



Openness & Confidentiality Policy

Policy Title:	Openness & Confidentiality Policy
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Date of Approval:	14 th January 2014
Date for Next Scheduled Review:	January 2017
Review Body:	MC
Equality Impact Assessment Complete:	No
Policy To Be Published on Web:	Yes
Scottish Social Housing Charter Standard	2
Scottish Housing Regulator Standard:	2
Scottish Housing Regulator Guidance:	2.1, 2.2

OPENNESS AND CONFIDENTIALITY POLICY

Ardenglen Housing Association can provide this procedure on request, in large print, in Braille, on tape or in other non-written format, and in a variety of languages.

1. INTRODUCTION

- 1.1 Ardenglen Housing Association (Ardenglen) is committed to the highest standards of openness, probity and accountability.
- 1.2 Regulatory Standard 5 states that an RSL must “*conduct its affairs with honesty and integrity*” To ensure this, the Association has clear policy and procedures in place which make sure the organisation acts with transparency, honesty and propriety and avoids any public perception of improper conduct.
- 1.3 Ardenglen recognises that as a publicly funded body it should be open in its dealings and accountable for its actions. At the same time, Ardenglen must acknowledge its duty to keep personal or sensitive information confidential.
- 1.4 This Policy therefore, sets out Ardenglen’s commitment to openness, whilst balancing the competing requirement of confidentiality

2. POLICY STATEMENT

“Ardenglen believes that information about the Association and its work should be widely and freely available. Requested information will be made available unless it is considered commercially sensitive, personally confidential or where disclosure is restricted by legislation”.

3. POLICY PRINCIPLES

- 3.1 As a matter of general policy, information about Ardenglen and its work should be widely and freely available. Ardenglen will publish material about the organisation, its services and its performance, and communicate it through a variety of mediums.
- 3.2 Ardenglen will make additional information available upon request, unless there are good reasons of confidentiality or practicality, or where its disclosure is restricted by legislation.
- 3.3 The commitment to openness does not detract from the need to keep certain types of information confidential, particularly where it is required by law. 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.

4. POLICY AIMS

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

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

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

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: 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), Ardenglen aims to meet the spirit of the legislation. This Act supersedes the Access to Personal Files Act 1987.

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 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).

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 Requirements

In formulating and implementing this Policy, the Scottish Housing Regulator (SHR) requirements have been incorporated, where required. The regulation relevant to this Policy includes:

Regulatory 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.”*

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

Scottish Social Housing Charter Outcome 2: *“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 it provides.”*

6. ACHIEVING THE POLICY OBJECTIVES

6.1 This section outlines the steps the Association will take to ensure compliance with this policy and outline information that will be made publically available.

6.2 Annual Report and Accounts

6.2.1 Ardenglen will comply with the law and make available on an annual basis an Annual Report and its Annual Accounts through publication on the website

6.2.2 The Annual Report will contain standard information required by company law and more detailed information on any changes to Ardenglen’s structure and governance, its activities and its performance carried out in the previous financial year. The Annual Report and Accounts will be available on Ardenglen’s website, will be circulated widely, and will be made freely available upon request to any interested party.

6.2.3 The Annual Accounts will take the form required by the law, and will be available at the Annual General Meeting, on the website and upon request to any interested party. The information made available will include the annual external auditor’s statement. Additionally, a summary of the accounts will be included in the Annual Report, with a note to direct interested parties as to where they can obtain a full copy.

6.2.4 Ardenglen will also publish and make widely available an annually updated business plan.

6.3 Providing Information to Tenants

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

6.3.2 The information, which Ardenglen 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
- Tenant Participation Policy and consultation arrangements
- Equality and Diversity Policy

6.3.3 This information will be made available at the point a tenancy is granted, using the medium of a Tenants' Handbook. This will be periodically revised and updated. In between comprehensive revisions, tenants will be informed of significant changes as they happen. Handbook information will also be made available on the web site.

6.3.4 Ardenglen acknowledges and shall fully comply with the SHR 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. As required we shall consult tenants and service users on the content and format of this report.

6.3.5 We will similarly ensure information that SHR produces about Ardenglen's performance is freely provided to all tenants and services users, and accessible to any other stakeholder.

