



PAISLEY HOUSING ASSOCIATION

OPENNESS AND CONFIDENTIALITY POLICY

| |
|----------------------------|
| GOVERNANCE |
| OPENNESS & CONFIDENTIALITY |
| May 2017 |
| May 2021 |



CONTENTS

1. Introduction
2. Principles, Aims and Objectives
3. Scottish Social Housing Charter
4. Equal Opportunities Statement
5. Legal and Regulatory Framework
6. Publication of Information
7. Communication of information
8. Access to Meetings
9. Requests for Information
10. Confidentiality
11. Policy Reviews
12. Customer Service
13. Links with other policies

1. INTRODUCTION

This policy describes how Paisley Housing Association (PHA) will meet its commitments in relation to openness and confidentiality.

The Policy applies to PHA Committee of Management members and to all employees of PHA.

The Association will apply this Policy to forms of information including written, verbal, website and social media.

1.1 DELEGATED AUTHORITY

PHA will ensure that staff and the Committee of Management's responsibilities in relation to the management of this Policy are clear. The Committee of Management's role is to agree policy and evaluate performance, and to ensure that the policy is observed in relation to its own activities and conduct. Implementation of the Policy as it relates to PHA employees will reflect PHA's line management structure, as described in the Association's procedures.

2. PRINCIPLES & AIMS

2.1 PRINCIPLES

PHA is committed to act in an open and accountable way in relation to its tenants and residents, its partners and other stakeholders.

Openness and accountability are essential for the following purposes:

1. Providing opportunities for tenants and other stakeholders to be involved in or influence decision-making;
2. Demonstrating that PHA is acting in accordance with the commitments made to tenants and other stakeholders;
3. Upholding the principles and practice of equal opportunities and continuous improvement.

As a matter of general policy, information about PHA and its work should be widely and freely available. PHA will publish material about the organisation, its services and its performance, and communicate it through a variety of mediums (see Sections 6 and 7). PHA will make additional information available upon request, unless there are good reasons of confidentiality or practicality, or where its disclosure is restricted by legislation (see Section 9). The commitment to openness does not detract from the need to keep certain types of information confidential, particularly where it is required by law (see Section 10). The policy is designed to strike a balance between a commitment to openness and the need for confidentiality in some circumstances. In general terms, all organisational information, which is not sensitive should be openly available; all personal information that is not a matter of public record should be kept confidential.

Committee of Management members and employees of PHA, under their respective Codes of Conduct, accept an obligation to account for their actions in an open manner. PHA is accountable to a wide range of groups, including tenants, residents, other RSLs, local authorities, lenders, regulators, local communities and other partners in the statutory and voluntary sectors. Code of Conduct for Committee of Management, Membership, Rules and Standing Orders are posted on PHA's website. Different mechanisms will be used for different stakeholders, depending on their interests and the nature of any legal or contractual agreement with the group.

2.2 AIMS OF POLICY

The aims of this Policy and associated procedures are to describe:

- How PHA will meet its commitments to openness and accountability;
- How it will make information available and provide access to information; and
- How it will deal with information, which must remain confidential.

PHA has a separate policy on data protection. This describes the arrangements on access to personal information and compliance with the law on data protection.

3. SCOTTISH SOCIAL HOUSING CHARTER

This Policy aims to meet the Charter outcome 2: Communication.

“Tenants and 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.”

4. EQUAL OPPORTUNITIES STATEMENT

This Openness and Confidentiality Policy complies with PHA's Equal Opportunities Policy and takes account of the Equality Act (2010). PHA

recognises its pro-active role in valuing and promoting diversity, fairness, social justice and equality of opportunity by adopting and promoting fair policies and procedures. The Openness and Confidentiality Policy is of considerable significance in creating opportunities for disadvantaged groups in playing a full part in PHA's activities and governance.

PHA will check its Openness and Confidentiality Policy and associated procedures regularly for their equal opportunity implications, taking appropriate action to address inequalities likely to result or resulting from the implementation of the policy and procedures.

The Association promotes equal opportunities and will not discriminate between persons on grounds of gender or marital status, on racial grounds, or on grounds of disability, age, sexual orientation, language or social origin, or of other personal attributes, including beliefs or opinions, such as religious beliefs or political opinions.

5. LEGAL AND REGULATORY FRAMEWORKS

5.1 LEGISLATION

In formulating and implementing this Policy, statutory requirements have been incorporated, where required.

