



FREEDOM OF INFORMATION POLICY
CASTLE ROCK EDINVAR HOUSING ASSOCIATION

REMIT

The Freedom of Information (Scotland) Act 2002 demonstrates a commitment to greater openness in the public sector. It enables members of the public to find out more about the activities and the decisions of public authorities and to ensure that services are delivered properly and efficiently. The Act has been in force since 1 January 2005. Registered Social Landlords (RSLs) in Scotland will be classified as public authorities and therefore subject to the Act from 11 November 2019.

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1. Introduction

The Freedom of Information (Scotland) Act 2002 (FOISA) gives a general right of access to all types of recorded information held by public authorities, sets out exemptions from that right and places a number of obligations on public authorities. Any person who makes a request to a public authority for information is entitled to receive that information, subject to exemptions.

Under Section 23 of the Act, Castle Rock Edinvar must adopt and maintain a publication scheme setting out the information we routinely make publicly available. Our scheme has to be approved by the Scottish Information Commissioner (SIC), who is responsible for the enforcement of the Act. In addition we have to review the scheme regularly and routinely.

2. Model Publication Scheme

The Freedom of Information (Scotland) Act 2002 requires Scottish public authorities to produce and maintain a publication scheme. Authorities are under a legal obligation to:

- Publish the classes of information made routinely available;
- Tell the public how to access the information and what it might cost.

Castle Rock Edinvar have adopted the Scottish Information Commissioners Model Publication Scheme. Details of which can be found here [Model Publication Scheme: Guide for Scottish Public Authorities](#)

Castle Rock Edinvar has a duty to regularly review its Publications to ensure they are up-to-date.

3. Timescale for responding to requests

The Act requires that the requested information is provided to the applicant within 20 working days following receipt of the request.

Castle Rock Edinvar will carry out an assessment to determine if –

- The request falls under the scope of Freedom of Information (that it relates to social housing activities in Scotland) and issue appropriate response letter if not.
- It should be classified as an Environment Information Request (EIR) or Subject Access Request (SAR). In these cases, the existing Group policy should be followed.
- The request is clear. If not, as part of the duty to advise and assist, Castle Rock Edinvar will seek clarity from the requester and issue appropriate response.

- Can the response be made as part of ‘business as usual’.
- Assess if the cost to produce the response exceeds £600 & issue appropriate response if the answer is yes.

If the request is assessed to be a valid request, and within scope, Castle Rock Edinvar will issue an acknowledgment of receipt to the requester, specifying the date they can expect a response.

4. Information Commissioners Office

The Act is regulated by the Scottish Information Commissioner.

Scottish Information Commissioner,
Kinburn Castle,
Doubledykes Road,
St Andrews, Fife
KY16 9DS

Telephone: 01334 464610

Fax: 01334 464611

e-mail: enquiries@itspublicknowledge.info

Castle Rock Edinvar is required to report quarterly about all Freedom of Information, even where the information is not disclosed due to an exemption.

5. Scope

This policy provides a framework to ensure compliance with the Freedom of Information (Scotland) Act 2002 (FOISA). In order to determine whether or not information is subject to FOI it needs to be assessed as being covered by the scope of the order or not.

The order is two fold –

- Does an organisation fall within the description of persons contained within the order?
- Does it have any of the functions described in the order?

For this “descriptions of persons” applies to Registered Social Landlords (RSLs) and their connected bodies. RSLs are defined as being listed in the Scottish Housing Regulator’s Register and a “connected body” is subject to the order if it is a subsidiary of an RSL. Therefore Castle Rock Edinvar Housing Association (CRE) & Places for People Scotland Ltd (PfPS) are subject to FOISA.

A RSL is only subject to FOISA if it carries out one or more of these functions –

1. *Prevention & alleviation of homelessness*
The Scottish Social Housing Charter identifies the Local Council (LCA) with the statutory duty for **alleviation** of homelessness (outcome 12). But we would be subject to information relating to Section 5 homeless referrals from LCAs. Our responsibility for **prevention** is limited to provision of advice under charter outcome 7-9.
2. *Management of social housing accommodation*
FOISA rights will only apply to information held by an organisation in relation to the functions covered by the Order i.e. provision of Scottish Secure Tenancies (SSTs)
3. *Provision & management of sites for gypsy travellers*
The Scottish Social Housing Charter identifies the Local Council (LCA) with the statutory duty for managing gypsy traveller sites (outcome 16). CRE does not manage any gypsy traveller sites therefore FOISA does not apply.
4. *Supplies financial/governance information to SHR*

FOISA requests relate to information, not documents. Any information compliant with FOISA held as part of a wider document should be extracted before disclosure.

