



# **Environmental Information Regulations**

## **Procedure**

October 2019

Consultation completed:	October 2019
Approved:	November 2019
Review Date:	October 2022

## Our Vision

Excellent housing in vibrant communities.

## Our Values

### Respect

We see the positive in everyone, especially our tenants. We treat everyone fairly, regardless of age, race, gender, sexuality or background. We ask for opinions even if we know we might not like what we hear. And we address people's concerns in any way we realistically can.

### Integrity

What we say in public is the same as what we say behind the scenes. If we say we'll do something, we mean it. Our tenants can count on us to solve their problems and make sound decisions.

### Aspiration

We want the best for all our current and future tenants. We're not afraid to strive for things that won't be easy – or try things that haven't been done before. We seek out opportunities and welcome change. If it doesn't turn out as planned, we learn and improve again. And then we try again.

## Our Strategic Objectives

1. Build more desirable homes in popular neighbourhoods
2. Deliver more excellent services to suit our tenants' lives
3. Invest in our people to grow and develop their skills
4. Find more ways to ensure value for money
5. Continue to challenge poverty
6. Put even more focus on community health and wellbeing
7. Be ready for opportunities

## Contents

1	Introduction	Page 4
2	Definition of Environmental Information	Page 4
3	Handling Requests for Environmental Information	Page 5
4	Responding to Requests	Page 6
5	Timescales	Page 7
6	Charges for Providing Environmental Information	Page 8
7	Exceptions to Disclosure under Environmental Information Regulations	Page 9

### Appendices

- Appendix 1 Charges for Providing Environmental Information
- Appendix 2 Flowchart illustrating a typical EIR Procedure

## 1. Introduction

- 1.1 Environmental Information Regulations (EIR) is concerned with an individual's right of access to environmental information which is held by the Association. The Environmental Information (Scotland) Regulations 2004 came into force on January 2005 and imposed a duty upon Scottish public bodies to make environmental information available on request.
- 1.2 A decision made in June 2014 by the Scottish Information Commissioner ruled that housing associations can be considered as public bodies as they are under the control of the Scottish Housing Regulator and exercise public functions and responsibilities relating to the environment. With this decision housing associations now come under the ambit of the legislation and have a duty to comply with requests made for environmental information.
- 1.3 The Freedom of Information (Scotland) Act 2002 (Designation of Persons as Scottish Public Authorities) Order 2019 (the designation order) provides individuals with the right to obtain information from public bodies in Scotland, including from RSLs. FOISA states that where the Association holds information we must respond to requests made from members of the public.

## 2. Definition of Environmental Information

- 2.1 A broad definition is applied in the regulations to what may be considered to be environmental information. This includes any information in written, visual, electronic or any other material form on:
- a) the state of the elements of the environment, such as **air and atmosphere, water, soil, land, landscape and natural sites** including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;
  - b) factors, such as **substances, energy, noise, radiation or waste**, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment referred to in paragraph (a);
  - c) measures (including administrative measures), such as **policies, legislation, plans, programmes, environmental agreements, and activities** affecting or

likely to affect the elements and factors referred to in paragraphs (a) and (b) as well as measures or activities designed to protect those elements;

- d) **reports** on the implementation of environmental legislation;
- e) **costs benefit and other economic analyses** and assumptions used within the framework of the measures and activities referred to in paragraph (c); and
- f) the state of **human health and safety**, including the contamination of the food chain, where relevant, conditions of human life, cultural sites and built structures inasmuch as they are or may be affected by the state of the elements of the environment referred to in paragraph (a) or, through those elements, by any of the matters referred to in paragraphs (b) and (c).

2.2 In relation to the day to day operations of housing associations and the interpretation of what environmental information can cover, a very wide range of issues and requests received for information must be considered.

2.3 To ensure that requests for information are handled correctly it is also important to note the distinction between 'personal information' which falls under the Data Protection Act 2018, Freedom of Information, and environmental information which falls within the scope of EIRs. For further guidance on processing requests for personal or other information, please refer to the Association's Data Protection Policy and Freedom of Information Policy which are available on Source.

