



STIRLING TENANTS ASSEMBLY
MEETING HELD ON
TUESDAY 18th MARCH 2014
IN VICTORIA HALLS DUNBLANE
AT 10.30AM

Present: Moira Robertson, Thomas Brown, Philomena McClung, Alec Lamb, Dolly Gemmell Anna Johnston, Meg Amasi, Cathy Brown, Margaret McFarlane, Frank McFarlane, Fiona Wilbraham

Apologies: Mary Rainey, Michael Griffiths, Cathy Traynor, Hugh McClung, Delia Waddell, Richard Waddell, Emma Meldrum STP

2 Approval of minutes [18.2.14] and matters arising.

Proposed Anna Johnson, Seconded Meg Amasi

Matters arising:

MA 7.2 Cllr Christine Simpson, along with officers Maureen Dryden and Linda Melville met with Hugh, Richard, Delia and Moira. Hugh gave the background to our report on Day Care for the Elderly, and how there is now no structured facilities for the elderly to attend on a regular basis. We were informed that a consultation is taking place for the rural areas, coordinated by David Niven and centred in Balfron. We would like to be involved in this. **Action Day Care Group.**

4.2 Emma has not been contacted to see if she has sent STA meeting dates to her database contacts. **Action Hugh**

3,2 Danny Mullen, Tenant Assessor, is coming to our meeting on April 15th.

3.4 Dolly will ask Ena Campbell, treasurer of Victoria Hall, Dunblane to independently examine our accounts.

8.1 Phil has emailed Gillian Taylor inviting her to speak on the Scottish Welfare Fund at our AGM.

6.1 Central Regional Network AGM is being held at the Clachan Hotel, Falkirk on 17th May. Committee members are encouraged to attend.

3. Speaker

Fiona Wilbraham, Records and Information compliance Manager, SC

Topic – Freedom of Information Act.

See Appendix 1

Break

4 Additional Urgent Business

4[a] TPAS Conference 2014

TPAS has posted on their website all the reports from their conference in November 2013.

<http://www.tpasscotland.org.uk/gallery/tpas-conference-2013/#.UzL2iFchInY>

Places for the 2014 Conference are going fast; Phil has booked 5 places and will book another one. Michael, Cathy, Anna, Dolly, Hugh and Moira will attend. **Action Phil**
It was agreed to renew our membership for TPAS which has been held at £27, the same as last year. **Action Dolly**

4[b] Workplan and Budget 2014/15

The Office Bearers met last week to discuss a workplan for 2014/15 [see Appendix 2]; copies were sent round to committee members who were asked for comments and any additional items. The Office Bearers are meeting with Carol Hamilton on 31st March to discuss a budget for the coming year, so the workplan needs to be approved at this meeting.


Proposed Thomas Allan and seconded by Anna Johnston and approved by all.

Hugh produced a draft budget for 2014/15 which was proposed by Thomas Allan and seconded by Moira Robertson and approved by all.

Date, time and place of next meeting.


Tuesday 15th April 2014 at 10.30am in Mayfield Centre

Appendix 1



Access to Information - FOI, Data Protection and more..

Fiona Wilbraham
Records & Information Compliance Manager
Stirling Council



Your Rights of Access

Freedom of Information (Scotland) Act 2002
– access to information held by public authorities
(enforced by Scottish Information Commissioner)

Environmental Information (Scotland) Regulations 2004
– access to environmental information held by public
authorities (enforced by Scottish Information
Commissioner)

Data Protection Act 1998
– access to personal data about yourself by a company
or organisation (enforced by Information
Commissioner)

It is the same commissioner for FOI and EI
Right of access to own personal information is through the data protection act.
Fiona will be talking mainly about FOI



Why have rights of access?

FOI

- Openness
- Trust
- Accountability
- Better decision making
- Better public understanding

Data Protection

- Protect rights of the individual

FOI legislation made Local Authorities publish information as well as making it available.

It also caused a change in culture; the Official Secrets Act 1911 made it an offence to supply some information.

In 1997 the Labour Government brought in the new act.

Although it has freed up access to information there is still way to go



Rights

FOI(S)A – Section 1

- *“A person who requests information from a Scottish public authority which holds it is entitled to be given it by the authority”*

There are a few exceptions.

