 working days.

9.0 REQUIREMENT TO REVIEW

- 9.1 If an applicant is not satisfied with the response they have received or have not received a response within 20 working days, they can request a review from SBHA.
- 9.2 A request for a review must be in writing and received within 40 working days of the response being issued (or the date at which they expected to be issued with a response).
- 9.3 The applicant will receive an acknowledgement of receipt of the request and a full response within 20 working days of the request having been received.
- 9.4 The review may result in one or more of the following decisions and outcomes:
- That all or part of the information initially withheld should be released
 - That SBHA did not follow the correct procedures for dealing with the request for information (including not adhering to the 20 working days deadline).
 - That the original decision should be upheld.
- 9.5 Following completion of an internal review if an applicant remains dissatisfied, they may apply to the Information commissioner for an appeal. This should be made in writing to:

Scottish Information Commissioner
Kinburn Castle,
Doubledykes Road,
St Andrews,
Fife,
KY16 9DS
enquires@itspublicknowledge.info

10.0 NOTIFIABLE EVENTS

- 10.1 In the event of any serious breach of its statutory duty, SBHA is required to alert the Scottish Housing Regulator of the incident under Notifiable Events in accordance with the SHR's guidance.

11.0 ROLES AND RESPONSIBILITIES

- 11.1 The Corporate Officer leads operational management responsibility for FOISA within SBHA. This includes effective implementation and regular review of this Policy. The Senior Customer Adviser (Customer Relations) and Communications Officer are responsible for supporting and assisting the Corporate Manager with these duties.
- 11.2 The Corporate Officer is also responsible for:
- Acting as a point of contact for FOI requests and ensuring responses are provided timeously and in compliance with statutory requirements.
 - Ensuring that all actioned FOI requests are published on SBHA's website.

- Liaising with the Scottish Information Commissioner, including regular reporting on the requests for information received and consulting with them in the event of a complaint or investigation.
- Submitting quarterly statistical returns to the Scottish Information Commissioner as required.

11.3 The Senior Customer Adviser (Customer Relations) is responsible for:

- the day-to-day administration of all requests for information
- appropriately tasking Heads of Service and service managers with arranging for requested information to be made available.
- maintaining the FOI tracker spreadsheet and retain a record of all information requests.

11.4 The Communications Officer is responsible for maintaining SBHA's Model Publication Scheme (MPS) and Guide to Information, ensuring that all valid information is published on the website and appropriately archived once removed from the MPS.

11.5 Each Strategic Leader within SBHA has responsibility for:

- Owning the data for their respective service areas and ensuring records are created, named, and stored in a way that ensured they can be found and retrieved quickly and effectively.
- Retrieving and reviewing all relevant information required to inform FOI requests and making decisions regarding which elements of the information should be released, redacted, or withheld.
- Ensuring that information is redacted or withheld in accordance with the exemptions laid down in the Act, Part 2 (sections 21 – 41), subject to the public interest test.
- Returning reviewed and redacted material timeously, with reasons for redaction clearly marked, to the Senior Customer Adviser (Customer Relations) for collation and release.
- Ensuring their team are fully aware of the FOI policy and procedures.

11.6 The Head of IT and Business Solutions is the strategic lead for FOISA within SBHA and is responsible for any internal reviews that may be requested by the applicant. In the absence of the Head of IT and Business Solutions this will fall to one of the other Executive Directors.

11.7 All SBHA employees are responsible for:

- familiarising themselves with this Policy.
- forwarding information requests received to the Corporate Officer or the Senior Customer Adviser (Customer Relations) as quickly as possible.

11.8 If a team member is unsure how to recognise an information request, or they are unsure about any of the duties placed on SBHA by FOISA they should seek guidance from the Corporate Officer or the Senior Customer Adviser (Customer Relations).

11.9 Employees should be aware that where an information request is received and an employee deletes or alters information held by SBHA 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 Corporate Officer or the Head of IT and Business Solutions.

11.10 Compliance with this Policy is compulsory for all employees of SBHA. Any employee who fails to comply with this Policy may be subject to disciplinary action.

12.0 MONITORING

12.1 SBHA will maintain a register of all requests made for information under the Act. A log will also be kept of all review requests and appeals.

- 12.2 The Audit & Compliance Sub Committee will monitor SBHA's performance on a quarterly basis in relation to information requests.
- 12.3 Quarterly statistical returns will be submitted to the Scottish Information Commissioner as required.

13.0 REVIEW

- 13.1 This Policy will be reviewed every 3 years, or earlier if legislative or other changes necessitate this.