



## **The Langstane Group**

### **Freedom of Information & Environmental Information Policy**

<b>Senior management team approval</b>	4 November 2021
<b>Board / Committee</b>	Board of Management
<b>Approval date</b>	10 November 2021
<b>Implementation date</b>	10 November 2021
<b>Review date</b>	December 2024
<b>Version</b>	Version 3

<b>Policy version</b>	<b>Date of Approval</b>	<b>Changes made to the policy</b>
Version 1	New issue	New Policy
Version 2	30 November 2020	As part of review of high level governance policies
Version 3	10 November 2021	Routine review of policy: Change of title to Governance and Corporate Manager

## 1. Introduction

The Freedom of Information (Scotland) Act 2002 and the Environmental Information (Scotland) Regulations 2004 place a general obligation on Scottish Public Authorities to allow the public access to information that they hold. Both the Freedom of Information (Scotland) Act and the Environmental Information (Scotland) Regulations are overseen by the Scottish Information Commissioner (SIC).

From 11 November 2019 Langstane Housing Association Ltd (the Association) was designated as Scottish Public Authority and will need to make information available in accordance with the Freedom of Information (Scotland) Act and the Environmental Information (Scotland) Regulations.

This is the Freedom of Information and Environmental Information Policy of Langstane Housing Association Ltd. The policy:

- provides a general understanding of the Freedom of Information (Scotland) Act and Environmental Information (Scotland) Regulations; and
- outlines where responsibility lies for complying with the legal duties of the Association under the Freedom of Information (Scotland) Act and Environmental Information (Scotland) Regulations.

This policy also applies across Langstane Housing Association to its subsidiaries, but only to work related to the specific functions listed in Section 7 below.

## 2. Policy statement

The Association is committed to the underlying principles of openness and transparency underpinning the Freedom of Information (Scotland) Act and Environmental Information (Scotland) Regulations; and complying fully with the requirements of the legislation.

## 3. Policy objectives

The Association will:

- a. follow the relevant Scottish Ministers Codes of Practice relating to the Freedom of Information (Scotland) Act and Environmental Information (Scotland) Regulations, as well as any relevant guidance issued by the Scottish Information Commissioner;
- b. take into account the needs of individuals when presenting information under the Freedom of Information (Scotland) Act and Environmental Information (Scotland) Regulations;
- c. make all employees aware of their responsibilities under the Freedom of Information (Scotland) Act and Environmental Information (Scotland) Regulations; and support them in fulfilling those responsibilities;
- d. publish a wide range of information through its Publication Scheme; and
- e. monitor compliance with the Freedom of Information (Scotland) Act and Environmental Information (Scotland) Regulations with a view to continuous improvement;
- f. respect data protection in accordance with the UK General Data Protection Regulations and Data Protection Act 2018, when complying with the Freedom of Information (Scotland) Act and Environmental Information (Scotland) Regulations;

- g. only withhold information where entitled to do so under the Freedom of Information (Scotland) Act and Environmental Information (Scotland) Regulations and explain why information is withheld; and
- h. provide advice and assistance to individuals seeking to access information.

#### **4. Links to other policies**

This policy is linked to:

- Privacy Policy
- Records Management Policy
- Customer Care Policy
- Equality and Diversity Policy

#### **5. Scope of the Policy**

This policy applies to any information held by the Association which relates to one or more of the specific functions that are set out in section 7 of this policy, regardless of format. This will include information created internally and information received from third parties. It will also relate to information which is held on behalf of the Association.

This policy applies to all Langstane Housing Association employees.

#### **6. Staff roles and responsibilities**

The Chief Executive has ultimate responsibility amongst the staff team, for ensuring the Association's compliance with Freedom of Information and Environmental Information legislation, regulations and guidance. The Chief Executive has delegated operational management of related business systems to the Governance and Corporate Manager, as detailed below.

##### **Senior Management Team**

As Senior Managers, the principal responsibilities of individual Senior Management Team members, is to manage the staff of their respective departments in fulfilling the delivery of the procedures underpinning this policy. Senior Management Team members will ensure compliant service delivery. They will ensure that staff act in a collaborative manner with all other staff members – and most importantly the Governance and Corporate Manager – involved in responding to individual requests, and supporting Langstane's reporting and monitoring systems.

It is the responsibility of the Senior Managers to ensure that there are adequate resources allocated to ensure effective implementation of this policy. This applies to the on-going administration of information requests to ensure that legal obligations are met, and that staff have the knowledge and skills that are required to fulfil duties relating to the Freedom of Information (Scotland) Act and Environmental Information (Scotland) Regulations.

Where a requester has asked for the information to be reviewed following a response under the Freedom of Information (Scotland) Act or the Environmental Information (Scotland) Regulations, this request will be delegated to a named member of the Senior Management Team to respond within the deadlines in the review procedure.

