



PE1539/B

**CONSIDERATION OF PETITION [PE1539](#)
– EXTENSION OF FREEDOM OF INFORMATION LEGISLATION TO HOUSING
ASSOCIATIONS IN SCOTLAND**

Glasgow and West of Scotland Forum of Housing Associations (GWSF), which represents 63 community-controlled housing associations (CCHAs), is grateful for the opportunity to comment on the petition calling for housing associations to be the subject of the Freedom of Information (FOI) legislation.

We will assume that the petition is intending FOI to apply to all Registered Social Landlords in Scotland and so we will refer to RSLs in this response.

Summary of GWSF position

GWSF would very happy to discuss with both the Scottish Parliament and Scottish Government the issues around extending FOI to RSLs.

GWSF and its members have no wish to escape or evade legislation which could solve current problems and improve outcomes for tenants and factored owners etc. But in terms of providing information, we believe that currently members provide both a good level of general information to customers and willing responses to reasonable requests from individuals about specific issues. This voluntary approach to providing good information ultimately benefits far more people than any FOI extension will, not least because relatively few people will ever exercise their rights under FOI.

So whilst we would be happy to consider the matter further, at this stage we are not convinced that the extension of FOI is the answer to the issues outlined in the petition. If FOI, rather than good information and consultation in the first place, is seen as the route to better information provision, something is badly wrong and should be dealt with regardless of whether FOI is extended.

RSL information provision is generally very good

Historically, it is probably fair to say that in a diverse RSL sector, the level and quality of information provided by RSLs has varied considerably. But GWSF's overriding sense is that we are now at an 'all time high' in terms of the accessibility of information provided by RSLs. Partly this is a response to today's more open society and the degree of priority now accorded by all kinds of organisations to making sure that the right level of information is available both as a matter of course and additionally to those who request information about specific issues.

The improvement can also be attributed to changes particular to the social housing sector and, most obviously, the implementation of the Scottish Social Housing Charter, the outcomes from which are rigorously monitored by the Scottish Housing Regulator. The Charter requires social landlords to manage their businesses so that *‘tenants and other customers find it easy to communicate with their landlord and get the information they need about their landlord, how and why it makes decisions and the services it provides.’*

This outcome is not only about providing good information to tenants but also about using information to improve services. The outcome covers complaints systems, which need to comply with standards set down by the Scottish Public Services Ombudsman.¹

Even a cursory glance at some of the Charter Reports produced by GWSF members in autumn 2014 will show the quality of information being provided across the sector:

<http://www.newgorbalsha.org.uk/media/238963/11147-tenant-performance-report-rfw.pdf>

<http://www.scottishhousingconnections.org/HA/Paisley-South/Document-Library/Annual-Reports/>

<http://www.cadderha.co.uk/wp-content/uploads/2013/09/2013-14-Annual-Report-on-the-Charter.pdf>

The reports reflect the challenge facing landlords in achieving a balance between overwhelming people with too much information and, on the other hand, leaving some people wanting a greater level of detail.

Whilst the quality of information on landlord services to tenants is very good, arguably, there is scope for RSLs to improve access to information about other matters such as how the RSL is governed. Where there is scope for improvement here, the solution is surely for RSLs to improve general access to such information, rather than for FOI to be seen as the answer.

Practical issues for RSLs

In principle, extending FOI to RSLs is not a problem – our members have no wish to keep information from people unless it has obvious commercial sensitivity. At present, landlords can assess the specific requests they receive and judge each on its merits, balancing the resources required to respond with the benefit gained by the person seeking the information, and if an association is being persistently unreasonable, the Scottish Housing Regulator can and should take action.

¹ The SPSO’s Complaints Handling Procedures (CHPs) provide a robust and effective framework for RSLs in dealing with complaints. CHPs also require RSLs to publicise complaints performance information (via their websites or in newsletter publications).

But under FOI there is a lot less scope for sensible judgements about information requests, and it would take only a small number of unreasonable or vexatious requests to present real resource issues which would cause particular difficulties for smaller landlords. The consequent distraction would almost certainly impact on mainstream services to tenants, and this would effectively mean that one or a small group of individuals could have a disproportionate impact on the RSL's operations.

The petitioners' specific arguments

The arguments in the petition are based on quite specific issues relating to the factoring arm of one RSL. It is not for GWSF to comment on this case, but it does not seem appropriate or proportionate to conclude that the only solution is to apply FOI to all RSLs. There are avenues by which any tenant or other customer can raise concerns about a landlord's alleged failure to provide information: these include the right to report a 'significant performance failure' to the Scottish Housing Regulator.

On factoring services specifically, the Committee may be aware that the Property Factors (Scotland) Act 2011 and its associated Code of Conduct places various requirements on registered factors to provide information about the services they provide and how charges are made². Some information about commercial factoring services would, in any case, not be available under FOI.

A key plank of the petitioners' argument is that applying FOI to RSLs will make people feel more involved in the landlord's decision making processes. In the vast majority of cases, the level and standard of information now supplied by landlords through the Charter process and through published annual reports and annual accounts etc. is surely sufficient to enable tenants and others to build a good picture of how services are provided and whether they wish to have a greater involvement through, for example, being on a tenant panel or on the management committee. In GWSF's experience, our members' main challenge here is how to persuade more people to get involved in influencing the affairs of the landlord: there is no sense that our members are constantly resisting requests for greater involvement.

Realistically, the FOI mechanism would only be used by a small minority of people and is not the way in which any broader shortcomings in information provision should be addressed: landlords should be providing key information as a matter of course to all who use its services, and in the case of GWSF members we are very confident that this is the case.

Are some RSLs different?

² The Act also established the Homeowner Housing Panel (HOHP), which is an independent and impartial judicial body offering a route for homeowners who feel that their property factor has failed to carry out their factoring duties or failed to comply with the Code of Conduct'. The panel is made up of housing specialists and legal experts appointed by Scottish Ministers.

GWSF can understand the reluctance any government might have over singling out one or more particular RSLs for inclusion in an FOI extension. That said, Scotland's RSL profile is unique: at around 70,000 tenants and owners, the Wheatley Group's customer base is five or six times greater than that of any other RSL in Scotland, and 50 times bigger than the average for GWSF members. It may be an option for the Scottish Government to extend FOI to those landlords who exceed a set threshold of units in management, perhaps equating to some of Scotland's larger local authority landlords, but this is not a matter on which GWSF can comment in any detail.

There is the additional factor that tenants whose previous local authority landlord was (or would have become) subject to FOI but who have lost access to FOI following a stock transfer might legitimately argue that their rights have diminished.

Implications of RSLs being classed as public bodies

Including Scottish RSLs in FOI could bring UK RSLs a step nearer being classed as public bodies. This, in turn, would lead to RSL borrowing being included in the public borrowing total – something which, given the massive scale of RSL borrowing across the UK, has huge implications for the UK and Scottish Governments.