



Policy Title: Confidentiality and Openness Policy

Policy Section: Governance

Date Approved by Management Committee: 27 June 2019

Next Review Date: June 2020

This document will be made available in different languages and formats on request, including Braille and audio formats.

1.0 Aim of the Policy

- 1.1 This policy describes how Cadder Housing Association (The Association) will meet its commitments in relation to openness and confidentiality. The policy applies to Committee Members, and to all employees of the Association.

2. Principles, Aims & Objectives

Principles

- 2.1 The Association is committed to act in an open and accountable way in relation to its tenants and other stakeholders e.g. residents, other customers and its partners. Openness and accountability are essential for the following purposes:
- Providing opportunities for tenants and other stakeholders to be involved in or influence decision making;
 - Demonstrating that we are acting in accordance with commitments made to tenants and other customers;
 - Upholding the principles and practice of equal opportunities and continuous improvement; and
 - Build trust with our tenants and other customers where we are open and transparent in relation to our work and activities.
- 2.2 As a matter of general policy, information about the Association and its work should be widely and freely available. We will publish material about the organisation, its services and its performance, and communicate it through a variety of mediums.
- 2.3 The Association will make additional information available upon request, unless there are good reasons of confidentiality or practicality, or where its disclosure is restricted by legislation. The commitment to openness does not detract from the need to keep certain types of information confidential, particularly where this is required by law.
- 2.4 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.
- 2.5 Committee Members and employees of the Association under their Codes of Conduct, accept an obligation to account for their actions in an open manner, as well as maintaining individual's confidentiality and corporate responsibility. The Association is accountable to a wide range of stakeholders through its work including tenants, residents, local organisations and groups, other RSLs, Glasgow City Council,

Scottish Government, lenders, regulators (OSCR, Housing Regulator) and other partners.

- 2.6 The Association will ensure that our tenants and other customers are kept informed about our activities and have an opportunity to comment on, and where appropriate have an involvement in, the Association's planning and decision making. The Association will take into account the views of tenants and other customers any change in key service policies and activities which significantly affect them.

Aims & Objectives

- 2.7 This aims of this policy sets out:

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

- 2.8 The Association has a policy on data protection, which describes the arrangements on access to personal information and compliance with the law on data protection.

3.0 Equality and Diversity

- 3.1 This Confidentiality and Openness Policy recognises the Association's Equality and Diversity Policy. We recognise our pro-active role in valuing and promoting diversity, fairness, social justice and equality of opportunity by adopting and promoting fair policies and procedures.

- 3.2 We are committed to providing fair and equal treatment to all and will not discriminate against any on the grounds of race, colour, ethnic or national origin, religion, age, gender, sex, sexual orientation, marital status, family circumstances, employment status or physical ability.

4.0 Legal & Regulatory Framework

Legislation

- 4.1 In formulating and implementing this policy cognisance has been taken of relevant legislation particularly:-
- **Housing (Scotland) Act 2001**: provides a statutory right to all tenants with Scottish Secure Tenancies to receive information about changes to their landlord's policies and procedures where they are likely to significantly affect the tenants. The Act also obliges landlords to consult and provide tenants with information in developing their tenant participation strategy.

- **Scottish Public Services Ombudsman Act 2002:** describes the statutory arrangements for conducting independent investigations of complaints relating to maladministration by a wide range of listed authorities, including registered social landlords.
- **Freedom of Information (Scotland) Act 2002:** This Act outlines that public authorities are obliged to publish certain information about their activities; and members of the public are entitled to request information from public authorities.

The provisions of the Freedom of Information (Scotland) Act 2002 will be extended to housing associations on 11 November 2019. The Association will continue to respond to requests for information in the spirit of legislation and as outlined in our Confidentiality and Openness Policy.