This policy applies to all staff working for Castle Rock Edinvar including temporary, fixed term and agency staff.

6. Freedom of Information Duties

Freedom of Information law places three main duties on authorities to meet FOISA responsibilities –

- *Duty to Publish*
We must publish information about the work we do, the decisions we take and the services we provide.
- *Duty to Respond to Requests*
We must respond to requests for information we receive.
- *Duty to Advise and Assist*
We must help people who want to access our information

7. Roles and Responsibilities

Managing Director

The Managing Director has ultimate responsibility for adherence to the Act.

Directors and Executive Directors

Directors have responsibility for approving responses for their business area and input to the publication scheme.

Business Manager

The Business Manager will

- Be the representative for Freedom of Information issues to the Board.
- Responsible for updates to the Publication Scheme.
- Responsible for the Review process should applicants be dissatisfied with the initial response.
- Support Business Executive Assistant (BEA) as required.
- Ensure organisational compliance with the Act.
- Review Public Interest tests where applicable.
- Act as a FOISA Champion for awareness throughout the organisation.

Business Executive Assistant

The Business Executive Assistant will

- Ensure the public and staff have access to information about their rights under the Act.
- Assess if the request falls within scope and relates to social housing activities in Scotland and issue an appropriate response if not.
- Ensure applicants receive appropriate acknowledgement within 48 hours of submitting their request.
- Ensure that all requests for information are validated, recorded and co-ordinated in accordance with approved procedures which ensure responses are sent to the applicant within legal timescales.
- Log requests and update as necessary.
- Collate and co-ordinate responses with assistance from wider staff.
- Discuss request with Responsible Person if required.
- Get sign-off on disclosure from appropriate Responsible Person.
- Issue appropriate response.
- Advise and support staff with requests.
- Send quarterly log to SIC.

Group “Responsible Persons”

If a request is received that relates to the wider Group that potentially falls under the scope of social housing activities in Scotland, the following staff have been identified to provide guidance as required –

Function	CRE	Group
Housing Management	Director of Customer Experience	Managing Director
Asset Management	Director of Property Services	Managing Director
Overall Responsibility	Managing Director	Managing Director
Finance	Head of Finance	Executive Director - Finance
HR & People	Head of HR	Director of People
Business Assurance	Business Manager	Director of Business Assurance
Governance/Legal	Business Manager	Deputy Company Secretary/ Commercial Solicitor
Procurement/Contracts	Category Manager	Director of Procurement

The appropriate Responsible Person will sign-off FOI responses before any disclosure is made.

All Staff

All employees of Castle Rock Edinvar are obliged to adhere to this procedure. They must also be aware of the implications of this policy, and the process for the central handling of FOI requests. Training will be mandatory to all staff and has been incorporated into the induction process.

Staff should be aware that FOI requests must be made in writing and immediately forwarded to the FOISA inbox – foisa@castlerockedinvar.co.uk

Staff are reminded to review their personal drives as these will also be subject to Freedom of Information and information held here must be disclosed. Staff should enter into proactive records management, storing, archiving and deleting as appropriate (see data retention policy for further information).

All staff should be aware that under section 77 of the Act it is a criminal offence to alter, deface, block, erase, destroy or conceal any record held by the public authority, with the intention of preventing the disclosure by that authority, or any part, of the information to the communication of which the requester would have been entitled.

Where a request is received by hard copy letter, the date of receipt by Castle Rock Edinvar should be clearly marked on the request letter. This should be scanned and sent to the above email address immediately, with the hard copy sent in the post to the Business Executive Assistant.

Note Castle Rock Edinvar has only 20 working days to respond to the request for information. Where staff are unsure of whether a request falls under FOI they should seek clarification from the Business Executive Assistant or Business Manager.

8. Identifying Freedom of Information Requests

To be classed as a FOISA request the request must:

- Be made in writing (this includes by electronic means such as e-mail and social media posts)
- State the applicant's name and include an address for correspondence (this can be an e-mail address)
- Describe the information being requested to enable Castle Rock Edinvar to clearly identify the information required. Where this is not clear Castle Rock Edinvar must seek clarification from the applicant.