6.4 Consultation with Tenants

6.4.1 Section 54 of the Housing (Scotland) Act 2001 contains significant legislative requirements on a duty to consult. Ardenglen will follow SEDD Circular 7/2002 and in particular Part 5 which details how and when consultation with tenants should take place.

6.5 Structure and Governance

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

- How the Management Committee is elected

- How decisions are made about housing and related services, and about the management of the Association.

6.5.2 We will also make all our other governance related policies and other relevant documents freely available. This will include in particular our:

- Rules
- Standing Orders (including Terms of Reference)
- Membership Policy
- Staff Structure
- Financial Regulations
- Conflict of Interest Policy
- Payments and Benefits Policy

6.6 **Minutes of Management Committee Meetings**

6.6.1 Minutes will be published on the Ardenglen website and will be available for inspection at the office. Ardenglen will also appropriately advise members and service users, of their entitlement to inspect or obtain copies of Management Committee minutes and reports, unless there are matters of commercial and personal confidentiality which cannot reasonably be placed in the public domain.

6.6.2 The classification of confidential Committee Reporting information is contained in Sections 13 and 14.

6.7 **Customer Surveys**

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

6.8 **Housing Investment Plans**

6.7.1 Ardenglen will make available annually its plans to upgrade or improve the housing stock.

6.9 **Scottish Housing Regulators Assessment of Ardenglen's Performance**

6.9.1 This is published on <http://www.scottishhousingregulator.gov.uk>. Ardenglen will advice or assist any person who may wish to obtain or access this information

7. COMMUNICATION OF INFORMATION

- 7.1 Information on the above will be made available through a range of channels appropriate to the information in question, including:
- Ardenglen’s 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
 - Facebook or other Social Media options
 - Tenants Handbook
 - Regular newsletters distributed to Ardenglen’s tenants and other interested parties.
 - In printed form; upon request from Ardenglen’s offices.
- 7.2 Ardenglen will regularly ask stakeholders how they would like information provided and will be innovative in championing alternatives to the core systems noted above.
- 7.3 Ardenglen 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.
- 7.4 In order to overcome barriers caused by sensory impairments, language difficulties, literacy issues and other particular needs, Ardenglen will make information available on request in a variety of information formats and in translation. Policy documents will contain in the English version the following sentence:

“Ardenglen can provide this policy in large print, in Braille, in audio or other non-written format, and in a variety of languages”.

8. ACCESS TO MEETINGS

- 8.1 Management and Sub Committee meetings are generally closed to the public. Minutes and non confidential reports are published on the website or available as printed copies from the office
- 8.2 Ardenglen, in accordance with its constitution, will hold an Annual General Meeting (AGM) to which all members of the Association will be invited. Information will be provided in accordance with the Association’s Rules.

9. REQUESTS FOR INFORMATION

- 9.1 In addition to the information made publicly available, Ardenglen will comply with requests for information wherever practicable and appropriate, subject to considerations of confidentiality, cost and practicality.
- 9.2 Although not bound by the Freedom of Information Act (which does not extend to RSLs), Ardenglen will abide by the spirit of the legislation. In general terms,

Ardenglen will respond positively to written requests for information, from whatever source and for whatever reason, unless:

- The request is vexatious;
- 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 in Section 9.4.

9.3 In cases where an information 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 Management Team will consider any necessary operational procedures required to deal with information requests in an appropriate manner

9.4 The other main exemptions relevant to Ardenglen are where the information:

- Is otherwise accessible; (i.e. through the SHR website)
- 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)
- Whose disclosure is prohibited under other legislation or any contractual obligation, or would constitute contempt of court.

10. PROCEDURES FOR RESPONDING TO INFORMATION REQUESTS

10.1 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. 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.

10.2 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 manager. Staff should also inform their line manager if they intend to refuse a request for information, explaining the reasons for their view.

11. CHARGING FOR INFORMATION

- 11.1 The Association's general policy is not to charge for the copying of documents, which are requested. Ardenglen will not charge for providing copies of any of the information listed in Section 6 of the Policy.
- 11.2 Ardenglen will charge a fee for £10 for each Data Protection request requiring a search for information on an individual (see Ardenglen's Data Protection Policy). The fee level will be notified to the individual or organisation requesting the information in advance of any transaction.
- 11.3 For large volume of material, Ardenglen 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 an Ardenglen tenant or service user. For example, the Association often receives requests from students seeking information for research purposes, and is not always able to meet such requests without compromising service standards for tenants.

