



FREEDOM OF INFORMATION ACT POLICY

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1. Introduction and scope

- 1.1. The Freedom of Information Act 2000, came fully into effect in 2005. It is a legal requirement all other public authorities including Derby Homes , must comply with.
- 1.2. This document is a policy statement outlining our commitment and approach to FOI. The policy applies to all Board Members and employees, including temporary staff, who handle information on behalf of Derby Homes.
- 1.3. Separate documents have been produced which will set out procedures and provide guidance for Board Members and employees to make sure that FOI is managed correctly.

2. Definitions

Data Protection Act (1998) (“the DPA”)

An Act of Parliament which defines the UK law on the processing of data of living persons. The DPA defines eight data protection principles and is the main legislation governing the protection of personal data in the UK.

Environmental Information Regulations (2004) (“EIRs”)

Statute which came into force in 2005 and gives the right of access to environmental information held by public authorities.

Exemptions

Conditions which may be applied in circumstances in which requested data may be withheld from disclosure. There are two types of exemption: absolute and qualified.

Absolute exemptions:

exemptions that do not require a public interest test to be undertaken.

Qualified exemptions:

exemptions which require a public interest test to be completed before they are applied.:

Freedom of Information (FOI) Act (2000) (“the Act”):

An Act of Parliament which came into force in 2005. The Act gives the public the “right to know” and allows them to request any information held by the Trust.

Information Commissioner’s Office (ICO):

An independent regulatory office reporting directly to Parliament and overseeing the DPA, the FOI Act, and the EIRs. The Information Commissioner is appointed by the Crown.

Public Interest Test:

A public interest test must be applied when the use of a qualified exemption is proposed. The factors for and against the disclosure of requested information are considered. In order to apply the exemption, the factors against disclosure must be seen to outweigh the factors for disclosure.

Publication Scheme:

A list of information the ICO expects public authorities to regularly publish. All public authorities are required to produce and maintain a Publication Scheme.

3. Responsibility and compliance

- 3.1. The Director of Derby Homes has overall responsibility for FOI within Derby Homes. The Company Solicitor has day-to-day responsibility for management and co-ordination of FOI.
- 3.2. All employees and Board Members should be aware of their duties under the Act and should assist the Company Solicitor when asked. Any member of staff could be asked for information. If employees knowingly fail to comply with this Policy, or the Freedom of Information Act, Derby Homes may take appropriate action under the Disciplinary Procedure.

4. Requests for information

- 4.1. FOI is intended to cover all information that is not already subject to information access rights. In a number of areas information is already available under alternative access rights. Two significant examples are:
 - personal information, which is covered by the DPA
 - information about the environment, which is covered by the EIRs
- 4.2. FOI requests must be made in writing. This can include fax and email or other electronic means. There is no requirement for people to mention FOI in their requests or to say why they need the information. If a request is unclear, we will try and clarify what is required.
- 4.3. Derby Homes acknowledges that it has a duty to confirm or deny to the applicant whether the information is held.
- 4.4. If the information can be provided and it is not subject to an exemption, we will provide the information within 20 working days of a request being received. However, if a charge is to be made for information, the time that it takes between Derby Homes sending out a fees notice and the payment being received, is not counted as part of the 20 working days.
- 4.5. Information will be provided in the most appropriate format. However, alternative formats can be requested. We will, however, consider the cost implications of such requests.
- 4.6. We have no obligation to comply with vexatious requests. Vexatious means repeated, unreasonable and nuisance requests.
- 4.7. We will use all reasonable efforts to assist an applicant to obtain the information required.

5. Publication Scheme

5.1. Derby Homes is required to produce and maintain a Publication Scheme. This will be available on our web site. This is a directory of information and publications that are routinely available. The Publication Scheme outlines:

- the way we intend to present the information
- how we intend to publish it
- whether we intend to make a charge and if so, what the charge is.

5.2. Information covered by the Publication Scheme should be obtained in the manner described in the Scheme.

5.3. We will review our Publication Scheme from time to time with the intention of increasing the scope and range of information covered by it.

6. Charges

6.1. We provide most information free of charge, particularly that which is available on Derby Homes' web site. Some documents in the Publication Scheme are subject to a charge, usually intended to meet some or all of the cost of publication.

6.2. The regulations allow us to pass on to the applicant any disbursement costs that are incurred when processing a request. This includes photocopying and the cost of CD ROM's. However, if the total disbursement costs are less than £10.00 a charge will not normally be made.

