



Our Reference:

BY EMAIL ONLY

20 February 2015

Dear

Request for Information

Thank you for your email dated 16 January 2015 requesting information. For ease of reference your request is below:

I read in today's 'Inside Housing' that the HCA has placed First Wessex Housing Association on the 'watch list'.

Please provide details of the reasons for this action (placing the HA on the 'watch list') and copies of the relevant correspondence.

Please provide details of the changes to be put in place by the HA, please indicate if these changes have been agreed with the HCA or otherwise.

We have now had the opportunity to investigate your request and are writing to communicate our response. We have located a variety of documents that are within the scope of your request.

In order to ascertain if regulatory action needs to be taken against a Registered Provider (RP), the Homes and Communities Agency (HCA) carries out a variety of activities including corresponding with the RP and about the RP. To inform our assessment we may also hold various internal meetings to consider information about an RPs, such as at a Consumer Referral Panel (CRP) meeting and at an Internal Problem Assessment (IPA) meeting. We also require information to be provided by the RP in order for us to carry out our regulatory activities.

Where the HCA has a referral relating to a consumer standard we investigate to see whether there has been a breach which has or may cause serious harm. Where we determine that this is the case, as here, we publish a Regulatory Notice (RN) which deals with our conclusion on the consumer standard breach. The HCA has published a Regulatory Notice on First Wessex which deals with our conclusion on the consumer standard breach. We then go on to consider whether there has been a breach of the governance standard. In this case, we considered that there may have been cause for a

non-compliant judgement and so we placed the provider on the Gradings Under Review (GUR) list.

You can view the RN [here](#) on our website. If you follow that link and select 'Current Regulatory Judgements' and view lines 79-81 you can see the current regulatory information on First Wessex, including a link to the RN and information on GUR.

We have been able to make some of the information contained within our internal and external correspondence available to you. However, HCA considers that disclosure of the rest of the information would hinder our ability to exercise our statutory regulatory powers as set out in the Housing Regeneration Act 2008 (HRA) for future investigations as it could compromise our ability to request information, discuss issues and receive candid information from RPs. We therefore consider the withheld information to be exempt under Section 31 of the Freedom of Information Act (FOIA). Further, some information will be contained in the RPs Regulatory Judgement which should be published at the end of February 2015 and available for the public to view so information that falls into that category has been withheld under Section 22 of the FOIA.

A small amount of information has been withheld as it is the personal data of a third party. This has been withheld under Section 40(2) of FOIA.

Section 40(2) – Personal Data of a third party

Section 40(2) of the Act permits a public authority to withhold information where disclosure would be in breach of any of the Principles of the Data Protection Act. Disclosure of certain information within the documents would be likely to breach the First Data Protection Principle, as it would exceed the Data Subjects' expectations as to how their information would be processed. This exemption is absolute and therefore no public interest test needs to be carried out to apply the exemption.

Section 31 – Law Enforcement

Section 31 of the Act states information is exempt if its disclosure under the Act would or would be likely to prejudice:

- g) the exercise by any public authority of its functions for any of the purposes specified in subsection (2)
 - (2) The purposes (are in this) case:
 - a) the purpose of ascertaining whether circumstances which would justify regulatory action in pursuance of any enactment may exist or may arise

To maintain this exemption we also need to consider the Public Interest Test factors in favour of disclosure and non-disclosure. Below we have set out both arguments.

Public Interest test – factors in favour of disclosure

We recognise that there is a public interest in operating transparently and being held to account in how we regulate RPs.

We also recognise that it is of interest to the public to understand how the HCA conducts investigations and how it works with RPs at such times.

Further, there would be public interest in releasing this information to provide the public with the ability to challenge or make comment on the issues discussed.

Public Interest test – factors in favour of non-disclosure

Disclosure would harm our ability to conduct future assessments/investigations if the bodies we regulate cannot be candid with us. It could also affect the voluntary supply of information either from the RPs themselves or other parties wishing to remain confidential in matters concerning the possibility of regulatory action. These outcomes would have a negative impact on our ability to regulate in accordance with our statutory obligations.

