



Policy on Freedom of Information (Scotland) Act 2002

Date Approved by Management Committee:
Due for Review:

September 2022
September 2026

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1. Introduction

- 1.1 This document outlines Cernach Housing Association's first policy statement on the Freedom of Information (Scotland) Act 2002 –referred to as FoISA.
- 1.2 The Association is committed to openness and transparency and will therefore comply with the provisions of FoISA and related legislation, including the Environmental Information Regulations (Scotland) Act 2004, the UK General Data Protection Regulation ('UK GDPR') and the Data Protection Act 2018.

2. Scope

- 2.1 For Cernach (as a registered social landlord operating in Scotland), this policy refers to freedom of information (Fol) legislation covering the following functions:
 - the prevention and alleviation of homelessness
 - the management of social housing accommodation (i.e., where we have granted a Scottish secure tenancy or short Scottish secure tenancy)
 - the management of properties and the environment carried out by us on behalf of homeowners (the factoring service)
 - supplying information to the Scottish Housing Regulator in relation to our financial well-being and standards of governance
- 2.2 It is important to note that FoISA rights will only apply to information held by the Association in relation to these functions.
- 2.3 FoISA enables anyone, anywhere in the world, to request any recorded information held by, or on behalf of, the Association. There is no need for the applicant to explain their reasons for the request, or that it is a request under FoISA. Requests for information must be made in writing, which includes emails. The request must state the name and address of the person applying for the information and the required information.
- 2.4 Information will be provided if it is held, unless one or more of the exemptions listed in the legislation applies. Information which is exempt does not have to be provided.

3. Responsibilities

- 3.1 All staff are responsible for ensuring that any Freedom of Information requests they receive are dealt with in accordance with the FoISA and in compliance with this policy. Staff should forward all initial requests for information received by the Association to the Corporate Services Officer or, in her absence, the Director. All requests must be dealt with promptly and in line with this policy. If requests are made verbally, staff must ask the applicant to put their request in writing (appropriate assistance will be provided to applicants with access requirements) to the Corporate Services Officer at the addresses given in section 6 below.
- 3.2 The Association's Management Committee has overall responsibility for this policy. The Director is responsible for ensuring implementation and compliance with this policy.

4. Publication Scheme

- 4.1 The Association has adopted the Scottish Information Commissioner's Model Publication Scheme/SFHA's 'Open All Hours' Publication Scheme.
- 4.2 The Scheme sets out what information we will make available, classified by type of information, and how this information can be accessed. It also details how much it will cost if there are any charges. The Scheme can be accessed using the following link to our website: <https://www.cernachha.co.uk/freedom-of-information/>

5. Requests for information

- 5.1 Members of the public are entitled to request information from the Association.
- 5.2 All recorded information held by the Association falling within the functions set out in 'Scope' above, is subject to the requirements of the FoISA. The type of information which may be requested can be paper or electronic and may include draft documents, agendas, minutes, emails, diaries, or handwritten notes.
- 5.3 Where a valid request is received, there is a duty on the Association to confirm or deny whether it holds the information and if it does hold it, to provide the information so long as an exemption does not apply. If information has been requested but is not held, the Association will inform the applicant of this. In exceptional cases the Association may not be able to

either confirm or deny if the information requested is held, for example where the request is for personal information of a person other than the requester.

- 5.4 If a request is unclear, we will ask for clarification as soon as possible to enable us to proceed with considering the request. We will provide advice and assistance to help people make requests under the FoISA. We will aim to acknowledge requests for information within five working days of receipt; we aim to respond to all requests promptly and, in any event, within 20 working days following receipt of a valid request. The applicant will be informed if it is not possible to comply with this timescale and will be given an indication of when the response is likely to be provided.

6. Charges for information

- 6.1 Information provided in response to requests will be provided electronically, subject to reasonable adjustments (please refer to section 8) and will be free of charge where possible. We may need to charge in some circumstances, for example where the costs are significant. In such cases, we will notify the applicant in advance and will not charge where costs incurred are below the threshold of £100.
- 6.2 If we estimate the cost of dealing with the request to be over £100, we will issue a Fee Notice informing the applicant of the required fee before processing the request for information and as soon as possible within the 20-working day deadline following receipt of the request. Once we issue a Fee Notice, the 20-working daytime limit for responding stops and will start again only when we receive payment.
- 6.3 Fees may be paid by bank transfer, cheque or postal order and further details will be provided with the Fee Notice.

7. Statistics and reporting

- 7.1 The Association must submit statistical reports to the Scottish Information Commissioner on a quarterly basis. The reports include the numbers of requests received under FoISA, EIR and UK GDPR legislation, whether any exemptions were used and whether any reviews were carried out.

8. Exemptions

8.1 The FoISA does not entitle applicants to be given all information held by the Association – it sets out exemptions from the right of access to information, as noted below.

