



Equality and Human Rights

Regulatory / legislation overview & recent work



17th June 2024



Recent work

I've been working with Rosehill to review your policy and action plan and develop plans to use equality data

This has involved:

- 1 - Training for staff to overview regulation / legislation and inform the Equality Action plan
- 2 - Running a working group to develop Rosehill's action plan and discuss the use of Equality Data we have collected
- 3 - Working with senior staff to finalise Rosehill's policy and action plan, prior to committee approval



The legal case for Equal Opportunities (revision)

- The Housing (Scotland) Act 2010 & Housing Charter
- The Equality Act 2010
 - Protected Characteristics, Unlawful behaviour
 - Implications for RSLs
 - The Act in relations to premises - avoiding discrimination in relation to allocations, evictions and making reasonable adjustments
- The Human Rights Act (1998)

Key Equality tools

- Equality Impact Assessments
- Equality and Human Rights Policy
- Equality Action plan (still to be approved)

Key changes from the recent Regulatory review

- Equality Data Collection



Your definitions of Equal Opportunities?

**Why is equal opportunities important to
the co-op, its tenants and committee?**



Rosehill's Commitment

“Rosehill is committed to being an Employer, Landlord, Service Provider, Factor and Partner which promotes and supports Equality and Human Rights and delivers on associated objectives.

We also have a legal and regulatory duty to ensure that we promote equality and human rights in all aspects of our work.

Equality is about treating everyone fairly and ensuring they are given fair chances. It is **not** about treating everyone in the same way, but ... taking their needs into account”

Rosehill – Equality and Human Rights Policy (2024)



Rosehill's Policy objective

“To ensure that our governing body, staff, tenants, other customers, contractors and anyone who has dealings with Rosehill are treated equally and fairly.”

Rosehill – Equality and Human Rights Policy (2024)

Delivering the Policy objective

To support and deliver this objective we will:

- Ensure our Management Committee and Senior Staff are accountable for embedding the principles of Equality and Human Rights at Rosehill and monitoring our performance;
- Ensure that everyone who works for us, or with us, abides by this policy;
- Not tolerate any form of prejudice, direct or indirect discrimination ...
- Comply with all legal and regulatory requirements which apply to the protected characteristics ...
- Develop good quality information about our customer base and individual customers, so that our services are accessible and responsive to all.
- Encourage our tenants, other services users and our staff to engage with us to shape Rosehill and its services;
- Ensure Equality and Human Rights Principles are reflected in our Policies and Procedures”



The Legal & Regulatory Case





The Housing (Scotland) Act 2010

“Social Landlords, when performing housing services, must act in a manner which encourages equal opportunities and in particular the observance of the law for the time being relating to equal opportunities.”

Section 39: Housing (Scotland) Act

The act also established the **Scottish Social Housing Charter** which includes an Equalities outcome



Charter Outcome 1- Equalities

Social landlords perform all aspects of their housing services so that:

every tenant and other customer has their individual needs recognised, is treated fairly and with respect, and receives fair access to housing and housing services.

The Scottish Social Housing Charter



Expectations of the new Regulatory Framework





New Regulatory Framework Requirements for RSLs

Equality and Human Rights

- Have assurance and evidence that it considers **equality** and **human rights** issues properly when making all of its decisions, in the design and review of internal and external policies, and in its day-to-day service delivery.
- To comply with these duties, landlords must collect data relating to **each of the protected characteristics** for their existing tenants, new tenants, people on waiting lists, governing body members and staff.



The Equality Act 2010



The Act – an overview

- The Act identified groups who need protection due to their “protected characteristics”
- Set out expectations for providers of goods and services and employers (unlawful behaviour)
- Further strengthened discrimination legislation



Protected characteristics



Age



Disability



Gender

Reassignment



Marriage

Civil
Partnership



Maternity

Pregnancy



Race



Religion

Belief



Sex



Sexual

Orientation



Unlawful behaviour

- **Direct Discrimination**
 - Discrimination by association
 - Discrimination by perception
- **In-direct Discrimination**
- **Harassment**
- **Victimisation**



Housing specific elements of the Equality Act





Part 4 of the Equality Act covers

- Section 33 (1) – prohibits discrimination in relation to disposals (i.e. selling or **letting of premises**)
- Section 35 (1) – prohibits discrimination by a person who manages premises when they are **evicting** the occupier of the premises
- Sections 36 – 37 concerns making **reasonable adjustments** in relation to premises / services

Possible examples of disability arising from discrimination

Brian is a housing association tenant in a flat and has paranoid schizophrenia. His condition sometimes causing him to do things which are anti-social (playing loud music).

