



"Offering our community more than a home"

Openness and Confidentiality Policy

Management Committee submission:	29 October 2019
Last Approved:	25 October 2016
Date Approved:	29 October 2019
Next Review date:	October 2022

CHA Objectives:

- To manage the houses provided, in a professional and cost effective manner, for the benefit of our local community and the environment.
- To provide a first class maintenance service which offers value for money and ensures the comfort and safety of our residents while achieving high levels of satisfaction
- To ensure that our resources are adequate to deliver our objectives by investing in our people, demonstrating value for money and through robust procurement practices.
- To promote social inclusion by applying principles of equality and diversity to everything we do.

Regulatory Standards:

- The governing body leads and directs the RSL to achieve good outcomes for its tenants and other service users.
- The RSL is open about and accountable for what it does. It understands and takes account of the needs and priorities of its tenants, service users and stakeholders. And its primary focus is the sustainable achievement of these objectives.
- The governing body bases its decision on good quality information and advice and identifies and mitigates risks to the organisation's purpose.
- The RSL conducts its affairs with honesty and integrity.

Any material breach or non-compliance with legislation/regulatory requirements in relation to this Policy constitutes a Notifiable Event and the Regulator will be informed via the SHR Portal.

This policy can be made available on request in a variety of different formats, such as on CD, in large print and translated into other languages.

CLYDEBANK HOUSING ASSOCIATION LTD

Openness & Confidentiality

1.0 Introduction

Clydebank Housing Association will conduct its affairs in an open and accountable manner. To this end, we will make information publicly available, unless there are valid reasons for withholding it e.g. potential breaches of GDPR or other rules or legislation relating to confidentiality (see Section 4 below and also CHA Data Protection/Management of Information Policy).

The Association will also demonstrate its commitment to openness in line with the Open All Hours . A template guide to information for RSLs+published in August 2019 by the Scottish Federation of Housing Associations and the Glasgow and West of Scotland Forum, whilst at the same time, balancing the competing requirement of confidentiality. The SFHA guide, updated to take account of the Freedom of Information legislative requirements, sets out the range of information which should be readily available to tenants, customers and members of the public, predominantly via Clydebank HA's website.

2.0 Openness & Accountability

As a matter of general policy, information about Clydebank HA and its work will be widely and freely available. CHA will publish material about the organisation, its services and its performance and communicate it in a variety of ways. We will make additional information available upon request, unless there are good reasons of confidentiality and practicality, or where its disclosure is restricted by legislation.

The Association has a variety of stakeholders+to whom we are accountable in one way or another, namely:

- Members
- Tenants
- Residents
- Sharing owners
- Owner occupiers
- The local community
- The local authority
- The Scottish Government
- The Scottish Housing Regulator
- Other partner organisations, and so on

We will demonstrate accountability to our stakeholders by: -

- a. Publishing information
- b. Holding public meetings
- c. Encouraging resident participation
- d. Consultation

3.0 Policy Aims

The aims of this Policy and associated procedures are to describe: -

- How the Association will meet its commitments to openness and confidentiality
- How the Association will make information available and provide access to information
- How the Association will deal with information which must remain confidential

The Association has a separate policy on Data Protection/Management of Information. This describes the arrangements for access to personal information which must remain confidential (Also see Appendix 1).

4.0 Relevant Legislation

In formulating this Policy, statutory requirements have been incorporated where required. The legislation particularly relevant to this Policy includes: -

- a) The General Data Protection Regulation (EU) 2016/679 (the GDPR); provides rights to individuals in relation to personal data held about them and regulates the use of personal data.
- b) 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.
- c) Housing (Scotland) Act 2014: provides the legal framework for the social housing regulatory regime and includes provisions compelling social landlords to act in accordance with the Equality Act (2010)
- d) The Privacy and Electronic Communications (EC Directive) Regulations 2003 (as may be amended by the proposed Regulation on Privacy and Electronic Communications); this legislation sits alongside the Data Protection Act and the GDPR. They give people specific privacy rights in relation to electronic communications in terms of marketing calls, emails, texts and faxes; cookies (and similar technologies); keeping communications services secure; and customer privacy as regards traffic and location data, itemised billing, line identification, and directory listings.
- e) any legislation that, in respect of the United Kingdom, replaces, or enacts into United Kingdom domestic law, the General Data Protection Regulation (EU) 2016/679, the proposed Regulation on Privacy and Electronic Communications or any other law relating to data protection, the processing of personal data and privacy as a consequence of the United Kingdom leaving the European Union
- f) The Freedom of Information (Scotland) Act 2002 (Designation of Persons as Scottish Public Authorities) Order 2019 . applicable from 11 November 2019: entitles members of the public to receive information that they request from a public authority or RSLs, subject to certain exemptions such as the need for the protection of personal data, commercial sensitivity or national security.