8.2 There are two kinds of exemptions:

- Absolute exemptions – the right to information is completely over-ridden by the exemption
- Non-absolute exemptions – where an exemption may be applied, but the Association must decide whether it serves the interests of the public better to disclose the information than to withhold it. This is known as the public interest test.

8.3 Although there might be occasions when it is appropriate to rely on an exemption, the provision of information is an integral part of the Association's work. Therefore, we aim to disclose as much information as possible and rely on exemptions only in limited circumstances.

8.4 Where a request is refused, a refusal notice must be issued setting out the section of FoISA being relied upon and in most instances explaining the reasons for the refusal, including the details of any public interest and prejudice tests that have been applied. The refusal notice will also outline the review procedure with relevant details and inform the requester of their right to complain to the Information Commissioner.

8.5 Vexatious requests

8.5.1 While we are committed to providing information, we sometimes receive requests which can be deemed 'vexatious'.

8.5.2 In determining whether a request may be vexatious, we will consider whether meeting the request is likely to cause a disproportionate or unjustifiable level of distress, disruption or irritation. Where we believe the request to be vexatious, we will issue a refusal notice **unless** we have already done so in response to an earlier vexatious or repeated request from the same individual, and it would be unreasonable to issue another one.

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8.6 Repeated requests

8.6.1 The Association can refuse requests if they are repeated within a reasonable timescale from the previous request, whether or not they are also vexatious.

8.6 Cost limit is exceeded

8.6.1 The Association reserves the right to refuse requests where the cost of providing the information would exceed the statutory cost limit. This limit is currently £600.

8.6.2 The requester cannot be charged for the first £100 it costs to find and provide the information. Therefore, if the cost of providing the information is less than £100, the requester will receive it free of any charges.

8.6.3 If the cost is over £100 and up to and including £600, we can charge the requester 10% of the cost of providing the information (bearing in mind, the first £100 is free) so the maximum we could charge would be £50, i.e., 10% of the remaining £500 if the cost to us was £600.

8.6.4 If the total cost to us is going to be over £600, we can refuse the request. However, we will advise on how the cost could be reduced so that the request could be fulfilled.

8.6.5 The fees regulations allow us to charge for "projected costs", "whether direct or indirect, which the Association reasonably estimates we are likely to incur in locating, retrieving and providing the information". Costs which might be charged include estimates of the staff time to collect information from our archive, the cost of postage to deliver the information to the requester or the cost of photocopying in order to provide it. We cannot, however, charge for the time and resources used to determine whether we actually hold the information e.g., through searches of catalogues and records holdings. We also cannot charge for any costs incurred in deciding whether the information can be released.

8.7 Other exemptions

8.7.1 There are other exemptions that the Association might apply to information being released and these include:

- Information otherwise accessible
- Prohibitions on disclosure

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- Information intended for future publication
- Relations within the United Kingdom
- Formulation of Scottish Administration policy etc.
- Prejudice to effective conduct of public affairs
- National security and defence
- International relations
- Commercial interests and the economy
- Investigations by Scottish public authorities and proceedings arising out of such investigations
- Law enforcement
- Confidentiality
- Court records, etc.
- Personal information (as defined in GDPR and DPA 2018)
- Health, safety and the environment
- Audit functions
- Communications with His Majesty etc. And honours

9. Complaints

- 9.1 Anyone who has made a request for information to us under the FoISA is entitled to request an internal review if they are unhappy with the way their request has been handled.
- 9.2 Internal reviews will be carried out by a senior member of staff who was not involved with the original decision.
- 9.3 A request for review may be about:
- a decision not to give them some or all of the information
 - how an exemption has been applied
 - how the request was handled (for example, failing to reply to them within the time limit allowed)
 - a complaint about our Publication Scheme
 - failing to give them advice about, and help with, making their request
 - asking them to pay a fee that they might feel is unreasonable
- 9.4 The Association may ask the applicant for clarification of the grounds of their complaint if the grounds are not clear.

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9.5 A request for an internal review should be sent to:

Cernach Housing Association Ltd
Marion McDonald House
79 Airgold Drive
Drumchapel
Glasgow
G15 7AJ

0141 944 3860
DPO@cernachha.co.uk
www.cernachha.co.uk

9.6 An internal review will consider whether or not the request was handled appropriately and in line with the requirements of the FoISA. Applicants wishing to ask for an internal review must do so within 40 working days of the date of the Association's final response to their request.

9.7 We will acknowledge the request for an internal review within five working days and aims to respond within 20 working days of receipt. In a small number of cases, the response may take longer. In these circumstances, we will notify the requester, explain why more time is needed and give an estimate of the completion date.

9.8 Anyone who is unhappy with the outcome of an internal review is entitled to complain to the Scottish Information Commissioner.

10. Review

10.1 This policy will be reviewed every four years, or earlier in accordance with legal, regulatory, or best practice requirements. The next review will take place no later than September 2026.