



Freedom of Information and Environmental Information Regulations Policy

22 February 2024



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	<input checked="" type="checkbox"/>	Outcome 2	<input type="checkbox"/>	Outcome 7	<input type="checkbox"/>	Outcome 13
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	<input type="checkbox"/>	Outcome 5	<input type="checkbox"/>	Outcome 10		
Care Standards this policy helps to achieve	<input type="checkbox"/>	Standard 1	<input type="checkbox"/>	Standard 2	<input type="checkbox"/>	Standard 3
	<input checked="" type="checkbox"/>	Standard 4	<input type="checkbox"/>	Standard 5		
Bield Objectives this policy helps to achieve	<input type="checkbox"/>	Objective 1	<input checked="" type="checkbox"/>	Objective 3	<input type="checkbox"/>	Objective 5
	<input type="checkbox"/>	Objective 2	<input checked="" type="checkbox"/>	Objective 4	<input type="checkbox"/>	Objective 6



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1 Introduction

1.1. Our vision is a Scotland where people of all ages are respected can make their own choices and lead independent and fulfilling lives.

1.2. Our mission is to improve the quality of life of older people by offering a diverse range of housing, care, and other services.

1.3. This policy embodies our values, which are:

Honesty
Dignity

Equality and Diversity
Integrity

Ambition
Caring

Kindness

1.4. This policy sets out Bield's compliance with the Freedom of Information (Scotland) Act 2002 ("FOISA") and the Environmental Information (Scotland) Regulations 2004 ("EIR"). These place a general obligation on Bield to allow the public access to certain information that we hold. Both FOISA and EIR are overseen by the Scottish Information Commissioner ("SIC").

1.5. From 11 November 2019 Bield became designated as Scottish public authority to make information available in accordance with FOISA and EIR.

2. Outcomes based approach

2.1. The purpose of this policy is to provide clarity on our approach to create a general understanding of FOISA and EIR for our customers, colleagues, and Board members; and outline where responsibility lies for complying with the legal duties of Bield under FOISA and EIR. Bield is committed to the underlying principles of openness and transparency underpinning FOISA and EIR and complying fully with the requirements of said legislation. Bield will:

- follow the relevant Scottish Ministers' Codes of Practice relating to FOISA and EIR, as well as any relevant guidance issued by the Scottish Information Commissioner;
- take into account the needs of individuals when presenting information under FOISA and EIR.
- make all employees, volunteers, contractors, Board and Committee members aware of their responsibilities under FOISA and EIR and support them in fulfilling those responsibilities. This is to include all mandatory training and monitoring thereof.
- publish a wide range of information through our Publication Scheme.
- monitor compliance with FOISA and EIR to support continuous improvement.
- respect data protection in accordance with the General Data Protection Regulations (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; and
- provide advice and assistance to individuals seeking to access information.

2.2. This policy applies to information held by Bield covered by FOISA and EIR, as outlined within section 5 of this Policy., This will include information in any format, information created



internally and information received from third parties. It will also relate to information which is held on behalf of Bield.

2.3. This policy applies to all Bield employees, volunteers, contractors, Board and Committee members. Responsibilities include;

- The Board delegates approval of this policy and annual review that confirms we have met this policy to the Audit, Performance and Risk Committee
- The Board delegates executive responsibility for this policy to the Chief Executive who must ensure we implement this FOI and EIR policy.
- The Chief Operating Officer has lead management responsibility for FOISA and EIR within Bield. This will include effective implementation and regular review of this Policy.
- *The Data Protection Officer (DPO)* will be responsible for application of this policy within Bield as well as be responsible for responding to requests under FOISA and EIR, collating information for sending out to requesters and making information available in accordance with the publication scheme.
- Compliance with this policy is compulsory for all employees, volunteers, contractors, Board and Committee members of Bield. Anyone who fails to comply with this policy may be subject to disciplinary action.
- All employees, volunteers, contractors, Board and Committee members are responsible for:
 - familiarising themselves with this policy.
 - forwarding information requests received to the *Data Protection Officer (DPO)* as quickly as possible. If you are unsure how to recognise an information request, you should seek guidance from your manager or *Bield's Data Protection Officer (DPO)*.
 - seeking guidance from the *Data Protection Officer (DPO)* if they are unsure about any of the duties placed on Bield by FOISA or EIR.
- Employees, volunteers, contractors, Board and Committee members should be aware that where an information request is received and information is intentionally altered or deleted with the intention to prevent disclosure, a criminal offence may be being committed. If unsure whether deletion or alteration of information may result in an offence, guidance should be sought from the *Data Protection Officer*.