It should be noted that requests do not need to mention FOISA or contain a reason for requesting the information.

A distinction must be made between requests for information and routine correspondence. Requests for information that can be provided as part of the daily operations and without any question (e.g. leaflets, other Castle Rock Edinvar material, publicity brochures, press releases) should be treated as business as usual.

FOISA requests only cover recorded information. However, if we hold the information, we must disclose it. If the information is not held we are not required to generate or create data in order to provide an answer.

Once a FOISA request has been identified and submitted, the Business Executive Assistant will send an acknowledgement to the applicant to confirm receipt of request.

9. FOISA Exemptions

Castle Rock Edinvar has a duty to receive all requests in a positive manner with a view to disclosing the required information under the Scottish Information Commissioner's duty to advise and assist. However, the Act does contain a number of exemptions from the duty to confirm or deny or to communicate information.

Castle Rock Edinvar can only withhold information if one or more exemptions as outlined in Section 16 of the FOISA Act apply to the information being requested. If

information is properly exempt then there is no right of access to it under the Act. All the exemptions operate in different ways and, when applying individual exemptions, the following factors may need to be considered:

- The content of the information
- The effect that disclosure could have (for example, the possible impact on our relations with third parties or on any ongoing investigations/legal proceedings)
- The source of the information
- The purpose for which the information was recorded

Examples of exemptions can be found in *Appendix 2*.

The Business Support team will advise and confirm if and when an exemption may be applied. In all cases a justified, clear explanation must be provided.

10. The Public Interest Test

Where it is intended to apply an exemption, the Business Executive Assistant in consultation with the Business Manager will undertake and document a 'public interest test'. This means balancing the considerations of disclosure and non-disclosure of information. If the public interest in withholding the information outweighs the public interest in disclosing it, it should be withheld. When a decision is made to withhold information the reasoning as to why that decision was made must be recorded e.g. a demonstration of the potential harm in disclosing the information must be made.

11. Complaints

Where the applicant wishes to ask for a review of the information disclosed or the decision not to disclose some or all of the information, the request should be made in writing to the Business Manager who will raise the review request.

Reviews should be completed within 20 working days from the time the request for the review was received. In exceptional circumstances where the review is deemed complex, this may be extended to 40 days. The applicant should be informed of the timescale within which the review will be undertaken.

The applicant must be informed of the outcome of the review. Where the review overturns an original decision, the information should be disclosed to the applicant as soon as possible after the completion of the review.

To ensure the review stage is fair and impartial, the Business Manager will conduct a review of the decisions made during the original consideration for the release of information.

Where the original decision is upheld, Castle Rock Edinvar is not obliged to undertake any further review. However the applicant must be informed of their right of appeal to the Scottish Information Commissioners Office.

Full records of the progress of the review must be kept and any outcomes as a result of the review recorded. This will be subject to review and inspection by the Scottish Information Commissioner in any further investigations.

12. Personal Information

Requests made by an applicant to review their own personal information will not be disclosed under this procedure. All requests for personal information will be dealt with under the Subject Access Request (SAR) procedure. *(See the SAR procedure for guidance.)*

