



Our Reference:

BY EMAIL ONLY

22 December 2014

Dear

Request for Information

You wrote to the Homes and Communities Agency (HCA) on 31 October 2014 requesting information in two parts. The first was regarding Build to Rent bids and the second regarding correspondence with Registered Providers (RPs) in relation to the size of 'pay-offs'. We responded to your first request on 28 November 2014 and informed you that there would be a delay to the second half of your request. This was due on 19 December 2014. We would firstly like to apologise for the further delay in our response on this matter, however we have now been able to fully investigate your request and are writing to communicate our response.

For ease of reference your request is below:

Any correspondence sent to registered social landlords expressing concern at the size of pay offs to departing members of senior staff between from April 1 2013 to the current date

We wrote to you again on 11 December 2011 to explain that to provide you with the information you had request on all 1600 RPs would likely take the request over the appropriate limit set out in the Freedom of Information Act 2000 (FOIA) which would possibly result in a refusal notice from us to supply the information. We asked if you were able to narrow the scope of your request and you supplied us with two RPs that you would like this information for. They were Gallions Housing Association and Hyde Housing Association.

BY way of background, RPs do not have to involve us in any decisions to provide 'pay-offs' to departing members of staff, however there may be occasion when we are involved, for example if we are conducting an investigation/assessment that will result in a Regulatory Judgement.

We can confirm that we do not hold any correspondence between the HCA and Hyde Housing Association regarding concern over pay-offs being made to departing members of staff.

In relation to correspondence to Gallions Housing Association we do hold two pieces of correspondence that fall within the scope of your request. We have located are two letters sent to Gallions HA on 13 September 2013 and 30 September 2013. This was at a time that the HCA was conducting an investigation for the purposes of ascertaining whether any regulatory action needed to be taken.

We have provide you with both letters, however redactions have been made in line with Sections 40(2) and 31(1)(g)(2)(a) of the FOIA.

Letter dated 13 September 2013 – Redacted 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.

Letter dated 30 September 2014 – Redacted under Section 3(1)(g)(2)(a)

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

The HCA works with Registered Providers (RPS) in a variety of ways, including corresponding with them to discuss areas of concern which may require further information to be supplied, to ascertain if regulatory action is needed .The HCA considers that disclosure of this information would hinder the HCA's ability to exercise its 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 exemption to be engaged.

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 Judgements here including the RJ for Gallions Housing Association issued after this investigation, 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 letter is specific to Gallions Housing Association and the information is not 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.

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