The legislation particularly relevant to this Policy includes;

- **Data Protection Act 1998/2003:** provides rights to individuals in relation to personal data held about them; and regulates the use of personal data.
- **Freedom of Information Act (Scotland) Act 2002:** entitles members of the public to receive information that they request from a public authority, subject to certain exemptions such as the need for the protection of personal data, commercial sensitivity or national security. Although not bound by the Freedom of Information Act (which currently does not extend to RSLs), PHA is not bound by but aims to meet the spirit of the legislation.
- **Housing Scotland Act 2001:** provides a statutory right to all tenants with Scottish Secure Tenancies to receive information about their landlord's policies and procedures. The Act also obliges landlords to consult and provide tenants with information in developing their Tenant Participation Strategy.
- **Housing Scotland Act 2014:** compels RSL's to comply with the Equality act (2010).
- **Scottish Public Services Ombudsman Act 2002:** describes the statutory arrangements for conducting independent investigations of complaints relating to misadministration by a wide range of listed authorities, including Registered Social Landlords.

- **Human Rights Act 1998:** gives individuals a right to respect for their privacy.

5.2 REGULATORY STANDARDS

The following SHR agreed Regulatory Standards particularly relevant to this Policy:

“Standard 2: The RSL is open about and accountable for what it does. It understands and takes account of the needs and priorities of its tenants, service users and stakeholders. And its primary focus is the sustainable achievement of these priorities.”

5.3 GOOD PRACTICE

In preparing this policy, PHA has had regard to currently best practices guidance including:

- SHR: Inspection Guidance
- SHR: Regulation of Social Housing in Scotland Framework
- SFHA Raising Standards: Governance and Accountability
- SFHA Raising Standards: Access to Information
- Chartered Institute of Housing in Scotland: Guide to Data Protection Act
- Chartered Institute of Housing in Scotland: Guide to Freedom of Information Act
- GWOSF/SFHA: Open All Hours
- Scottish Social Housing Charter

6. PUBLICATION OF INFORMATION

- 6.1 PHA’s Planned & Cyclical Maintenance Plan for each new financial year will be published and made widely available via the website.

PHA will comply with the law and with best practice and make available on an annual basis an Annual Report against the Scottish Social Housing Charter and its Annual Accounts through publication on the PHA website. The accounts and our external auditors report will also be available at our AGM and will be made freely available upon request to any interested party.

As a matter of good practices, PHA will continue to make available any annually updated Business Plan.

6.2 INFORMATION TO TENANTS

PHA tenants have a statutory right under the Scottish Secure Tenancy to receive information about their tenancy and about their landlord’s policies and procedures.

PHA will make available if requested information on:

- Complaints policy and procedures
- Tenancy Agreement
- Right to Repair
- Right to compensation for improvements
- Rents and other charges
- Allocations Policy
- Priorities and procedures for allocating houses, including transfers and exchanges.
- Repairs and Maintenance Policy
- Service Standards
- Tenant Participation Policy, consultation arrangements and details of tenants' organisations.
- Equal Opportunities Policy

This information will be made available at the point a tenancy is granted, via a Tenant's Handbook, which shall be periodically revised and updated or via the website. Thereafter, tenants will be informed of significant changes as they happen via the website or the most appropriate form of communication.

6.3 OTHER PUBLISHED INFORMATION

Information on PSHA's structure, governance and decision-making processes

PHA will make the following information publicly available about its structure and governance:

- How the Committee of Management of PSHA is elected (Rules)
- Details of Management Committee members
- How decisions are made about housing and related services, and about management of the organisation (Minutes of the Management Committee meetings)

The following Reports and information will remain on the website for 3 years

Minutes of Committee of Management Meetings (other than confidential items).

PHA will also advise members and service users of the outcome of meetings via the publication of the minutes of the Management Committee.

Where Committee of Management business is of a confidential nature, the business will be conducted in a closed session and a separate confidential minute will be produced.

Minutes of business considered in closed session will not be made available under the arrangements previously described.

The circumstances in which Committee of Management business may be deemed to be confidential or commercially sensitive are described in Section 10 of the Policy.

Reports of investigations carried out by the Scottish Public Services Ombudsman on PHA.

RSLs are required to make copies of investigation reports available for inspection, unless the Ombudsman has directed that a report should not be made available, taking account of the public interest and the interest of the complainant and other persons.

