

Bridgewater Housing Association Ltd Policy

Approved by November 2019
committee on: 29 June 2022
Review Date: 29 June 2025
Ref: CS14
Freedom of Information

1. INTRODUCTION

Bridgewater Housing Association is committed to openness and transparency. We will comply with the provisions of the Freedom of Information (Scotland) Act 2002 (FOISA) and related legislation, including the Environmental Information Regulations (Scotland) Act 2004, the UK General Data Protection Regulation and the Data Protection Act 2018.

2. SHR STANDARDS OF GOVERNANCE AND FINANCIAL MANAGEMENT

This policy is intended to provide additional assurance to the Board of Bridgewater Housing Association that it is complying with:

STANDARD 2

The RSL is open about and accountable for what it does. It understands and takes accounts of the needs and priorities of its tenants, service users and stakeholders. And its primary focus is the sustainable achievement of these priorities.

STANDARD 4

The governing body bases its decisions on good quality information and advice and identifies and mitigates risks to the organisation's purpose.

STANDARD 5

The RSL conducts its affairs with honesty and integrity.

3. SCOPE

For Registered Social Landlords in Scotland, this Policy refers to freedom of information (FOI) legislation covering the following functions:

- the prevention and alleviation of homelessness
- the management of social housing accommodation (i.e. where an RSL has granted a Scottish secure tenancy or short Scottish secure tenancy)
- the provision and management of sites for gypsies and travellers
- supplying information to the Scottish Housing Regulator in relation to its financial well-being and standards of governance

It is important to note that FOI rights will only apply to information held by Bridgewater Housing Association in relation to these functions.

FOISA enables anyone, anywhere in the world, to request any recorded information held by, or on behalf of, Bridgewater Housing 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. Requests must state the name and address of the person applying for the information and the required information.

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.

4. RESPONSIBILITIES

4.1 Staff

All staff are responsible for:-

- Ensuring that requests under FOISA received are dealt with in accordance with FOISA and in compliance with this policy.
- Forwarding initial requests to the Head of Corporate Services & Business Development as quickly as possible.
- Seeking guidance from Departmental Managers or the Head of Corporate Services & Business Development if unsure of how to recognise an FOI request or about any of the duties placed on the Association.
- Preparing and providing information for the Head of Corporate Services & Business Development to issue to requestors.
- Signposting enquirers to the Association's website and Guide to Information where information requested is already available.

4.2 Head of Corporate Services & Business Development

The Head of Corporate Services & Business Development has lead responsibility for FOISA within the Association, including:-

- Effective implementation and regular review of this policy
- Responding to requests under FOISA and forwarding requests to relevant staff members for information
- Collating information for sending to requesters
- Making information available in accordance with our Publication Scheme.

4.3 Board of Management

The Board of Bridgewater Housing Association has overall responsibility for this policy.

5. PUBLICATION SCHEME

Bridgewater Housing Association has adopted the Scottish Information Commissioner's Model Publication Scheme.

The Scheme requires the Association to publish a Guide to Information which sets out what information the Association 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.bridgewaterha.org.uk/foi>

6. REQUESTS FOR INFORMATION

Members of the public are entitled to request information from Bridgewater Housing Association.

All recorded information held by the Association falling within the functions set out in section 3 (above), is subject to the requirements of 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.

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.

If a request is unclear, the Association will ask for clarification as soon as possible to enable proceeding with considering the request. The Association will provide advice and assistance

to help people make requests under FOISA. The Association will aim to acknowledge requests for information within five working days of receipt. The Association aims 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.

7. CHARGES FOR INFORMATION

Information provided in response to requests will be provided electronically, subject to reasonable adjustments and will be free of charge where possible. Bridgewater Housing Association may need to charge in some circumstances, for example where the costs are significant. In such cases the Association will notify the applicant in advance and will not charge where costs incurred are below the threshold of £100.

For full details of charges for information, please refer to our Guide to Information by using the following link to our website: <https://www.bridgewaterha.org.uk/foi>

8. STATISTICS

Bridgewater Housing 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.

9. EXEMPTIONS

FOISA does not entitle applicants to be given all information held by Bridgewater Housing Association. FOISA sets out exemptions from the right of access to information.

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.

Although there might be occasions when it is appropriate to rely on an exemption, 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.

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.

9.1 Vexatious Requests

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

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.

9.2 Repeated Requests

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

9.3 Cost Limit is Exceeded

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.

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.

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 charge would be £50, i.e. 10% of the remaining £500 if the cost to the us was £600.

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

The fees regulations allow charging for "projected costs", "whether direct or indirect, which Bridgewater Housing 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.

9.4 Other Exemptions

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

- Information otherwise accessible
- Prohibitions on disclosure
- 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 Her Majesty etc. and honours

10. COMPLAINTS

Anyone who has made a request for information to Bridgewater Housing Association under FOISA is entitled to request an internal review if they are unhappy with the way their request has been handled.

Internal reviews will be carried out by the Association's Chief Executive.

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 (eg 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

The Association may ask the applicant for clarification of the grounds of their complaint if the grounds are not clear.

A request for an internal review should be sent to the contact details set out below:-

Andy Thomson
Chief Executive
Bridgewater Housing Association
1st Floor
Bridgewater Shopping Centre
Erskine
PA8 7AA
Email: info@bridgewaterha.org.uk

An internal review will consider whether or not the request was handled appropriately, in line with the requirements of 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.

Bridgewater Housing Association will acknowledge the request for an internal review within 5 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, Bridgewater Housing Association will notify the requester, explain why more time is needed and give an estimate of the completion date.

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

11. LINKS TO OTHER POLICIES/DOCUMENTS

- Environmental Impact Regulations policy
- Data Protection policy

12. REVIEW

This policy will be reviewed in 2025.