### **3. Handling Requests for Environmental Information**

3.1 A request for environmental information does not have to be made in writing. Verbal requests (received in person, by telephone) should be recorded and logged as an EIR request on the Association's customer management system. The name and address of the individual making the request must be recorded.

3.2 Requests for environmental information must be handled as applicant and motive blind. This means that it does not matter who the individual making the request is or the reason why they are requesting the information. Requests for information can be made by anyone and from any geographical location including outside the United Kingdom. Reference should be made to the Scottish Information Commissioner's guidance when responding to an EIR request and document *Freedom of Information Template Documentation and Guidance Notes*, TC Young on behalf of SFHA & GWSF, September 2019.

3.3 Appendix 2 is a flowchart demonstrating a typical EIR procedure. However it should be noted that there are other issues relating to EIR that the lead officer should be

aware of. Supporting documents, guidance and letter templates are held in the Association's Performance Management folder and advice can also be provided by the Business Strategy team.

### 3.4 Interpreting a Request

If a request is not clear or is too general to progress further, then the individual making the request must be asked to clarify and be assisted to do so. This is a legal requirement laid out in Regulation 9 of the EIR. The timescale for responding is paused when further clarification has been sought and recommences when the individual making the request has provided the clarification requested.

If the request for information remains too general or otherwise unclear to progress further, then the request may be refused in line with Regulation 10(4)C of the EIR. The individual must be notified of this decision.

### 3.5 Repeat Requests

The Association is not obliged to comply with a request which is identical or substantially similar to a previous request made by any individual. If the repeat request is received from the same individual then their request will be turned down and the reason for this communicated to them. No further correspondence in relation to their repeat request will be required.

If a repeat request is received from a different individual, then a copy of the previous response with the personal details of the individual who made the previous request redacted will be issued to the individual making the request.

### 3.6 Vexatious Requests

If a request for environmental information appears to be malicious or vexatious then it may be handled with reference to the Association's Unacceptable Actions Policy and/or Freedom of Information Policy and Procedure.

## **4. Responding to Requests**

- 4.1 All requests for information received under EIR should be recorded under the client record of the individual making the request. This will be carried out by the person who has received the request. If there is no existing client record, guidance on creating a new client can be found on Source.

4.2 The Business Strategy Team must be notified when a request made in line with EIR is received. The Business Strategy Team will acknowledge the request (Appendix 2) within three working days and allocate a lead officer to handle the request.

4.3 Any information provided to an individual in response to a request made in line with EIR must use the letter or email template format and save a completed letter on the customer management system. This is to ensure that the response meets the requirements of the Regulations.

#### 4.4 Requests Submitted by Email

If a request for environmental information has been submitted by email:

- Communication with the individual will normally also be by email.
- Paper only copies of any documents must be scanned and sent as attachments.
- All attachments must be sent to the requester as PDF files and not as raw MS Word/ Excel files which can be subject to manipulation.
- The standard letter response and enquiry templates will be used for email responses and any standard response should be attached as a PDF file and saved on the client record in the customer management system.

#### 4.5 Requests Submitted by Letter

- Communication and any final response will also be made in writing by letter.
- It is appropriate in certain circumstances however in terms of cost to suggest to the individual who has made the request that the information is issued in a more cost effective format.

#### 4.6 Requests Submitted Verbally

- The individual making the request must be asked to provide their preferred format for the Association to respond to their request.
- The individual must be asked to provide their name and a form of correspondence address.

#### 4.7 Right of Review/Appeal

If an individual is dissatisfied with the response to their request provided by the Association, or by the way their request has been handled then they may request a review of the response provided by the Association. A request for a review must be

logged by an individual within 40 working days of a response being communicated to them by the Association

A review will be carried out by a member of the Leadership Team. Any review and the outcome of the review will be completed within a 20 working day timescale.

Any request for a review will be acknowledged within three working days by the Business Strategy Team and an appropriate member of staff will be identified to carry out a review.

If an individual remains dissatisfied following the outcome of any review then they may appeal to the Scottish Information Commissioner. This will be indicated to an individual in any response communicated with regard to their request for environmental information.

