

FREEDOM OF INFORMATION & ENVIRONMENTAL INFORMATION POLICY WITH PROCEDURE

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12/24	CGM	1.1	2.0	Major review to adopt the SFHA model policy.
03/22	CGM	1.0	1.1	Update of role titles to reflect changes to structure.

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Appendix 1: Environmental Information & Freedom of Information Requests Procedure

1.0 Introduction

- 1.1 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”).
- 1.2 This policy should be read with reference to the EIR & FOISA Procedure (appendix).

2.0 Policy Statement

- 2.1 A key aim of Albyn Group is to build the mission, values and vision of the organisation into its decision making on a daily basis. The Albyn Group aims to follow its guiding principles in all policies and procedures: <https://www.albynhousing.org.uk/about-us/>
- 2.2 Albyn Group 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 Albyn Group 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 and Board Members aware of their responsibilities under FOISA and EIR and support them in fulfilling those responsibilities
 - Publish a wide range of information through its Publication Scheme
 - Monitor compliance with FOISA and EIR with a view to continuous improvement
 - Respect data protection in accordance with the UK 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

3.0 Scope of the Policy

- 3.1 This policy applies to any information held by Albyn Group which relates to one or more of the following functions, regardless of format:
- 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 Albyn Group in relation to its financial wellbeing and standards of governance
- 3.2 This will include information created internally and information received from third parties. It will also relate to information which is held on behalf of Albyn Group.
- 3.3 This policy applies to all Albyn Group employees and Board Members.

4.0 Responsibilities

4.1 Executive Director of Group Services

- Leadership and oversight of the implementation of this policy
- Approval of FOISA and EIR responses
- Carrying out 'requests for reviews' from the public

4.2 Corporate Governance Manager

- Management responsibility for FOISA & EIR, including the effective implementation of this policy
- Providing biannual updates to the Audit & Risk Management Committee on FOISA and EIR performance

4.3 Employees & Board Members

- Familiarising themselves with this policy and its associated procedure
- Seeking guidance from the Corporate Governance Manager if they are unsure about any of the duties placed on Albyn Group by FOISA or EIR.
- Forwarding FOISA or EIR requests received to information.requests@albynhousing.org.uk as quickly as possible. If employees are unsure how to recognise an information request they should seek guidance from the Corporate Governance Manager.
- Supporting the Corporate Governance Manager with the collation of information in order to respond FOISA or EIR requests

3.4 Employees and Board Members must not delete or alter information held by Albyn Group with the intention of preventing disclosure of that information, and should be aware that to do so is a criminal offence. Where Employees or Board Members are unsure if deletion or alteration of information may result in an offence they should seek guidance from the Corporate Governance Manager.

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

5.0 Legal Duties

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

5.1 Responding to Information Requests

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

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

- 5.1.3 Where Albyn Group 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.
- 5.1.4 Where Albyn Group is refusing to provide information to individuals it will clearly explain to said individual what provision in FOISA or EIR allows Albyn Group to withhold that information and why Albyn Group believes that provision applies (including, where required, an explanation of how Albyn Group has carried out the Public Interest Test). This applies to considering whether requests for information are vexatious.
- 5.1.5 Where Albyn Group is asked to provide information which it does not hold, but Albyn Group knows that another Scottish Public Authority does hold the requested information, Albyn Group 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, Albyn Group shall offer to transfer the individual's request to the other Scottish Public Authority.
- 5.1.6 Albyn Group may choose to charge for fulfilling information requests received from individuals. Any charges made by Albyn Group shall be made as follows:
- For requests being handled under FOISA, the Freedom of Information (Fees for Required Disclosure) (Scotland) Regulations 2004 will be applied as detailed here: [About our publication scheme - Albyn](#)
 - For requests being handled under EIR, the Schedule of Charges detailed here will be applied: [Environmental information - Albyn](#)
- 5.1.7 Any fee charged by Albyn Group will be reasonable and will not exceed the costs to Albyn Group of providing requested information.
- 5.2 Responding to Requests for Review
- 5.2.1 Where someone has requested information from Albyn Group they have the right to request that Albyn Group reviews the response to their request to determine whether or not the provisions of FOISA or EIR have been followed if:
- Albyn Group has failed to respond to the request within the 20 working day deadline (or extended deadline in respect of certain requests made under EIR)
 - 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)
- 5.2.2 Where Albyn Group performs a review and determines that a response to a request is not in accordance with FOISA or EIR, Albyn Group will take immediate steps to rectify this (which could, for example, include releasing information which was previously withheld).
- 5.2.3 Where Albyn Group performs a review and determines that a response to a request is in accordance with FOISA or EIR, then Albyn Group will notify the individual who asked for a review as quickly as possible.
- 5.2.4 In any event, Albyn Group will handle all requests for review in accordance with the timescales set out in FOISA and EIR law.
- 5.2.5 Where an individual is unhappy with the response to their review request they may appeal to SIC. If an appeal is made to SIC and a decision handed down by them, both Albyn Group and the individual in question have a right to appeal to the courts on a point of law.

