



Title: Freedom of Information (Scotland) - Group Procedure

Business Function: All Functions across Sanctuary Group that hold information relating to regulated activities of Sanctuary Scotland

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Sanctuary Group:
Sanctuary Group is a trading name of Sanctuary Housing Association,
an exempt charity, and all of its subsidiaries.

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General Information

1. Objective of this procedure

- 1.1 The objective of this procedure is to provide a framework to guide staff in the implementation of the [Freedom of Information \(Scotland\) - Group Policy](#), and to provide clarification on the basic requirements of the legislation.
- 1.2 It is important that all staff involved in handling of information covered by the Freedom of Information (Scotland) Act (FOISA) are appropriately trained as soon as possible upon commencement of their employment. It is important that staff recognise that whilst the FOISA currently only affects regulated activities of Sanctuary Scotland, a request can be made by anyone to any part of Sanctuary Group (the Group). Staff need to be able to recognise a valid request and direct it through the procedure set out at section 4.
- 1.3 This procedure should be read in conjunction with the following:
 - [Data Protection -Group Policy and Procedure](#)
 - [Archiving - Group Policy and Procedure](#)
 - [Disciplinary - Group Policy and Procedure](#)
 - [Information Security - Group Policy](#) and the [Information Security Management System Manual](#)
 - [Content and Records Management - Group Policy and Procedure.](#)

2. Legislative/Regulatory context

- 2.1 References and sources are set out in the [Freedom of Information \(Scotland\) - Group Policy](#). In particular, the policy and procedure are driven by the Group's obligations to comply with the regulatory and legal requirements of the:
 - [Freedom of Information \(Scotland\) Act 2002 \(FOISA\)](#)
 - [The Environmental Information \(Scotland\) Regulations 2004 \(EIRs\)](#)

3. Responsibilities for implementation

- 3.1 Directors (or equivalent) are responsible for ensuring adoption of, and adherence to, this procedure and its associated policy relevant to their operation.
- 3.2 This procedure and its associated policy applies to all staff within the Group who carry out work relating to Sanctuary Scotland's activities regulated by the Scottish Housing Regulator. In addition, certain staff working in central functions within the Group are also required to understand and comply with this policy and procedure. It is the responsibility of Directors and the Freedom of Information Officer to ensure that relevant staff are required to undertake training on FOISA, as appropriate.

- 3.3 The Director - Sanctuary Scotland is the Group's nominated Freedom of Information Officer. The Freedom of Information Officer with support from Legal Services has overall responsibility for ensuring compliance with the FOISA, deciding on the validity of requests, reviewing information to be released in response for a request, reviewing publishable material, ensuring the ongoing publication of material, liaising with the Scottish Information Commissioner (SIC), and dealing with/reviewing complaints/appeals.
- 3.4 All contractors providing services or goods to Sanctuary Scotland in relation to its regulated activities will also need comply with the requirements of FOISA. This must be provided for in any written agreement between the Group and the individual/company. This will ensure that they agree to abide by FOISA, in so far as they hold information relating to Sanctuary Scotland and its regulated activities.

4. What's new - What's different?

- 4.1 November 2019 - this procedure and associated policy are new, both have been created in light of the new legislation.

5. Definitions

- 5.1 The following definitions aim to support the user's understanding of this procedure.

<i>Classes of Information</i>	Nine broad categories describing the types of information that every public authority adopting the Model Publication Scheme must publish (if they hold it)
<i>EIRs</i>	The Environmental Information (Scotland) Regulations 2004
<i>Exemptions</i>	Specific exemptions that are set out in the FOISA at section 25 - 40 which may be applied in relation to a request for information.
<i>FOISA</i>	The Freedom of Information (Scotland) Act 2002
<i>Freedom of Information Officer</i>	A senior person within the Group who has overall responsibility for compliance with the FOISA.
<i>Model Publication Scheme</i>	A standard framework for public authorities to publish information under the FOISA approved by the SIC and which has been adopted by Sanctuary Scotland
<i>MPS Principles</i>	The six key principles with which all information published under the Model Publication Scheme must comply.
<i>Public Authority</i>	Means any Scottish public authority as defined by section 3 of the FOISA. Section 3 references a list of public authorities contained in Schedule 1 of the FOISA or as may be designated by an order under section 5 (1).
<i>Regulated activities</i>	Any activity that is regulated by the Scottish Housing Regulator
<i>Scottish Information Commissioner</i>	The regulatory body that oversees compliance with the FOISA in Scotland

Detailed Procedures

1. Freedom of Information overview

- 1.1 The FOISA and the EIRs enable the public to access information of any age held by Scottish public authorities. The three main duties are:
- the duty to proactively publish information;
 - the duty to respond to information requests; and
 - the duty to provide advice and assistance.
- 1.2 These regimes require authorities to either make available the information requested by an applicant or to explain why the information is not being made available by reference to an Exemption. Public authorities must also have a publication scheme which sets out the information that they will routinely publish. In addition, an authority must provide advice and assistance to an applicant in addressing their request. The SIC is responsible for enforcing and promoting both regimes.
- 1.3 The EIRs apply to environmental information only. In Scotland, the Group has been subject to the EIRs for some time. The FOISE applies to all information (including environmental information). However, section 39(2)(a) of the FOISA allows a public authority to exempt environmental information, which the authority is obliged to make available to the public under the EIRs. By applying this exemption, the public authority can then go on to consider the request under the EIRs alone. The process for dealing with such a request is the same and is detailed in section 4.

