



## FREEDOM OF INFORMATION POLICY AND PROCEDURE

<b>Process Area</b>	<b>Business Systems</b>
<b>Reference Number</b>	<b>BUS/002</b>
<b>Directorate:</b>	<b>Finance and Planning</b>

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001	Dec 2008	First Issue	RS	BD
002	June 2013	Second issue following review at Finance and General Purposes Committee of Governing Body in June 2013 – changes relate to corrections in job titles, policy titles and general use of language	RS	BD
003	May 2016	Third issue – Policy reviewed removing guidance notes from policy	RS	Governing Body
004	May 2019	Fourth issue – Policy reviewed to update reference to revised Data Protection legislation and change of roles within SRC.	ST, TMG	Governing Body
005	Oct 2021	Fifth issue – Policy reviewed with updates to policy statement and scope	RS	Governing Body
006	Oct 2022	Sixth issue – Policy updated to incorporate Procedural Note	LC	Governing Body

**If requested, the College will make the policy available in alternative formats to accommodate visual impairments. The policy can also be downloaded from the College website and made available in alternative languages upon request.**

## 1. POLICY STATEMENT

The College recognises its statutory obligations under the Freedom of Information Act 2000 (FOIA). The Freedom of Information Act gives people the right to request, in writing, information from public bodies. It is intended to promote a culture of openness and accountability amongst public bodies and facilitate better public understanding of how public bodies carry out their duties, why they make the decisions they do, and how they spend public money.

This policy and procedure outlines the process the College will follow when dealing with requests for information under the FOIA, and the associated roles and responsibilities of staff.

In addition to the FOIA the following legislation concerning access to information may also require consideration when dealing with matters concerning access to information:

- i. The United Kingdom General Data Protection Regulation (UK GDPR) and the Data Protection Act 2018 (DPA 2018) This legislation enables data subjects to access information about themselves via the Subject Access Request (SAR) mechanism.
- ii. Environmental Information Regulations 2004 (EIRs) This legislation enables people to access to environmental information.

In order to comply with the legislation the College aims to ensure that all information held by the College is used, stored and disposed of in a manner consistent with FOIA.

The College also aligns itself with the Open Data Strategy for Northern Ireland 2020-2023.

The College will be proactive in making information available on the College website through its Freedom of Information Publication Scheme, which is accessible on the SRC website.

Further information is also available in the [Section 45 Code of Practice](#) which has been published to assist Public authorities to meet their obligations.

## 2. SCOPE

This policy is applicable to the Board of Governors, staff and any third parties employed or used by the College, all of whom will be required to read and comply with the policy.

This policy is applicable to all information held by the College in electronic or paper format.

This policy applies to all requests for information made under the FOIA) and the Environmental Regulations (2004). It does not apply to requests for personal data under UK GDPR or the DPA 2018, which are managed under the FE Sector Data Subject Rights Procedure.

### 3. DEFINITIONS

<b>Information</b>	Files, letters, databases, loose reports, e-mails, notebooks, videos, photographs, wall charts, maps etc.
<b>Publication Scheme</b>	<p>A Publication Scheme is a list of the information that the College publishes. The College’s Publication Scheme is based on the Information Commissioner’s Definition Documents for Colleges of Further Education and Non-Departmental Public Bodies (NDPBs).</p> <p>The main types of information routinely published by the College include:</p> <ol style="list-style-type: none"> <li>1. Governance</li> <li>2. Financial Resources</li> <li>3. Human Resources</li> <li>4. Physical Resources</li> <li>5. Student Administration and Support</li> <li>6. Information Services</li> <li>7. Teaching and Learning</li> <li>8. Research and Development</li> <li>9. External Relations</li> </ol>
<b>Limited Exemptions</b>	The College has a duty to confirm or deny that they have the information, but not disclose the information.
<b>Absolute Exemptions</b>	Information that cannot be disclosed by the College.
<b>Qualified Exemptions</b>	The College must decide whether it is in the public interest to disclose the information.
<b>Qualified Person</b>	The College’s Qualified Person will make a determination on the balance between the public interest in maintaining an exemption and the public interest in disclosure.
<b>Public Interest Test</b>	A test that will assist the College when deciding whether it is in the public interest to disclose information.

