

Board of Management Audit & Assurance Committee

Date of Meeting	Thursday 14 March 2024
Paper No.	AAC3-E
Agenda Item	5.2
Subject of Paper	Annual Freedom of Information Report 2022-23
FOISA Status	Disclosable
Primary Contact	Drew McGowan Associate Director of Governance and Risk
Date of production	6 March 2024
Action	For Discussion and Decision

1. Recommendations

- 1.1.** To review and discuss the College's annual Freedom of Information report for the 2022-23 academic year.
- 1.2.** To approve the report for tabling at the next meeting of the Board of Management for noting.

2. Purpose

- 2.1.** To provide the Committee with an annual report on requests submitted to, and handled by, the College under the Freedom of Information (Scotland) Act 2002 and the Environmental Information (Scotland) Regulations 2004.

3. Consultation

- 3.1.** The annual report is shared with the Committee for review and discussion ahead of being tabled at the Board of Management for information.

4. Key Insights

- 4.1.** The College is committed to openness and transparency. As a public authority, under the terms of the aforementioned legislation and regulation, the College has a duty to respond to requests for information that we hold from members of the public promptly and efficiently, subject to certain specified exemptions. The College is also required to adopt and maintain a [Model Publication Scheme](#).
- 4.2.** The enclosed Annual Freedom of Information Report 2022-23 covers the period 1 August 2022 to 31 July 2023. The report provides information and data on the requests received and handled by the College, as well as the nature of the requests and the type of applicants.
- 4.3.** Applicants who are unsatisfied with the College's response to a request have a right to request an internal review of how the request was handled and responded to. The report provides information on those internal reviews requested and their outcomes. If an applicant is unsatisfied with the outcome of an internal review, they have the right to apply to the Scottish Information Commissioner (SIC) for a decision. Information on cases that have been referred to the SIC is also included in the annual report.
- 4.4.** Like all public authorities, the College submits a quarterly return to the SIC on the Freedom of Information, Environmental Information Regulation and Data Subject Access requests.

5. Impact and Implications

- 5.1.** The College has processes and practices in place to meet our obligations under the Freedom of Information (Scotland) Act 2002 and to uphold openness and transparency. Failure to meet these obligations would damage public trust and confidence in the College – and could result in an intervention from the SIC.

Appendices:

Appendix 1: Annual Freedom of Information Report 2022-23

Annual Freedom of Information Report 2022-23

1. The Freedom of Information (Scotland) Act 2002 and the associated Environmental Information Regulations 2004 provide individuals with a statutory right to access information that is held by public authorities. The legislation and regulation encourage openness and transparency and help to build trust between the College and the public we serve. This report outlines the volume and nature of the requests received by the College, and how they were responded to, during the period 1 August 2022 to 31 July 2023.

Volume and Handling of Requests

2. In 2022-23, as shown below, the College received 68 requests. This is a 183% increase on the previous academic year. 64 were Freedom of Information requests and 4 were Environmental Information requests. 97% of requests were responded to within the statutory timescales, with 2 responses being issued after 20 working days. The late responses were due to the level and complexity of the requests received from October to December 2023.
3. 3 requests were closed and the College was therefore not obliged to respond to them. This occurs when the requestor withdraws a request or does not respond to the College's request for clarification within one month.

	2018-19	2019-20	2020-21	2021-22	2022-23
On-time responses	41 (98%)	25 (96%)	35 (97%)	22 (92%)	63 (97%)
Late responses	1 (2%)	1 (4%)	1 (3%)	2 (8%)	2 (3%)
Closed requests	0	0	0	0	3
Total requests	42	26	36	24	68

4. The Act and the Regulations outline several exemptions for specific types of information or requests. The table below shows the number of times these exemptions have been used by the College in the past 3 academic years in each request. Exemptions tend to only be applied to parts of requests, meaning the vast majority of requests are responded to either in full or in part rather than refused entirely.

