

Elected Member's Protocol

Protocol for correspondence, enquiries & communications between the ACHA Group, Councillors, MPs/MSPs/MEPs

Our Commitment

Argyll Community Housing Association Group is committed to provide equal opportunities across all services and to avoid discrimination. This protocol is intended to assist the ACHA Group to put this commitment into practice. Compliance with this protocol should also ensure that employees do not commit unlawful acts of discrimination.

This protocol can be made available in other formats, for example in large print, audio-format or Braille: the document may also be available in other languages, in full or summary form, as appropriate.

Public Policy

Contents

Section 1 – Context

Section 2 – The law and good practice

Section 3 – Our protocol objectives

Section 4 – Implementing our policy objectives

Section 5 – Performance management

Section 6 – Development and training

Section 7 – Our positive action initiatives

Section 8 – Dealing with complaints

Section 9 – Consultation and review procedures

Section 10 – Confidentiality and data protection guidance

HR & Corporate Services

Public Policy

Section 1 – Context

- 1.1 The aim of this protocol is to ensure that the ACHA Group acts as an open and publicly accountable organisation. It offers opportunities for people living and organisations working in Argyll and Bute who share our objectives.

Section 2 – The Law and Good Practice

- 2.1 The main legislation which pertains to this policy is covered under the following Acts:

2.1.1 The Housing (Scotland) Act 2001: provides a statutory right to all tenants with Scottish Secure Tenancies to receive information about their landlord's policies and procedures. The Act also obliges landlords to consult and provide tenants with information in developing their Tenant Participation Strategy,

2.1.2 The Data Protection Act 2018: provides rights to individuals in relation to personal data held about them; and regulates the use of personal data,

2.1.3 The Freedom of Information Act (Scotland) 2002 and Environmental Information (Scotland) Regulations 2004: entitles members of the public to receive information for a public authority, subject to certain exemptions such as the need for the protection of personal data, commercial sensitivity or national security.

2.1.4 The Scottish Secure Tenants (Right to Repair) Regulations 2002

2.1.5 Scottish Social Housing Charter: the purpose of the Charter is to help improve the quality and value of the services that social landlords deliver for their tenants and other customers and supports the Scottish Government's strategic objective of a safer and stronger Scotland.

2.1.6 Equalities Act 2010: The Equality Act 2010 sets out the protected characteristics on which discrimination is prohibited in law.

The protected characteristics, in alphabetical order, are as follows:

- age;
- disability;
- gender re-assignment;
- marriage and civil partnership;
- pregnancy and maternity;
- race;

HR & Corporate Services

Public Policy

- religion or belief;
- sex; and
- sexual orientation.

Section 3 – Our Protocol Objectives

- 3.1 We recognise and welcome the democratic mandate of Elected Members and their absolute right to act on behalf of their constituents. We seek, via this protocol, to facilitate that process
- 3.2 This document sets out the arrangements for handling communications between the Group and all Elected Members. The definition of Elected Members includes Councillors of Argyll and Bute Council, Members of Parliament (MPs), Members of Scottish Parliament (MSPs) and Members of the European Parliament (MEPs)
- 3.3 All elected representatives should be treated on the same basis with no need to differentiate between MP`s, MSP`s and Councillors.
- 3.4 It is recognised that many tenants or residents within our tenancies will not differentiate between the respective responsibilities of Argyll and Bute Councillors, Westminster MPs, Constituency Members of the Scottish Parliament, List members of the Scottish Parliament and Members of the European Parliament. The overriding principle which will apply to dealing with queries, and letters on behalf of constituents will be, that all parties will aim to secure as rapid a response as possible, regardless of who the constituent initially approached.
- 3.5 Elected Members are encouraged to advise tenants to allow Managers within the group to deal with complaints and/or issues relevant to the range of services provided by them before engaging correspondence with us.

