



POLICY

**FREEDOM OF
INFORMATION POLICY**

Wellhouse - The Place To Be

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1. Vision and values

Wellhouse – the Place to Be.

This simple statement is our vision of Wellhouse as an attractive place where people feel happy and safe, benefit from having a good home and an attractive environment and feel proud to be part of a vibrant community.

We believe that our values of Trust, Honesty and Integrity, Excellence, Accountability and Sustainability supported by a comprehensive policy framework will help make our vision a reality.

2. Governance

Wellhouse HA is a community controlled registered social landlord and is managed by a group of local people who are elected onto the Management Committee. Their role is to make sure that the Association is well run, meets the needs of the local area and is responsive to what is important to local people.

The Management Committee appoints senior staff, agrees all the Association's policies and takes all the key decisions. The Director and the senior team support the Committee in these responsibilities.

3. Policy Aims

This policy sets out the standards expected of Wellhouse Housing Associations employees, workers, governing body, stakeholders, consultants and agency staff when processing data whether that is in connection with Wellhouse Housing Association business or in the case of social media platforms the expression of views that contradict, oppose or infringe on the purpose, ethos or principles of Wellhouse Housing Association.

4. Equal Opportunities Statement

We aim to ensure that all services, including the delivery of this policy, provide equality of opportunity.

We will respond to the different needs and service requirements of individuals. We will not discriminate against any individual for any reason, including age, disability, gender re-assignment, marriage, civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation, or other status.

5. 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 **Wellhouse Housing Association** was designated as Scottish Public Authority and need to make information available in accordance with FOISA and EIR.

This is the Freedom of Information and Environmental Information Policy of **Wellhouse Housing Association**. The policy :

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

5. Policy Statement

Wellhouse Housing Association 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 **Wellhouse Housing Association** 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

6. Principles

- This policy applies to all employees, workers, governing body members, stakeholders, consultants and agency staff of Wellhouse Housing Association and refers to the processing of data at Wellhouse Housing Association.
- Individual departments and administrative units may define separate categories of data under their supervision. Any such additional conditions must be consistent with this overall policy but may include more detailed guidelines and, where necessary and appropriate, additional restrictions.
- Any Wellhouse Housing Association employee or organisation which processes data on behalf of Wellhouse Housing Association consents to all of the provisions of this policy and agrees to comply with all of its terms and conditions and with all applicable laws and regulations.
- Any processor of data whose actions violate this policy or any other Wellhouse Housing Association policy or regulation, may be subject to disciplinary action in accordance with Wellhouse Housing Associations disciplinary procedures.

- The policy aims to ensure that processing of data among Wellhouse Housing Association employees and data processors is consistent with its own internal policies, all applicable legislation, and the individual user's job responsibilities.
- The policy also aims to establish basic guidelines for appropriate processing of data which comply with General Data Protection Regulations.

Freedom of Information and Environmental Information Policy

Responsibilities

- The **Data Protection Officer (currently Finance & Corporate Services Manager)** has lead management responsibility for FOISA and EIR within **Wellhouse Housing Association**. This will include effective implementation and regular review of this Policy. In more detail this will involve: -
 - Evaluating any request and identifying which legislation it will be processed under;
 - Logging the request;
 - Passing the request to Director if it is a complex/controversial case;
 - Sending acknowledgement letter confirming receipt of the request;
 - Contact the Requestor if the request is unclear and clarification is sought;
 - Assessing if the information is covered by the FOI Order, if we hold the information and if it is already accessible;
 - Assigning the request to the relevant Department to deal with;
 - Determining if any exemptions apply and choosing what information can be released;
 - Reviewing documents and preparing response letter;
 - Issuing response stating any exemptions as appropriate.
- Although the overall responsibility for effective implementation of the Policy sits with the **Data Protection Officer**, there will be requirements for input by other staff members. The responsibility will be with Head/Manager of each department:
 - Making information available in accordance with Wellhouse's Model Publication Scheme.
 - Populating the relevant sections of the Guide to Information (GTI) advising members of the public what information is available and where it can be found.
 - Receiving request from **Data Protection Officer** and taking ownership of request to be addressed within required timescales.
 - Collating information for sending out to requestors and returning to **Data Protection Officer**.
 - Determining how much time this will take and, in conjunction with **Data Protection Officer**, calculating any fees where applicable.

- All employees are responsible for:
 - familiarising themselves with this policy;
 - Receiving FOI requests;
 - Identifying FOI requests. If you are unsure how to recognise an information request you should seek guidance from **Data Protection Officer**;
 - forwarding information requests received to **Data Protection Officer** as quickly as possible;
 - seeking guidance from **Data Protection Officer** if they are unsure about any of the duties placed on **Wellhouse Housing Association** by FOISA or EIR;
 - Assisting the **Data Protection Officer** with any administrative duties in respect of FOI when required.
- Employees should be aware that where an information request is received and an employee deletes or alters information held by **Wellhouse Housing Association** with the intention of preventing disclosure of that information a criminal offence has been committed. Where employees are unsure if deletion or alteration of information may result in an offence, they should seek guidance from **Data Protection Officer**
- Compliance with this policy is compulsory for all employees of **Wellhouse Housing Association**. Any employee who fails to comply with this policy may be subject to disciplinary action.

Scope of the Policy

This policy applies to any information held by **Wellhouse Housing Association** 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 **Wellhouse Housing Association**.

This policy applies to all **Wellhouse Housing Association** employees.

Background

Why is Wellhouse Housing Association subject to FOISA and EIR?

Wellhouse 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.

What is subject to FOISA and EIR?

In accordance with the terms of the Order, however, not everything that **Wellhouse Housing Association** does is subject to FOISA and EIR. Instead, **Wellhouse 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 **Wellhouse Housing Association** 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 **Wellhouse Housing Association** are covered by FOISA and EIR:

- the prevention and alleviation of homelessness
- the management of social housing accommodation
- 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 **Wellhouse 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 SIC’s website.

Legal Duties

Wellhouse 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:

Responding to Information Requests

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

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

Where **Wellhouse Housing Association** 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 **Wellhouse Housing Association** is refusing to provide information to individuals it will clearly explain to said individual what provision in FOISA or EIR allows **Wellhouse Housing Association** to withhold that information and why **Wellhouse Housing Association**

believes that provision applies (including, where required, an explanation of how **Wellhouse Housing Association** has carried out the Public Interest Test).

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

Wellhouse Housing Association may choose to charge for fulfilling information requests received from individuals. Any charges made by **Wellhouse Housing Association** 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

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

Responding to Requests for Review

Where someone has requested information from **Wellhouse Housing Association** and:

- **Wellhouse Housing Association** 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 **Wellhouse Housing Association** reviews the response to their request to determine whether or not the provisions of FOISA or EIR have been followed.

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

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

In any event **Wellhouse Housing Association** 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 **Wellhouse Housing Association** 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

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

Publication of Information

Wellhouse Housing Association shall publish information in accordance with its Publication Scheme through its Guide to Information. The Guide to Information of **Wellhouse Housing Association** will be available on its website and a paper format will also be available on request.

Data Protection

Wellhouse 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 **Wellhouse Housing Association** holds about them. This and other rights that individuals have under data protection are not covered by this policy and you should refer to **Data Protection Policy (GDPR)** when dealing with these rights.