### 4. RESPONSIBILITIES

#### 4.1 Chief Executive

The Chief Executive shall:

- Ensure that there is clear direction and visible management support for all Freedom of Information (FOI) issues.
- In conjunction with the SMT and relevant personnel, promote compliance with the FOIA, through appropriate commitment and adequate resourcing.
- Act as the authorised “Qualified Person” for the College, or nominate to a delegated authority.

#### **4.2 Director of Finance and Planning**

The Director of Finance and Planning shall:

- Oversee a process of risk assessment to identify the probability and impact of any FOI failure.
- Ensure that all staff have awareness of the Freedom of Information Policy and related guidance notes.
- Provide guidance for the establishment of standards, procedures and facilities to ensure that the Freedom of Information Policy is adhered to.
- Ensure that the Freedom of Information Policy is reviewed in accordance with College review schedules.

#### **4.3 Corporate Compliance Manager and Data Protection Officer (CCM/DPO)**

The Corporate Compliance Manager and Data Protection Officer shall:

- Act as the College Data Protection Officer.
- Ensure that all staff are aware of their accountability under this policy.
- Report as required to the Chief Executive detailing FOI requests received by the College.
- Ensure that staff receive adequate training in FOI.

#### **4.4 Line Managers**

All managers shall:

- Be responsible for ensuring that the Freedom of Information Policy and guidance notes are correctly implemented within their business area, and for ensuring that staff comply with the policy.
- Ensure all FOI requests, when completed are scanned and forwarded to the CCM/DPO for central collation.

#### **4.5 All Staff**

The College will expect all employees to comply with the Freedom of Information Policy and follow the guidance notes that are associated with this policy.

### **5. GUIDELINES FOR STAFF**

#### **5.1 What is a request for information?**

- A request for information may come to any part of the College from anywhere in the world.
- What will constitute an information request and how it is handled, will depend on the nature of the request and staff roles within the College.
- The request must be made in a recorded format e.g. e-mail, letter, written telephone message. The person must give a name and a return address before the request can be dealt with (*email addresses are sufficient*).
- The person making the request is under no obligation to tell the College that it is a Freedom of Information request. All they need to do is request the information.

- You are not entitled to know why they want the information or to check whether the person requesting the information is genuine.
- If you receive a request for information which mentions Freedom of Information or is not information you would routinely provide in the course of your work, or you are unsure of, or is unusual, or is information that would not normally be disclosed, this should be considered to be a Freedom of Information request.
- Requests can be sent to the College's CCM/DPO at:  
DPO  
Southern Regional College  
Banbridge Campus  
Castlewellan Road  
Banbridge  
BT32 4AY  
Email: [dpo@src.ac.uk](mailto:dpo@src.ac.uk)

## 5.2 What information should be made available?

- If you routinely give out information to the public, staff and students, continue to do so (i.e.) prospectuses, application forms etc. (*personal information is protected under the United Kingdom General Data Protection Regulation (UK GDPR), and the Data Protection Act 2018 (DPA 2018) and College Data Protection Policy*).
- The FOIA (2000) gives a general right of public access to all types of recorded information held by the College. This may include drafts, recordings of telephone conversations, notes, datasets and information which may be held by a third-party organisation on behalf of the College e.g. third party contractors.
- This also includes the right to be told whether the information exists as well as the right to receive information. Release of this information may be subject to exemptions (*see Section 7*).
- FOIA only applies to information which already exists. Public authorities are not obliged to create information in response to a request.

