

**Final Child Rights and Wellbeing Impact
Assessment (CRWIA)**

**Extension of Coverage of
the Freedom of Information
(Scotland) Act 2002 (FOISA) to
Registered Social Landlords
and their subsidiaries**

February 2019

Final CRWIA - Web version of Policy CRWIA

CRWIA title Date of publication	
Policy/measure	Extension of Coverage of the Freedom of Information (Scotland) Act 2002 (FOISA) to Registered Social Landlords and their subsidiaries.
Summary of policy aims and desired outcomes	To extend FOISA to cover Registered Social Landlords and their subsidiaries to encompass functions of a public nature undertaken by these organisations and ensure access to information for tenants and all other interested parties.
Directorate; Division; Team	Directorate for Constitution and Cabinet Elections and FOI Division Freedom of Information Unit
Executive Summary	<p>The Freedom of Information (Scotland) Act 2002 provides a statutory right of access to information held by Scottish public authorities and those performing functions of a public nature.</p> <p>The provisions of the Act can be extended to bodies that carry out functions of a public nature or which provide, under contract with a Scottish public authority, a service which is a function of that authority. This can be done by making an order under section 5 of the Act, which designates those bodies as a Scottish public authority for the purposes of the Act.</p> <p>Bodies designated for the purposes of the Act become subject to the full requirements of the legislation and must therefore respond to written requests for information and proactively publish information described in their Publication Scheme. They are also automatically subject to the Environmental Information (Scotland) Regulations 2004 (EIRs).</p>
Background	<p>The Scottish Government consulted on proposals to designate RSLs as public authorities for the purposes of the Act between December 2016 and February 2017.</p> <p>Following consideration of the responses a further consultation was undertaken on the terms of a draft order proposing to extend FOISA to RSLs, as well as RSL subsidiaries, on the basis of aligning information access rights to the existing powers of regulation and oversight exercised by the Scottish Housing Regulator. This second consultation ran from 6 December 2017 to 7 March 2018.</p> <p>Designation of RSLs (and their subsidiaries) as public authorities for the purposes of the Act is intended to provide information rights to tenants of RSLs (and anyone else requesting information) mirroring those rights already available to anyone wishing to request information from a local authority landlord.</p> <p>RSLs are already subject to the Environmental Information (Scotland) Regulations 2004 in relation to requests for environmental information.</p>

Scope of the CRWIA	<p>This summary CRWIA considers potential impacts through the extension of coverage of the Freedom of Information (Scotland) Act 2002 to RSLs (and their subsidiaries) on children and young people, noting that the legislation recognises that a person of twelve years is presumed to be of sufficient age and maturity to exercise their rights under the legislation. Further monitoring and evaluation will be undertaken as part of a review of the impact of the order, once in force.</p>
Children and young people's views and experiences	<p>We have no data directly from children or young people on usage of access to information rights.</p>
Key Findings To include impact on UNCRC rights and contribution to wellbeing indicators	<p>Of those responses commenting on the CRWIA only that from the Scottish Information Commissioner offered substantive comment (in response to the initial consultation). The Commissioner noted that children and young people used services provided by RSLs, perhaps because their families were tenants or prospective tenants, or because they themselves were moving into their own property.</p> <p>The Commissioner specifically cited evidence compiled by Children in Scotland in its response to the review (in 2016) of the Scottish Social Housing Charter demonstrating ways in which children and young people in particular might be affected by access to information about social housing. The research specifically mentioned that a lack of transparency in the eligibility process acted as a barrier to accessing housing and also to a difficulty in accessing holistic, timely and appropriate information and support to help young people to sustain their tenancy.</p> <p>The Commissioner concluded that designation of RSLs would improve the opportunity for children and young people (and all others) to contribute meaningfully to housing processes through a legally enforceable right to information.</p>
Conclusions and Recommendations	<p>Few comments were received in respect of the CRWIA in response to either consultation. However, in terms of the overall objective of increasing information rights - and therefore access to information - we consider the proposed designation of RSLs and their subsidiaries is positive for children and young people – and anyone wishing to request information from these bodies.</p>
Monitoring and review	<p>The proposed order designating RSLs and their subsidiaries for the purposes of FOISA, subject to Parliamentary approval, will come into force on 11 November 2019.</p> <p>We propose to formally review the impact of the order once it has been in force for a year. As far as we are able, we would intend to include in this review process an assessment of requesters - and the extent to which those requesting information are from particular equality groups. The review would also allow us to consider whether adequate assistance and guidance is available to those from the various equality groups to make effective information requests.</p>

CRWIA Declaration

CRWIA required	CRWIA not required
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Authorisation	
Policy lead	Date
Andrew Gunn	February 2019
Deputy Director or equivalent	Date
Penny Curtis (Deputy Director Elections and FOI Division)	February 2019



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