



## **FREEDOM OF INFORMATION AND ENVIRONMENTAL INFORMATION POLICY**

<b>Policy Number</b>	GCS 2.23 Version 1.0
<b>Lead Officer</b>	Clare Ruxton, Director of Corporate Services
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## **OSPREY FREEDOM OF INFORMATION AND ENVIRONMENTAL INFORMATION POLICY POLICY STATEMENT**

***Osprey Housing believes that effective and efficient management of information is vital to the success of maintaining good quality services for all our tenants and providing value for money.***

We embrace robust data management and this is encompassed in our Core Values:

- **Ambition and Achievement** – we are a high performing organisation delivering through innovation and challenge
- **Equality and Respect** – we recognise and celebrate the unique value in everyone
- **Quality and Professionalism** – we strive to deliver high standards
- **Agile and Responsive** – we are flexible and quick to deal with change without diminishing our delivery

## 1. 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 Osprey Housing has been designated as Scottish Public Authority and has needed to make information available in accordance with FOISA and EIR.

This policy will:

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

## 2. Policy Statement

Osprey 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 we 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 of our staff 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
- provide advice and assistance to individuals seeking to access information

## 3. Responsibilities

### 3.1 Director of Corporate Services

The Director of Corporate Services has lead management responsibility for FOISA and EIR within Osprey. This will include effective implementation and regular review of this Policy.

### **3.2 Corporate Services Team**

The Corporate Services team are responsible for:

- receiving requests under FOISA and EIR
- logging requests in the FOISA spreadsheet
- responding to requests within the legal time limit
- making information available in accordance with our Publication Scheme
- Producing agreed KPIs to inform us of how well we are doing

### **3.3 Line Managers**

Line Managers are responsible for:

- confirming whether the requested information is held
- collating the information relating to their departments and returning it to Corporate Services team within the agreed time limits
- giving guidance to their teams if they are unsure about any of the duties placed on Osprey Housing by FOISA or EIR

### **3.4 Team Members**

All team members are responsible for:

- familiarising yourself with this policy
- forwarding information requests received to Corporate Services team as quickly as possible. If you are unsure how to recognise an information request you should seek guidance from your Manager
- seeking guidance from Director of Corporate Services if you are unsure about any of the duties placed on you by FOISA or EIR
- helping to gather any data requested as soon as possible

Team members should be aware that where an information request is received and an employee deletes or alters information held by Osprey with the intention of preventing disclosure of that information a criminal offence is committed. Where you are unsure if deletion or alteration of information may result in an offence you should seek guidance from your manager.

Compliance with this policy is compulsory for all of our team members. Anyone who fails to comply with this policy may be subject to disciplinary action.

## **4. Scope of the Policy**

This policy applies to any information held by Osprey 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.

## 5. Background

### 5.1 Why is Osprey Housing subject to FOISA and EIR?

We are 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.

### 5.2 What is subject to FOISA and EIR?

However, in accordance with the terms of the Order, not everything that Osprey does is subject to FOISA and EIR. Instead, we are 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 we carry 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 us are covered by FOISA and EIR:

- the prevention and alleviation of homelessness
- the management of social housing accommodation
- the provision and management of sites for gypsies and travelers
- 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

### 5.3 What is the difference between FOISA and EIR?

EIR provides a right of access to 'Environmental Information' held by us. 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.

## 6. Legal Duties

Osprey has a number of legal duties which it must comply with under FOISA and EIR. These are set out in more detail below:

### 6.1 Responding to Information Requests

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

We 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 Osprey is entitled to extend the timescale for responding by an additional 20 working days).

Where we are providing an individual with the information they have requested we 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 we refuse to provide information to individuals we will clearly explain to the individual what provision in FOISA or EIR allows us to withhold that information and why we believe that provision applies (including, where required, an explanation of how we have carried out the Public Interest Test).

Where we are asked to provide information which we do not hold, but we are aware that another Scottish Public Authority does hold the requested information – we shall provide contact details of that 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 we shall offer to transfer the individual's request to the other Scottish Public Authority.

Osprey may choose to charge for fulfilling information requests received from individuals. Any fee charged by us will be reasonable, will not exceed the costs to us of providing requested information and will follow the guidance within the legislation.

## **6.2 Responding to Requests for Review**

Where someone has requested information from Osprey and:

- we have 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 that individual has the right to request that Osprey reviews the response to their request to determine whether or not the provisions of FOISA or EIR have been followed.

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

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

In any event **we** 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 Scottish Information Commissioner (SIC). If an appeal is made by SIC and a decision handed down by them both Osprey and the individual in question have a right to appeal to the courts on a point of law.