## 5.3 How do staff respond to a Freedom of Information Request?

- When staff receive a request for information, they must immediately advise their Line Manager of the request. The Line Manager will then engage with the College CCM/DPO who will oversee the management of the request and the associated response in line with the FOIA.
- The CCM/DPO will provide written acknowledgement to the requestor within 5 working days of receipt by the College.
- Any written request for information received by the College must be answered within 20 working days, starting from the date the request was received by the College (if received after 3.00pm, the College will consider the following working day to be day one). It is therefore important that FOI requests are notified to the CCM/DPO as soon as possible, as the 20 working day timeframe commences upon receipt of the request by the College, and not the CCM/DPO.
- Requests will be granted where possible unless an exemption applies. If an exemption applies the individual will be notified as to the reasons why their request cannot be met.
- All requests must be processed on equal merit. The College will not allow any opinion or prior history of a person to cloud the fact a request has been submitted. There are criteria if it is suspected that a request is vexatious or repeated. (See Section 6).

- The response must, where practicable, be provided in the format requested by the applicant i.e. hardcopy, email etc.
- The College may extend the time to comply with the request by up to 20 working days, but only where a Public Interest Test may require it.
- A person can also make a request to inspect the actual records; in this case an appointment should be made with the Line Manager who has responsibility for the information requested, within 20 working days.
- When the request has been completed Line Managers are responsible for ensuring that all information, correspondence, notes, summaries of verbal conversations etc. are scanned and sent to the Data Protection Officer for central collation as evidence of the College's decision.

#### **5.4 What if the request is unclear?**

- A valid request must describe the information being sought. The College accepts that individuals may not know exact names of documents or how information is collated however, if they have provided a description which enables identification of the information, the request will be valid.
- If the scope of the request is unclear, the College can ask for clarification to enable a better understanding of what is being asked for. Clarity from the individual will be sought where a reasonable judgement requires more detail. Until such detail is received, the College is not obliged to comply (per FOIA, Section 1(3)).
- Section 16 of FOIA places obligation on the College to provide advice and assistance where clarity is required to respond. The College may provide guidance on how the request can be reformulated to enable a more focussed interrogation of the information being sought.
- The time allowed for clarification to be sought shall not be included as part of the 20 working days response timeframe. The clock is paused until clarification is received.

## **6. WHEN CAN THE COLLEGE REFUSE A REQUEST FOR INFORMATION?**

The College may refuse a request for information in the following circumstances:

### **6.1 The College Does Not Hold The Information**

If the College does not hold the information requested, and the individual is made aware of this, this is considered to be the provision of a negative response and not a refusal of a request. If the College is transferring the request to another public body, the College must inform the requestor in writing as soon as possible.

### **6.2 Repeated Requests**

Where the College has previously complied with a person's request for information, it is under no obligation to answer a subsequent substantially similar request from that person unless the following has occurred:

- A reasonable interval has elapsed between the two requests
- The applicant is different (but if part of a group seeking to make vexatious requests the College is entitled to refuse).
- The information disclosed previously has changed in the intervening period.

### 6.3 Vexatious Requests

In accordance with Section 14 of the FOIA, the College has no obligation to respond to a request which is vexatious.

A request which is clearly vexatious may contain abusive, offensive or derogatory language regarding the College or its staff.

Some requests may have an undertone which is less obvious however the College can consider the criteria for vexatiousness if it is likely to cause a disproportionate or unjustified level of disruption, irritation or distress. The College considers the following to be examples of a vexatious request:

- The request has no serious purpose or value; but staff would need to consider carefully any explanation given by the applicant as to the value of disclosing the information.
- The request is designed to cause disruption or annoyance.
- The request is designed to cause an undue administrative burden on the College.
- The request has the effect of harassing the College.
- The request can otherwise fairly be characterised as obsessive or manifestly unreasonable.

## 7. POSSIBLE EXEMPTIONS TO REQUESTS

### 7.1 Guidelines To Exemptions

While the public has a Right to submit FOI requests, there may be occasions where the College is permitted to withhold information. The College must be aware that when using exemptions they must identify, in writing, to the applicant the relevant exemption of the FOIA they are relying on to refuse a request for information.

### 7.2 Limited Exemptions

The College must confirm or deny that they have the information requested in writing but do not have to disclose the actual information.