## **5. Timescales**

- 5.1 The timescale for responding to a request for environmental information is 20 working days. The twenty working day timescale starts on receipt of a request. This means that a request made via voicemail is recorded as being received on the day the message was left. An email request is received when it arrives in the QCHA email system.
- 5.2 A request is not considered as received and the timescale does not start until clarification has been provided if a request is considered too general or unclear to progress. Similarly the timescale for response does not start until the individual making the request has provided a name and a form of correspondence address.
- 5.3 If the request made entails substantial resources and cost is required, then the individual must be advised of this. The timescale for response to the request does not start until the individual has agreed to pay the costs which have been advised.
- 5.4 If a request made by an individual is complex and will require a considerable amount of work which means a response may not be possible within the 20 working day timescale, then an extension of the timescale to a maximum of 40 working days can be made.
- 5.5 If it is not possible to respond to a request within the twenty working day timescale, then the Business Strategy Team must be notified. The Business Strategy Team will communicate the reasons and the new timescale for response to the individual.

## **6. Charges for Providing Environmental Information**

- 6.1 There is no upper or lower limit placed on organisations under EIR with regard to charging for providing environmental information. EIR states only that the fee shall not exceed a “reasonable amount”, and must not exceed the actual costs of producing the information requested.
- 6.2 If the Association will make a charge for providing the information requested this must be advised in advance to the individual who has made the request. This should be provided in writing to the individual who has 60 working days to make the payment. The 20 day timescale for response to a request will not start until payment has been received by the Association.
- 6.3 If the individual agrees to the charges being made for provision of the information, then an invoice for the cost will be drafted by the Finance Department and issued to the individual.
- 6.4 The request for information will lapse if payment is not made within the 60 day timescale and will not be progressed further.
- 6.5 The Association has developed a schedule of charges for providing environmental information (Appendix 1).

## **7. Exceptions to Disclosure under EIR**

- 7.1 EIR provides clear guidelines for the Association with regard to where exceptions may apply to the Association’s duty to provide access to environmental information. The Association may not progress a request made for environmental information if the requests meets any of the following criteria:
- **Information is Not Held - Regulation 10(4)(a)**

If the Association does not hold the environmental information then it is not covered by EIR. If the information is not held then it should not be created in order to fulfil a request for information. Advice and assistance should be given to the individual making the request if an organisation is known who may hold the information requested. The contact details of that organisation should be provided to the individual.

- **The Request for Information is Manifestly Unreasonable - Regulation 10(4)(b)**

Environmental information is excepted if fulfilling the request would place a substantial burden on the Association by providing the information. The fact that a request is detailed, complex or contains a volume of work which may tie up resources does not in itself make the request manifestly unreasonable. Reference should be made to the costs that may be charged in providing information and careful consideration must be applied before a request is refused under this criteria.

- **The Request is Too General or Otherwise Unclear - Regulation 10(4)(c)**

If the request for environmental information is considered too general or unclear to progress further clarification should be sought from the individual who has made the request (see section 3). If the request remains too general or unclear following receipt of further clarification then the Association may refuse the request citing regulation 10(4)(c).

- **Information is in the Course of Completion, Unfinished Documents or Incomplete Data – Regulation 10(4)(d)**

A request for information can be subject to an exception if the Association is currently working on a document and the document can be expected to have more work carried out in relation to it within a reasonable timeframe. A document which is in draft format or status is not automatically subject to the terms for exception. The regulation refers to documents that are actively being worked on. If this exception is applied then the Association must inform an individual making a request of the timescale when it reasonably expects the information or document to be completed to allow the individual to make a request for the information in the future.

- **Internal communications – Regulation 10(4)(e)**

Internal communications can be exempt under EIR. The definition applied to internal communications includes internal email exchanges, draft letters to an external organisation and a file note prepared for internal use. Any communication between two or more staff members within the Association is considered internal communication. It is also possible for communications between the Association and a third party to be considered internal

communication however the onus is on the Association in this situation to demonstrate that aspects of the administrative or legal relationship with the third party show why communication should be considered internal.

- **International relations, defence, national security or public safety – Regulation 10(5)(a)**

Disclosure of environmental information is excepted where disclosure would substantially prejudice international relations, defence, national security or public safety.

