

Our Ref: BSA001-67

Date: 15 May 2019

Sent by e-mail only to:

Anna Kerekgyarto

Request-566024-ac90893a@whatdotheyknow.com

Dear Ms Kerekgyarto

Environmental Information Request

I refer to your request for information to The Glasgow Housing Association Limited (GHA) dated 12 April 2019 under the Environmental Information (Scotland) Regulations 2004 (EIRs).

You requested the following information:

"List of housing units owned by GHA between 2004 and 2012 calendar years including information about units sold, built or acquired in this period".

I consider that the information you request falls within the scope of the exceptions contained within Regulation 10(4)(b) and Regulation 11(2) of the EIRs.

Manifestly unreasonable

With regards to the exception at Regulation 10(4)(b), a Scottish public authority may refuse to make environmental information available where the request for information is manifestly unreasonable. I consider that providing the information you request would impose a significant burden on GHA and the effects of providing the information in the form that you request would be manifestly unreasonable.

Although the information which you request is held within our asset management database, it is not held in the format that you request. The information is held in individual records which pertain to each property owned.

We do not hold this information in the form requested because we have no business requirement to produce or hold the information in that form. The information in the format requested is not required to provide services to our customers or to submit any returns to, or to otherwise meet any requirements of, any regulatory body. We would only use the information you request to look back at the history of a specific individual property from time to time.

It would be possible to retrieve the information you request from our asset management database, although we would need to write a bespoke query or formula to interrogate the system on which the information in question is held. We have not had to write such a query or formula before because we have not had a business or regulatory requirement to do so.

Although creating such a query or formula is technically possible, it would require a considerable amount of staff time. I will now provide some background as to why this is the case.

Glasgow City Council transferred approximately 82,000 properties to GHA by stock transfer in 2003. Since that time properties have been added and subtracted in the following examples of categories:

Disposals

- Demolition
- Right to Buy
- One off sales
- Second stage stock transfers

Acquisitions

- Mortgage to rent
- One off purchases
- New build

The query or formula which would require to be written would involve a complex set of rules being applied to each individual property record within the system. Multiple rules would need to be applied to each property in order to build the historical picture for each of the years requested.

We have one specialist member of staff who has the necessary skills and knowledge of our systems required to build this bespoke query or formula.

Further, once built, the query or formula would need to be rigorously tested and validated by a separate team to ensure that it was returning the information requested. Having to divert that number of staff members from their normal duties for a substantial period of time would cause unreasonable disruptions to GHA.

We estimate that it would take approximately 60 hours of staff time, at various levels within the organisation, to specify, build and check the query or formula in order to extract the information in the relevant categories for each of the 9 years requested. We have calculated that it would cost GHA £5,400 to provide this information to you.

For the above reasons, I consider that the resources, both financial and human, which would be required to be diverted to comply with your request would be manifestly unreasonable and therefore refuse your request under Regulation 10(4)(b) of the EIRs. I have considered whether extending the timescale by 20

working days under Regulation 7 would make carrying out the above process manageable but I have concluded that it would not.

While I believe that the exception in Regulation 10(4)(b) of the EIRs applies in this case, GHA would still be obliged to release this information in response to your request unless the public interest in maintaining the exception outweighs the public interest in disclosing the information. I acknowledge the significant public interest in openness and transparency and therefore recognise that any request under the EIRs is potentially in the public interest.

While public authorities such as GHA are encouraged to act in a transparent and accountable way, which benefits the public as a whole, it is not the intention of the EIRs to require public authorities to devote excessive or disproportionate amounts of time to one particular request at the expense of other areas of work. GHA has a responsibility to respond to other information requests it receives, as well as carrying out its other core functions, and there is a public interest in ensuring resources are not diverted away from such core functions.

Accordingly, in this case, the public interest in openness and transparency is outweighed by the public interest in (a) ensuring efficient use of GHA's resources by not complying with a request for information that would require such a level of resource, both financial and human and (b) preventing disproportionate levels of disruption to GHA's core functions by diverting resources away from such core functions to provide the information requested.

I have considered whether I can provide you with the same information for a restricted time period or for a restricted geographical area, but have concluded that the same process and similar timescales and costs would apply. Accordingly, I have concluded that, even in respect of a request which is reduced in scope, Regulation 10(4)(b) of the EIRs would continue to apply and the public interest in maintaining the exception outweighs the public interest in disclosing the information.

Third party personal data

I also consider that the information you have requested falls within the scope of the exception contained within Regulation 11(2) of the EIRs. That is to say some of the information you request includes personal data of third parties, namely GHA tenants.