His association decides to seek an eviction order, then they would be treating him unfavourably as a consequence of his disability. The association would need to show the eviction was proportionate.

Any comments on the above example?

What lesser steps could the association have considered other than eviction?



Some examples of reasonable adjustments

- Relieving the tenant of obligations under the lease that would be imposed on non-disabled persons, for example in relation to redecoration, or the keeping of gardens.
- Adjusting the way that an association communicates with a tenant, including adapting written communications, making arrangements for meetings, such as the provision of an interpreter or supporter, etc.





Human Rights Act

“The rights contained in Articles 6, 8 and 14 are those which are most likely to be relevant to your work in social housing.”

Article 6: Right to a fair trial

Everyone has the right to a fair and public hearing, before an independent and impartial tribunal, within a reasonable time.

For example, a person who is subject to a decision-making process in relation to a possible eviction should have access to an interpreter

Article 8: Right to respect for private life, family life and the home

People should be able to live in privacy and be able to live their life in the way that they choose. You should take positive steps to prevent other people seriously undermining a person's home or private life, for example, through serious pollution or **anti-social behaviour**

Article 14: Prohibition of discrimination (Qualified Right)

This means that everyone must have equal access to the other rights contained in the HRA, regardless of their race, religion, gender, sexual orientation, disability, political views or any other personal characteristic



Summary

When developing policies and procedures, and or taking actions, consider:

- What is the aim of the action / policy?
- Are you achieving this aim?
- Did you provide relevant support / where appropriate intermediate steps in place?
- Is there anything else you could do?
(especially in eviction cases)
- Is the action proportionate & can you defend it?

What's on the horizon

1. The Scottish Government plans to introduce a Human Rights Bill during the current parliamentary term. It will create a legal framework to embed internationally recognised Human Rights within Scottish Law, and recognise the right to a healthy environment and provide a clear set of duties for public bodies.
2. The SHR sought assurance from RSLs boards that they had considered how to adopt a Human Rights based approach to their work in their 2023 Annual Assurance Statement.

There is not much guidance on how to do this yet, but two potential actions could be:

1. To incorporate the Human Rights Act into policy reviews
2. Taking into account the UN's standards of adequate housing



Housing as a Human Right

UN seven standards of adequate housing

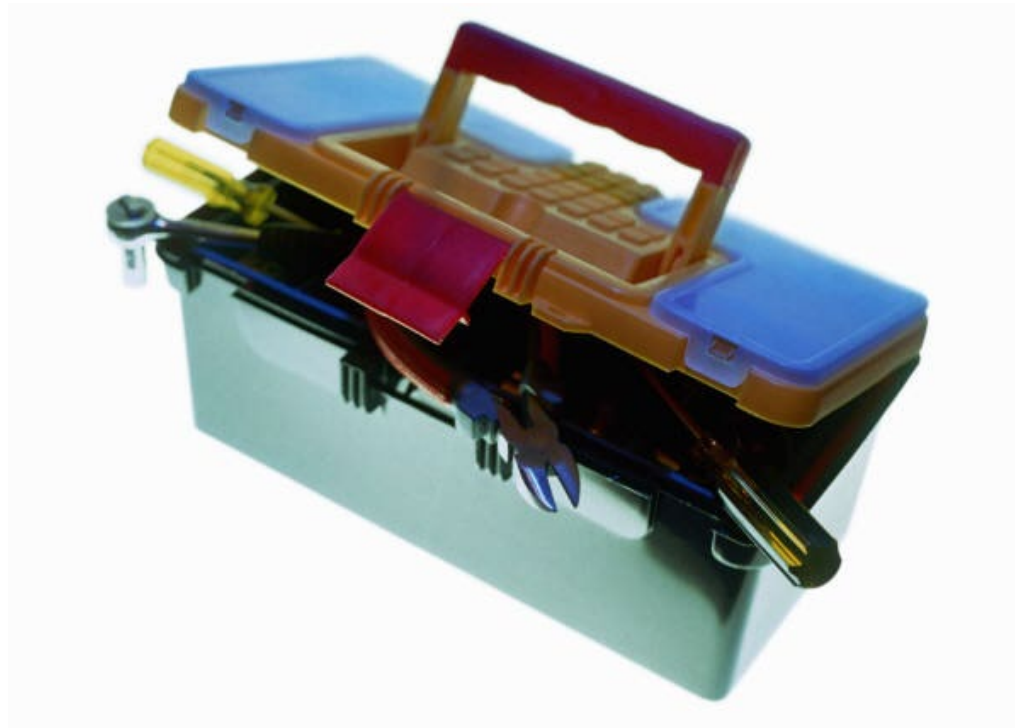
Security of Tenure	legal protection from forced eviction, harassment by landlords and other threats to having a settled home
Habitability	a dwelling in a decent state of repair that provides a dry, warm home and adequate living space
Availability of Services	a dwelling has the facilities that makes it habitable, such as sanitation ... cooking facilities, storage heating and lighting
Affordability	housing costs are not so high that people struggle to pay for food, fuel and other basics
Accessibility	suitable housing is available to those who require it, including housing that maximises the capacity of individuals with a disability or limiting illness to live independently
Location	housing is situated areas that allow access to services (such as education, health, shops), paid work and participation in civic society
Cultural Adequacy	housing and its allocation should allow people to live in ways that express their cultural identity and does not disrupt their cultural affiliations

