**Consultation on extending coverage of Freedom of Information (Scotland) Act 2002 to RSLs**

**Respondent Information Form**

Response on behalf of Rural Stirling Housing Association (**an organisation**).

All of the following **describe our organisation**: *Community organisation, Private sector organisation and Third sector organisation*. We are also a Registered Social landlord and therefore directly affected by the consultation proposals.

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**Publishing preference**: Publish response with name.

**Willingness for further contact from Scottish Government Policy Teams?:** Yes.

Consultation Questions

1. *Do you agree that freedom of information legislation should be extended to Registered Social Landlords, as proposed in this consultation paper?*

**No.**

1. *Freedom of Information can be extended to organisations that undertake “functions of a public nature”. You may wish to provide comments on how you consider that RSLs undertake functions of a public nature, for example, with reference to the factors referred to earlier in this paper.*

**It is true that RSHA, like other RSLs, undertake functions that can be considered to be of a public nature. We receive significant public subsidy and we are fully committed to being open, accessible and accountable in respect of this. We have already decided to adopt and implement the SFHA “Open all Hours” Guidance referred to in the Consultation Paper. However, in deciding whether there is a case for the Scottish Government to extend the extensive additional legal and regulatory provisions of FOI to all RSLs we feel that the following should be taken into account:**

* ***Existing regulation and requirements upon RSLs*: RSLs are already subject to the extensive Regulatory powers of SHR, OSCR and also subject to EIR and SPSO regarding complaints.**

**The consultation paper uses these existing arrangements as part of the justification for the proposed extension of FOI, and the regulation specific to that. We feel that these actually make a case for extension not being necessary. We feel it would be wrong to extend just because we are increasingly covered by other duties that fall upon public bodies.**

**There is a risk of disproportionate regulation of our sector. As an alternative to FOI extension we feel that the Social Housing Charter, about to be revised, could easily incorporate increased requirements relating to responsiveness to information requests. This would build on the existing Regulatory provisions, not add a whole new set.**

**The Scottish Government has been very keen to make clear that it does not consider us to be public bodies - to avoid having to take on our debt - and the consultation paper specifically points out that FOI extension wouldn’t impact on our status as private bodies. There is a suggestion that RSLs are wanting to “have their cake and eat it too” given our willingness to accept public funding but not FOI, but the reverse charge might also be put to the Scottish Government!**

* ***Tenant and service user views:* The paper states that FOI extension is important to give RSL tenants the same statutory rights as Council tenants. It also states that “*Consultation has repeatedly identified interest in extending coverage of the Act to RSLs*”. Whist this may be true it is not at all clear to us that our tenants see this as being important. Our most recent independent Tenant Satisfaction Survey carried out by Research Resource Ltd in 2016 which included face to face interviews with around 40% (a representative sample) of our tenants, included the following question: “*How good or poor do you feel that Rural Stirling Housing Association is at keeping you informed about their services and decisions?*”. The answers were as follows:**

|  |  |
| --- | --- |
| **Very good** | **92.1%** |
| **Fairly good** | **6.6%** |
| **Neither good nor poor** | **0.9%** |
| **Fairly poor** | **0.4%** |
| **Very poor** | **0.0%** |

1. *The proposed order would be expected to come into force on 1st April 2018. Do you consider this a reasonable timescale, allowing for preparation for inclusion?*

**No.**

*If not you may wish to indicate what timescale you feel would be more appropriate and why:*

**Should the Order be made it would entail a major change in legal obligations with significant resource implications for us (as set out at 4, below). To allow us adequate time to properly prepare for this we would ask that this be deferred for a further year (to 1/4/19) - at least for smaller RSLs like RSHA. Like many other RSLs we are currently extremely focussed on gearing up to play an enhanced role in the provision of new homes in response to the Scottish Government’s new, ambitious and very welcome target for the delivery of affordable homes.**

**As recently highlighted by the Scottish Housing Regulator this development activity entails significant added risk. If the ultimate decision is to extend FOI to RSLs then it would be extremely helpful to not have to also be gearing up for the additional burden of FOI at the same time.**

*4)**We would welcome comments on the draft partial Business and Regulatory Impact Assessment provided at Annex A.*

**We feel that the draft BRIA does not have full regard to the particular challenges that will be faced by smaller RSLs in particular. It is reasonable to assume that the absolute number of FOI requests may be broadly proportionate to our smaller size (although this of course cannot be guaranteed).**

**If the decision taken is to extend FOI to all RSLs then the impact of this could be somewhat lessened by allowing an extended response time for smaller bodies like ourselves (perhaps 25 days).**

**The resource requirement related to dealing with actual requests is only part of the picture however. In addition to this there will be considerable resource required in order to establish and maintain systems, train staff, reporting requirements etc and the reality is that we are likely to rely more heavily on external legal advice than larger bodies.**

**All of this will add to our costs which ultimately have to be met through rental income, paid by our tenants. This at a time when we are, rightly, being strongly encouraged by the Scottish Housing Regulator to limit rent rises and to design services in accordance with tenant priorities and views on value for money. As indicated above it is not clear to us that this is a priority for our tenants.**