- g) Scottish Public Services Ombudsman Act 2002: describes the statutory arrangements for conducting independent investigations of complaints relating to misadministration by a wide range of listed authorities including RSLs.
- h) Human Rights Act 1998: gives individuals a right to respect for their privacy.
- i) Environmental Information Regulations: The Environmental Information Regulations 2004 provide public access to environmental information held by public authorities including RSLs.

5.0 Scottish Social Housing Charter (SSHC)

Outcome 2 of the Charter states that "Social landlords manage their businesses so that tenants and other customers find it easy to communicate with their landlord and get the information they need about their landlord, how and why it makes decisions and the services it provides". This Charter outcome will be reflected in this Policy.

6.0 Publishing Information

The Association will publish and distribute information about our activities and performance, to the relevant stakeholders and to others, via our website, via social media or on request in line with our Guide to Information, including: -

- i. The Associations Rules
- ii. Register of Members, how the Management Committee is elected and how decisions are made
- iii. Allocations Policy
- iv. Annual Report and Accounts
- v. Tenants and owners handbooks
- vi. Other key policies, including Equalities, Membership and Entitlement Payment and Benefits Policies and our complaints handling procedure.
- vii. Quarterly Newsletters
- viii. Results of Resident Satisfaction surveys.
- ix. Performance Audit Reports
- x. Minutes of meetings (where these are not confidential)
- xi. Committee reports
- xii. Major Repairs plans
- xiii. Summary Business Plan
- xiv. Standing Orders, Sub-Committee Remits and Delegated Authorities
- xv. The Staff structure

CHA will comply with the law and make available on an annual basis, an Annual Report and Annual Accounts. The Annual report will contain standard information required by company law and more detailed information on any changes to our structure and/or governance arrangements and include details of our activities and performance carried out/achieved in the previous financial year.

We will regularly ask stakeholders how they would like the information to be provided, and all published documents will be available on our website, will be written in plain English and translated into other languages when necessary.

7.0 Providing Information to Tenants

CHA tenants have a statutory right under their Scottish Secure Tenancy to receive information about their tenancy and about their landlords policies and procedures. The information which we will provide to each tenant includes: -

- Complaints Policy and Procedure
- Tenancy Agreement
- Information about Right to Repair, Right to Compensation for Improvements
- Rent Setting Information and Service Charges Information
- Equality Policy
- Service Standards
- Information about our Repairs and Maintenance Service
- Details about other policies such as Allocations, Customer Engagement Policy etc.

This information will be made available at the point of signing for a new tenancy and most of this will be contained within our tenants handbook. This will be periodically revised. This information will also be available on our website and future consultations will take place using email, internet and twitter.

CHA acknowledges and shall fully comply with the SHR requirement for all social landlords to report their performance in achieving or progressing towards the Scottish Social Housing Charter outcomes and standards to their tenants and service users. We will also ensure that information produced by SHR about our performance is freely provided to all tenants and service users and accessible to any other stakeholder.

8.0 Holding Public Meetings

The Association will hold an AGM to present the Annual Accounts and the report of the Auditor to the shareholders.

We will also arrange or attend meetings on request, in response to concerns raised by any stakeholder about our activities, performance or future plans.

Meetings of the Management Committee and Sub-committees will be open to observers, provided that such observers are no more than three in number at any meeting and that nothing of a confidential nature is being discussed. Observers will not have the right to speak or to vote on any motion.

9.0 Encouraging Resident/Customer Participation

The Association will regularly review the membership and structure of the Management Committee and will endeavour to have a balanced representation of members on the Management Committee as described in the Membership Policy.