3. Equality, Diversity, and Inclusion

3.1. In implementing this policy, we will adhere to our Equality and Diversity Policy which aims to promote diversity, fairness, social justice, and equality of opportunity.

3.2. The following steps will also be taken for this policy:

- Large print version
- Translation and interpretation message on the back of the policy
- Easy to read version for people with mental impairment.



4. Definitions

4.1. Key terms that are often used concerning Freedom of Information and Environmental Information Regulation are outlined below.

Freedom of Information (Scotland) Act (FOISA)

This legislation is known as the Freedom of Information (Scotland) Act 2002, also known as (FOISA) or (FOI). The legislation allows members of the public the right to access information held by public authorities.

Environmental Information Regulation

This legislation is known as the Environmental Information Regulation 2004, also known as (EIR). The legislation allows member of the public the right to access 'environmental' information held by public authorities.

Data protection officer (DPO)

A Data Protection Officer (DPO) is an individual who has an over-arching responsibility and oversight over compliance with Data Protection and Freedom of Information/EIR legislation.

Model Publication Scheme

A list of documents published under the Guide to Information page on Bield's website. This is used as best practice under the Commissioner's recommendation that bodies freely publish documents and information such as corporate functions, performance, finances etc.

Guide to Information

A guide that all organisations subject to FOISA and adopting the Model Publication Scheme must produce to help people access the information it makes available.

Fees and Charges

The FOI Act and EIR allows public authorities to recover costs when responding to a request for information, for example costs associated with photocopying, printing, postage, and overall staffing costs (per hourly rate) responding to requests.

Internal Review

A process where an applicant not satisfied with the original response from Bield can request an internal review, to which Bield has an additional 20 working days to respond.

Right to Appeal

An applicant who remains unsatisfied after an internal review has the right to request an appeal to the Scottish Information Commissioner.

Submissions

Under the Scottish Ministers' Code of Practice (Section 60 Code), every 3 months Scottish public authorities must submit their quarterly statistics on request for information to the Scottish Information Commissioner.

The Scottish Information Commissioner (SIC)

The Scottish Information Commissioner (SIC) is responsible for ensuring that those bodies covered by FOISA and EIRs comply with the terms of the legislation.

5. Policy

5.1. The background to this policy is as follows:

Why is Bield subject to FOISA and EIR?

Bield is subject to both FOISA and EIR by virtue of the Freedom of Information (Scotland) Act 2002 (Designation of Persons as Scottish Public Authorities) Order 2019 (the "Order").



The Order came into effect on 11 November 2019 and brought all Registered Social Landlords (“RSLs”) and certain RSL subsidiaries under the scope of FOISA and the EIR.

What is subject to FOISA and EIR?

In accordance with the terms of the Order, not everything that Bield does is subject to FOISA and EIR. Bield is subject to these regimes in respect of certain functions, namely ‘housing services’, as defined in s.165 of the Housing (Scotland) Act 2010, which Bield carries out – subject to some restrictions. Applying the definition of ‘housing services’, and the restrictions which are set out in the Order, the following functions carried out by Bield are covered by FOISA and EIR:

- the prevention and alleviation of homelessness
- the management of social housing accommodation
- the provision and management of sites for members of travelling communities; and
- the supply of information to the Scottish Housing Regulator (SHR) by an RSL or a connected body (i.e., a subsidiary) in relation to its financial wellbeing and standards of governance.

What is the difference between FOISA and EIR?

EIR provides a right of access to ‘Environmental Information’ held by Bield. Environmental Information has a very wide definition which is set out in Regulations. Where a request under FOISA is received for Environmental Information, it should be processed in accordance with EIR.

