
Sanctuary Group

Title: Freedom of Information (Scotland) - Group Procedure

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

Authors: Legal Services

Other Contributors: Sanctuary Scotland

Authorised by: Executive Director - Corporate Services

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

Uncontrolled copy if printed

CONTENT

General Information	3
1. Objective of this procedure	3
2. Legislative/Regulatory context	3
3. Responsibilities for implementation.....	3
4. What's new - What's different?	4
5. Definitions	4
Detailed Procedures.....	6
1. Freedom of Information/Environmental Information overview	6
2. What information is covered?.....	6
3. Who can make a request and when it is valid?	7
4. Responding to a valid request.....	8
5. Are there any Exemptions that can be relied upon or can Sanctuary Scotland otherwise refuse to comply?	10
6. Reviewing a previous response	11
7. Appeal to the Scottish Information Commissioner (SIC)	12
Supporting Information	13
1. Model Publication Scheme	13
2. Scottish Federation of Housing Associations: Open All Hours.....	13
3. Scottish Ministers' Code of Practice.....	13
4. Webform	13
5. Templates	13
6. Additional support and guidance.....	13

Appendices

Appendix 1 - Scottish Federation of Housing Associations: Open All Hours

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 2002 (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 of the Detailed Procedures.
- 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 Procedure](#)
 - [Information Security - Group Policy](#) and [Information Security Management System Manual](#)
 - [Content and Records Management - Group Policy and Procedure](#)
 - [Freedom Of Information: Sanctuary Scotland's Publication Scheme | Sanctuary Scotland](#)

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 \(EIRs\)](#)
- 2.2 Given the possibility that this legislation may be amended over time, or as case law develops through decision of the Scottish Information Commissioner (SIC), Sanctuary Scotland will keep this procedure under review and will specifically review its operation following any change in FOISA or the EIRs, to ensure it remains in full compliance with the law.

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 (FOI Officer) to ensure that relevant staff undertake training on FOISA and EIRs, as appropriate.
- 3.3 The Director - Sanctuary Scotland is the Group's nominated FOI Officer. The FOI Officer, with support from Legal Services where appropriate, has overall responsibility for ensuring compliance with the FOISA, deciding on the validity of requests, collating requested information, reviewing information to be released in response for a request, preparing and issuing responses to any requests for information, reviewing publishable material, ensuring the ongoing publication of material, liaising with the SIC, co-ordinating review requests and dealing with complaints.
- 3.4 All contractors providing services or goods to Sanctuary Scotland in relation to its regulated activities will also need to comply with the requirements of FOISA and EIRs. This must be provided for in any written agreement between the Group and the contractor. This will ensure that they agree to abide by FOISA and EIRs, in so far as they hold information relating to Sanctuary Scotland and its regulated activities.
- 3.5 All staff must know how to recognise a request for information which may be subject to the FOISA or the EIRs, and to direct it to the FOI Officer for consideration.
- 3.6 All staff should be aware of the obligation to provide advice and assistance to individuals seeking information.

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

- 4.1 April 2026 - Formal review, minor amendments to clarify that requests for individuals personal data (Subject Access Requests) is out of scope, signposting to the Group's webform and updating of web links.

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 - 41 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 or FOI 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 designated by an order under section 5 (1) of the FOISA, and publicly-owned companies as defined by section 6 of the FOISA.
<i>Regulated activities</i>	Any activity that is regulated by the Scottish Housing Regulator.
<i>Scottish Information Commissioner or SIC</i>	The regulatory body that oversees compliance with the FOISA and the EIRs in Scotland.

Detailed Procedures

1. Freedom of Information/Environmental 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 or other valid justification e.g. vexatious or repeated request. Public Authorities must also have a publication scheme which sets out the information that they will routinely publish. In addition, an authority must provide reasonable advice and assistance to an applicant at all stages of an FOI Request and implement an effective records management policy to support responding to requests. Our approach to record management is set out in [Content and Records Management - Group Policy and Procedure](#).