We will publish and distribute information as described above and will encourage resident participation in accordance with the Associations Tenant Participation Strategy.

Section 54 of the Housing (Scotland) Act 2001 contains significant legislative requirements on a duty to consult. The Association will consult with residents on issues which affect them on a regular basis and will monitor Customer Satisfaction on an

ongoing basis. Results of all surveys will be regularly published and distributed to all residents and will also be made available to others on request. We will use information to shape/improve our services where applicable.

We will also continue to service our Tenant Panel in line with the Scottish Social Housing Charter requirements to encourage scrutiny of our processes and to consider recommendations and put in place improvements where necessary.

10.0 Requests for Information

In addition to the information made publicly available, CHA will comply with requests for information wherever practicable and appropriate, subject to considerations of confidentiality, cost and practicality.

The Association will be bound by the Freedom of Information Act from 11 November 2019 and will be required to abide by the legislation from that date. The Association will respond positively to written requests for information, from whatever source and for whatever reason, unless:

- The request is vexatious - In cases where an information request is considered vexatious by the staff member receiving the request, the request should be referred to a member of the Senior Management Team, who may take legal advice, prior to making a determination on the request and responding.
- The Association has already complied with the request;
- The request is identical or substantially similar to a request previously received from the same individual or organisation;
- The information is covered by an exemption from the requirements set out in the Freedom of Information Act and summarised as follows: -
 - Is otherwise accessible (through CHA or SHR website)
 - Is intended for future publication (within 12 weeks of the request being received)
 - Is commercially sensitive
 - Is related to investigations in respect of a potential prosecution or civil proceedings
 - Is likely to prejudice the prevention or detection of crime
 - Would substantially prejudice the governance of the Association
 - Relates to the categories of information covered by GDPR, where disclosure is regulated (In the event of any conflict between Freedom of Information Act, Environmental Information Regulations Act and Data Protection Act requirements, the Data Protection legislation takes precedence);
 - Whose disclosure is prohibited under other legislation or any contractual obligation, or would constitute contempt of court.

CHA will respond openly to requests for information from the media. However, in order to manage the release of information and to ensure that the release is consistent with CHA's interests, all information releases must be authorised by the Chief Executive Officer or other Senior Manager. Only members of the Senior Management Team are authorised to speak to the media and this should only be the case in the event of absence of the CEO.

Procedures for responding to Information Request and charging are detailed in Appendix 2.

11.0 Confidentiality

The Association's Data Protection and Management of Information Policy should be read in conjunction with this Policy.

CHA, while fully committed to the principles of openness and accountability, also recognises the need, and in some cases the statutory duty, to maintain confidentiality in respect of certain information and activities.

In general terms, the following information will be regarded as **confidential**:

- Personal information held about individuals (Management Committee members, tenants and other customers), subject to the right of the individuals concerned to have access to the information held on them;
- Personal information held about members of staff relating to their employment, such as selection, remuneration, or any grievance or disciplinary action;
- Matters relating to the business of CHA and its subsidiaries that are defined as **commercially** sensitive. CHA will apply the following definition of commercially sensitive information:

“Information that has an intrinsic commercial value where the value depends upon its confidentiality being maintained, or where although it may not have an intrinsic commercial value, its disclosure might unreasonably disadvantage the organisation, or person to whom it relates, in the conduct of their lawful business, commercial, financial or professional affairs.”

- Matters related to legal disputes or actions concerning CHA and its subsidiaries;
- Matters relating to the business of CHA and its subsidiaries, funders, partners and contractors and other third parties with which CHA has or may have a business or commercial relationship, and which has been provided to CHA in confidence;
- Items deemed on their individual merits to be confidential.

In the interests of clarity, all papers prepared for consideration by the Management Committee and its Sub Committees, which meet the criteria referred to above, will be marked as CONFIDENTIAL. As an additional safeguard, no names, addresses or other details, which would allow individuals concerned to be identified would be given in these papers. Management Committee discussions on these items will be recorded in a confidential minute, which will not form part of the publicly available record of the meeting.

Exceptions

Confidentiality has to allow for the exceptional circumstances where the law requires disclosure, or to safeguard individuals. The following exceptions will apply in relation to the disclosure of personal information:

- Where personal information is requested by the individual concerned, in circumstances covered by GDPR legislation and CHA's Policy.