12. REQUESTS FOR INFORMATION FROM THE MEDIA

- 12.1 As a matter of policy, Ardenglen 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 Ardenglen'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.

13. CONFIDENTIAL INFORMATION

- 13.1 Ardenglen, 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.
- 13.2 In general terms, the following information will be regarded as confidential:
- Personal information held about individuals (Management 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, remuneration, or any grievance and disciplinary action;
- Matters relating to the business of Ardenglen 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 Ardenglen's and its subsidiaries' funders, partners and contractors and other third parties with which Ardenglen has or may have a business or commercial relationship, and which have been provided to Ardenglen in confidence;
- Items deemed on their individual merits to be confidential

13.3 Ardenglen 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."

14. SAFEGUARDING CONFIDENTIAL INFORMATION

14.1 In the interests of clarity, all papers prepared for consideration by the Management Committee and its Sub Committees, which meet the criteria referred to above, will be marked as CONFIDENTIAL.

14.2 As an additional safeguard, no names, addresses or other details, which would allow individuals concerned to be identified would be given in these papers. Management Committee discussions on these items will be recorded in a confidential minute, which will not form part of the publicly available record of the meeting.

14.3 Neither staff nor Management Committee members should pass on confidential information to people who have no need or right to know it. All requests for information, which are 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.

14.4 Where Management Committee 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.

14.5 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 Ardenglen's Data Protection Policy (see below).
- Where an employee has appealed to the Association and a personal representation is being made to the relevant Committee as a stage in the disciplinary 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 Management 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 Ardenglen's Whistleblowing policy)

15. DATA PROTECTION

15.1 Ardenglen will comply with the Data Protection Act 1998, including any subsequent related legislation and all associated guidance, which regulate the use of personal data.

15.2 The Data Protection Act 1998:

- Requires those who record and use personal information to be open about their use of that 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 or in manual systems

15.3 Ardenglen has a separate Data Protection Policy which sets out how the organisation will meet the requirements of the legislation and observe best practice in data protection.

16. BREACHES OF CONFIDENTIALITY

16.1 Any breach of confidentiality, whether deliberate or inadvertent, will be dealt with seriously by Ardenglen. The circumstances surrounding the breach will be taken into account and may result:

- In the case of staff, investigation and possible disciplinary action in accordance with the disciplinary procedures

- In the case of Management Committee Members, investigation and possible action under the Association's Code of Conduct for Committee Members

17. TRAINING

- 17.1 The Association through its Internal Management Plan is committed to training and developing staff and committee members to their full potential in order to deliver a high quality of service in all areas of its business.
- 17.2 The Management Committee and staff induction programmes include an overview of this policy, including responsibilities for the promotion and delivery of openness and confidentiality as relevant to their job descriptions. Committee and staff members will receive updates on these issues and specific training as required.

18. EQUALITIES AND DIVERSITY

- 18.1 This policy will be implemented in line with our Equality and Diversity Policy and is subject to an Equality Impact Assessment to assess the likely or actual effects of the policy to our customers in respect of their disability, age, gender, race, religion/belief, sexual orientation or gender identity to ensure equal and fair access for all.

19. MONITORING AND REPORTING

- 19.1 The Association will use appeals, complaints, comments or suggestions from users of this policy to monitor its effectiveness. These will also be used to prompt a review of the policy where necessary.

20. REVIEW

- 20.1 This Policy will be approved by the Management Committee. It will be reviewed every three years unless amendment is prompted by a change in legislation, or monitoring and reporting reveals that a change in Policy is required sooner.

21. DISTRIBUTION

- 21.1 This policy will be made available to every employee and committee member and will be made freely available to any tenant or interested party.

22. LEGAL FRAMEWORK

- Public Interest Disclosure Act 1998
- Data Protection Act 1998
- Housing (Scotland) Act 2001
- Housing (Scotland) Act 2010
- Scottish Public Services Ombudsman Act 2002
- Human Right Act 1998

- Rules of Ardenglen Housing Association

23. RELATED POLICIES

- Standing Orders
- Data Protection Policy
- ICT Policy
- Complaints Policy
- Notifiable Events
- Financial Regulations
- Whistleblowing Policy
- Codes of Conduct
- Terms and Conditions of Employment

--- END OF POLICY ---