



RESPONSE FROM THE SCOTTISH FEDERATION OF HOUSING ASSOCIATIONS

CONSIDERATION OF PETITION PE1539 – REGARDING THE PROPOSED EXTENSION OF FREEDOM OF INFORMATION TO HOUSING ASSOCIATIONS IN SCOTLAND

WRITTEN SUBMISSION TO PUBLIC PETITIONS COMMITTEE

Friday 16 January 2014

1. Who We Are

- 1.1. SFHA welcomes the request from the Public Petitions Committee to submit its views on Petition 1539 by Anne Booth, who along with Sean Clerkin, gave evidence to the Committee at your meeting on 9 December regarding the potential extension of the Freedom of Information (Scotland) Act 2002 (FOISA) to housing associations in Scotland.
- 1.2. SFHA exists to lead, represent and support housing associations & co-operatives throughout Scotland in all their diversity. There were 160 Registered Social Landlords (RSLs) in Scotland at the start of 2014, providing 280,000 homes to those in housing need, and 5000 places in supported accommodation.
- 1.3. Housing associations and co-operatives operate and have strong roots in some of the most deprived communities in our country, providing housing that is safe, warm, energy efficient and affordable.
- 1.4. Housing associations and co-operatives are open and transparent organisations, with the Scottish Social Housing Charter placing a duty on associations to provide tenants with the information they require. It is the SFHA's view that the extension of FOISA to RSLs would be disproportionate.
- 1.5. The SFHA previously responded to the Scottish Government consultation regarding the extension of the Freedom of Information (Scotland) Act 2002, in 2008/09,¹ and also presented a position paper in October 2012, at the time the Freedom of Information (Amendment) Scotland Act 2013 was being considered as a Bill.²
- 1.6. Petition 1539 (and certainly the subsequent discussion on 9th December) appears to be centred on a very specific example concerning an individual landlord. It would not be appropriate for the SFHA to comment on this specific example, and as such our response focusses on our position regarding the extension of FOISA to RSLs in general.

2. Openness and Transparency of the Sector

- 2.1. Housing associations and co-operatives in Scotland are subject to regulation from the Scottish Housing Regulator (SHR), the Office of the Scottish Charity Regulator (when Charities), and the Care Inspectorate (when providing support/care services).

¹Scottish Federation of Housing Associations (Jan2009) *Response to the Discussion Paper: Coverage of the Freedom of Information (Scotland) Act 2002*, available [here](#)

² Scottish Federation of Housing Associations (Oct 2012) *Freedom of Information Position Paper*, available [here](#)

- 2.2. The Scottish Social Housing Charter,³ which came into force in 2012, sets the outcomes that all housing associations are required to achieve, and the Scottish Housing Regulator measures landlord performance based on their achievement of these outcomes.
- 2.3. The communications outcome within the Charter places a requirement on RSLs to ensure 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.”*
- 2.4 In addition to responding to tenant and service user’s requests for information they require, RSLs provide excellent information to their tenants and service users on a regular basis proactively. For example: through regular Newsletters, publishing Governing Body Minutes, Annual Reports, Annual Charter Reports and Registered Tenant Organisations. Furthermore, the governance arrangements of RSLs mean that tenants must be represented on their governing bodies.
- 2.5 To ensure transparency, any tenant or service user who does not feel they are receiving adequate information from their landlord has two avenues of recourse. Firstly they could utilise the RSLs complaints process, which ultimately would allow them the right of independent appeal via the Scottish Public Services Ombudsman.⁴ Secondly, as not providing requested information could class as not complying with the Social Housing Charter outcome on communication, an individual could report a “Significant Performance Failure”⁵ to the Scottish Housing Regulator who would investigate further.

3. RSLs Are Not Public Bodies

- 3.1. Housing associations and co-operatives in Scotland are not public bodies. Public funding received is used to lever in private finance to the development of new affordable homes. Maintenance of properties and housing management services are met almost entirely through tenants’ rents and, in respect of some planned maintenance and major improvements, private finance.
- 3.2. At 31 March 2013, the collective debt/borrowing of housing associations stood at £3.21billion.⁶ If housing associations were to be reclassified as public bodies (something extending FOISA could lead to) then this amount would be taken on by Government and the public purse.

4. Concluding Comments

- 4.1 RSLs are open and are regulated to ensure that tenants and service users receive the information that they require. There are specific requirements placed on RSLs

³ Scottish Government (2012) the Scottish Social Housing Charter available [here](#)

⁴ Scottish Public Sector Ombudsman (2012) *RSL Complaints Handling Procedure* available [here](#)

⁵ Scottish Housing Regulator (2012) *Significant Performance Failures Fact Sheet* available [here](#)

⁶ Scottish Housing Regulator (March 2014) *Financial Analysis of Sector* available [here](#)

through the Social Housing Charter to provide information to tenants and services users. There are several avenues of recourse available to any tenant or service user who does not feel they are able to obtain information from an RSL.

4.2 RSLs are not public bodies, and any extension of FOISA could lead to the reclassification of RSLs as such. Given the collective debt/borrowing of housing associations stood at £3.21billion at 31 March 2013, reclassification would lead to this amount being taken on by Government and the public purse.

4.3 It is therefore the view of the SFHA that extension of FOISA to RSLs would be disproportionate.

SFHA

16th January 2015