- Where an employee has appealed to the Association and a personal representation is being made to the relevant Committee as a stage in the disciplinary procedure.
- Where the Association has a legal obligation to provide information to a third party, for example under a court order.
- Where information is requested by the police or other third party, covered by local protocols on sharing information.
- Where information is requested for the purposes of providing a reference.
- Where the individual concerned is deemed to be at risk or in need of care and support, and where the disclosure of information to relatives or other professionals is necessary to protect the individual.
- Where a Management Committee member or employee has a serious concern about the wrongdoing or improper conduct within the organisation, and cannot raise it without breaching the guidelines (see CHA's Whistleblowing Policy).

The Association will ensure those committee members and officers, consultants, contractors and others who, by virtue of their relationship with the Association, have access to confidential information, will process this information lawfully and in accordance with the provisions of GDPR.

GDPR defines personal data as %all data relating to a living individual who can be identified either from that data or from other information in the possession of the data controller+.

Committee members and officers must ensure that disclosure of such information either directly or indirectly, is necessary, lawful and restricted to only those who have a right to the information. Where Management Committee members receive an enquiry from a tenant or other customer, they should advise the person to contact the appropriate member of staff rather than dealing with the enquiry themselves. All requests for information covered by the above criteria will be refused, with an explanation as to why it cannot be provided.

The day to day work of the Association necessitates the processing of data and data sharing. It is necessary therefore that the Association has clear procedures in place e.g. data sharing agreements and procedures for dealing with access requests and data correction (refer to data protection flow charts . Appendix 1)

Overall responsibility for compliance with the terms of the Act is delegated to the Data Protection and Compliance Officer , Chief Executive and the Head of Housing Services who will ensure that data held for departmental functions is accurately maintained and that any sharing agreements are adequate, both to comply with the law and to protect the rights of the individual.

Confidential information will not be used for the personal advantage of committee members, officers or others known to them.

12.0 Breaches of Confidentiality

Any breach of confidentiality, whether deliberate or inadvertent, will be dealt with seriously by CHA. The circumstances surrounding the breach will be taken into account and may result:

- In the case of staff, investigation and possible disciplinary action in accordance with the disciplinary procedures.
- In the case of Management Committee Members, investigation and possible action under the Code of Conduct for Governing Body Members.