6.3. The regulations allow us to refuse any requests where the time taken to locate and retrieve the information is longer than 18 hours. If this is the case, the applicant will be given the option to refine and resubmit their request so that it reduces the time to within the appropriate limit.

6.4. We have the right to withhold information if the required fee is not paid.

7. Exemptions

7.1. Certain information held by Derby Homes is exempt from FOI. There are 24 exemptions. These fall into two categories.

Absolute exemptions. These exemptions are unconditional. Examples of these include information accessible by other means, information provided to Derby Homes in confidence and personal information covered by the DPA. A full list is given below.

Section 21. Information accessible to applicant by other means.

Section 23. Information supplied by, or relating to, bodies dealing with security matters.

Section 32. Court records, etc.

- Section 34. Parliamentary privilege.
- Section 40. Personal information.
- Section 41. Information provided in confidence.
- Section 44. Prohibitions on disclosure.

Qualified exemptions. This category of exemption is subject to a public interest test. In these cases we will look at whether the balance of public interest is weighted in favour of giving the information requested. Where this is found to be the case, the information will be given. Examples of qualified exemptions include commercially sensitive information and information that would prejudice the health and safety of an individual. A full list is given below.

- Section 22. Information intended for future publication.
- Section 24. National security.
- Section 25. Certificates under ss. 23 and 24: supplementary provisions.
- Section 26. Defence.
- Section 27. International relations.
- Section 28. Relations within the United Kingdom.
- Section 29. The economy.
- Section 30. Investigations and proceedings conducted by public authorities.
- Section 31. Law enforcement.
- Section 33. Audit functions.
- Section 35. Formulation of government policy, etc.
- Section 36. Prejudice to effective conduct of public affairs.
- Section 37. Communications with Her Majesty, etc. and honours.
- Section 38. Health and safety.
- Section 39. Environmental information.
- Section 42. Legal professional privilege.
- Section 43. Commercial interests.

7.2. It is our intention to apply exemptions in appropriate circumstances.

7.3. For example, we recognise that some information supplied to us is confidential in nature or commercially sensitive. We will have regard to that in our application of exemptions.

7.4. We will make clear statements to parties contracting with Derby Homes to make sure they are aware of our obligations to disclose under FOI and we will resist attempts to impose confidentiality obligations on Derby Homes where the information is not confidential in nature.

8. If a request is turned down or refused

8.1. We will always confirm or deny whether or not we hold information requested and we will respond promptly to information requests. We will either provide the information requested or, if it is withheld, explain why it has not been provided, quoting the relevant exemption under the Act. We will only turn down a request or refuse to provide information in the following circumstances. If:

- it falls into one of the exemption categories

- the request is considered vexatious
- the required fee is not paid within three months.

8.2. If a request is refused, the applicant has the right to ask for that decision to be reviewed under Derby Homes complaints procedure.

8.3. If after the internal appeal, the information is still not disclosed, the applicant has the right to ask the Information Commissioner to review the decision.

9. Transferring a request to another body

9.1. If it is found that another public body holds the information requested, we will either transfer the request to that organisation or advise the applicant where that information can be obtained. Any part of the request that relates to Derby Homes will be handled in the normal way.

9.2. We will inform the applicant if all or part of an enquiry has been transferred to another public body.

9.3. In cases where there are reasonable grounds to believe that the applicant would object to a transfer, we will first ask for consent from the applicant.

10. Records Management

10.1. All Board Members and employees must make sure that information for which they are responsible is held in an organised and systematic way that will allow it to be identified and retrieved.

11. Other relevant policies and procedures

- Data Protection Act 1998 Policy
- Data Protection Act 1998 Code of Practice

12. Version Control

12.1. All copies will be updated for changes through the Company Solicitor.

13. Version History

Date Issued	Version	Status	Reason for change
July 2014	1.0		New policy

Further guidance

- **Freedom of Information**

Derby Homes guidance on FOI for employees, Board Members and members of the public is currently being produced. When available, this will appear on the web site www.derbyhomes.org. If you have any queries you can contact:

Company Solicitor 01332 888 608

Email: Foi.Derbyhomes@derbyhomes.org

Further Information on FOI can also be found on the following Government web site

Information Commissioner's Office: www.ico.gov.uk

- **Data Protection Act 1998**

Derby Homes Company Solicitor handles requests for information covered by the Data Protection Act 1998

- **Environmental Information Regulations 1992**

Various public bodies hold information covered by the Environmental Information Regulations. For more information you can contact:

The Information Commissioner's Office

Tel: 01625 545 700
Email: mail@ico.gsi.gov.uk
Website: www.ico.gov.uk/