

# Freedom of Information and Environmental Information Policy

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## **BIELD HOUSING & CARE**

Registered Office: 79 Hopetoun Street, Edinburgh, EH7 4QF

Scottish Charity No. SC006878

Property Factor PF000145

## **Freedom of Information and Environmental Information Policy**

### **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 Bield will be designated as Scottish Public Authority and will need to make information available in accordance with FOISA and EIR.

This is the Freedom of Information and Environmental Information Policy of Bield. The policy will:

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

### **Policy Statement**

Bield 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 Bield 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 employees, volunteers, Board and Committee members 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; and
- provide advice and assistance to individuals seeking to access information

## **Scope of the Policy**

This policy applies to any information held by Bield 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. It will also relate to information which is held on behalf of Bield.

This policy applies to all Bield employees, volunteers, Board and Committee members.

## **Responsibilities**

- The Board delegates executive responsibility for this policy to the Chief Executive.

The Head of Technology and Information Management has lead management responsibility for FOISA and EIR within Bield. This will include effective implementation and regular review of this Policy.

The Information Compliance Manager will be responsible for application of this policy within Bield and, together with the Information Analyst, will be responsible for responding to requests under FOISA and EIR, collating information for sending out to requesters and making information available in accordance with your publication scheme

- Compliance with this policy is compulsory for all employees, volunteers, Board and Committee members of Bield. Anyone who fails to comply with this policy may be subject to disciplinary action.
- All employees, volunteers, Board and Committee members are responsible for:
  - familiarising themselves with this policy;
  - forwarding information requests received to the Information Analyst as quickly as possible. If you are unsure how to recognise an information request you should seek guidance from the Information Compliance Manager ;
  - seeking guidance from the Information Compliance Manager if they are unsure about any of the duties placed on Bield by FOISA or EIR;
- Employees, volunteers, Board and Committee members should be aware that where an information request is received and someone deletes or alters information held by Bield with the intention of preventing disclosure of that information, a criminal offence is committed. Where someone is unsure if deletion or alteration of information may result in an offence, they should seek guidance from the Information Compliance Manager.

## **Background**

### **Why is Bield subject to FOISA and EIR?**

Bield is 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.

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

However, in accordance with the terms of the Order, not everything that Bield does is subject to FOISA and EIR. Instead, Bield is 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 Bield carries 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 Bield 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; 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.

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

EIR provides a right of access to ‘Environmental Information’ held by Bield. 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, volunteers, Board and Committee members must be aware of when dealing with requests for information. Further guidance on the differences are available on SIC’s website.

## **Legal Duties**

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

### **Responding to Information Requests**

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

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

Where Bield is providing an individual with the 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 Bield is refusing to provide information to individuals it will clearly explain to said individual what provision in FOISA or EIR allows Bield to withhold that information and why Bield believes that provision applies (including, where required, an explanation of how Bield has carried out the Public Interest Test).

Where Bield is asked to provide information which it does not hold, but Bield knows that another Scottish Public Authority does hold the requested information – Bield shall provide contact details of said 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 Bield shall offer to transfer the individual's request to the other Scottish Public Authority.

Bield may choose to charge for fulfilling information requests received from individuals. Any charges made by Bield shall be made in accordance with:

- for requests being handled under FOISA: the Freedom of Information (Fees for Required Disclosure) (Scotland) Regulations 2004
- for requests being handled under EIR: the Schedule of Charges **Access to Information - Schedule of Charges** of Bield

Any fee charged by Bield will be reasonable and will not exceed the costs to Bield of providing requested information. Specific charges are detailed within Page 3 of Bield's Guide to Information which is held on our website: [Guide to Information](#)

### Responding to Requests for Review

Where someone has requested information from Bield and:

- Bield has failed to respond to the request within the 20 working day deadline (or the 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 they have the right to request that Bield reviews the response to their request to determine whether or not the provisions of FOISA or EIR have been followed.

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

Where Bield performs 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 Bield 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 SIC. If an appeal is upheld by SIC and a decision handed down by them both Bield and the individual in question have a right to appeal to the courts on a point of law.

### Provision of Advice and Assistance to Individuals

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

### Publication of Information

Bield shall publish information in accordance with its Publication Scheme through its Guide to Information. The Guide to Information of Bield will be available on its website and a paper format will also be available on request.

## **Bield Guide to Information**

### **Data Protection**

Bield is committed to upholding its 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 Bield holds about them. This and other rights that individuals have under data protection are not covered by this policy and you should refer to **Bield Data Protection Policy** when dealing with these rights.

### **Equality & Diversity**

In operating this policy, Bield will, at all times, adhere to the principles of its Equality & Diversity Strategy and Policy where everyone can participate fully and be treated equally and fairly without disadvantage arising from their gender, disability, race or any other personal characteristic.

### **Policy Review**

This policy will be reviewed every three years by the Board of Management. The next review of this policy is scheduled for November 2022 or earlier should a material amendment be required. This may be as a result of changes in legislation or regulation.