- **Human Rights Act 1998:** gives individuals a right to respect for their privacy.
- **Housing (Scotland) Act 2010:** provides the legal framework for the modern social housing regulatory regime, and includes provisions compelling social landlords to act in accordance with the Equality Act (2010).
- **General Data Protection Regulations;** GDPR controls how personal data is used by organisations. It sets out the principles on the use or storage of data relating to living people and gives rights to those people whose data has been collected

Regulatory Requirements

- 4.2 In its Regulatory Framework Document the Scottish Housing Regulator has seven Regulatory Standards of Governance and Financial Management and associated guidance.

Standard 2 is of particular relevance to this policy:

“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.”

- 4.3 In addition, the Scottish Social Housing Charter sets out the overall outcomes that social landlords should aim to achieve in performing their housing activities.

Outcome 2 (Communication) is of particular relevance to this policy:

“Social landlords manage their businesses so that tenants and other 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 its provides.”

- 4.4 It should be noted that the Freedom of Information (Scotland) Act 2002 does not extend to housing associations to November 2019 and until this date the Association aims to meet the spirit of the legislation, where possible. The Association will establish a Freedom of Information Policy and Action Plan to ensure effective implementation of the Act

5.0 Publication of Information

Statement of Intent, Annual Report and Accounts

- 5.1 The Association will issue an Annual Report to all tenants and owner-occupiers. The Annual Report will contain standard information on progress over the last financial year, performance achieved against targets, and financial statistics.
- 5.2 The Annual Accounts will take the form required by the law, and an extract (Balance Sheet, Income & Expenditure & Cashflow) will be issued to all shareholders ahead of the Annual General Meeting and upon request to any other interested party. Shareholders will be able to download or request from the office the full Annual Accounts document. The information made available will include the annual external auditor’s statement on the effectiveness of the Association’s financial controls.

Information to tenants

- 5.3 Association tenants have a statutory right under the Scottish Secure Tenancy Agreement to receive information about their tenancy and about their landlord’s policies and procedures, where changes may significantly affect them.
- 5.4 The information, which the Association will provide to each tenant, will include:
- Complaints policy and procedures
 - Tenancy agreement
 - The right to repair
 - The right to compensation for improvements
 - Rents and other charges
 - Allocations Policy
 - Priorities and procedures for allocating houses, including transfers and exchanges
 - Repairs and Maintenance
 - Service Standards
 - Resident Participation Policy, consultation arrangements, and details of tenants’ organisations

- Equality and Diversity Policy
- 5.5 The Association will provide a handbook to tenants and owners at the start of the tenancy or occupancy, which will include information and advice to residents. These will be periodically revised and updated and tenants and owners will be informed of significant changes.
- 5.6 The Association has and will continue to fully comply with the Scottish Housing Regulator's requirement for all social landlords to report their performance in achieving or progressing towards the Scottish Social Housing Charter outcomes and standards to their tenants and other service users. The content and format of our Charter report **has and** will continue to take account of the view of our tenants and our Scrutiny Panel, Customer Services Working Group.
- 5.7 The Association will make all policies available to anyone who wishes them.
- 5.8 The Association will make general information available through a range of channels appropriate to the information in question, including:
- Regular newsletters distributed to tenants, owners and other interested parties.
 - In document form, upon request from the Association's offices.
 - In leaflet form, from our reception area.
 - Social media
 - Through Residents Association meetings e.g. Cadder Community Centre, Customer Services Working Group, Community Centre Working Group or any newly established resident organisation.
- 5.9 The Association's web site, will be maintained in order to ensure that it provides accessible, accurate and up-to-date information covering the range of Association activities.

Equal Opportunity & Diversity Considerations

- 5.10 The Association 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.
- 5.11 In order to overcome barriers caused by sensory impairments, language difficulties, literacy issues and other particular needs, the Association will make information available on request in a variety of information formats and in translation. Policy documents will contain the following sentence in English and the main languages of the Cadder community:

'This document can be made available in different formats, on request, such as Braille, large print or tape. It can also be made available in other languages as appropriate'.