1.3 The EIRs apply to environmental information only. In Scotland, the Group has been subject to the EIRs for some time. The FOISA 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 below.

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, or which a third party holds on our behalf, at the time of the request. 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 For clarity, information which is not part of regulated activities, and is held exclusively for the purpose of the private commercial activities of Sanctuary Scotland (such as factoring services) is not within scope of FOISA. Any request for such information may still be considered by the FOI Officer but there is no obligation to disclose information of this nature in terms of FOISA.

- 2.3 Some information which we have in our possession may not be “held” for the purposes of FOISA. This applies to: (i) information which we hold on behalf of another person and (ii) information which was supplied by a Minister of the Crown or a department of the UK Government and is held in confidence by us.
- 2.4 Sanctuary Scotland has 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.
- 2.5 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 [Freedom Of Information: Sanctuary Scotland's Publication Scheme | Sanctuary Scotland](#) (the “Guide to Information”).
- 2.6 The information can be in any ‘recorded form’ so could include: computer records; emails; social media messages; handwritten notes; video/audio recordings (including voicemail messages); and photographs. The information does not have to have been created by the Group. Information created by a third party and supplied to us also counts.
- 2.7 Where Sanctuary Scotland does not currently hold the information requested in a recorded format, there is no obligation to ‘create’ new information in order to satisfy a request.

3. Who can make a request and when it is valid?

- 3.1 Anyone anywhere may make a request. Any entity e.g. a newspaper or campaign group, 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 on social media to any Sanctuary Scotland official channel, by email, fax, audio, or video recording (provided they are recorded in a permanent format)).
 - It must state the full name of the applicant and an address (email or postal) for the reply to be sent to. Using first names alone will not be sufficient. However, the use of a surname and title, for example, Mrs Smith, is generally considered sufficient. If a pseudonym is used or an insufficient name has been used, the request will not be valid. If a request is being made by a third party on behalf of the applicant, the request must state the name of the ‘true applicant’.
 - The request does not need to mention the words “freedom of information” or any legislation. The request must also contain an adequate description of the information requested.

- 3.2 A web form is available at <https://www.sanctuary-scotland.co.uk/foi-sanctuary-scotlands-publication-scheme>. Applicants may be signposted to the webform as a helpful option, but requests must be accepted and processed in any valid written or recordable format.
- 3.3 If the request is not valid, Sanctuary Scotland should inform the applicant accordingly and provide advice and assistance to help them make their request valid.
- 3.4 If the request is valid, it is good practice to acknowledge a request for information, inform the applicant of who will be handling it and when a response will be provided. A response must be provided 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 Public Authority may extend this period up to a maximum of 40 working days.
- 3.5 In responding to a request for information a Public Authority must have due regard to request for information in a particular format and should endeavour to comply with such request where reasonably practicable. In particular a Public Authority must be mindful of its duties under the Equality Act 2010 (the "Act"). Any cost of converting the information into the requested format which is required under the Act must not be taken into consideration when determining if Sanctuary Scotland will be required to charge the applicant, or to refuse to respond (see section 3.2).

4. Responding to a valid request

- 4.1 When a request is received, as per above in section 3, the FOI Officer will decide if the request is a valid request in terms of FOISA or EIRS.
- 4.2 If the request is valid but unclear whether in terms of the identity of the applicant or the scope of the request, Sanctuary Scotland must ask the applicant for further information to allow Sanctuary Scotland to identify and locate the applicant/information requested.
- 4.3 If clarification is needed, the 20 working days starts when Sanctuary Scotland receives the clarification response. Any request for clarification should be issued as soon as possible after the request is received. Advice and assistance should be given to help the applicant provide the necessary clarification.
- 4.4 Where clarification is sought from the applicant, but no response is received, Sanctuary Scotland should remind the applicant after 20 working days of the consequences of not providing clarification (i.e. that it cannot proceed until the applicant responds). If no clarification is received within 40 working days of the date it was sought Sanctuary Scotland should write to the applicant explaining the case is now closed.