- **The course of justice – Regulation 10(5)(b)**

Environmental information is excepted from disclosure where disclosure would substantially prejudice the course of justice including law enforcement, impair the ability of an individual to receive a fair trial or the ability of a public body to conduct an inquiry of a criminal or disciplinary nature.

- **Intellectual Property rights – Regulation 10(5)(c)**

Environmental information is excepted from disclosure where disclosure would substantially prejudice intellectual property rights including registered rights such as patents, trademarks and designs and unregistered rights such as copyright and design rights.

- **Confidentiality of the proceedings of the Association where such confidentiality is provided for in law – Regulation 10(5)(d)**

Environmental information is excepted from disclosure where disclosure would substantially prejudice the confidentiality of the proceedings.

- **Confidentiality of commercial or industrial information – Regulation 10(5)(e)**

Environmental information is excepted from disclosure where disclosure would substantially prejudice the confidentiality of commercial or industrial information where such confidentiality is provided for by law to protect a legitimate economic interest.

- **Interests of the individual providing the information – Regulation 10(5)(f)**

Environmental information is excepted from disclosure where disclosure

would substantially prejudice the interests of the person who provided the information where it was supplied to the Association on a voluntary basis and where the person supplying the information had no expectation that the information would be disclosed to a third party and has not consented to disclosure.

- **Protection of the environment – Regulation 10(5)(g)**

Environmental information is excepted where disclosure would substantially prejudice the protection of the environment.

- **Personal data – Regulation 11**

Environmental information is excepted to the extent that it includes personal data.

7.2 Where the Association decide not to disclose information to an individual making a request under EIR, one or more of the criteria listed above must be quoted in correspondence issued to the individual giving reasons why the information they have requested has not been disclosed. Use of any of the exceptions outlined above must be applied as restrictively as possible, and a presumption in favour of the release of information must always be adopted.

## Appendix 1 - Charges for Providing Environmental Information

This appendix sets out the circumstances where the Association may charge for providing environmental information, and the costs we may charge in providing this information.

### What we may charge for

The Association will not charge for the time taken to determine whether we hold the information that has been requested, nor for the time it takes us to decide whether the information can be released. The Association may charge however for the staff time taken to locate, retrieve and assemble the information and for providing it to the individual who has requested it.

### Staff Costs

Staff costs incurred in the location, retrieval, and assembling (including redaction) of the information requested will be charged on the basis of the actual cost to the Association of employing the staff involved for the time spent. The Association will aim to use the lowest grade of staff member who is appropriate and who have the necessary skills and knowledge to deal with the request for information.

### Non-staff costs associated with providing environmental information

The Association may also charge for the cost of copying documents, postage and putting information into a particular format. These costs will be charged according to the following schedule:

Type	Charge
<b>Photocopies</b>	
A4 Black & White	2p per double sided sheet
A4 Colour	4p per double sided sheet
<b>Different Formats</b>	
CD	£1.00
DVD	£1.00
<b>Postage</b>	
Letter	Charge as made by Royal Mail for First Class postage
Email attachment	No Charge