## **Governance and Corporate Manager**

The Governance and Corporate Manager has lead operational management responsibility for the Freedom of Information (Scotland) Act and Environmental Information (Scotland) Regulations within the Association. This includes effective implementation and regular review of this policy, and ensuring that the Association has an up to date Guide to Information published that complies with the Model Publication Scheme (MPS).

All requests for information under the Freedom of Information (Scotland) Act and Environmental Information (Scotland) Regulations are brought to the attention of the Governance and Corporate Team. The specific administrative duties around responding to information requests are set out in the procedure relating to this policy. It is the responsibility of the Governance and Corporate Manager that there is a procedure in place for the administration of information requests, and that it can be easily accessed by staff. The procedures will ensure that after receipt of every request for information under this policy, staff will be identified for:

- responding to the request
- collating information
- making information available in accordance with Langstane's publication scheme.

The Governance and Corporate Manager will account for the operational management and compliance of the Freedom of Information and Environmental Information business systems, to the Chief Executive and Senior Management Team.

## **Operational Service Managers and Team Leaders**

Staff responsible for managing people must ensure that all their team members have awareness and knowledge of the Freedom of Information (Scotland) Act and Environmental Information (Scotland) Regulations. It is important that all Association staff know how to recognise and deal with requests for information, and the team leaders and managers must ensure that their teams are competent in handling these requests.

In addition to this, from 11 November 2019, the staff induction process has included a section on the Freedom of Information (Scotland) Act and Environmental Information (Scotland) Regulations.

## **All Langstane Housing Association staff**

All staff members are responsible for familiarising themselves with this policy. Any staff member who receives a request for information in the terms of the policy will, in the first instance, forward this to the Governance and Corporate Manager. As required, staff members are expected to seek guidance from their line manager or the Governance and Corporate Manager, if they are unsure about any of the duties placed on them or the Association by the Freedom of Information (Scotland) Act or Environmental Information (Scotland) Regulations;

Any member of staff can be asked to collate information for sending out to requesters. It is their responsibility to comply with the internal deadlines set by the Governance and Corporate Team, that co-ordinate the final response to the information request.

Employees should be aware that where an information request is received and an employee deletes or alters information held by the Association with the intention of preventing disclosure of that information a criminal offence is committed. Where employees are unsure if deletion or alteration of information may result in an offence they should seek guidance from the Governance and Corporate Manager.

Compliance with this policy is compulsory for all employees of the Association. Any employee who fails to comply with this policy may be subject to disciplinary action.

## 7. Legal framework

### **Why is the Association subject to Freedom of Information (Scotland) Act and Environmental Information (Scotland) Regulations?**

The Association is subject to both the Freedom of Information (Scotland) Act and Environmental Information (Scotland) Regulations due to 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 the Freedom of Information (Scotland) Act and the Environmental Information (Scotland) Regulations.

### **What is subject to the Freedom of Information (Scotland) Act and Environmental Information (Scotland) Regulations?**

In accordance with the terms of the Order, not everything that the Association does is subject to the Freedom of Information (Scotland) Act and Environmental Information (Scotland) Regulations. The Association is only subject to this legislation in respect of certain functions, namely 'housing services' (as defined in section 165 of the Housing (Scotland) Act 2010) which the Association carries out – subject to some restrictions.

Looking at the definition of 'housing services' and the restrictions set out in the Order the following functions carried out by the Langstane Group are covered by the Freedom of Information (Scotland) Act and Environmental Information (Scotland) Regulations:

- The prevention and alleviation of homelessness
- The management of social housing accommodation
- The provision and management of sites for gypsies and travelers; and
- 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.

Some specific areas of the Langstane Group's work do not fall under the Freedom of Information (Scotland) Act. This includes the provision of services for owners and occupiers of houses (e.g. private factoring services), and the management of private or mid-market rental accommodation.

### **What is the difference between the Freedom of Information (Scotland) Act and Environmental Information (Scotland) Regulations?**

Environmental Information (Scotland) Regulations provide a right of access to 'Environmental Information' held by Langstane Housing Association Ltd. Environmental Information has a very wide definition which is set out in Regulations.

Where a request under the Freedom of Information (Scotland) Act is received for Environmental Information it will be processed in accordance with Environmental Information (Scotland) Regulations.

Whilst the obligations under the Freedom of Information (Scotland) Act and Environmental Information (Scotland) Regulations are similar – there are some key differences that employees must be aware of when dealing with requests for information. Further guidance on the differences is available on the Scottish Information Commissioner's website.

Environmental information is broadly defined and includes any material in any form on, amongst other things, the state of the elements, reports on the implementation of environmental legislation; and the state of human health and safety. Some solicitors advise that its extent is broad enough to be interpreted as anything relating to an Association's land or buildings. Any staff member receiving a request for information under the Environmental Information (Scotland) Regulations, should discuss this matter in the first instance with their Director and the Governance and Corporate Manager. Arrangements can then be made to seek any legal advice deemed desirable.