2. What information is covered?

- 2.1 All information relating to Sanctuary Scotland's activities which are regulated by the Scottish Housing Regulator and which it holds. This will mainly be information relating to the provision of social housing in Scotland and in particular information related to that activity which will have a specific public interest. This will include information about decisions made and the facts and analysis that inform them and the functions and services provided by Sanctuary Scotland, including the costs of those services and their performance. The fundamental principle of the FOISA is that information must be disclosed unless it is exempt from disclosure.
- 2.2 As part of the preparation for the FOISA, Sanctuary Scotland has formerly adopted SIC's Model Publication Scheme (MPS). A copy of the MPS is available on the website of SIC. This sets out the different Classes of Information that fall within the scope of the FOISA which Sanctuary Scotland is obliged to proactively publish in order to comply.

- 2.3 In addition, the Scottish Federation of Housing Associations, in conjunction with SIC, has produced a model template Guide to Publication which it is recommended that registered social landlords in Scotland follow as best practice. Sanctuary Scotland has chosen to follow this template guide, with amendments where appropriate. Following this template ensures full compliance with the MPS. The MPS is a living document and should be regularly reviewed to ensure any changes are reflected in Sanctuary Scotland's Guide to Information.
- 2.4 The information can be in any 'recorded form' so could include: computer records; handwritten notes; video/audio recordings and photographs. The information does not have to have been created by the Group. Information held by a third party on behalf of a Public Authority is also covered.

3. How can a request be made?

- 3.1 Anyone anywhere may make a request. Any entity may make a request (it does not have to be an individual only). For a request to be valid it must be in writing or in permanent form that can be referred to at a later date (for example a video recording). It must state the name of the applicant and an address for the reply to be sent to. The request must also contain an adequate description of the information requested. A web form is available at <https://www.sanctuary-scotland.co.uk/foi-sanctuary-scotlands-publication-scheme> which all applicants should be directed to complete, so that their request is properly dealt with. If a request is made via letter or email, then the recipient should ensure that the webform is completed.
- 3.2 A Public Authority may charge for the provision of information. Sanctuary Scotland will not charge for the provision of information unless such a request leads to a significant amount of documentation being produced. The Guide to Publication contains details of charges that may apply in these circumstances. If the cost of complying with a request exceeds £600 then the Public Authority does not have to respond. The Freedom of Information Officer and/or Legal Services should be consulted in relation to charging for exceptional cases as there are detailed provisions around what can and cannot be included in the costs.
- 3.3 Requests for information must be answered as soon as possible and within 20 working days. If a request is for environmental information (and is therefore being responded to under the EIRs) and the information held is both complex and voluminous, the authority may extend this period up to a maximum of 40 working days.
- 3.4 In responding to a request for information a Public Authority must have due regard to request for information in a particular format. In particular a Public Authority must be mindful of its duties under the Equality Act.

4. Are there any exemptions that can be relied upon?

- 4.1 The nature of a Registered Social Landlord means that there are few exemptions available. The exemptions are set out in full in sections 25 - 40 of the FOISA. In relation to the application of Exemptions, in most cases where an Exemption applies, there is a further assessment required which is whether notwithstanding the Exemption the public interest in disclosing outweighs the interest in not. These are referred to as 'qualified' Exemptions. The most common Exemptions which are likely to apply to information held by Sanctuary Scotland are:
- **Information otherwise accessible** - exempts information from disclosure where applicant can reasonably obtain it without asking under the FOISA.
 - **Information intended for future publication** - exempts information held by an authority for future publication within 12 weeks of the request (qualified).
 - **Commercial Interests** - disclosure would (or would likely to) prejudice substantially the commercial interests of any person or organisation (including the Authority) (qualified)
 - **Confidentiality** - information is exempt if it is legally privileged, subject to litigation privilege or obtained by an Authority from another person and disclosing it would constitute an 'actionable breach of confidence'.
 - **Personal information** - personal data of third parties is exempt from disclosure.
- 4.2 Where information is exempt from disclosure, this must be communicated to the requester in the response. The response must explain which Exemption has been applied. In some cases, information may be partially exempt. Sanctuary Scotland has template letters for using in relation to responses required.
- 4.3 Approval from the Group Head of Legal Services and the Freedom of Information Officer should be sought in relation to the applicability of Exemptions and the public interest test.
- 4.4 Applicants can request a review of a response to a request. This must be done within 40 working days of the response. All review requests should be directed to the Freedom of Information Officer in the first instance. The review must be undertaken within 20 working days. The Freedom of Information Officer must ensure that the review is carried out by someone independent of the original decision.

Supporting Information

1. Model Publication Scheme

1.1 [Model Publication Scheme](#)

2. Scottish Federation of Housing Associations: Open All Hours

2.1 See **Appendix 1**.

3. Webform

3.1 <https://www.sanctuary-scotland.co.uk/foi-sanctuary-scotlands-publication-scheme>

4. Templates

4.1 Template letters are available from Legal Services and the Freedom of Information Officer

5. Additional support and guidance

5.1 For additional support and guidance please contact the Legal Services team and the Freedom of Information Officer.