- 5.12 The Association will always endeavour to access a translation/translator service on request and to facilitate this will subscribe to suitably qualified specialist agencies.

6.0 Other Information

Information on the Association's structures, governance and decision making processes

- 6.1 The Association will make available information on its structure and governance, how Committee is elected and decisions are made.
- 6.2 The Association will report to shareholders at its AGM on any investigation reports from the Scottish Public Services Ombudsman. Unless otherwise directed by the Ombudsman, the Association will make available and publish a summary in its newsletter.
- 6.3 The Association will make governance related policies and other relevant documents freely available. This will include our:
- Rules
 - Standing Orders
 - Membership Policy
 - Financial Regulations
 - Declaration of Interests Policy
 - Entitlements, Payments and Benefits Policy
- 6.4 The Association will publish performance information within its Annual Report and Newsletters and make a summary of its Business Plan available on request.

Satisfaction Surveys

- 6.5 The Association will procure the services of an independent company to conduct surveys of its tenants and other customers to determine their level of satisfaction with the Association's services and performance. The results of the independent surveys and other surveys we carry out to assess satisfaction in the delivery of our services will be published in the Association's newsletter or Annual Report. In our publication we give our response and the action we intend to take to improve our services and performance to meet the needs and aspirations of our tenants and other customers. This approach will contribute to our objective to continuously improve and excel across all areas of our business.

Scottish Housing Regulator's Regulatory Assessment of Performance

- 6.6 The Association will publish the findings from any inspection report from the Scottish Housing Regulator in its newsletter. This will also include any significant failure reports as outlined in the Regulatory Framework.
- 6.7 The Association will publish the Scottish Housing Regulator's annual assessment of the proposed engagement status with the Association, which is an assessment of risk RSLs place to their objective, which is primarily to 'safeguard the interests of tenants' and takes account of our performance, financial position and other activities.

Investment Plans

- 6.8 The Association will consult with our tenants and owner – occupiers to inform our medium and long term investment plan to ensure their homes and common fabric of the property is maintained. The views of owners will only be considered for common fabric improvements.
- 6.9 The Association will provide information on its plans to:
- improve the housing stock;
 - provide new housing; and
 - regenerate the community

Minutes of the Management Committee.

- 6.10 The Association will display a copy of the minutes of the Management Committee in the reception area of the Association's Office and on its website. The Association will issue Committee minutes and reports on request. Any confidential items will be removed from the minute.

7.0 Requests for Information

- 7.1 In addition to the information made publicly available, the Association will comply with requests for information wherever practicable and appropriate, subject to considerations of confidentiality, cost and practicality
- 7.2 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.
- 7.3 Although not bound by the Freedom of Information Act until November 2019, the Association will aim to abide by the spirit of the legislation. In general terms, the Association 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 or organisation;
- The information is covered by an exemption from the requirements set out in the Freedom of Information Act, and summarised below.

7.4 The Association reserves the right not to comply with vexatious requests. It will have regard to the following principles described in Scottish Ministers' Code of Practice on the Act, should it ever consider that a request could be vexatious:

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

7.5 The Association must be clear about the definition of a "vexatious request". In cases where such a request is considered vexatious by the staff member receiving the request, consideration will be given to seeking legal advice on the interpretation of a "vexatious request". The Director and Senior Staff Team will consider any necessary operational procedures required to deal with information requests in an appropriate manner

7.6 The other main exemptions relevant are where the information:

- is otherwise accessible [e.g. website or other source](#);
- 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 of any tax or duty;
- relates to the categories of information covered by the Data Protection Act 1998, where disclosure is regulated. In the event of any conflict between the Freedom of Information Act provisions and the Data Protection Act requirements, the Data Protection Act takes precedence; and

- whose disclosure is prohibited under other legislation or any contractual obligation, or would constitute contempt of court.