But access is for anybody living anywhere in world, not just Stirling residents, and also includes firms, journalist etc.

The information must be written down or in audio format; just as long as it has been recorded in some way.

It applies to all Scottish Public Authorities – LAs , Police, etc.

It applies to LA Housing but not Housing Associations, because they are not public authorities; so not to RSHA, FH, or GHA [but GHA acts as if it is subject to FOI, but this cannot be enforced.]

This is an anomaly which the Scottish Government is aware of.

From April 2014 Active Stirling will be subject to FOI



Proactive publication

- About the Public Authority
- How we deliver functions and services
- How we take decisions and what we have decided
- What we spend and how we spend it
- How we manage our Human, Physical and Information resources
- How we procure goods from external suppliers
- How we are performing
- Commercial publications

In England the law requires every item spent over £500 to be recorded; this does not apply in Scotland, but could do in the future.



How to make a request

Request must:

- be in “permanent format” (for example letter or email)
- Include your name, and an address for correspondence (an email address is fine)
- describe the information you are requesting

You do not need to explain why you want the information, or even mention FOI!

You have to include your name for a valid request but the address is just for correspondence. Be specific but not too specific e.g. one person asked for information on funding from the Scottish Government, and all the funding had been from a different source. You should never be asked to explain why you want the information, but it can help with framing the question properly in order to get the information you require. The request can be put to any Council department.



What happens next?

- Your request will be logged and acknowledged with a reference number and deadline for response in 20 working days
- The request is then sent to the relevant parts of the Council to search for information
- You may be asked for further clarification before the request can be processed

The Record & Information Compliance team is made up of 4.8 people and covers other areas as well.

The team sometime has to contact every service and the information is collated by Fiona's team.

The answer does not need to come from Fiona's office; it is the responsibility of the service involved unless the request is being refused.



Responses to requests

The response could provide:

- **All** of the information requested
- **A refusal**
- **Some** of the information requested
- **A fees notice**, if there is a charge for information (*NOTE – Stirling Council do not currently charge for information*)

80% of requests came from outside Stirling district; from journalists, companies in London etc. If it would cost more than £600 to provide the information, then LA is not obliged to provide the information.

If the cost is under £100 then it is free

If in-between then the LA can charge 10% of the cost.

So the maximum charge is £50 per request.

SC doesn't charge; in many cases it would cost more to invoice.



Reasons for refusal

- We do not hold the information (x140)
- The information is already available (x32)
- The information is personal data (x16)
- It would cost too much to provide the information (x14)
- The requestor has asked for the information before (x3)
- Other reasons could include: commercial interests, law enforcement and investigations, court records, effective conduct of public affairs, national security etc.

Data protection act is for personal information.

If areas are blacked out when you receive the information you requested, this is because you have no right to information about other people only about yourself.

The LA cannot provide any information that would disclose information about someone else.

1 in 10 requests are refused and 1 in 10 partially refused.

In addition to the reasons given above it could be that the requests refers to services that are not provided by the LA – e.g. crematorium and babies, or information not held e.g. how much road salt used since 1970

It is an offence for a Public Authority to delete information just because it doesn't want to give that information.

If the LA policy says certain information should be recorded and it wasn't, then FOI can't help; the option is to make a complaint to LA



If not happy with response...

Right to request a review by the authority

- Independent person
- 20 working days
- Decision may be upheld or overturned

Then, right to apply to the Scottish Information Commissioner for a decision



Reviews and Appeals

- Council received 48 requests for review from 1030 info requests in 2013
- Scottish Information Commissioner made 5 decisions in 2013
- Further right of appeal to Court of Session on point of law only

The usual reason for a review is that the request has not been answered on time
 The Commissioners' decisions are all on their website
 Data protection act gives right of access to private companies, like gas and bank.
 This is a UK law so it is a UK Information Commissioner
 If about a particular issue then Fiona can help frame question to get specific information
 Private companies can charge up to £10
 This act is misused by some companies that refuse to give out information citing the data protection act, but companies can be fined up to £500,000 for giving out information in the wrong way, so they are over cautious.
 People can request information about their childhood; especially relevant for looked after children.