Implications for RSLs

- RSLs should consider carrying out Equalities Audits
- RSLs need to ensure staff, committees and tenants are aware of new, and the organisation's commitment to equal opportunities
- RSLs will need to demonstrate transparency in relation to pay, employment and T & C's
- Make sure that anyone involved in the recruitment and selection process receive appropriate training, and process is fair and transparent



Equal Opportunities Tools





Some key tools

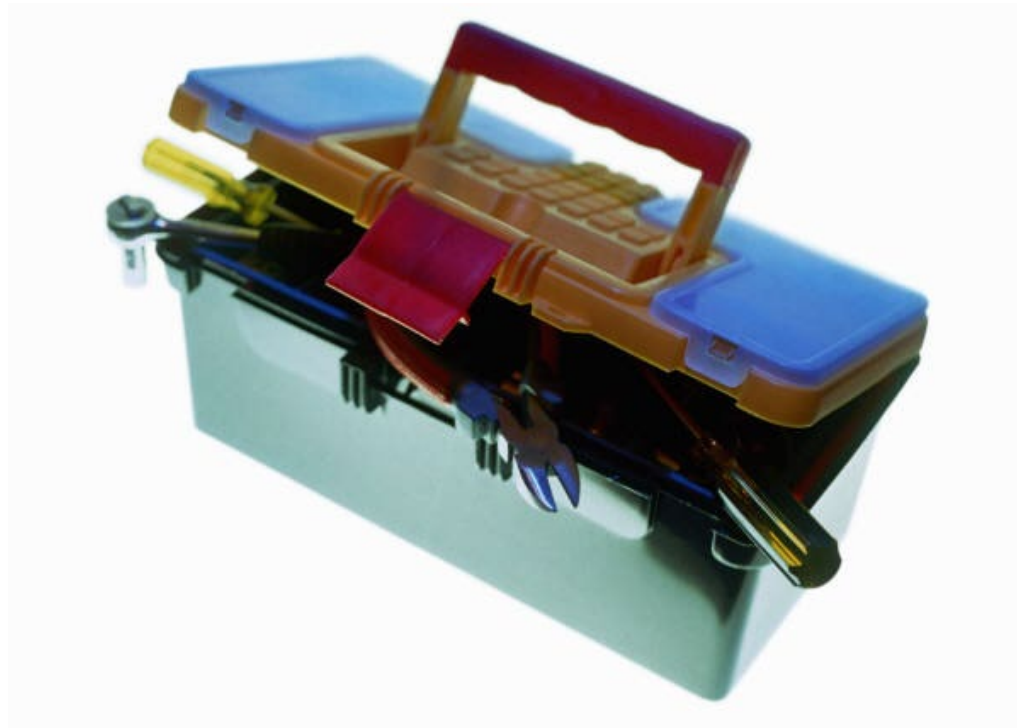
Equality Impact Assessments

Equal Opportunities Policies

Equal Opportunities Action Plans



Equality Impact Assessments



What is assessing impact?