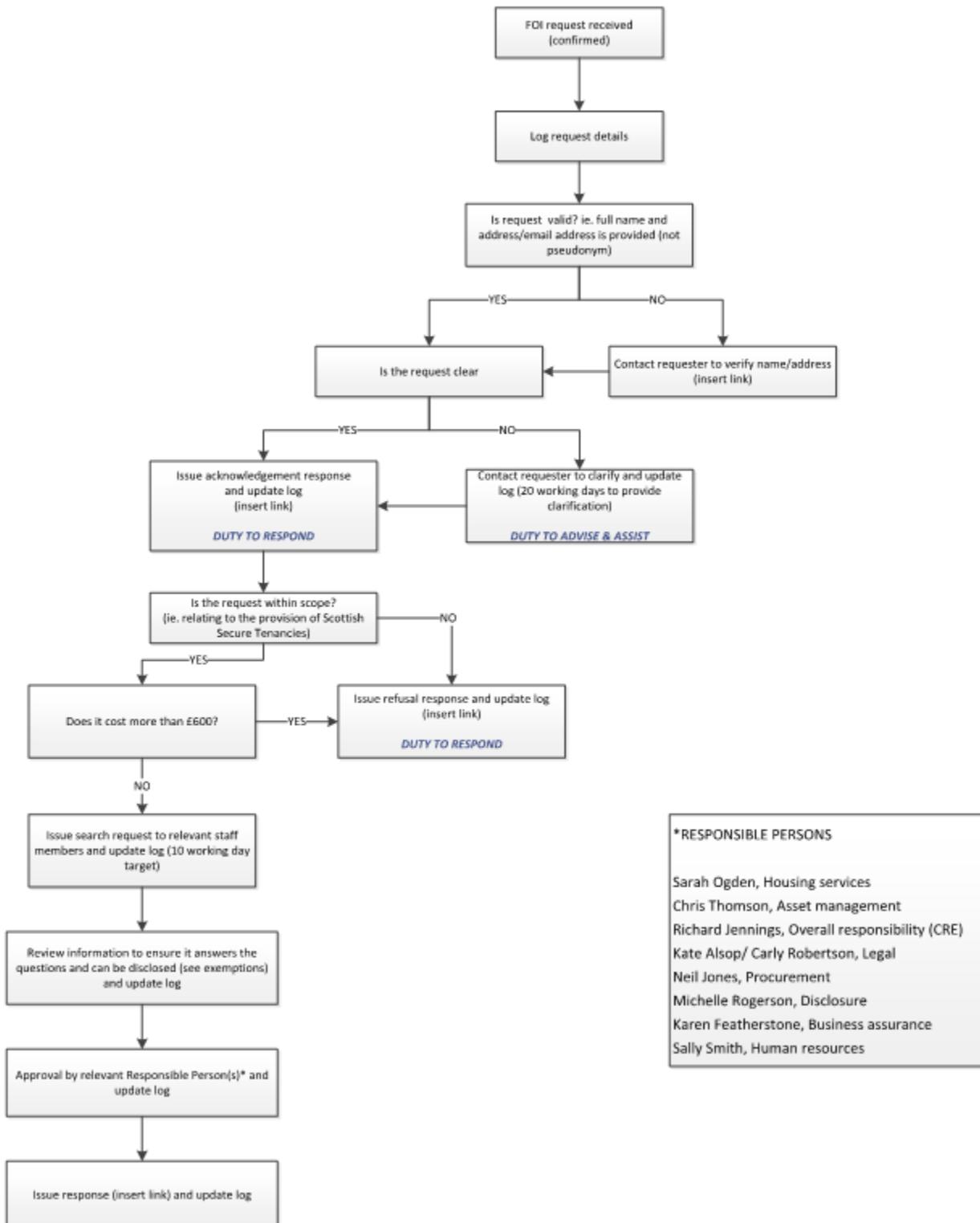
13. Staff Training

This policy will be made available to all staff via the intranet. Training will be given to all staff prior to FOISA coming into effect and will be incorporated into the induction process for new starts.

14. Confidentiality

Whilst the purpose of the Act is to ensure Castle Rock Edinvar is as transparent as possible, Castle Rock Edinvar has a duty to maintain confidentiality relating to those who request information.

Appendix 1 – Process Map



Appendix 2 – Exemptions

There are a number of exemptions that are applicable to FOISA, these have been listed below in order of those most likely to be applicable. Reference is also made to possible alternative actions.

Clause	FOISA Exemption	Possible alternative action
27	Intended for future publication	Refer to MPS
25	Accessible by other means	Refer to where accessible
38	Personal information	GDPR or SAR
39 (1)	Health & Safety	Possible EIR legislation
39 (2)	Environment	Possible EIR legislation
36 (2)	Confidentiality	3 rd party confidentiality clause
33	Commercial interests & the economy	Case by case assessment
29	Formulation of Scottish Government Policy	Low probability
30	Effective conduct of public affairs	Low probability
34	Investigations & Proceedings	Low probability
35	Law Enforcement	Low probability
36 (1)	Legal privilege	Low probability
37	Court records	Low probability
40	Audit functions	Low probability
26	Prohibitions on disclosure	Low probability
28	Relations within the UK	Low probability
41	Communications with her Majesty & Honours	Low probability
31 (1)	National security	Low probability
31 (2)	Defence	Low probability
32	International relations	Low probability