The HCA considers there is more than enough published information on how we regulate RPs. We also publish all Regulatory Notices and Judgements [here](#) including the RN for First Wessex which is already published and the pending RJ issued after this investigation in due course, so providing detailed information that reveals candid discussions would not further enable the public to understand our regulatory process and is therefore not in the public interest to release it.

We also consider that as the information is specific to First Wessex Housing Association and the information may not be of general public interest but only of interest to parties involved with the Housing Association.

We have therefore concluded that the balance falls in favour of non-disclosure at this time. We would however state that the public interest is continually changing and that whilst we are unable to release this information at this time, we welcome all requests for information and a future request on this matter would again be considered against the prevailing public interest of that time.

Section 22 – Information intended for future publication

Section 22 of the FOIA says that information is exempt if, at the time a public authority receives a request for it:

- the public authority holds it with a view to its publication;
- the public authority or another person intends to publish the information at some future date, whether determined or not; and
- in all the circumstances it is reasonable to withhold the information prior to publication.

In this case the information you have requested is intended for publication by end of February 2015 and therefore the exemption applies. However, In order to engage section 22 of the FOIA, a public authority must first determine whether or not it is reasonable in all the circumstances to withhold the requested information prior to publication before considering the public interest test.

Public Interest Test – Factors in favour of disclosure

The HCA is compliant with the government agenda of transparency and recognises the benefit of publishing the information particularly when it concerns the Regulatory Framework. When HCA began looking at the RP there was an intention to publish the Regulatory Judgement to maintain transparency and make this information available to the wider public.

Public Interest Test – Factors in favour of non-disclosure

The HCA has had to weigh the above arguments against the harm that may result from publishing information which is yet to be finalised. Publication of this information now would inevitably lead to a revised publication at a later date. In such circumstances rather than promote understanding, the information could be very misleading. This may worry tenants, stakeholders and lenders unnecessarily. In addition since the final judgement is still subject to discussion, there needs to be private space in which to work through to its conclusion.

The HCA is committed to publication of this information at a later date, and is therefore of the opinion that the public interest in maintaining this exemption is greater than the public interest in disclosing it.

Below we have provided you with a summary of some of the withheld information as well as attaching a schedule of what information has been withheld and the reasons why.

Summary of CRP

Information which indicated non-compliance with the Home standard (specifically compliance with health and safety legislation) was considered at the Consumer Referral Panel (CRP) in August 2014 and October 2014. The purpose of the CRP is to enable the regulator to make a decision on whether particular information indicates a breach of a consumer standard which has or may cause serious harm.

Summary of IPAs

Two Internal Problem Assessment (IPA) meetings were held to enable the regulator to make a decision on whether particular information relating to First Wessex demonstrates a breach of regulatory standards. The information discussed related to the Home standard (specifically compliance with health and safety legislation) and the Governance & Financial Viability standard (specifically compliance with the expectations on governance). The meetings were held in December 2014 and January 2015.

Summary of meetings with the provider

Meetings were held with the provider to gain assurance that regulatory standards are being met, and to inform the regulator's understanding of the provider's operating context. Some of these meetings formed part of our routine regulatory engagement where key areas such as strategy and risk were discussed, and others were specific to the provider's compliance with the Home standard (specifically compliance with health and safety legislation) and the Governance & Financial Viability standard (specifically compliance with the expectations on governance). Meetings were held with the provider in August 2014, December 2014, and January 2015.

If you have any questions regarding this response or any further queries you can contact us at the following addresses and quote your unique reference number found at the top of this letter:

Email: mail@homesandcommunities.co.uk

Mail: Information Access Officer
Homes and Communities Agency
Fry Building
2 Marsham Street
London
SW1P 4DF

If you are unhappy with the way Homes and Communities Agency has handled your request you may ask for an internal review. You should contact

Head of Legal Services
Homes and Communities Agency
Fry Building
2 Marsham Street
London
SW1P 4DF

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Yours sincerely

Naomi McMaster
Information Access Officer
Homes and Communities Agency