Assessing impact involves considering ... the likely or actual effect of policies and practices on equality groups. This includes:

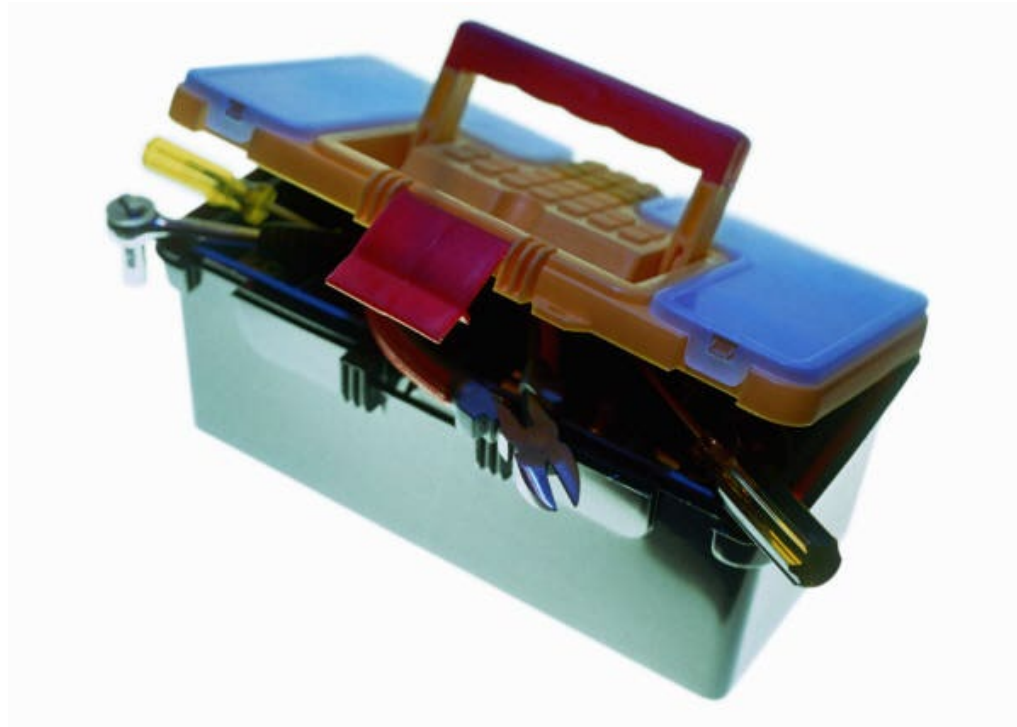
- ensuring that the policy does not discriminate;
- identifying any adverse impacts for particular groups;
- considering how the policy might better advance equality of opportunity;

EHRC Interim guidance for Scottish public authorities: assessing impact

“When developing and reviewing policies and services we will carry out Equality Impact Assessments. The purpose of which is to identify possible negative impacts of our decisions on our Governing Body Members, employees, tenants and other customers with protected characteristics and to take necessary steps to address any issues.”

Typical Equality and HRA Policy

Equality policy





Equal opportunities policies

“An association or co-operative’s Equal Opportunities Policy is a key document that outlines how an association will ensure it delivers equality of opportunity and embraces diversity as a landlord, as an employer and as a provider of services.”

Getting the balance right – SFHA good practice guidance

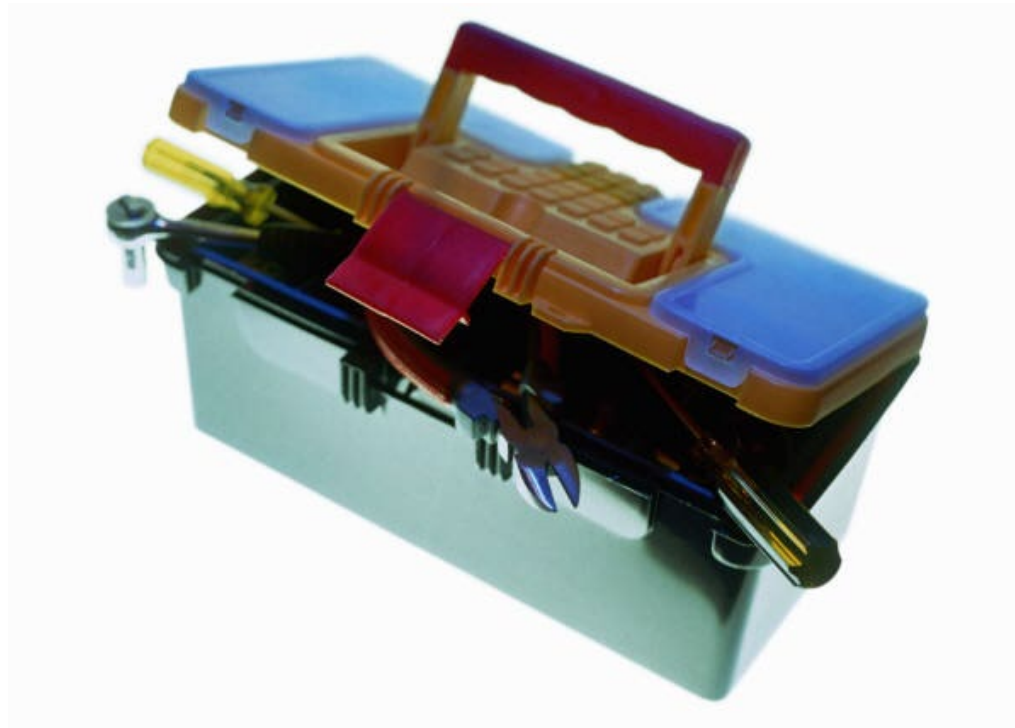
“Rosehill is committed to being an Employer, Landlord, Service Provider, Factor and Partner which promotes and supports Equality and human rights and delivers on associated objectives.