Whilst the obligations under FOISA and EIR are similar – there are key differences that employees, volunteers, Board and Committee members must be aware of when dealing with requests for information. Further guidance on the differences is available on SIC’s website as well as on Bield’s internal training platform Academy 10.

5.2. Bield has several legal duties which it must comply with under FOISA and EIR. These are set out in more detail below:

Responding to Information Requests

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

Bield will aim to respond to information requests promptly within 20 working days of receiving the request (except in some circumstances under EIR where Bield is entitled to extend the timescale for responding by an additional 20 working days).

Where Bield provides an individual with the information requested it will, in so far as is reasonable to do so, provide information in the format that the individual has requested, adhering to any duties under the Equality Act 2010. Where Bield is refusing to provide information, it will clearly explain what provision in FOISA or EIR allows it to withhold that information and why that provision applies (including, where required, an explanation of how Bield has carried out the Public Interest Test).



Where Bield is asked to provide information which it does not hold but knows that another Scottish Public Body does hold the requested information – Bield shall provide contact details of the Body to the individual requesting the information and explain that the individual may wish to request the information from that Body. Where a request is being handled under EIR and these circumstances apply Bield shall offer to transfer the individual's request to the other Scottish Public Body.

Bield may choose to charge for fulfilling information requests received from individuals. Any charges made by Bield shall be made in accordance with:

- requests being handled under FOISA: the Freedom of Information (Scotland) Act 2002 (Fees for Required Disclosure).
- requests being handled under EIR: the Schedule of Charges **Access to Information - Schedule of Charges** of Bield.

Any fee charged by Bield will be reasonable and will not exceed the costs to Bield of providing requested information. Specific charges are detailed within Bield's Guide to Information page which is held on our website: [Guide to Information](#)

5.3. When Responding to Requests for Review where an individual has requested information from Bield and:

- Bield has failed to respond to the request within the 20-working day deadline (or the extended deadline in respect of certain requests made under EIR); or
- 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)

they have the right to request that Bield reviews the response to their request to determine whether the provisions of FOISA or EIR have been followed.

Where Bield performs a review and determines that a response to a request is not in accordance with FOISA or EIR Bield will take immediate steps to rectify this (which could, for example, include releasing information which was previously withheld).

Where Bield performs a review and determines that a response to a request is in accordance with FOISA or EIR then we will notify the individual who asked for a review as quickly as possible.

In any event Bield will handle all requests for review in accordance with the timescales set out in FOISA and EIR.

Where an individual is unhappy with the response to their review request they may appeal to SIC. If an appeal is upheld by SIC and a decision handed down by them both Bield and the individual in question have a right to appeal to the courts on a point of law.

Provision of Advice and Assistance to Individuals

Bield must provide individuals seeking to access information with reasonable 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. Bield will comply with this duty by following the guidance contained in the Section 60 Code of Practice issued by Scottish Ministers.



Publication of Information

Bield shall publish information in accordance with its Publication Scheme through its Guide to Information. The Guide to Information of Bield is available on its website with a paper format available on request.

Bield Guide to Information

Data Protection

- 5.4. Bield is committed to upholding its data protection obligations set out in the GDPR and the Data Protection Act 2018.

Under data protection laws, individuals have the right to request access to all the information that Bield holds about them. This and other rights that individuals have under data protection are not covered by this policy and you should refer to the **Bield Data Protection Policy** when dealing with these rights.

6. Publicising and Accessibility

- 6.1. We will make this policy and associated information available on the Bield website and all internal platforms.
- 6.2. We are happy to translate any of our policies and provide an interpreter if required.

7. Training and Competence

- 7.1. All staff will be aware of good practice under the Freedom of Information (Scotland) Act 2002 (FOISA) and Environmental Information Regulation 2004 (EIR) as well as be familiar with Bield's guidance and process procedures that are in place when a request for information is received.
- 7.2. As part of training and introduction, all new staff will be expected to complete the necessary training modules for FOISA and EIR within 3 months of joining Bield.
- 7.3. Thereafter, all staff are required to undertake training for FOISA and EIR every three years to ensure continued awareness and compliance under the Regulation.
- 7.4. Under the Scottish Ministers' Code of Practice (Section 60 Code), it is a requirement that public authorities such as Bield ensures continued and regular training are kept up to date for Bield to remain fully compliant.