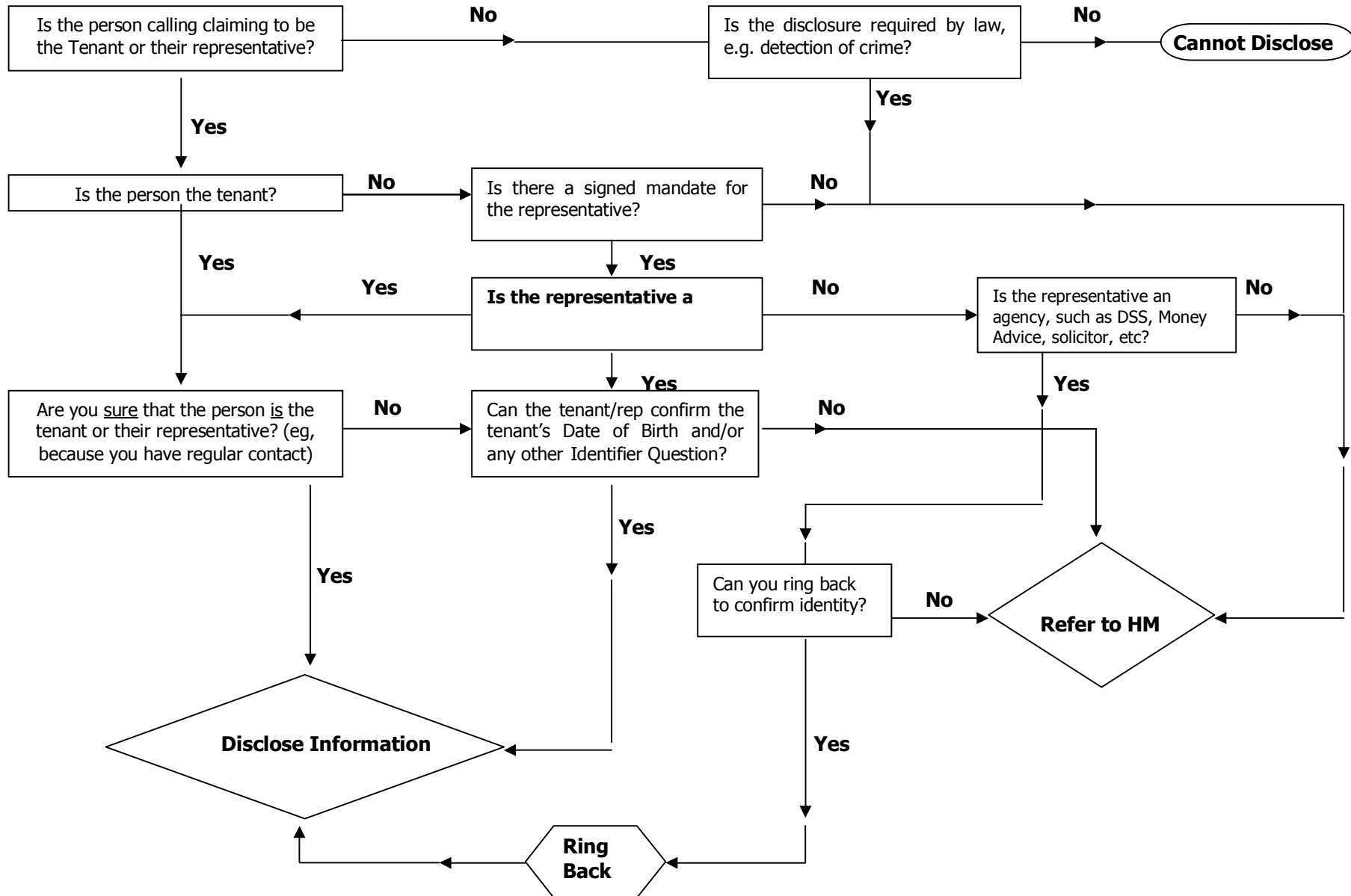
13.0 Equal Opportunities

Our commitment to equal opportunities and fairness will apply irrespective of factors such as race, sex, disability, age, gender reassignment, marriage & civil partnership, pregnancy & maternity, religion or belief and sexual orientation.