Having considered the Scottish Information Commissioner's guidance, it is my view that release of the information you request would breach one of the data protection principles outlined in the General Data Protection Regulation (EU) 2016/679 (the GDPR), and also that the processing of this information is likely to cause damage or distress to the data subjects.

'Personal data' is defined in section 3 of the Data Protection Act 2018 (DPA 2018) as 'any information relating to an identified or identifiable living individual'. Release of the information you request, read in conjunction with other publicly available information, namely the electoral register, would reveal the identity of the individuals who live within the GHA properties.

The release of this personal data would breach the data protection principle outlined in Article 5(1) of the GDPR, which provides that personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject. The reference to transparency in Article 5(1) recognises the importance of letting data subjects know how, and determine the purposes for which, their personal data will be used.

Release of information to a requestor in response to an EIR request is release of that information to the world at large. You have not outlined a legitimate interest in requesting this information. GHA tenants would have no expectation that their social identity would be revealed to the world at large, nor would it be practical, and a tenant's expectation, for GHA to obtain consent from these individuals, some of whom may be former customers.

Additionally it is my view that release of this information is likely to cause harm and distress to the data subjects. As outlined above it is my view that making this data available may result in the identification of a GHA tenant. This could cause damage or distress to individuals in exposing them to the risk of fraudulent activities or unsolicited mail or marketing.

Again there is no expectation from GHA tenants that their tenancy status would be made publicly available to the world at large in this way. The information which is being requested would usually only be made available by GHA to a third party, for example a contractor or supplier, under controlled circumstances with a Non-Disclosure Agreement or Data Sharing or Processing Agreement in place as applicable to protect this information from wider disclosure.

This second condition of Regulation 11(4) of the EIRs is subject to the public interest test. I have concluded that the public interest in release of this information is overridden by GHA's requirement to protect the rights and freedoms of the relevant data subjects, the GHA tenants, in exposing them to the risk of fraudulent activities or unsolicited mail or marketing.

By way of advice and assistance, I have considered what information I can provide to you which would fall within scope of your request. I am able to provide totals for property ownership, disposal and acquisitions for GHA from 2004 to 2012. This is attached for your information as Appendix 1. Please note that this information has been sourced from internal reporting and contains historical figures reported at a point in time. Because of the way this information is held, we have not tested and validated the information against the low level data we hold.

Review and Appeal

If you are dissatisfied with the way that GHA has dealt with your request you are entitled to require GHA to review its decision. Please note that for a review to take place you must:

- Lodge a written requirement for a review within 40 working days of the date of this letter

- Include a correspondence address and a description of the original request and the reason why you are dissatisfied
- Address your request to :-

Emma Cameron, Specialist Information Governance Solicitor, Wheatley Housing Group, Wheatley House, 25 Cochrane Street, Glasgow, G1 1HL

You will receive notice of the results of the review within 20 working days of receipt of your Review request. The notice will state the decision reached as well as details of how to appeal to the Scottish Information Commissioner if you are still dissatisfied with the review response. You must request an internal review by way of the process outlined above before a complaint can be directed to the Scottish Information Commissioner.

For your information at this stage, an appeal can be made to the Scottish Information Commissioner by contacting her office as follows if you do remain dissatisfied with the outcome of GHA's review decision -

Scottish Information Commissioner
Kinburn Castle
Doubledykes Road
St Andrews
KY16 9DS.

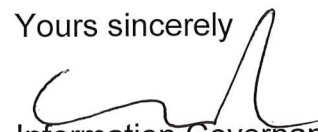
Email: enquiries@itspublicknowledge.info

Telephone: 01334 464610

You can also use the Scottish Information Commissioner's online appeal service to make an application for a decision: www.itspublicknowledge.info/appeal

Please note that you cannot make an appeal to the Scottish Information Commissioner until you have first requested an internal review by GHA.

Yours sincerely



Information Governance Team

Enc.

1. Appendix 1

Appendix 1

GHA stock 2004-2012

	Year 2004	Year 2005	Year 2006	Year 2007	Year 2008	Year 2009	Year 2010	Year 2011	Year 2012
GHA Owned	78,213	76,521	74,027	72,218	70,584	67,492	63,611	60,573	45,571
Demolition	863	1,845	1,315	1,292	2,867	1,779	1,329	685	1,135
SST	-	-	-	-	-	1,969	1,859	14,347	-
Sold	837	676	524	453	404	184	192	107	84
New Build (included in Core Stock Count)	-	-	26	28	109	178	51	324	107