8. Scheme of Delegation

- 8.1. As the governing body with responsibility for overseeing our work, our **Board** provides leadership and strategic guidance. It also ensures compliance with our policies and procedures. For Freedom of Information and Environmental Information Regulation its role is twofold:
- *Ultimate responsibility for ensuring that we meet our legal obligations by reviewing and approving a robust FOI and EIR Policy.*
 - *to ensure that staff keep to this Policy and Procedure and associated internal processes.*

The Audit Committee is responsible for approving the FOI / EIR Policy at least every 3 years. The Audit Committee will receive and review an annual report that confirms Bield has met its statutory obligations under the Freedom of Information (Scotland) Act 2002 ("FOISA") and the Environmental Information (Scotland) Regulations 2004 ("EIR") and our policy.



- 8.2. The **Chief Executive and Executive Management Team** provides leadership and direction in ways that guide and enable us to perform effectively across all services.
- 8.3. The **Head of Assurance and Business Planning**, on behalf of the **Chief Operating Officer** is responsible for monitoring the policy, ensuring compliance with the procedures.
- 8.4. The **Data Protection Officer** within the Assurance and Business Planning Team has operational responsibility for monitoring and assisting with the implementation of the requirements under The Freedom of Information (Scotland) Act 2002 (“FOISA”) and the Environmental Information (Scotland) Regulations 2004 (“EIR”), including:
- Providing advice and support to all employees on all matters relating to compliance with FOI and EIR.
 - Disseminating information relating to FOI and EIR.
 - Monitoring and maintaining the FOI and EIR register with all requests, including that of any internal reviews and if any, Commissioner appeals.
 - Keeping both the Board and Executive Management team up to date with quarterly and annually reporting on FOI and EIR matters.
 - Submitting Quarterly figures on all requests to the Commissioner.
 - Regularly oversee and monitor the Model Publication Scheme within Bield’s website.
 - As and when necessary, seek legal advice on more complex queries.
 - Assist the Learning and Development team with any content and resources concerning matters on FOI and EIR.
 - Ensuring all requests on responded to within the specified timescales, with relevant Director’s approval.
 - Liaising with the Scottish Information Commissioner (SIC) which regulates FOI and EIR.
- 8.5. The **Leadership Team** is responsible for monitoring the policy ensuring compliance with the procedures.
- 8.6. All **colleagues** have a responsibility for ensuring that the FOI and EIR procedures and processes that are in place are followed in line with the guidance set out in Scottish Ministers’ Code of Practice (Section 60 Code).

9. Monitoring, Reporting, and Review

- 9.1. This policy will be reviewed on a three-yearly basis.
- 9.2. An annual report will be considered by the Audit Committee, containing updated information for the previous reporting year, including the number of requests received, internal reviews, exemptions and if any, Commissioner Appeals. The report will also include submission figures sent to the Scottish Information Commissioner’s Office.
- 9.3. We will monitor compliance with the policy by recording and reporting on the following annually:
- Number of requests received
 - Exemptions
 - Internal reviews
 - Commissioner Appeals
 - Submissions to the Commissioner



Speaking your language - we are happy to translate our policies on request.

يمكن ترجمة سياساتنا عند الطلب
إذا كنت بحاجة إلى مساعدة ، فيمكننا توفير مترجم

**Nasze zasady mogą być przetłumaczone na żądanie.
Jeśli potrzebujesz pomocy, możemy zapewnić tłumacza**

我们的政策可以应要求翻译。

如果您需要帮助，我们可以提供翻译

ہماری پالیسی کا درخواست پر ترجمہ کیا جاسکتا ہے۔
اگر آپ کو مدد کی ضرورت ہو تو ہم ایک ترجمان فراہم
کرسکتے ہیں