- 4.5 If, after seeking clarification and all reasonable assistance has been given, the requester still cannot describe the information requested in a way which enables Sanctuary Scotland to identify and locate it then the authority is not required to proceed with the request. In these circumstances, we should explain why it cannot take the request any further, provide details of its own review procedure as well as the applicant's rights to apply to the SIC for a decision.
- 4.6 When the FOI Officer is satisfied that there is enough information available to allow the requested information to be located, the request will be sent to the relevant business area(s) for the information to be collated and an outline response prepared.
- 4.7 The relevant business areas should carry out searches to locate and obtain the information held as quickly as possible. It is good practice for a record to be kept of the searches made for the information including details of the records or locations which were searched, why these were the relevant records and locations, keywords used as search items, staff involved and why they were considered relevant, outcome of searches and evidence that searches have been carried out, including outcome. This is particularly important if the information is not held or if Sanctuary Scotland decides not to provide the information on the basis it exceeds the £600 threshold (see paragraph 5.5). The search information will likely be requested by the SIC if an appeal is made to them.
- 4.8 The relevant business areas should prepare the outline response, including reference to any Exemptions they believe may be appropriate, and forward to the FOI Officer within the timescales specified by the FOI Officer. If upon undertaking initial searches, the relevant business areas considers that (i) Sanctuary Scotland should speak with relevant third parties (e.g. a party that may have given Sanctuary Scotland confidential information) or a party holding information on behalf of Sanctuary Scotland; or (ii) the amount of information is substantial and likely to incur excessive costs; or (iii) they consider it vexatious or a repeated request; they should highlight this to the FOI Office at the earliest opportunity, who will consider this information and decide whether this influences how the FOI Request is handled and/or whether we should provide the information (see section 5).
- 4.9 The FOI Officer will review and finalise the response, with input from Legal Services where required. Legal Services should respond to a request from the FOI Officer within the timescales specified.
- 4.10 The FOI Officer will respond to the applicant to:
- confirm or deny if Sanctuary Scotland holds the requested information;
 - provide access to, or copies of, the requested information;
 - where applicable, explain if any information is exempt from disclosure and why that Exemption applies including how the public interest test has been applied if that is appropriate;
 - explain any applicable charges due to receive the information; and/or
 - explain if any or all of their request is being refused.

- 4.11 In certain circumstances, Sanctuary Scotland may elect to refuse to confirm or deny if it holds the requested information were doing so would be contrary to the public interest. The FOI Officer will seek the support of Legal Services where necessary in considering whether this applies to a request.
- 4.12 In responding to any request, the applicant must be informed that they have the right to request a review within 40 days, and to appeal to the SIC. Information on how to exercise these rights must also be provided.
- 4.13 In rare circumstances, Sanctuary Scotland may refuse to respond to a request where the request is deemed vexatious or repeated (see section 5 below). In such circumstances, the requester must still be informed of their rights to seek a review or appeal and of their right to appeal to the Court of Session where applicable. The FOI Officer will seek the support of Legal Services in relation to such a refusal where that is considered necessary.

5. **Are there any Exemptions that can be relied upon or can Sanctuary Scotland otherwise refuse to comply?**

- 5.1 The nature of Sanctuary Scotland's business as a registered social landlord means that there are few Exemptions that may be available. The exemptions are set out in full in sections 25 - 41 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 may 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 be likely to) prejudice substantially the commercial interests of any person or organisation (including Sanctuary Scotland) (qualified).
 - **Confidentiality** - information is exempt if it is legally privileged, subject to litigation privilege or obtained by a Public 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.
- 5.2 Where information is exempt from disclosure, this must be communicated to the requester in the response. The response must explain which Exemption(s) has/have been applied and if the Public Interest has been considered, this balancing exercise must also be detailed. In some cases, information may be partially exempt. Sanctuary Scotland has template letters for using in relation to responses required.