We also have a legal and regulatory duty to ensure that we promote equality and human rights in all aspects of our work.

Equality is about treating everyone fairly and ensuring they are given fair chances. It is **not** about treating everyone in the same way, but ... taking their needs into account”

Rosehill – Equality and Human Rights Policy (2024)

Equality Action Plans



“Equality objectives have been set and published in accordance with the requirements to support the public sector Equality Duty.”

- eliminate unlawful discrimination, harassment and victimisation and other conduct that is prohibited by the Equality Act 2010;
- advance equality of opportunity between people who share a protected characteristic and those who do not; and
- foster good relations between people who share a protected characteristic and those who do not”

“Objectives are SMART
(Specific, Measurable Realistic, Achievable and Timely)”

Rosehill's Equality Strategy 2021

Previous Action Plan Extract

6. 2021-22 Action Plan

Area	Actions	Target Date	By Whom
Collecting and Sharing Information	Continue to work with DPO to ensure that equalities data is collected in an agreed manner and stored and monitored correctly	April 2023	SMT
Analysing and using data and information	Continue to collect and report equalities information in the correct format to the SHR	ongoing	SMT
Analysing and using data and information	Ensure that all data is collected anonymously and that collection methods ensure that nobody is identifiable. I.e separate equality form from any application form received	ongoing	Relevant staff

Ensure staff, Committee and involved tenants have regular equalities training.	Ongoing	GM
Ensure adequate resources are made available to support equalities within the business.	Ongoing	AS
Service plans are monitored regularly to ensure that equality objectives are being met.	Quarterly	SMT
Integration of equality objectives into service planning	Ongoing	SMT

Equality analysis is fed into planning and assessment of service plans. All service policies highlight the needs of protected groups. (EIA)

Extracts from draft action plan

Proposed Equality action plan – 2024 – 2027

Aim	Activity	Timescale	Lead officer	Progress (RAG)	Completed/ comments
a) To ensure no one is discriminated against on the basis of any of the nine protected characteristics or any other key groups Rosehill identifies	i.To ensure Rosehill Housing Co-operative's (Rosehill) commitment to Equalities and Human Rights is clearly displayed in the office reception, on its website, and other publicity materials and information.	Sept 2024	HSM / CS & HRM		
	The information should underline Rosehill's zero tolerance to discrimination (and any other forms of unacceptable behaviour) and ensure anyone experiencing discrimination, harassment, etc. is aware they can contact Rosehill who will investigate their issue.	Sept 2024	HSM / CS & HRM		
	The information produced should reflect Rosehill's commitment (see Rosehill's Equality Strategy) to pay due regard to the General Equality Duty set out in the Equality Act 2010. This requires organisations to:	Sept 2024	HSM / CS & HRM		
	<ul style="list-style-type: none"> eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010 advance equality of opportunity between people who share a protected characteristic and those who do not foster good relations between people who share a protected characteristic and those who do not 				
Rosehill's expectations relating to Equality and Human Rights will be emphasised in staff and committee codes of conduct*. In addition, Rosehill's equalities expectations		Jan 2025	HSM / CS & HRM		
					<p>should be included in the tenant's handbook and the sign-up process for new tenants.</p> <p>ii.To update Rosehill's policy and action plan to reflect changes to relevant legislation or regulation as, and when, required.</p> <p>iii.To periodically report to the committee on the delivery of - the action plans aims. This should include discussion of any slippage in meeting timescales and / or any additional resources needed to deliver any aims / activities.</p> <p>iv.To publicise that Rosehill</p> <ul style="list-style-type: none"> will make its documents available in alternative formats on request (i.e. large font, in Braille, etc. on request. will provide a signer or translation support when requested to do so, within a reasonable timescale. will make handouts available in large print at public meetings on request. will ensure signage highlighting Rosehill's commitment to Equality and Human Rights is developed and displayed at the reception and other locations within Rosehill's office. In addition, rolling information will be displayed on the TV located in Rosehill's reception will ensure articles highlighting Rosehill's commitment to Equality and Human Rights will be published periodically in Rosehill's newsletter <p>* The support outlined above will be updated to reflect any future legislative / regulatory changes i.e. updates to the code of conduct</p>
					<p>Jan 24 (Policy) June 24 (Action Plan)</p> <p>August 2024 onwards</p> <p>March 2024 and on-going</p>
					<p>HSM</p> <p>HSM</p> <p>HSM</p>
					<p>Equalities & Human Rights Policy approved by committee Jan 24</p> <p>Rosehill joined happy to translate in April 2024 and will continue to use global languages to provide support to customers for whom English is not their second language.</p>

