

PE1539/K

Petitioner Letter of 10 February 2015

CONSOLIDATED RESPONSE TO SUBMISSIONS ABOUT PETITION 01539

I am replying, in a consolidated response, to all submissions given about my Petition.

I reiterate that all Housing Associations should come under the Freedom of Information (Scotland) Act 2002 through a Section 5 Order, and therefore this Petition should be adopted as Law, when the Scottish Government will be extending the coverage of organisations coming under this Act later in the year. It is especially compelling, given the fact that 79% of the public agree that Housing Associations should be covered by the Freedom of Information Act, according to the Scottish Information Commissioner's review for the Scottish Parliament.

In essence, no-one can argue against more openness, transparency and accountability, and therefore improvement to the decision-making process within Housing Associations except, of course, the vested interests of Housing Associations themselves. Predictably, this is what they do in the submissions by the John Wheatley Housing Group, the Scottish Federation of Housing Associations, the Glasgow and West of Scotland Forum of Housing Associations and the Dumfries & Galloway Housing Partnership. Their contributions are typically obstructive, putting up negative barriers to democratic progress. These vested interests know that the Scottish Housing Regulator cannot force them to hand over information to stakeholders when they refuse to do so. Only the Freedom of Information Commissioner has that power under the Freedom of Information (Scotland) Act 2002. They also know that, if Housing Associations came under the aforesaid Act, this would enable more than just stakeholders being involved in finding out information, namely journalists, academics and others being able to scrutinise Housing Associations better than ever before.

I will go through the objections of the vetted interests one by one. Firstly, they state that there would be an onerous burden placed on resources involved in dealing with Freedom of Information requests. This has not been quantified by any of the submissions except that of CHI Scotland, who states that it would cost £231 and take staff time of 6 hours and 59 minutes on average to do a FOI request. This contribution is misleading, in that it is looking at Scottish Government FOI requests, which has a different cost and staff structure to that of Housing Associations, therefore one is not comparing like with like. In fact, the outsourcing of public functions to newly designated leisure trusts show that up to now the impact of Freedom of Information has not been problematic or posed any great change in volume or complexity of requests for information, suggesting no major resource implications. Therefore, I believe that the argument that FOI will impinge on Housing Associations resources in a detrimental way is not true, and this is further evidenced by the Scottish Information Commissioner, who states correctly that "From the statistics submitted to us by Scottish Public Authorities, I anticipate that the smaller RSLs could expect to receive low numbers of FOI requests and that very few of these would be new business. As RSLs are already required by the Scottish Social Housing Charter to publish information, I do not expect that they would find the

FOISA publication scheme to be costly.” From the above, I clearly believe that the benefits of openness, transparency, accountability and public scrutiny outweigh the small costs of administering Freedom of Information requests.

The argument by vested interests that FOI would change their Constitutions, i.e. becoming public rather than remaining private bodies, is not true and that again this is just another negative roadblock. Any Housing Association would only be considered a public body for information purposes alone and not otherwise.

The Freedom of Information Act (Scotland) 2002 also protects organisations from vexatious information requests and aspects of commercial confidentiality are protected under the Act through certain exemptions. Therefore, again, these negative roadblocks are unfounded.

That is why I very much welcome the support for this Petition by the Freedom of Information Commissioner, Rosemary Agnew, the Campaign for Freedom of Information and the Scottish Tenants’ Organisation. I also welcome the qualified support for the Petition of the Chartered Institute of Housing. The Freedom of Information Commissioner states correctly that all housing associations are “Exercising functions of a public nature” and should come under the term “Designation” and be subject to a Section 5 Order.

To bring all RSLs under a Section 5 Order will re-instate lost rights to information to 15,000 tenants and give new rights of information to many thousands of tenants and factored homeowners. The right to information would not only extend to stakeholders but to all interested members of society, meaning that public scrutiny would improve the operation of Housing Associations in terms of efficiency and anti-corruption. When Dumfries & Galloway Housing Partnership criticises tenants for exercising their potential Freedom of Information rights by castigating them in the following terms: “...should not be used as a threat by disgruntled tenants or, indeed, as another method to get a decision overturned”, they are doing a great disservice to their stakeholders, and this is evidence of a mindset that is opposed to openness, transparency and accountability. I believe that, with the vastly increased civic engagement in Scotland that has occurred, we have to positively empower stakeholders and others to help improve the decision-making processes of Housing Associations through a Section 5 Order.

It is time for all Housing Associations in Scotland to come into the 21st Century and be more open, transparent and accountable and therefore be subject to more public scrutiny. This will improve the decision-making process within Housing Associations, ensuring that they better meet the needs of their stakeholders. Only negative vested interests within Housing Associations themselves will oppose this Petition, which is designed to enhance and improve stakeholder participation.

ADDENDUM, 19 FEBRUARY 2015

I, Anne Booth, want Rosemary Agnew, the Scottish Freedom of Information Commissioner, to give oral evidence to Petition 01539 in the near future.

ANNE BOOTH