### **6.3 Provision of Advice and Assistance to Individuals**

Osprey 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. We will comply with this duty by following the guidance contained in the Section 60 Code of Practice issued by Scottish Ministers.

### **6.4 Publication of Information**

Osprey shall publish information in accordance with our Publication Scheme through our Guide to Information. Our Guide to Information is available on our website and a paper format will also be available on request.

### **6.5 Data Protection**

Osprey is committed to upholding our 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 we hold about them. This and other rights that individuals have under data protection are not covered by this policy and you should refer to Osprey's Privacy policy when dealing with these rights.

## **7. Equal Opportunities**

Osprey shall strive to ensure equality of opportunity, and by definition, that all individuals are treated fairly regardless of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

We oppose, and shall adopt a zero tolerance stance towards, all forms of unlawful discrimination, harassment and victimisation. In this regard, Osprey acknowledges the protected characteristics and types of unlawful behaviour defined within the Equality Act 2010. As a minimum all practices shall aim to ensure compliance with the legislative provisions therein.

## **8. Monitoring & Reporting**

We will monitor this policy in conjunction with our other policies and procedures to ensure that it is being adhered to.

## **9. Review**

This policy is reviewed every three years unless an earlier review is required due to:

- changes to applicable legislation, rules, regulations and guidance, both those which affect Osprey directly and those which affect the resources available to significant numbers of our customers to enable them to sustain tenancies
- changes in the organisation
- continued best practice

## Appendix 1

### FOI Request Process

#### **Stage 1 – Receive, Identify & Log**

##### **Request Received (Days 1-2)**

**1-2)** Pass to Corporate Services who will Log details, validate request, ID Legislation & send acknowledgement

On receipt of a FOI request pass to Corporate Services team. They will:

Evaluate the request and identify which legislation it will be processed under:

- Freedom of Information (Scotland) Act (FOISA).
- Environmental Information Regulations (EIRs).
- Data Protection Act (DPA).

Log the request in the Information Tracking spreadsheet.

If the request is a complex/controversial case, inform Director of Corporate Services.

Send an acknowledgement letter confirming receipt of the request and the legislation under which it will be processed. Proceed to Stage 2.

#### **Stage 2 – Clarify**

##### **Clarify Request (Days 1-2)**

**2)** Corporate Services team to contact requester if necessary to seek further clarification

Corporate Services team will ensure that the request is clear regarding what information is being requested. If the request is unclear clarification will be sought.

##### **Assess Request (Days 3-5)**

**5)** Corporate Services team to decide if: the information is covered by the Order; we hold the information & if it is already accessible

Corporate Services team will assess:

Whether the request relates to functions covered by the Freedom of Information (Scotland) Act 2002 (Designation of Persons as Scottish Public Authorities) Order 2019 (the Order).

If request is covered by the Order proceed with next steps in Stage 3.

If information not covered by the Order but we are willing to release some or all of the information proceed with next steps in Stage 3.

If information not covered by the Order and we are not willing to release any of the information send letter to the requestor informing them that we are not obliged to provide them with the information they have requested.

If we do not hold the information send letter to the requestor informing them the information is not held.

If the information is held but is already published then send Section 25 exemption letter to the requestor informing them of where to find this information. Where the information is not covered by the Order we should simply write to the requester and inform them where to find the information.

If the information is held and has not been published then proceed to Stage 4.

#### **Stage 4 - Assign Request to Site/Section - Inform & Consult**

##### **Assign/Inform/Consult (Days 3-5)**

Corporate Services team will send request to appropriate department director to request information held.

Relevant department will respond to Corporate Services team when information has been collected or to inform them that department does not hold information.

Consult with Director of Corporate Services to determine if fees are applicable. DCS will advise on applying fees.

#### **Stage 5 - Locate & Consider Information to be Disclosed**

##### **Locate Information (Days 3-5)**

Appropriate department director collates information. Director of Corporate Services will assist, support & advise

Appropriate department director considers if the information can be supplied or whether any exemptions apply. Where the information requested is not covered by the Order no need to determine whether or not exemptions apply and instead choose what information we are prepared to release.

Director of Corporate Services will advise and assist in applying exemptions.

Appropriate department director obtains information from all sources and collates.

Appropriate department completes information request documents as appropriate.

#### **Stage 6 - Consider Response**

##### **Consider Response (Days 6-10)**

Corporate Services team review & draft response

Corporate Services team will review documents and prepare response letter

**Stage 7 - Clearing Response**

**Clearing Response (Days 11-15)**

In cases of complex/controversial requests Corporate Service Manager will seek clearance and consult with the rest of the Senior Management team as necessary.

**Issue Response (Days 16-20)**  
Director of Corporate Services issue

Director of Corporate Services quality checks and issues information requested, stating any exemptions as appropriate.