For Office Use Only – Actions

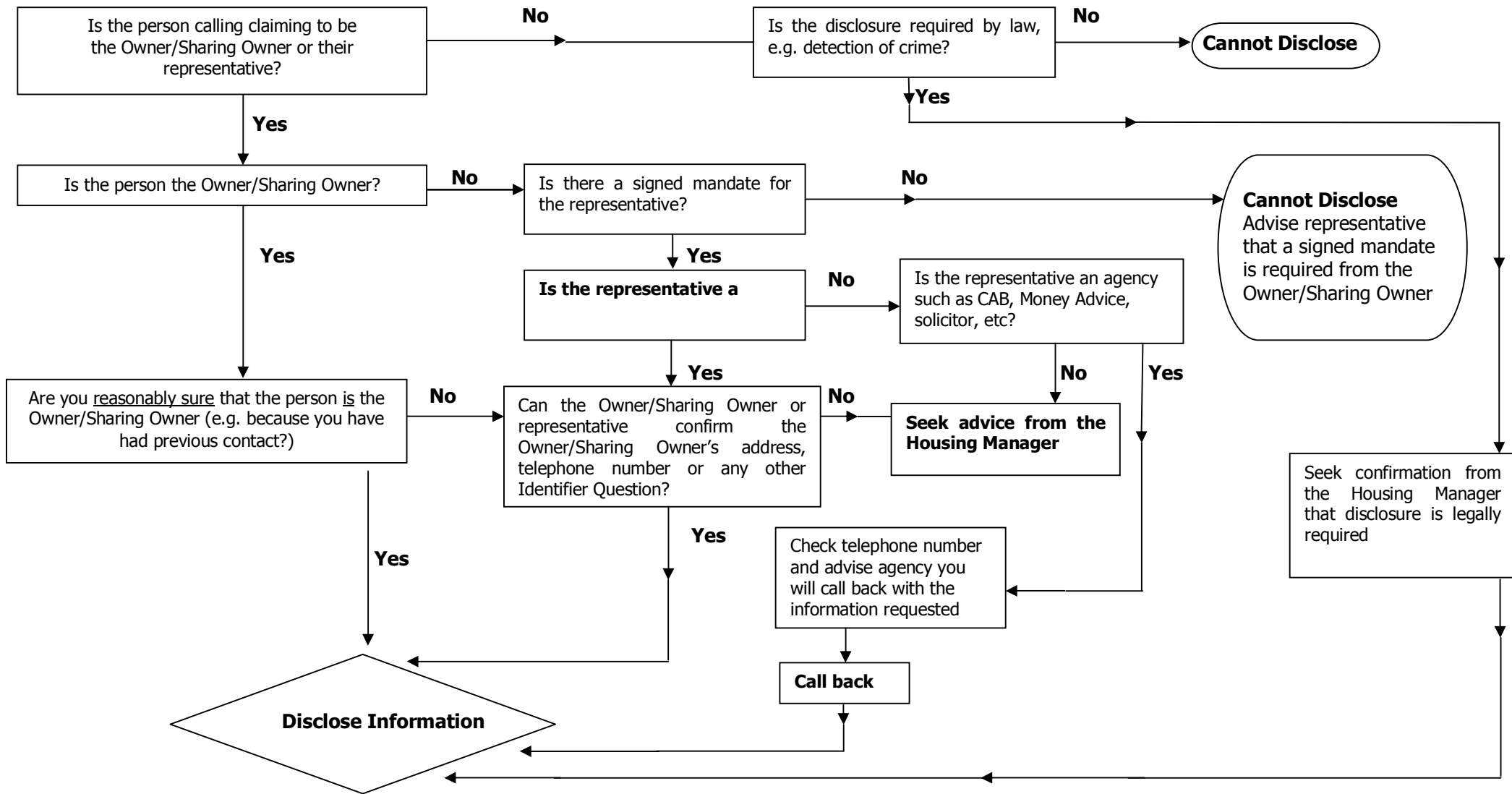
Customer Consultation Required/Arranged	No
Intranet Update	Yes
F Drive Update	Yes
Website Update	Yes
Leaflet change required?	No
Newsletter Promotion?	No
Other information updated, e.g. posters, automatic email responses, post cards, answering machine messages, etc.	No
Equality Impact Assessment completed	Yes

APPENDIX 1- Flow Chart 1 – Information Request by Customer, Tenant¹ or Representative



¹ Or any other "Data Subject"

APPENDIX 1- Flow Chart 2 – Information Request by Owner, Sharing Owner² or their Representative



²Or any other "Data Subject"

APPENDIX 2

Procedures for responding to Information Requests

We will respond to any request for information as soon as possible and within a maximum of 20 working days, with the exception of requests covered by the Data Protection legislation where a 40 day period will apply.

This timescale applies both to requests where information is provided in full, and requests, which are covered by an exemption and are refused. In the event of a refusal, an explanation must be provided.

If staff members have any doubt about whether ad hoc information requests can be met within the terms of the Policy, they should seek authorisation from their line manager. Staff should also inform their line manager if they intend to refuse a request for information, explaining the reasons for their view.

Charging for Information

Our general policy is not to charge for the copying of documents which are requested. CHA will not charge for providing copies of any of the information listed in Section 6 of the Policy.

CHA will charge a fee of £10 for each Data Protection request requiring a search for information on an individual (See CHA's Data Protection/Management of Information Policy). The fee level will be notified to the individual or organisation in advance of any transaction.

For large volumes of material, CHA must also take account of the fact that the staff resources associated with providing information is met by tenants' rents. It reserves the right to charge for the cost of providing information, or to refuse to provide information, in the following circumstances:

- If an information request will absorb significant staff resources either because of the nature of the request or if copy material is requested with a frequency which affects the Association's ability to manage its day to day business;
- If the person requesting information is not a CHA tenant or service user. For example, the Association often receives requests from students seeking information for research purposes, and is not always able to meet such requests without compromising service standards for tenants.