Results of customer surveys and PHA's response to them

PHA will carry out periodic surveys of its tenants to determine the level of satisfaction with PHA services and performance. These results will be published, along with PHA's response to them, in order to demonstrate PHA's commitment to act on the results of the information received

Inspection Reports

PHA will notify stakeholders of the outcome of any SHR Inspection, and will advise those who wish to read the results of how to obtain a copy, either from PHA's office or through the website.

Investment Plans

PHA will make available its latest plans to improve the housing stock and provide new housing. These plans will be updated on at least an annual basis via the Business Plan.

Charter Annual Reports

The Scottish Housing Regulator produces an ARC Report for each RSL in August every year which is available via their website. The Association produces its own ARC Report in October each year.

7. COMMUNICATION OF INFORMATION

Information on the above will be made available through a range of channels appropriate to the information in question, including:

- PHA website, which will be maintained in order to ensure that it provides an accessible, accurate and up-to-date information resource covering all of the items listed above.
- PHA's Facebook page is regularly updated and monitored.
- Tenants Handbook
- In printed form; upon request, from PHA's office.

PHA undertakes, if requested, to hold meetings with tenants, which provide the opportunity for tenants to ask questions on the Association's business plan, and other published documents, after their publication and distribution.

PHA will ensure that, wherever possible and practicable, information available to the public will be written in Plain English. Every effort will be made to avoid unexplained acronyms, jargon and technical language where Plain English alternatives exist.

In order to overcome barriers caused by sensory impairments, language difficulties, literacy issues and other particular needs, PHA will make information available on request in a variety of information formats and in translation where possible and cost effective.

8. ACCESS TO MEETINGS

8.1 ANNUAL GENERAL MEETING

PHA, in accordance with its constitution, will hold an Annual General Meeting (AGM) to which all members of the Association will be invited.

As stated in 5.3 above, minutes of the Committee of Management are published on PHA's website, and printed copies can be made available on request for individuals.

8.2 Individuals interested in coming on to the Association's Committee of Management can attend a meeting as an Observer.

9. REQUESTS FOR INFORMATION

9.1 FREEDOM OF INFORMATION

In addition to the information made publicly available, PHA will comply with requests for information wherever practicable and appropriate, subject to considerations of confidentiality, cost and practicality.

Under the Freedom of Information (Scotland) Act 2002, members of the public can receive information that they request from a Scottish public authority, as defined in the Act, subject to certain exemptions such as the need for the protection of personal data, commercial sensitivity or national security.

Although not bound by the Freedom of Information Act (which does not currently extend to RSLs), PHA will abide by the spirit of the legislation. In general terms, PHA will respond positively to written requests for information, from whatever source and for whatever reason, unless:

- The request is vexatious (see below);
- The Association has already complied with the request;
- The request is identical or substantially similar to a request previously received from the same individual;
- The information is covered by an exemption from the requirements set out in the Freedom of Information Act, and summarised below.

The Association reserves the right not to comply with vexatious requests. It will have regard to the following principles described in Scottish Minister'

Code of Practice on the Act and the SPSO Guidance on this, should it ever consider that a request could be vexatious;

- PHA is not obliged to comply with a vexatious request;
- PHA will decide whether requests are vexatious;
- Irritation or nuisance caused by the applicant should not, by himself or herself, justify deciding that an application is vexatious;
- PHA will not deem a request for information as vexatious simply to avoid dealing with it;
- PHA will provide justification for its decision to the applicant, based on clear-cut reasoning.

PHA must be clear about the definition of a “vexatious request”.

The other main exemptions relevant to PHA are where the information:

- Is otherwise accessible;
- Is intended for future publication (within 12 weeks of the request being received);
- Is commercially sensitive;
- Is related to investigations in respect of a potential prosecution or civil proceedings;
- Is likely to prejudice the prevention or detection of crime;
- Would be likely to substantially inhibit the free and frank provision of views for the purpose of deliberation;
- Would substantially prejudice the governance of the Association;
- Concerns the operation of immigration controls, civil proceedings or the collection or any tax or duty;
- Relates to the categories of information covered by the Data Protection Act 1998/2003, where disclosure is regulated. In the event of any conflict between the Freedom of Information Act provision and the Data Protection Act requirements, the Data Protection Act takes precedence;
- Whose disclosure is prohibited under other legislation or any contractual obligation, or would constitute contempt of court.