Section of FOIA	Applicable Exemption
Information accessible by other means. (Part II section 21 of FOIA)	The College holds the information and that it is accessible by another route e.g. College Publication Scheme.
Information is a trade secret / commercial interest. (Part II section 43 of FOIA)	The information exists but it cannot be revealed as it is a trade secret or if the information would prejudice the commercial interests of the College.

### 7.3 Absolute exemptions

This refers to requests for information where the College does not have to confirm or deny that it holds the information, or to disclose the information to the applicant. If this exemption is applied, no further assessment is necessary and there is no requirement for a Public Interest Test (PIT) to be conducted (see Section 7.5).

### 7.4 Qualified Exemptions

Some information requests can be subject to a qualified exemption. A public interest test must be conducted to make a determination on the balance between the public interest in maintaining the exemption and the public interest in disclosure (see Section 7.5).

The application of this exemption is only valid with the opinion of the “Qualified Person.” The authorised “Qualified Person” for the College is the Principal and Chief Executive, or their stated nominee.

Section of the FOI Act 2000	Applicable Exemption
Information intended for future publication (Part II section 22 FOIA)	Where: <ul style="list-style-type: none"> <li>○ It is reasonable that information should not be disclosed until the intended publication date.</li> </ul>
Investigations & proceedings conducted by public authorities (Part II section 30 FOIA)	Where: <ul style="list-style-type: none"> <li>○ Investigations into whether a person should be charged with an offence.</li> <li>○ Investigations into whether a person charged with an offence is guilty.</li> <li>○ Investigations which may lead the authority to initiate criminal proceedings.</li> <li>○ Details of the Criminal proceedings.</li> </ul>
Law enforcement (Part II section 31FOIA)	Where: <ul style="list-style-type: none"> <li>○ Information includes the prevention and detection of crime.</li> <li>○ Ascertaining the causes of an accident.</li> <li>○ Securing the health, safety or welfare of persons at work</li> </ul>
Health & Safety (Part II section 38 FOIA)	Where: <ul style="list-style-type: none"> <li>○ Disclosure would be likely to endanger the physical or mental health, or safety of any individual. For example operating procedures of security systems.</li> </ul>
Environmental Information (Part II section 39 FOIA)	Where: <ul style="list-style-type: none"> <li>○ Environmental Information must be requested via Environmental Information Regulations legislation.</li> </ul>
Legal Professional Privilege (Part II section 42 FOIA)	Where: <ul style="list-style-type: none"> <li>○ Legal Professional Privilege (LPP) applies to information that does not have to be disclosed. If LPP applies, there will need to be a very strong public interest in favour of disclosure.</li> <li>○ Public interest factors need to be considered include whether the advice is still recent or live, how many people are affected, how much money is at stake, or a reasonable suspicion of illegality or misrepresentation.</li> </ul>
Commercial Interests (Part II section 43 FOIA)	Where: <ul style="list-style-type: none"> <li>○ Information which would prejudice the commercial interests of the College or other person/organisation.</li> </ul>



## 7.5 Public Interest Test

When considering qualified exemptions, the College must assess whether the public interest in **not** disclosing the information requested is greater than the public interest in disclosing the information. Public interest does not relate to information which “interests” the public, but what is “in their interest.”

When considering withholding information, the College must take into account if disclosure would:

- Be subject to exemption.
- Be prejudicial or have a detrimental impact on the College.
- Negatively affect the Rights of College staff (i.e. Right to privacy).
- Negatively affect the wider population (i.e. disclosure of sensitive or personal data).

When considering disclosing information, the College must take into account if disclosure would:

- Further the public understanding of the College and its functions.
- Promote accountability.
- Provide a forum for debate about key policy proposals and decisions.
- Promote transparency about decisions.
- Make SRC more accountable in its use of public money.
- Allow public access to reasons behind decisions affecting lives.

The College may extend the timeframe for response in order to conduct a PIT.

