

Date: 08/08/2019  
Our Ref: RFI2704  
Your Ref: FOI Request – Larkfleet Homes – Hillview Gardens  
Tel: 0300 1234 500  
Email: foi@homesengland.gov.uk



Homes  
England

Windsor House  
Homes England – 6<sup>th</sup> Floor  
50 Victoria Street  
London  
SW1H 0TL

██████████  
By Email Only

Dear ██████████,

**RE: Request for Information – RFI2704**

Thank you for your request for information, which was processed under the Freedom of Information Act 2000 (FOIA).

For clarification, you requested the following information:

*I am a resident of the Hill View Gardens residential estate, located in Morton, Lincolnshire [PE10 0TZ]. The housing estate was constructed in 2012/13 by the developer Larkfleet Homes, on behalf of Longhurst & Havelok Homes [a registered provider of social housing], to whom the 20 properties of this estate were transferred in 2013.*

*I am seeking documents and information about:*

*(1) any grant money (type, amount) that was provided or authorised by your department (HCA) to support the development of the properties on this estate.*

*(2) copies of any e-mail or written correspondence between the (a) HCA and (b) agents of Larkfleet Homes or Longhurst & Havelok Homes, about this grant funding.*

*(3) copies of any e-mail or written correspondence between the (a) HCA and (b) agents of Larkfleet Homes or Longhurst & Havelok Homes, about solar panels, energy generating technology or energy efficiency measures used in the construction of these buildings.*

*(4) Details of any conditions attached to the grant funding provided by the HCA, and specifically anything that may relate to funding conditions for the solar panels.*

*(5) any correspondence between HCA and the developers or housing association, discussing the shared ownership lease agreements for these properties, such as any discussion around modifications or additions or alterations to these, referring to the energy generating equipment/solar panels on these properties.*

*(6) copies of any advice, guidance, or regulations provided to L&H Homes, Larkfleet or RPs in general, relating to the Feed-in Tariff, as it relates to HCA grant funded properties or solar installations.*

*I am requesting the above information as there have been questions raised as to who has the right to claim any income from the energy generated by these technologies. It has been suggested that nobody is able to claim any income (neither the housing association, nor the shared ownership owner-occupiers), owing to the grant conditions applied by government bodies which prohibit this. This FOIA request is designed to help me investigate and look further into this matter, as it seems unfair that nobody is entitled to remuneration for the energy being supplied to the national grid.*

*(7) I would like to know whether there are any restrictions you are aware of, which affect HCA grant-funded*

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*properties, and which would prevent either L&H Homes as the Landlord or myself as a Leaseholder/Shared Owner, from:*

- (a) applying for the old Feed-in Tariff,*
- (b) applying for the NEW, replacement Smart Export Guarantee (as proposed, it is not a grant or subsidy based scheme),*
- (c) applying for an independent export tariff, such as that now being offered by Octopus Energy ("Outgoing Octopus"), which is not a FIT-based scheme and which is not funded via grants or government subsidy.*

*My understanding is that HCA grant funding conditions, regarding double funding/state aid, would prohibit tenants or L&H from receiving FIT income, but that this restriction would not apply to tariff income schemes which aren't based on government grants or subsidies, such as Outgoing Octopus or the proposed new SEG. I would appreciate clarity on this.*

## **Response**

We can confirm that we do hold some recorded information that falls within scope of the request. We will address each of your points in turn.

### ***(1) Documents and information about: any grant money (type, amount) that was provided or authorised by your department (HCA) to support the development of the properties on this estate.***

We do hold recorded information relating to this part of your request. Enclosed as Annex A we have provided the following documents:

- a) 'Schedule 1 of the Affordable Homes Contract for 2011-2015' on which the scheme is named. Please note that we have redacted some of the information on the grounds that it does not fall within the scope of your request.
- b) 'Framework Delivery Agreement' between Homes and Communities Agency, Longhurst Group Limited & other Original Consortium Members

Recorded information surrounding the funding for this scheme is recorded on our Internal 'Investment Management System (IMS)' and is detailed as follows:

16 x Affordable Rent Properties – funding requested £302,415 (actual payment made £284,336 as 2011-15 payments were based on an average rate per completed unit).  
4 x Affordable Home Ownership Properties – funding requested £0 (actual payment made £54,900 as 2011-15 payments were based on an average rate per completed unit).

"The funding requested is expected to be the balance required to fund the cost of the scheme once all other capital income has been taken into account. This would be the Firm Scheme Grant allocated to the scheme as described under condition 15 of the Framework Delivery Agreement and would be the attributable Capital Grant for the purposes of the Recovery Determination. This is distinct from the calculated payment for the scheme."

It is important to note that although grant was paid for these shared ownership homes this was as a result of the average grant per home over the whole 2011-15 Affordable Homes Project being paid, rather than these homes specifically requiring any grant from the Homes and Communities Agency (now Homes England). This

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is why the extract from our IMS system above states “funding requested = £0”. There was not individual “funding requested” per home, the grant paid was a flat-rate payment for each completed unit.

- (2) copies of any e-mail or written correspondence between the (a) HCA and (b) agents of Larkfleet Homes or Longhurst & Havelok Homes, about this grant funding.**
- (3) copies of any e-mail or written correspondence between the (a) HCA and (b) agents of Larkfleet Homes or Longhurst & Havelok Homes, about solar panels, energy generating technology or energy efficiency measures used in the construction of these buildings.**

We can confirm that Homes England does not hold the information detailed in your request. This is because there is no legal or business reason for Homes England to do so.