Extracts from draft action plan

Aim	Activity	Timescale	Lead officer	Progress (RAG)	Completed/ comments
c) Review Rosehill's Equality Impact Assessment (EIA) tool*. <i>* This tool ensures when policies are developed / reviewed they promote equality of opportunity and avoid disadvantaging anyone from protected characteristics</i>	i. To review, and revise, Rosehill's EIA tool to reflect good practice, and ensure the tool is as straight-forward to use as possible.	September 2024	HSM		This will be arranged with SE Training, who supported the development of our policy / action plan
	ii. To discuss if the EIA tool should reflect on how policies ensure Human Rights informs the services Rosehill provides.	September 2024	HSM		
	iii. To train all staff in policy development and review in the use of the revised EIA.	September 2024	HSM		

Aim	Activity	Timescale	Lead officer	Progress (RAG)	Completed/ comments
e) Ensure all staff and committee members are aware of Rosehill's commitment to, and obligations in relation to, equality and human rights	i. To ensure all staff and committee receive specific equalities training.	September 2024	HSM		Refresher training to be carried out every 2 years.
	ii. To raise awareness of Rosehill's equality and human rights commitments in the staff and committee induction processes	On-going	CS, HRM & Director		
	iii. To ensure teams / individual staff are aware of relevant equality aims / activities, and discuss them during training / team meetings, etc.	On-going	HSM (assisted by SMT)		
	iv. To ensure the committee receive quarterly reports on the delivery of the Equality Action Plan's aims and activities	On-going quarterly from August 24	HSM		

Suggested progress report

Aim	Activity	Timescale	Lead officer	Progress (RAG)	Completed/ comments
c) Review Rosehill's Equality Impact Assessment (EIA) tool*. <i>* This tool ensures when policies are developed / reviewed they promote equality of opportunity and avoid disadvantaging anyone from protected characteristics</i>	i. To review, and revise, Rosehill's EIA tool to reflect good practice, and ensure the tool is as straight-forward to use as possible.	September 2024	HSM		
	ii. To discuss if the EIA tool should reflect on how policies ensure Human Rights informs the services Rosehill provides.	September 2024	HSM		
	iii. To train all staff in policy development and review in the use of the revised EIA.	September 2024	HSM		This will be arranged with SE Training, who supported the development of our policy / action plan

- If the deadline or timescale has passed suggested text is **Achieved**, **Partially Achieved**, **Not Achieved** and narrative added to the Completed/Comments column.
- If it is showing an “ongoing” task suggested text is **Being Achieved**, **Not Being Achieved** and narrative added to the Completed/Comments column.
- If it is a task with a future deadline/timescale suggested text is **On track**, **Not on Track** and narrative added to the Completed/Comments column.

Any comments, questions, changes to this?

Some information your committee should typically receive?