Section/Regulation	2020-21	2021-22	2022-23
Section 12: Excessive cost of compliance	0	1	2
Section 14(1)/(2): Vexatious or repeated request	1	0	0
Section 17/Regulation 10(4)a: Information not held	8	0	16
Section 25/Regulation 6(1)b: Information otherwise accessible	3	4	7
Section 27: Future publication	0	0	0
Section 30: Prejudice to effective conduct of public affairs	0	0	1
Section 33: Prejudice to commercial interests	3	4	3
Section 36/Regulation 10(5)d: Confidentiality	1	0	0
Section 38/Regulation 11: Personal information	7	1	12
Regulation 10(4)c: Request formulated in too general a manner	0	0	0

Nature of Requests

5. The College receives requests for information from a range of different people and groups. Most requests are submitted by private individuals/organisations or trade unions, or through WhatDoTheyKnow.com (WDTK). WDTK is a web-based platform that helps people submit Freedom of Information requests and publishes both the requests and responses on their website so the information is available to the general public.

	2020-21	2021-22	2022-23
Journalists	3%	0%	7%
MP/MSPs	0%	0%	12%
NUS	6%	0%	0%
Private Individuals/Companies	61%	38%	19%
Researchers	6%	4%	3%
Solicitors	0%	0%	1%
Staff	6%	0%	1%
Students	3%	4%	1%
Trade Unions	0%	25%	29%
WhatDoTheyKnow.com	17%	29%	25%

6. In 2022-23, most requests sought information from the College's HR and Finance departments or commercial activities.

	2020-21	2021-22	2022-23
Board of Management	3%	0%	0%
Brand and Communications	6%	4%	3%
Commercial	0%	4%	15%
Estates/Facilities	0%	4%	7%
Faculties	25%	4%	9%
Finance	3%	21%	15%
FOI and Data Protection	8%	0%	0%
HR & Organisational Development	31%	46%	24%
Information Technology	8%	8%	3%
Performance	3%	0%	1%
Principal/Executive Office	0%	4%	10%
Student Services/Records	14%	4%	13%

Internal Reviews and Applications to the Scottish Information Commissioner

7. If applicants are dissatisfied with the handling of their request and/or the College's response, they have the right to ask for an internal review within 40 working days of the response being issued. In 2022-23, 7 internal review requests were submitted and the College's original decision was upheld in all cases.
8. Applicants who are not content with the outcome of the internal review have the right to apply directly to the Scottish Information Commissioner (SIC) for a decision within 6

months of receiving the College's response. In 2022-23, 2 applications were submitted to the SIC for decision. The College has submitted its comments on both applications to the SIC and is awaiting further communication.

Type of Review/Application	2020-21	2021-22	2022-23
Internal review requests			
Upheld the College's decision	3	1	7
Partially upheld the College's decision	0	0	0
Did not uphold the College's decision	0	0	0
Internal review request submitted outside of timescale	0	0	0
Applications to the Scottish Information Commissioner			
Decided in favour of the College	1	0	0
Decided in favour of the applicant	0	1	0
Withdrawn by the applicant	0	0	0
Yet to conclude	0	0	2

9. The first application (202300540) to the SIC for decision concerns a request for information regarding DPG18 and Price Group 5 funding that the College had received from the Scottish Funding Council since 2010. In our response, the College confirmed that we were not in receipt of this specific funding and explained that our main teaching grant is linked to volume/credit delivery – not individual price groups. The College therefore issued a Section 17 notice to confirm to the applicant that the information was not held and not provided. The outcome of the internal review was to uphold this decision.
10. The second application (202300826) to the SIC for decision relates to a request for a series of information regarding lecturing staff and precautionary suspensions over the past 5 academic years, including a breakdown of the reasons and whether they had returned to work or were dismissed. The College explained to the applicant that disclosing the information in such detail could identify the members of staff involved and, as it constituted personal information of a third party and disclosure would contravene the data protection principles in Schedule 1 of the Data Protection Act 1998, confirmed that the College would withhold this information under Section 38(1)(b). The outcome of the internal review was to uphold this decision.
11. At the time of writing, the College is currently awaiting a decision from the SIC for both applications. The Associate Director of Governance and Risk will provide an update to the Audit & Assurance Committee by correspondence once the SIC has reached a decision in these cases and include the outcome in the next annual report.

Conclusion

12. The College's response rate, the key performance figure, improved by 5% in 2022-23 despite a significant 183% increase in the number of requests received. It is essential that the College continues to have practices in place to meet our obligations under the Act and the Regulations and uphold our own values of openness and transparency. Failure to meet these obligations would damage public trust and confidence in the College – and could result in an intervention from the SIC, as has occurred in other public authorities.