- 5.3 Even if an exemption does not apply, Sanctuary Scotland may still decide not to comply with an FOI request if it is considered 'vexatious'. There is no legal definition of 'vexatious' however we would consider whether compliance with the FOI Request would impose a significant burden on Sanctuary Scotland; whether the request has a serious purpose or value; whether it is designed to cause disruption or annoyance to us; whether it has the effect of harassing us; or would otherwise in the opinion of a reasonable person, be considered to be manifestly unreasonable or disproportionate.
- 5.4 We can also refuse to comply with an FOI request, if it is a repeated request from the same applicant. The FOI request must be identical or substantially similar to one previously received. An exception would be where there has been a reasonable time between the original request which we complied with and the subsequent one.
- 5.5 A Public Authority may charge for the provision of information. Sanctuary Scotland will not charge for the provision of information unless such a request is expected to cost in excess of £100 to prepare and issue. The Guide to Information (see paragraph 2.5) 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 FOI Officer 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.
- 5.6 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 FOI Officer in the first instance. The review must be undertaken within 20 working days. The FOI Officer must ensure that the review is carried out by someone independent of the original decision.

6. Reviewing a previous response

- 6.1 Where an applicant has validly asked for a response to be reviewed, or communicated dissatisfaction with our initial response, Sanctuary Scotland must do so within 20 working days of the request. A request for review must be in writing or some other permanent form (e.g. email or audio or video recording), refer to the original request, explain why the requester is unhappy with the original response, and include the requester's name and address for correspondence (email or postal). Please note it does not have to state 'review' specifically to be valid. A valid request for a review will only be valid if it is either submitted after receipt of our initial response, or if earlier, the deadline for compliance with the initial response i.e. 20 working days. If a review request is received before these timeframes, then we should issue a response stating that the review request is not valid as we have not been given the full opportunity to provide a response to the initial request and if following receipt of our initial response, they remain unsatisfied, they may then request a review.

6.2 When reviewing the original response, the reviewer should:

- Double check the terms of the original request to ensure the question posed has been correctly considered. Do not assume that any previous interpretation of the request is correct. If there is any doubt, seek clarification from the requester.
- Double check the information held. It is good practice to keep a record of the searches which are carried out as the SIC will ask for these if an appeal is sent to them.
- Review the information held to see what has been released and what could be released.
- Reconsider the application of any Exemption, including the application of the public interest test where appropriate.
- Consider whether any further advice and assistance could be given to the requester to help them to obtain the information they are seeking.

6.3 When the review has been completed, the requester should be advised:

- what steps Sanctuary Scotland has taken to review the original response;
- the outcome of the review process which can include confirming the original decision, reaching a different decision, or to reach a decision where no decision had originally been made;
- the right to appeal to the SIC within six (6) months together with postal, telephone and email contact details and link to website; and
- any right of appeal to the Court of Session

6.4 Where an original request was considered to be vexatious or repeated and a refusal notice was issued (see 4.7), a review of that response may also be refused on the same grounds. The rights of appeal must still be provided to the requester in such circumstances.

6.5 If the review process concludes that information which was previously withheld should have been released, that information should be sent to the requester with the review response.

6.6 It is good practice to learn from any reviews undertaken and ensuring any recommendations are taken forward to prevent recurrence of any failures.

7. **Appeal to the Scottish Information Commissioner (SIC)**

7.1 The FOI Officer is the contact for the SIC and will deal with any appeals made to or correspondence from them.

7.2 If, following an appeal, the SIC finds that a Public Authority has wrongly withheld information, the Authority may be ordered to disclose it. The FOI Officer will arrange for the information to be disclosed in these circumstances.

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. Scottish Ministers' Code of Practice

3.1 [Code of Practice under section 60 of FOISA](#)

4. Webform

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

5. Templates

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

6. Additional support and guidance

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