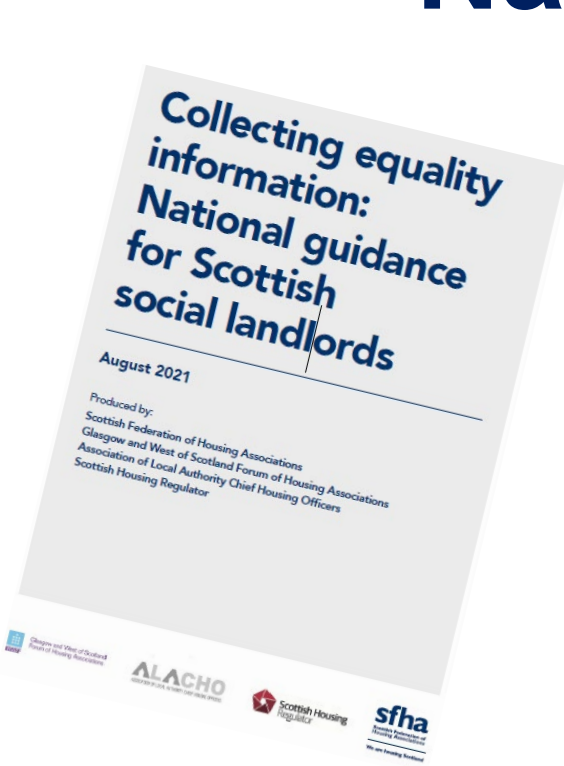
- Regular updates about action plan delivery
- Complaints reports including information about any equality / discrimination complaints
- Statistics about how your staff, committee, housing applicants and tenant profile compares with your community
- Updates on any key changes to legislation and regulation
- Assurance your organisation is aware of who its vulnerable tenants / residents are, and what support is provided
- Assurance anyone involved in recruitment and selection has appropriate training, and processes are fair and transparent

New Regulatory Framework Requirements for RSLs

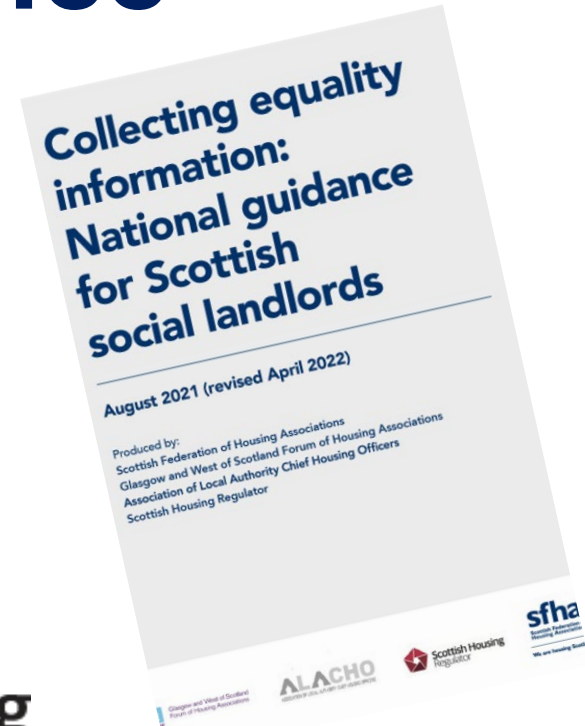
Equality and Human Rights

- Have assurance and evidence that it considers **equality** and **human rights** issues properly when making all of its decisions, in the design and review of internal and external policies, and in its day-to-day service delivery.
- To comply with these duties, landlords must collect data relating to **each of the protected characteristics** for their existing tenants, new tenants, people on waiting lists, governing body members and staff.

Collecting equality information National guidance



**Scottish Housing
Regulator**



“It provides a range of practical advice on collecting equality data and how equality data can be used.”

Guidance foreword

Collecting equality information: National guidance for Scottish social landlords

August 2021

Produced by:

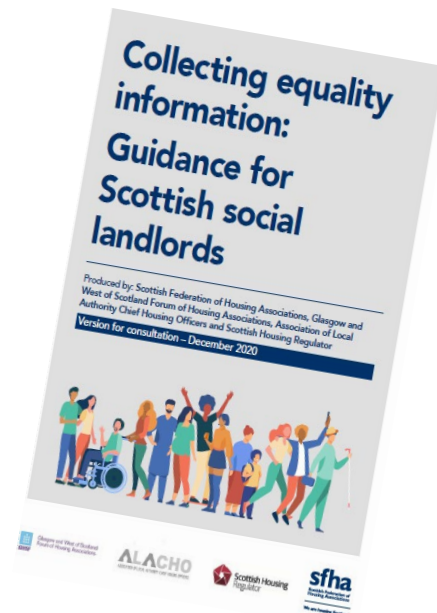
Scottish Federation of Housing Associations
Glasgow and West of Scotland Forum of Housing Associations
Association of Local Authority Chief Housing Officers
Scottish Housing Regulator

Extracts from the consultation

Why do you need this data?

“It is important to stress, data will be used to:

- protect people from unlawful discrimination;
- address their needs; and
- promote their interests.”