## 8. Legal Duties

The Association has a number of legal duties which it must comply with under the Freedom of Information (Scotland) Act and Environmental Information (Scotland) Regulations. These are set out in more detail below:

### Responding to Information Requests

People have the right to request information from the Association. Where the information requested is within the scope of the Order and the Association holds that information it must release the information unless an exemption (under the Freedom of Information (Scotland) Act) or an exception (under the Environmental Information (Scotland) Regulations) applies. The Association will, when responding to requests for information from individuals, follow the Section 60 Code of Practice and any relevant guidance produced by the Scottish Information Commissioner.

The Association 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 Environmental Information (Scotland) Regulations where the Association is entitled to extend the timescale for responding by an additional 20 working days).

Where the Association is providing an individual with information they have requested they 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 the Association is refusing to provide information to individuals it will clearly explain what provision in the Freedom of Information (Scotland) Act or Environmental Information (Scotland) Regulations allows the Association to withhold that information

and why the Association believes that provision applies (including, where required, an explanation of how the Association has carried out the Public Interest Test).

Where the Association is asked to provide information which it does not hold, but the Association knows that another Scottish Public Authority does hold the requested information – the Association will 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 Environmental Information (Scotland) Regulations and these circumstances apply the Association will offer to transfer the individual's request to the other Scottish Public Authority.

The Association may choose to charge for fulfilling information requests received from individuals. Any charges made by the Association will be made in accordance with:

- For requests being handled under the Freedom of Information (Scotland) Act: the Freedom of Information (Fees for Required Disclosure) (Scotland) Regulations 2004
- For requests being handled under the Environmental Information (Scotland) Regulations: the Schedule of Charges of Langstane Housing Association Ltd.

Any fee charged by the Association will be reasonable and will not exceed the costs to the Association of providing requested information.

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

Where someone has requested information from the Association and:

- The Association has failed to respond to the request within the 20 working day deadline (or extended deadline in respect of certain requests made under Environmental Information (Scotland) Regulations); 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 the Freedom of Information (Scotland) Act /Environmental Information (Scotland) Regulations)

then they have the right to request that the Association reviews the response to the request to determine whether or not the provisions of the Freedom of Information (Scotland) Act or Environmental Information (Scotland) Regulations have been followed.

Where the Association performs a review and determines that a response to a request is **not** in accordance with the Freedom of Information (Scotland) Act or Environmental Information (Scotland) Regulations the Association will take immediate steps to rectify this (which could, for example, include releasing information which was previously withheld).

Where the Association performs a review and determines that a response to a request **is** in accordance with the Freedom of Information (Scotland) Act or Environmental Information (Scotland) Regulations then the Association will notify the individual who asked for a review as quickly as possible.

In any event The Association will handle all requests for review in accordance with the timescales set out in the Freedom of Information (Scotland) Act and Environmental Information (Scotland) Regulations.



Where an individual is unhappy with the response to the review request they may appeal to the Scottish Information Commissioner. If an appeal is made to the Scottish Information Commissioner and a decision handed down by them both the Association and the individual in question have a right to appeal to the courts on a point of law.

## **9. Provision of Advice and Assistance to Individuals**

The Association must provide individuals seeking to access information with advice and assistance. This advice and assistance is provided with a view to ensuring that all barriers which could perhaps prevent an individual from accessing information are removed. The Association will comply with this duty by following the guidance contained in the Section 60 Code of Practice issued by Scottish Ministers.

## **10. Publication of Information**

The Association publishes information in accordance with its Publication Scheme through its Guide to Information. The Guide to Information of Langstane Housing Association Ltd is available on the website and a paper copy is available on request.

## **11. Data Protection**

The Association is committed to upholding its data protection obligations set out in the UK General Data Protection Regulations and the Data Protection Act 2018.

Under data protection laws, individuals have the right to request access to all of the information that the Association holds about them. This and other rights that individuals have under data protection are not covered by this policy. Langstane will accordingly assist individuals in accessing and clarifying the details of the Association's Privacy Policy when dealing with these rights.

## **12. Monitoring and review**

Statistical returns on the performance of the Freedom of Information (Scotland) Act and Environmental Information (Scotland) Regulations requests are provided quarterly via a portal to the Scottish Information Commissioner's Office. Timely completion of the returns is the responsibility of the Governance and Corporate Manager.

In order to provide assurance to the Senior Management Team, and the Board of Management, compliance with the statistical returns is reported to the Chief Executive of the Association on an annual basis after completion of the final quarter of the reporting year.

This policy is reviewed every three years or when required due to changes in legislation.

## **13. Right to Complain**

In the event you are not satisfied with the service you have received, please contact the Association for a copy of our Complaints Policy, which can also be viewed on our website – [www.langstane-ha.co.uk](http://www.langstane-ha.co.uk)

#### **14. Equality and Diversity**

The Association is committed to promoting equality and diversity across all areas of its work, and discrimination or harassment of any kind is not tolerated.

**If you would like this document sent to you in large print, please contact Support Services on 01224 423000.**