Procedures for Responding to Requests for Information

- 7.7 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 this 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
- 7.8 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 – ‘Publication of Information’) could be approved as a matter of routine.
- 7.9 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.
- 7.10 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 [line / section manager](#). Staff should also inform their [line / section manager](#) if they intend to refuse a request for information, explaining the reasons for their view.

Charging for Providing Information

- 7.11 The Association’s general policy is not to charge for the copying of documents, which are requested. The Association will not charge for providing copies of any of the information listed in Section 5 of the Policy. However the Association will charge a fee for each G.D.P.R request requiring a significant search for information on an individual basis. The fee level will be notified to the individual or organisation requesting the information in advance of any transaction
- 7.12 However, for certain general requests, such as copies of archived information or a large volume of material, the Association must also take account 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 tenant or customer of the Association. For example, the Association may receive a requests from consultants, students or other organisations seeking information, and it may not always be able to meet such requests without compromising service standards for tenants.

7.13 In setting charges, the Association will have regard to regulations issued by Scottish Ministers. The Association may also decide to allow the person who has asked for information to view it at its offices, but without providing copies

7.14 The policy on charging will be kept under review, and in light of the implementation of the Freedom of Information (Scotland) Act 2002 and extension to housing association in November 2019.

Requests for Information from the Media

7.15 The Association 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 all communication with the Media will be through the Association's Director. Staff contacted by the media should establish their information requests and forward this onto the Director. In many cases it is good practice to request that the journalist, etc e-mail the Director with their information requests.

7.16 The Association will establish a Policy on dealing with Media requests.

8.0 Confidentiality

Information regarded as confidential

8.1 The Association, 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.

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

- Personal information held about individuals (committee 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 selection, attendance management issues or any grievance and disciplinary action;

- Matters relating to the business of the Association that is defined as commercially sensitive;
- Matters related to legal disputes or actions concerning the Association;
- Matters relating to the business of the Association and its funders, partners and contractors and other third parties with which we have or may have a business or commercial relationship, which has been provided to the Association in confidence; and
- Items deemed on their individual merits to be confidential.

8.3 The definition of commercially sensitive information the Association uses is:-

“... information that has an intrinsic commercial value where the value depends upon its confidentiality being maintained, or in situations where 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.”

Safeguarding Confidential Information

- 8.4 All papers prepared for consideration by the Committee will omit names, addresses or other details, which would allow individuals concerned to be identified. The tenant or owner will be referenced only from their tenant/owner reference number as outlined on the Association’s housing software system, SDM Housing. The Association will also observe equality opportunities and not disclose any information that will provide details of their age, gender, marital status, ethnic origin or other personal circumstances, which may result in any potential prejudice in the Committee’s assessment or decision in relation to the report.
- 8.5 Confidential reports will be circulated to Committee Members under separate cover, and will be made available to staff on a ‘need to know’ basis only.
- 8.6 Staff members and others not entitled to be party to the consideration of the matter will leave the meeting during discussion of the agenda item.
- 8.7 Neither staff nor committee members should pass on confidential information to people who have no need or right to know it.
- 8.8 Where Committee members receive an enquiry from a tenant or other customer, they should advise the person to contact the appropriate member of staff and never attempt to deal with the enquiry themselves.

- 8.9 Confidential information must not be used for personal gain or benefit, nor passed to others who might use it in such a way.
- 8.10 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 GDPR legislation and the data protection policy.
 - 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 Police Scotland or other third party, covered by local protocols on sharing information.
 - Where information is requested for the purposes of providing a reference e.g. staff members application for employment to another organisation or other service contracts.
 - 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 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 the Association's Whistleblowing policy)

Breaches of Confidentiality

- 8.11 Breaches of this policy, whether inadvertent or deliberate, may result;
- In the case of staff, in disciplinary action, in accordance with disciplinary procedures;
 - In the case of Committee Members, in investigation and possible action under the Association's Code of Conduct for Committee Members.

9.0 Review

- 9.1 This policy will be reviewed in May 2020 to reflect the implementation of the extension of Freedom of Information to housing association