Section 4 - Implementing our Protocol Objectives

- 4.1 The major concern about releasing information to a third party by any Group employee, from the Chief Executive down, is the requirement to comply with the Data Protection Act 2018 and the General Data Protection Regulations. This protocol recognises that Elected Members have privileges granted upon them by the Data Protection (processing of sensitive personal data) (Elected Representative) Order 2002, which specifically allows processing of data by, or on behalf of elected representatives where such processing:-
- 4.1.1 Is carried out by an elected representative or a person acting with his/her authority;
- 4.1.2 Is in connection with the discharge of his/her functions as such a representative;

HR & Corporate Services

Public Policy

- 4.1.3 Is carried out pursuant to requests made by the data subject to the elected representative to take action on behalf of the data subject (i.e. the constituent) or any other individual;
- 4.1.4 It is necessary, for the purposes of, or in connection with, the action reasonably taken by the Elected representative pursuant to that request

4.2 Enquiries from Elected Members

4.2.1 Elected Members in Argyll and Bute will be issued with a copy of the Statutory Instrument 2002 No 2905 by the Chief Executive. This Statutory Instrument outlines the reasons for which an Elected Member can act on a constituent's behalf and will be used by ACHA as a guide to responding to Elected Members' enquiries

4.2.2 ACHA record any enquiry made by an Elected Member on behalf of a tenant or waiting list applicant

4.2.3 Where an Elected Member makes an enquiry on behalf of a constituent, the following will apply:-

4.2.3.1 If the Elected Member wishes the reply to go directly to the constituent, with no reply to the Elected Member, then we will accept the enquiry verbally and reply directly to the constituent. The Elected Member will hear nothing further on the matter from us.

4.2.3.2 When the Elected Member makes an enquiry that they wish to receive a direct reply to, we will respond to the request in writing within 10 working days (maximum) and only where we have been specifically requested by the Elected Member, forward a copy of the communication to the tenant. Verbal enquiries will be actioned in the same way

4.2.3.3 Where the Elected Member makes an enquiry of us and we believe the enquiry would be better answered at area level, then we will forward the enquiry to the relevant Local Manager and advise the Elected Member of the action that has been taken with their enquiry

4.3 Dealing with repeat enquiries

4.3. Where an Elected Member raises an issue which has been previously raised by another Elected Member, then that Elected Member will be advised that the matter has previously been raised and broadly advised of the outcome of that enquiry

Section 5 – Performance Management

5.1 A copy of this protocol will be sent by the Chief Executive to all Elected Members of Argyll and Bute Council, MPs, Constituency MSPs, List MSPs in Argyll and Bute

HR & Corporate Services

Public Policy

and Scottish MSPs. This protocol can be reviewed by the Group Board of Management, or any appropriate Committee thereof.

Section 6 – Development and Training

- 6.1 Staff are reminded of the protocol on a regular basis via the staff update bulletin. New members of staff are provided with a copy of the protocol during the induction process

Section 7 – Our Positive Action Initiatives

- 7.1 In line with our equality policy, we develop initiatives that promote our equality commitments throughout organisational services and practices. In this connection, our major positive action initiative in respect of this protocol is the development of a comprehensive staff procedure on dealing with Elected Member enquiries.

Section 8 – Dealing with Complaints

- 8.1 Complaints relating to Elected Members enquiries will be dealt with in line with our complaint handling procedure. In terms of this procedure, complaints can be made if we fail to apply this protocol properly or don't meet our organisational standards.

Section 9 – Consultation and Review Procedures

- 9.1 This policy will be monitored by us, on an annual basis, to judge its effectiveness and will be updated in accordance with changes in the law. If changes are required, we will implement them.

Section 10 – Confidentiality and Data Protection

- 10.1 Confidential Information we hold will be used only for the purpose it was obtained. We will ensure that all confidential information is stored in a secure manner, can only be accessed by authorised persons and in the event of disposal, will be dealt with in accordance with the Data Protection Act 2018 and the General Data Protection Regulations.
- 10.2 We can continue to disclose personal information in response to enquiries from elected representatives if the following conditions are met:
- 10.2.1 The information we are disclosing is about the third party and is in response to an enquiry by an elected representative on behalf of that party, and
- 10.2.2 The disclosure of that information would be in the interest of the third party who is the subject of the elected representatives enquiry.

HR & Corporate Services

Public Policy

- 10.3 We should take care to avoid disclosing personal information about other parties when responding to such requests, for example, the name of another tenant who may have made a complaint about the person who is the subject of the enquiry from the elected representative, and we will ensure that any response is redacted to remove references to third parties.