www.itspublicknowledge.info

The screenshot shows a search results page on the Scottish Information Commissioner's website. The search criteria are set to 'Public Authority' and 'All'. The results table is as follows:

Ref No	Requester	Public Authority	Description	Outcome	Received	FOI	FOIA Exemptions / Sections	FOI Exemptions / Regulations
0802014	Mr S	South Ayrshire Council	Application of Rule 522 of the Process Rules 2013	For applicant	07 Mar 2014	25	25, 26, 27	Nil
0802014	Mr Simon Johnson	South Ayrshire Council	Correspondence from the First Minister to the Home and Leisure Club	For authority	07 Mar 2014	33	33	Nil
0802014	Ray Walker	South Ayrshire Council	Appointments of Council and Leisure and Recreation Officers, North Ayrshire and South Ayrshire Councils	For applicant	08 Mar 2014	23	23	Nil
0802014	Mr A	South Ayrshire Council	Process and business arrangements	For applicant	08 Mar 2014	31, 32	31, 32	Nil
0802014	Mr Michael Rowland	South Ayrshire Council	Estimated costs of undertaking a residential visit	Partially upheld	08 Mar 2014	28, 30b	28, 30b	Nil
0802014	Mr A	South Ayrshire Council	Details of Data Subject and 2002	Partially upheld	08 Mar 2014	32, 33, 37	32, 33, 37	Nil



Making a request for personal data

Data Protection Act 1998 provides a right of access to your own personal data – “subject access requests”

Right of access to data held by organisations in public or private sector

Enforced by Information Commissioner



Making a request for personal data

- Make a request in writing, explaining what you are looking for – all personal data? Or just relating to a particular issue?
- Some organisations may charge £10
- Request must be answered in 40 days
- You may be asked to provide proof of identity before data is given to you
- If not happy with response, can complain to the Information Commissioner



Our experience

- 56 “subject access requests” in 2013
- Most relate to access to social work files, but also complaints,



Further info

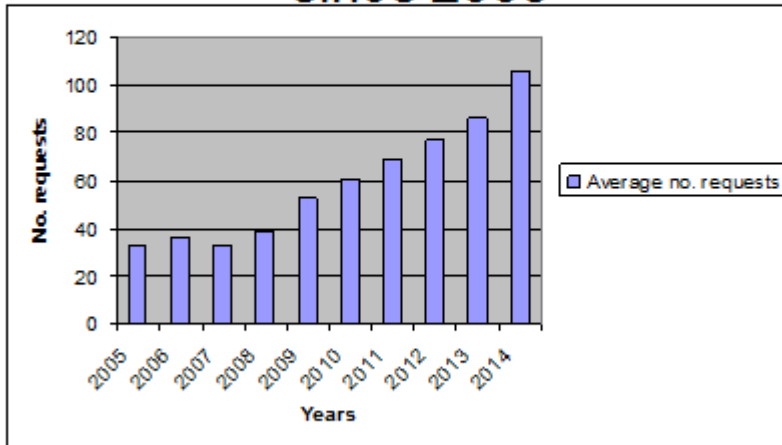
FOI/Environmental Information

- Scottish Information Commissioner
- <http://www.itspublicknowledge.info>
- 01334 464 610

Data Protection

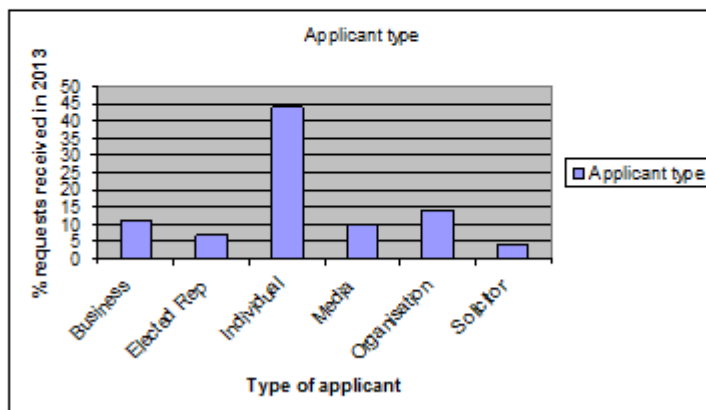
- Information Commissioner
- <http://ico.org.uk>
- 0303 123 1113