5.3 Provision of Advice and Assistance to Individuals

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

5.4 Publication of Information

5.4.1 Albyn Group shall publish information in accordance with its Publication Scheme through its Guide to Information. The Guide to Information of Albyn Group will be available on its website and a paper format will also be available on request. The Guide to Information may be viewed here: [Guide to the information we publish - Albyn](#)

6.0 Data Protection

6.1 Albyn Group is committed to upholding its data protection obligations set out in the UK GDPR and the Data Protection Act 2018.

6.2 Under data protection laws, individuals have the right to request access to all of the information that Albyn Group holds about them. This and other rights that individuals have under data protection are not covered by this policy and the Albyn Group Data Protection Policy should be referred to when dealing with these rights.

7.0 Equalities

7.1 This policy will be implemented in accordance with the Albyn Group Equality & Human Rights Policy.

END

APPENDIX : FREEDOM OF INFORMATION & ENVIRONMENTAL INFORMATION PROCEDURE

Stage 1 – Receive & Acknowledge Staff or Board Member to pass the request to the **Corporate Governance Team** (information.requests@albynhousing.org.uk)

Pass to **Corporate Governance Team**, who will Log details, validate request, ID, legislation & send acknowledgement.

The **Corporate Governance Team** will:

- Evaluate the request and identify which legislation it will be processed under:
 - Freedom of Information (Scotland) Act (FOISA)
 - Environmental Information Regulations (EIRs)
- Log the request in the FOI, EIR, & SAR Log
- Send an acknowledgement letter confirming receipt of the request, and the legislation under which it will be processed or proceed to Stage 2 **within 2 days**.

Stage 2 – Clarify

Corporate Governance Team to contact requester if further clarification of request is required.

Corporate Governance Team will ensure that the request is clear regarding what information is being asked for. If the request is unclear clarification will be sought.

Stage 3 - Assess

Corporate Governance Team to assess requirement to respond to the request.

Corporate Governance Team will assess if the request relates to functions covered by the FOISA Designation of Persons as Scottish Public Authorities Order 2019 (the Order).

- Yes - proceed with next steps in Stage 3
- No - but Albyn Group is willing to release some or all of the information proceed with next steps in Stage 3
- No – and Albyn Group is not willing to release any of the information, a letter will be sent to the requestor informing them that we are not obliged to provide them with the information. Letter to include relevant exemption (FOISA) or exception (EIR) applied.

Stage 4 – Assign Request

Corporate Governance Team to assign collation of data to relevant team.

Corporate Governance Team will liaise with the appropriate team to collate the requested information.

Corporate Governance Manager to determine if fees are applicable and update the requestor.

For EIR requests **Corporate Governance Manager** to determine if Albyn Group needs to exercise its right to up to an additional 20 days to respond.

Stage 5 – Collate Information

Appropriate team to collate information and provide it in an organised manner.

Appropriate team to collate the information that has been requested and provide it to the **Corporate Governance Team** within the timeframe that has been agreed.

Corporate Governance Team will set up a shared folder for information to be transferred into. Teams must save all information in an organised manner, with files appropriately named and dated.

Stage 6 - Consider & Draft Response

Corporate Governance Manager to review information & draft response.

Corporate Governance Manager will review the information that has been provided and consider if any exemptions or exceptions apply to its release. Where necessary, legal advice will be sought.

Corporate Governance Manager will draft a response letter and prepare an information release pack.

Stage 7 - Approval

Executive Director of Group Services to consider approval of release package.

Executive Director of Group Services to review the draft response letter and information release pack and consider it for approval.

Where approval is not granted, the Corporate Governance Manager will revisit Stage 6 and obtain legal advice (if not obtained already).

Stage 8 - Issue Response

Corporate Governance Team issues response.

Corporate Governance Team issues approved response letter and information release pack to the requestor within 20 days (or longer if right to additional time has been exercised for EIR requests).

Log will be updated with date response provided and ant exemptions or exceptions applied.