Updated national guidance Appendices

Appendix one – Equalities Monitoring form (Anonymous collection)

Appendix two – Equalities Monitoring form (linking to individual)

Appendix three – Objectives for drafting equalities monitoring forms

Appendix four – Guidance for staff to help people complete the form

Appendix five – Collecting Equalities Data FAQs from RSLs





Collecting equality information: Frequently asked questions by RSLs

February 2022

Produced by:

Scottish Federation of Housing Associations
Glasgow and West of Scotland Forum of Housing Associations
Scottish Housing Regulator



Background

In August 2021, the National Guidance on Equalities Data Monitoring was made available to all landlords in Scotland ... Since its publication, SFHA, GWSF and the SHR have received a number of queries from RSLs ... This document provides a summary of the most frequently asked questions and seeks to provide further guidance on these points. Questions are divided into two main categories:

- Clarifying the data collection requirement
- Flexibility on what data is collected



Clarifying the data collection requirement

- 1. Should we be linking data to individuals or ensuring it is anonymous?*
- 2. Why does the template form ask for a person's signature?*
- 3. If we do not link data to an individual, how can we use this to improve services?*
- 4. Do we have to issue a questionnaire to all of our existing tenants?*
- 5. By what date are we required by the SHR to begin collecting the data?*
- 6. How frequently do we have to collect data, i.e. do we have to reissue the questionnaire after a set number of years?*
- 7. If we choose to link data collected to the individual, what is the legal ground for processing this data under the terms of data protection legislation?*
- 8. Can you provide a clearer explanation of this?*



Clarifying the data collection Guidance

1. Should we be linking data to individuals or ensuring it is anonymous?

“Answer: It is up to each landlord to decide whether it wishes to collect the data on a purely anonymous basis, or if it wishes to link it to the individual. An RSL may decide on a different approach for different groups (staff, tenants etc.).”

Rosehill decided to collect the information anonymously



Collecting the data



Rosehill's reflections



Initial analysis of Equalities data

17.28% of Current tenants returned forms
(178 out of 1030)

59.30% of Housing applicants returned forms
(459 out of 774)

Any comments about return rates?

What could be done to encourage higher returns?



Information collected re age

Age band	Current tenants	Housing applicants
16 – 24	0.56%	14.6%
25 - 34	3.37%	30.50%
35 - 44	8.43%	23.09%
45- 54	8.99%	11.98%
55 - 65	27.53	11.33%
65+	50%	6.97%

Info collected re: age

How will this information help Rosehill influence how you communicates with tenants?

How will this information shape future services?

How does this compare with your staff / committee composition?



Info collected re: Ethnicity

	Current tenants	Housing applicants
African	0.56%	4.14%
Other African	0.56%	1.09%
Bangladeshi	0.56%	0.22%
Indian	1.12%	0.87%
Black / Black Scottish	1.12%	0.44%
White English	2.81%	9.8%
Scottish	80.34%	63.83%
Other British	4.49%	2.18%
Other	1.12%	3.92%

Info collected re: ethnicity

How will this information help Rosehill influence how you communicates with tenants?

How will this information shape future services?

How does this compare with your staff / committee composition?



Info collected re: Disability

Current Tenants

Disabled - Yes 49.44%, No – 46.07%

Housing Applicants

Disabled - Yes 36.68%, No – 59.91%



Info collected re: Disability

Suffer from ...	Current tenants	Housing applicants
Autoimmune	4.49%	4.79%
Learning difficulties	1.12%	1.75%
Mental health issues	18.54%	25.27%
Neuro-divergent	4.49%	3.7%
Physical Impairment	12.92%	6.75%
Sensory - hearing	11.24%	1.96%
Sensory – visual	4.49%	1.74%
Other	18.54%	7.19%

Info collected re: disability

How will this information help Rosehill influence how you communicates with tenants?

How will this information shape future services?

How does this compare with your staff / committee composition?

Clarifying the data collection Guidance

6. How frequently do we have to collect data, i.e. do we have to reissue the questionnaire after a set number of years?

“Answer: Whilst there is no requirement to reissue the questionnaire after a set number of years, landlords may wish to do so depending on their approach to linking the data collected to the individual.

If the data is not being linked to an individual in any way ... there is no method of refreshing the data without reissuing the questionnaire after a set number of years.

Where an RSL chooses to link the data to the individual...landlords should be mindful of the [“Accuracy” principle under UK GDPR Article 5](#). It states that personal data should be: *“accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay (‘accuracy’)”*.

Some key questions

- How are you going to use the information?
- When to re-collect (how often)?
And How to re-collect?
- What questions might be asked about data collection and what tenants were most resistant about providing?
- **Any others?**

The legal case for Equal Opportunities

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Key Equality tools

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- Equality and Human Rights Policy
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Key changes from the recent Regulatory review

- Equality Data Collection

Any last questions?