9.2 PROCEDURES FOR RESPONDING TO REQUESTS FOR INFORMATION

The Association will respond to any request for information as soon as possible and within a maximum of 20 working days, unless it is prevented from doing so by the guidelines on Confidentiality as described in the Policy. This timescale is consistent with the Freedom of Information (Scotland) Act 2002. The timescale applies both to requests where information is provided in full, and requests, which are covered by an exemption and are refused; in the event of a refusal, an explanation must be provided.

Information requests, which relate to published material, or matters already deemed to be in the public domain (i.e. all items specified in Section 5 of the Policy) could be approved as a matter of routine.

Information not published can also be made available. Staff members are expected to exercise reasonable judgment in responding to information requests. While the Association's Policy is based on the presumption of making information freely available, staff must also ensure they do not disclose information which would be regarded as confidential or commercially sensitive, as described in this Policy.

If staff members have any doubt about whether ad hoc information requests can be met within the terms of the Policy, they should seek authorisation from their manager. Staff should also inform their line manager if they intend to refuse a request for information, explaining the reasons for the view.

9.3 CHARGING FOR PROVIDING INFORMATION

The Association's general policy is not to charge for the copying of documents, which are requested. PHA will not charge for providing copies of any of the information listed in Section 6 of the Policy. However PHA will charge a fee for each Data Protection request requiring a search for information on an individual (see PHA's Data Protection Policy). The fee level shall be notified to the individual or organisation requesting the information in advance of any transaction.

However, for certain general request, such as copies of archived information or a large volume of material, PHA must also take account of the fact that the staff resources associated with providing information is met by tenants' rents. It reserves the right to charge for the cost of providing information, or to refuse to provide information, in the following circumstances:

- If an information request will absorb significant staff resources either because of the nature of the request, or if copy material is requested with a frequency which affects the Association's ability to manage its day-to-day business.
- If the person requesting information is not a PHA tenant or service user. For example, the Association receives a high number of requests from students seeking information for research purposes, and is not always able to meet such requests without compromising service standards for tenants.

In setting charges, PHA will have regard to regulations issued by Scottish ministers.

PHA may also decide to allow the person who has asked for information to view it at its offices, but without providing copies.

The policy on charging will be reviewed in the light of experience, and in light of the further guidance issued on the Freedom of Information (Scotland) Act 2002.

The current charge is £10.

Charges for other documentation such as Building Warranties will be set.....

9.4 REQUESTS FOR INFORMATION FROM THE MEDIA

As a matter of policy, PHA will respond openly to requests for information from the media. However, in order to manage the release of information and to ensure that the release is consistent with PHA's interests, a set of procedures has been drawn up. These procedures authorise designated persons only to speak to the media. Any request from the media for information should be dealt with in accordance with these procedures and referred to the designated persons. Designated persons are the Director, who if not available the SMT and so on. Requests for Information from the media regarding specific Tenants require authorisation from the tenant or their representative.

10. CONFIDENTIALITY

10.1 INFORMATION REGARDED AS CONFIDENTIAL

PHA, while fully committed to the principles of openness and accountability, also recognises the need, and in some cases the statutory duty, to maintain confidentiality in respect of certain information and activities.

In general terms, the following information will be regarded as confidential:

- Personal information held about individuals (Committee of Management members, tenants, and other customers), subject to the right of the individuals concerned to have access to the information held on them;
- Personal information held about members of staff relating to their employment, such as selections, remuneration, or any grievance and disciplinary action;
- Matters relating to the business of PHA and its subsidiaries that are defined as commercially sensitive (see below);
- Matters related to legal disputes or actions concerning the Association;
- Matters relating to the business of PHA's and its subsidiaries' funders, partners and contractors and other third parties with which PHA has or may have a business or commercial relationship, which have been provided to PHA in confidence;
- Items deemed on their individual merits to be confidential.

PHA will apply the following definition of commercially sensitive information, as produced by the Cabinet Office:

"... information that has an intrinsic commercial value where the value depends upon its confidentiality being maintained, or where although it may not have an intrinsic commercial value, its disclosure might unreasonably disadvantage the organisation, or person to whom it relates, in the conduct of their lawful business, commercial, financial or professional affairs".