## 8. OTHER FACTORS TO BE CONSIDERED BEFORE RELEASING INFORMATION

### 8.1 Editing Guidelines

The College must be aware that before the release of information the following editing guidelines may be applicable.

- Some information within a document etc. may not be relevant to a request. It is generally appropriate to remove or redact this section. If there is no sensitivity surrounding the whole document then the College should consider releasing it in its entirety.
- If a section of the document is exempt then edit the relevant section, be careful with electronic word documents and use of the cut option, this is not secure and the information can be re-formatted by recipient. To ensure safety of edited documents, they must be saved as adobe.pdf files or scanned and saved as an image.
- Hard copy documents that have the relevant section edited need to ensure that blanked out sections cannot be seen once photocopied. The safest way to edit a hard copy is to physically cut out edited sections from the whole document and then photocopy remaining text.

The College should keep in mind other legislation, such as equality, discrimination, data protection etc. which may also be applicable to the request for information.

### 8.2 Before Disclosure

The College must ensure that:

- The response must be in a written format, as the release of information verbally is not permitted.

- If the information requested involves more than one business area of the College or if the information is provided by a third party, the College must consider the implications of any disclosure and the impact on future business relationships inside and outside the College.
- Responses are written in a professional manner.
- Responses should be pitched at a level normally used to inform the most senior members of staff at the College.
- Where the information due to be disclosed or withheld is novel, contentious or newsworthy, it will be necessary to contact and brief the Chief Executive's Office, ideally several days in advance of the release.

## 9. FEES

- The College will not make a charge for information that is routinely available as part of its publication scheme.
- Requests for information not part of the publication scheme will also be free, however Section 12 of the FOIA allows the College to refuse a request if the cost of compliance would exceed the appropriate limit of £450.
- The limit of £450 is calculated at £25 per hour, regardless of the grade of staff member(s) who would be involved in the response. If the cost of satisfying the following 4 points exceeds £450, the Section 12 exemption can be applied:
  - determining whether the information is held
  - locating the information, or a document containing it
  - retrieving the information, or a document containing it
  - extracting the information from a document containing it.
- The estimated costs must be reasonable at all times. Where the cost exemption has been exceeded, the College may exercise its duty to 'advise and assist' to help the requestor reformulate their request, so that the maximum limit is not reached.

## 10. APPEALS FROM APPLICANTS

If an individual is not satisfied with how the College has managed their request, or the exemptions applied to their response, they have the right to ask for an internal review of the outcome of their request.

Appeals should be submitted to the College CCM/DPO (at the address provided above in Section 5.1) within 40 working days of receipt of the response.

The appeal request should clearly state the reason for appeal.

### 10.1 Review of decisions

The College has an internal review policy for handling applicant requests which is as follows:

- Any requests for a review of the College's decisions made under the FOIA (2000) should be forwarded in the first instance to the College's CCM/DPO.

- If the College's CCM/DPO was involved in any part of the College's decision concerning the original information request, then the appeal request will be forwarded to the College's Chief Executive.
- The Chief Executive, or their delegated nominee(s) will examine the initial FOI request alongside the subsequent College response and make a determination on the appeal request.
- The College will write to the applicant with its findings within 20 working days of receipt of the request.
- If the requestor remains unhappy with the outcome of the appeal process, they are entitled to make a complaint to the Information Commissioner's Office (ICO). Contact details for the ICO are as follows:

ICO  
Wycliffe House  
Water Lane  
Wilmslow, Cheshire  
SK9 5AF

## 11. DISTRIBUTION

- SRC SharePoint Policy Centre
- College Website

## 12. RELATED DOCUMENTS

The latest versions of related documents can be found in the Employee Handbook and on the SRC SharePoint Policy Centre. The following list is not exhaustive;

- BUS 011 - Information Handling Policy
- BUS 001 - Data Protection Policy
- HRS 017 - Management and Employee Standards – All Staff Policy
- BUS 006 - Data Retention and Records Management Policy
- FE Sector Retention and Disposal Schedule
- SRC Publication Scheme

## 13. FLOWCHART

None.