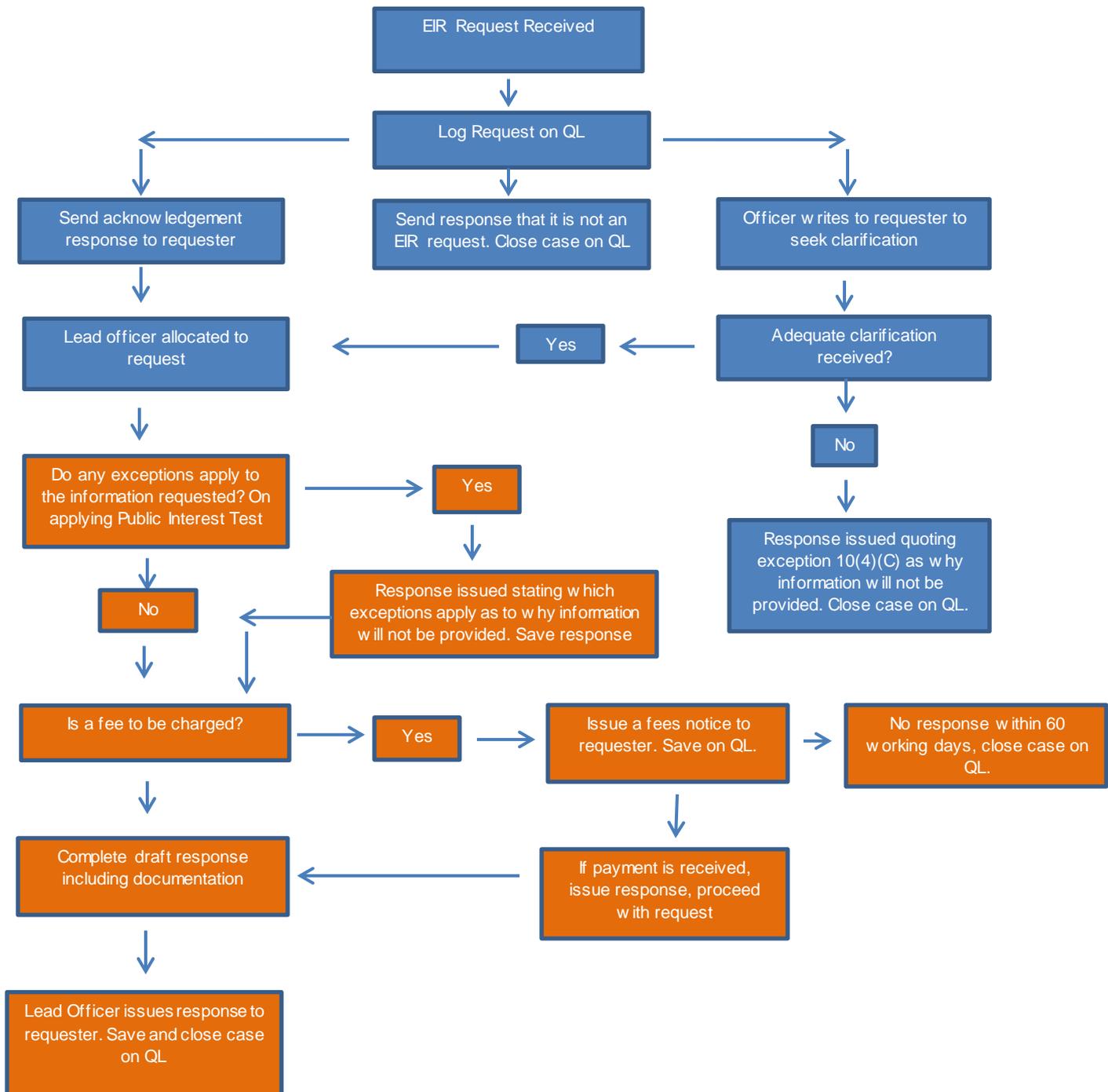
The Association will make no charge to view information through the QCHA website or at any Association premises. We may however charge if photocopies of the information which has been viewed are requested.

## Appendix 2 - Flowchart illustrating a typical EIR request procedure

Key

Action completed by Business Strategy

Action completed by lead officer



## Footnotes and references

1. *Environmental Information Guidance*, Scottish Information Commissioner, November 2012
2. *Freedom of Information Template Documentation and Guidance Notes*, TC Young on behalf of SFHA & GWSF, September 2019

## Contact Us



**45 Firhill Road, Glasgow, G20 7BE**

### Telephone

0808 143 2002

### Email

[contactus@qcha.org.uk](mailto:contactus@qcha.org.uk)

### Visit

[www.qcha.org.uk](http://www.qcha.org.uk)

## Need another version of this document?

We can provide this document in different formats. If you would like a copy of this document in another language, in large print, in Easy Read, on audio tape, in British Sign Language (BSL), on CD or in Braille, please ask us:

Telephone: **0808 143 2002**

Email: **[contactus@qcha.org.uk](mailto:contactus@qcha.org.uk)**

You can also download this document from our website at [www.qcha.org.uk](http://www.qcha.org.uk)

Queens Cross Housing Association, a registered society under the Co-operative and Community Benefit Societies Act 2014.  
Registered with the Scottish Housing Regulator Registration No HCB172. VAT Registration No. 774 5444 04. Recognised Scottish Charity Number SC 036434. Registered Office: 45 Firhill Road, Glasgow G20 7BE.