10.2 SAFEGUARDING CONFIDENTIAL INFORMATION

In the interests of clarity, all papers prepared for consideration by the Committee of Management and its committees, which meet the criteria referred to above, will be marked as CONFIDENTIAL. As an additional safeguard, no names, addresses or other details, which would allow individuals concerned to be identified would be given in these papers. Confidential reports will be circulated to Committee of Management members under separate cover, and will be made available to staff on a 'Need to Know' basis only. Agendas will be organised to allow all confidential items to be considered at one point in the meeting, so that staff members and others not entitled to be party to the consideration of the matter can leave the room. Committee of Management discussions on these items will be recorded in a confidential minute, which will not form part of the publicly available record of the meeting. Any reports will if possible be handed out at the meeting and returned at the end of the meeting and shredded.

Neither staff nor Committee of Management members should pass on confidential information to people who have no need or right to know it. All requests for information, which is covered by the above criteria, will be refused, with an explanation to the person or individual requesting the information as to why it cannot be provided. The timescale for responding to such requests is the same as that required for requests to which the organisation responds positively, i.e. 20 working days.

Where Committee of Management members receive an enquiry from a tenant or other customer, they should advise the person to contact the appropriate member of staff rather than dealing with the enquiry themselves. Confidential information must not be used for personal gain or benefit, nor passed to others who might use it in such a way.

Confidentiality has to allow for the exceptional circumstances where the law requires disclosure, or to safeguard individuals. The following exceptions will apply in relation to the disclosure of personal information:

- Where personal information is requested by the individual concerned, in circumstances covered by data protection legislation and PHA's data protection policy (see section 9.3).
- Where an individual has complained or appealed to the Association and a personal representation is being made to the relevant Committee as the final stage in the complaints or appeals procedure.
- Where the Association has a legal obligation to provide information to a third party, for example under a court order.
- Where information is requested by the police or other third party, covered by local protocols on sharing information.
- Where information is requested for the purposes of providing a reference.
- Where the individual concerned is deemed to be at risk or in need of care or support, and where the disclosure of information to relatives or other professionals is necessary to protect the individual.
- Where a Committee of Management member or employee has a serious concern about the wrongdoing or improper conduct within the

organisation, and cannot raise it without breaching the guidelines (See PHA's Whistle Blowing Policy).

10.3 DATA PROTECTION

PHA will comply with the Data Protection Act 1998/2003, including at subsequent related legislation and all associated guidance, which regulate the use of personal data.

The Data Protection Act 1988/2003:

- Requires those who record and use personal information to be open about their use of the information, and to observe sound practices about how the information is handled;
- Provides rights to individuals in relation to personal data or information held about them on computer and in most manual systems.

PHA has a policy on data protection, which sets out how the organisation will meet the requirements of the legislation and observe best practice in data protection.

10.4 BREACHES OF CONFIDENTIALITY

Breaches of this Confidentiality policy, whether inadvertent or deliberate, may, and in serious cases will, result:

- In the case of staff, in disciplinary action, in accordance with disciplinary procedures;
- In the case of Committee of Management members, in investigation and possible action under the Association's Code of Conduct for Committee of Management Members.

11. POLICY REVIEW

PHA will review this policy every 5 years. More frequent reviews will be considered if, for example, there is need to respond to new legislation/policy guidance. Reviews will consider legislative, performance standard and good practice changes, and the experience of using this policy.

12. CUSTOMER SERVICE

12.1 CONFIDENTIALITY

All information given by customers in relation to this Policy will be treated as confidential and will not be discussed with third parties without their permission. PHA will comply with the requirements of the Freedom of Information Act 2002 and the Data Protection Act 1988/2003 in this regard.

12.2 CUSTOMER SATISFACTION

PHA is committed to a high level of customer satisfaction in the delivery of this Policy, seeking continuous improvement. Satisfaction with the full range of services provided by PHA will be measured regularly, including the

effectiveness of the objectives of this Policy, and results will be disseminated to tenants and other services users.

12.3 COMPLAINTS

Our aim is to get it right first time, however, PHA has published its own Complaints Procedure. The procedure can be used where there is dissatisfaction with this policy or its operation. The Complaints Procedure is available as a separate document from PHA offices and is published on our website and, as with all our policies, can be made available on tape, in Braille, in large print or in translation.

13. LINKS WITH OTHER POLICIES & GUIDANCE

OTHER PHA POLICIES

The Openness and Confidentiality Policy should be read in relation to the following policies and other documents:

- Standing Orders
- Code of Conduct for Committee of Management Members
- Code of Conduct for Staff and Disciplinary procedures.
- Whistleblowing Policy
- Data Protection Policy (see section 9.3)
- Open All Hours