In order to conclude that the information is not held, we have searched with our Programmes team who would have the requested information if held.

The FOIA does not oblige a public authority to create information to answer a request if the requested information is not held. The duty under section 1(1) is only to provide the recorded information held.

The full text of section 1 in the legislation can be found here:

<https://www.legislation.gov.uk/ukpga/2000/36/section/1>

- (4) Details of any conditions attached to the grant funding provided by the HCA, and specifically anything that may relate to funding conditions for the solar panels.**

We do hold recorded information relating to this part of your request. The conditions of the Grant Funding are set out in the ‘Framework Delivery Agreement’, which has been provided in response to Question 1. (Enclosed within Annex A.)

- (5) any correspondence between HCA and the developers or housing association, discussing the shared ownership lease agreements for these properties, such as any discussion around modifications or additions or alterations to these, referring to the energy generating equipment/solar panels on these properties.**

We can confirm that Homes England does not hold the information detailed in your request. This is because there is no legal or business reason for Homes England to do so.

In order to conclude that the information is not held, we have searched with our Programmes and Investment teams who would have the requested information if held.

The FOIA does not oblige a public authority to create information to answer a request if the requested information is not held. The duty under section 1(1) is only to provide the recorded information held.

The full text of section 1 in the legislation can be found here:

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Please see the below section 'Discretionary Disclosure' which provides guidance relating to this question. We have also provided a copy of the (model) Shared Ownership Lease distributed to Registered Providers by Homes England for your reference as Annex B.

**(6) copies of any advice, guidance, or regulations provided to L&H Homes, Larkfleet or RPs in general, relating to the Feed-in Tariff, as it relates to HCA grant funded properties or solar installations.**

We do hold recorded information relating to this part of your request. Enclosed as Annex C we have provided the following documents:

- a) FEED IN TARIFFS and HCA Funding (including from the National Affordable Housing Programme) Statement.
  - b) 'HCA Issues Feed In Tariff guidance for partners' published on Homes and Communities Agency website on 15 March 2011.
- 7) ***I would like to know whether there are any restrictions you are aware of, which affect HCA grant-funded properties, and which would prevent either L&H Homes as the Landlord or myself as a Leaseholder/Shared Owner, from:***
- (a) applying for the old Feed-in Tariff,***
  - (b) applying for the NEW, replacement Smart Export Guarantee (as proposed, it is not a grant or subsidy based scheme),***
  - (c) applying for an independent export tariff, such as that now being offered by Octopus Energy ("Outgoing Octopus"), which is not a FIT-based scheme and which is not funded via grants or government subsidy.***

In accordance with the Freedom of Information Act 2000, this part of your request is not a valid request for information as it is not specifically asking for any recorded information that we hold. We have however, provided information outside of the act (see below) as a 'Discretionary Disclosure'.

**Discretionary Disclosure.**

With regard to the shared ownership leases for these properties, Homes England issues model leases for Registered Providers to use for all grant funded shared ownership homes (or homes that form part of our Affordable Housing Programme if no grant is involved). Registered Providers are allowed to change these model leases as they see fit, provided that they do not change any of what are termed the '*fundamental clauses*'. Homes England does not get involved in discussions / negotiations on individual shared ownership leases unless one of the fundamental clauses is proposed to be changed in any way – in this case our permission would be required. Any particular design or structural features (for example, solar panels) associated with shared ownership properties would not fall under any of our fundamental clauses.

Our Grant Agreements are silent on feed in tariffs as is the Shared Ownership Lease. We have provided a copy of the 'Feed in Tariffs Statement' within Annex C which sets out the arrangements for feed in tariffs. This document is also readily available on the following link:

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<https://webarchive.nationalarchives.gov.uk/20130203173825/http://www.homesandcommunities.co.uk/sites/default/files/hca-state-aid-statement-re-fits.pdf>

Regarding the potential for state aid / double subsidy, this is referenced in the 'Feed in Tariffs Statement' contained within Annex C, at paragraph 3.3.

The shared ownership lease agreements regarding these properties are between the Registered Provider and the owner, as well as potentially with the HomeBuy Agent. We can advise that information relating to conditions on these properties may be found in your Home Buy Lease. Homes England is not a party to this Lease so cannot advise as to individual content.

#### Statement from Longhurst Group:

In accordance with the Freedom of Information Act we have a duty to inform and consult with any third parties where information held also relates to their business. We therefore made contact with Longhurst to seek their views on disclosure and received the following statement in relation to the solar panels which may be helpful to you:

“as the landlord our records indicate that we have never claimed any income from the energy generating equipment.”

You may want to contact Longhurst directly for further information, details can be found on the following link:

<https://www.longhurst-group.org.uk/contact-us/>

Please note that we did not pass any of your personal data to Longhurst, the wording of your request was sent in an anonymised format.

#### **Right to Appeal**

If you are not happy with the information that has been provided or the way in which your request has been handled you may request an internal review by writing to;

The Information Access Team  
Homes England – 6<sup>th</sup> Floor  
Windsor House  
50 Victoria Street  
London  
SW1H 0TL

Or by email to [foi@homesengland.gov.uk](mailto:foi@homesengland.gov.uk)

You may also complain to the Information Commissioner however, the Information Commissioner does usually expect the internal review procedure to be exhausted in the first instance.

The Information Commissioner's details can be found via the following link

<https://ico.org.uk/>

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Please note that the contents of your request and this response are also subject to the Freedom of Information Act 2000. Homes England may be required to disclose your request and our response accordingly.

| Yours sincerely,

**Information Access Team**

For Homes England