FOI requests - 321% increase since 2005



Most requests come from MSP, MP, Councillors, or companies

Applicant type - 2013





Most common requests

- Roads inspection reports (x32)
- Contracts (x31)
- Business rate accounts in credit (x22)
- Parking (x22)
- Public health funerals (x19)
- Contact details for mailing lists (x18)
- FOI requests (x7)

- “Hot topics” – Crematoria, Bedroom tax, Events in 2014



Other requests

- How much salt used on roads since 1970
- Details and documents relating a zombie attack
- The cost of storing/freezing dead pets
- Number of traffic cones stolen



Cost

- 1030 FOI requests in 2013
- Scottish Govt costing exercise 2009/10 - average cost £227 = £233,810
- UK Govt 2005 estimate - average cost £292 = £300,760

It costs the council tax payer a lot of money and at the moment there is no way of charging for commercial requests.

Fiona is doing a pilot study to track how much is spent on every request, so that SC is aware.

Only 74% of requests are answered on time, because too many requests are from commercial

People are encouraged to use the right of appeal, which highlights things that are not done right in the first place.



Access to Information - FOI, Data Protection and more..

Fiona Wilbraham
Records & Information Compliance Manager
Stirling Council

Does commissioner penalize a particular person if they gave out wrong information such as that the LA didn't hold that information? The LA would be forced to disclose the information but Fiona did not know if it would be the LA or an individual.

Are companies subject to FOI? Only if they are working with a Public Body and that Public Body must give out any information that it holds on that company.

Fiona left leaflets for us.

Appendix 2

STA Workplan 2014/15.

Because of events in the Housing Calendar, including new Legislative programmes, the Workplan proposed is more than in previous years. There is no alternative. Details of the programme, once discussed, will have to be communicated to the tenant public at large and sometimes to include the wider population as some of the proposed legislation not only affects tenants but also residents.

Meetings.

General meetings.

All will be on third Tuesdays and have various venues unless changed by the AGM.

Speaker Meetings:

March. Dunblane: Freedom of Information

May: AGM: Scottish Welfare Fund. 31st May

July: Credit Unions

Future Speakers (At meeting dates/venues to be agreed)

Fire Service; Community policing;

Priority Based Budgeting. (This subject may require more than one meeting).

Waste Management update

Business Meetings discussions:

Scrutiny Panel (1st report on Annual Returns on the Charter – ARC) June

Impact of Housing Bill (RTB and others)

Responsive Repairs Policy

Anti-Social Behaviour Strategy/Safer Communities Policy

Referendum and its impact on Housing (September/October or sooner)

Housing Advisory Group

Rents

Future Consultations (As required)

STA Website (updating)

Day Care Costs for the Elderly (Ongoing)

Priority Based Budgeting (effects on Housing – Continuous over next 12 months)

Tenant Led Inspections (Separate funding but we hear reports from time to time)

TPAS Conference

Others will be required as we progress throughout the year.

Communications:

To include reports on major topics from meetings with Scottish Government, Regional Networks and others

Consideration of production of single page newsheets such as notes on RTB/Pressured Area Status

Housing related issues to be emailed to all Stirling district Community Councils

Intro Leaflet to be concluded and produced (1000 now being printed)

2 STA Newsletters per year (SC permitting)

AGM/ SC Open Day (or alternative)

On-going Training: Housing for newbies:

Others as required

Abbreviations

AGM	Annual General Meeting
ASB	Anti-Social Behaviour
CC	Community Council
CRN	Central Regional Network
FV	Forth Valley
HAG	Housing Advisory Group
HRA	Housing Revenue Account
LA	Local authority
LAs	Local authorities
LG	Local Government
RN	Regional Networks
RTO	Registered Tenants Organisation
SC	Stirling Council
SHG	Strathfillan Housing Group
SHQS	Scottish Housing Quality Standard
SG	Scottish Government
STA	Stirling Tenants Assembly
TLI	Tenant Led Inspection
TP	Tenant Participation
TPAS	Tenant Participation Advisory Service