

# Freedom of Information Policy

## Purpose

This policy document sets out the principles of the approach adopted within Skills Development Scotland (SDS) to ensure compliance with the Freedom of Information (Scotland) Act 2002 (FOISA).

As a general principle, SDS will seek to maintain high standards of transparency and openness with regard to information handling and publication, in line with FOISA, the Public Services Reform (Scotland) Act 2010 (PSRA) and other relevant statutory requirements. Our commitments to our customers and stakeholders will be set out in an 'SDS Information Charter'.

## Scope

This is a Skills Development Scotland policy which applies to all SDS staff. Compliance is mandatory.

### 1. Definitions

**1.1 Freedom of Information (FOI) Request:** A request for information which is in writing or another permanent form which states the name of the applicant and an address for correspondence and describes the information requested.

**1.2. Publication Scheme:** A scheme approved by the Scottish Information Commissioner which specifies the classes of information which a Scottish Public Authority publishes or intends to publish, the manner in which information in each class is published and whether it is available to the public free of charge or on payment.

**1.3. Exemption:** One of the grounds for withholding information permitted by the Act.

**1.4. Excessive Cost of Compliance:** Where the cost of complying with an FOI request would exceed an amount prescribed in regulations made by Scottish Ministers (currently £600).

**1.5. Personal Information:** Information held about living identifiable individuals, including expressions of opinion or intention about them.

**1.6. Publish:** to make publically available – on the internet and/or in hard copy.

**1.7. Public Interest Test:** The process of considering the public interest in making available information which might otherwise be exempt.

**1.8. Routine Information Request:** A request for information which can be readily dealt with through access to existing information, relates to information which is not SDS confidential and is not likely to raise any external sensitivities.

### 2. Roles and responsibilities

**2.1** The SDS Freedom of Information (FOI) Team is responsible for overseeing the effective delivery of SDS's Freedom of Information policy and procedures. The FOI Team comprises the Chief Information Officer (Head of EIS Governance), the Head of Corporate Support & Government

Relations (Head of Corporate Office), the Information Access & Security Officer and the Corporate Support Executive.

**2.2.** The Head of Corporate Support & Government Relations has oversight for the SDS Publication Scheme and for ensuring (through appropriate and proportionate monitoring and follow-up) that all business owners keep information current. The Corporate Support Executive provides day-to-day support for this function.

**2.3.** The Head of Corporate Support & Government Relations has day-to-day management responsibility for FOI policy implementation, supported by the Corporate Support Executive. The Chief Information Officer and the Information Access & Security Officer provide advice and support within the FOI team on consistency of FOI decisions and action with wider SDS information management policy and procedures, including in particular statutory obligations on data protection and retention. The FOI team is responsible for making recommendations regarding the release of information which is exempt under the terms of the Act.

**2.4.** Within the SDS Senior Management Team (SMT) overall accountability for ensuring FOI compliance is delegated by the Chief Executive (Chief Accountable Officer) to the Director of Enterprise Information Services (Director of EIS). For individual high level, non-routine and/or complex FOI requests the relevant business lead SMT Director also has responsibility for approving the content of an FOI response. Final authorisation is required from the Director of EIS both for the issue of FOI responses and for decisions to withhold information under FOISA. Where appropriate, the Director of EIS may delegate such authorisation to the Chief Information Officer or the Head of Corporate Support & Government Relations.

**2.5.** Each SDS Directorate will have a designated **Information Coordinator** who is responsible for ensuring that FOI requests received by the Directorate are processed promptly and in accordance with the standard processes. The Directorate FOI Coordinator is also responsible for promoting awareness of FOI within the Directorate, handling straightforward queries from colleagues on FOI matters and referring more complex queries to the central FOI team.

**2.6.** Responsibility for retrieving the information relevant to an FOI request and ensuring that it is accurate, up to date and fully addresses the terms of the request rests with the relevant Directorate **business owners** of the information. Where there is no sensitivity about releasing the information the request will be handled locally. Each Directorate needs to define who is authorised to approve the local issue of a response. Within Directorates, authority to agree the release of non-sensitive information may be delegated to manager level staff (SDS6) for individual business units.

**2.7.** Each class of information in the SDS Publication Scheme is allocated to an **information owner**, who is responsible for ensuring that the information is published and that published information is reviewed on a regular basis and updated for currency as required.

**2.8.** The **SDS Corporate Office** is the nominated first point of contact for all formal FOI requests; that is, for requests where FOI is specifically referred to by the person making the information request. The Corporate Office is also responsible for co-ordinating responses to information requests which have been received elsewhere in the organisation and do not explicitly reference FOI, but which, due to their sensitive, complex or non-routine nature, should be treated in a consistent manner with formal FOI requests and will require a corporate response.

**2.9.** Information requests may be received by any part of the organisation and all staff should be able to distinguish between a routine information request and an FOI request and ensure FOI requests are handled according to the standard FOI process.

**2.9.1** The SDS Corporate Office is also the nominated first point of contact for people seeking web access, hard copy or e-mail copies of information in the publication scheme.

### **3. Policy Statement**

**3.1.** SDS will comply with the spirit as well as the letter of the Freedom of Information (Scotland) Act. To this end we will (i) set out our commitments on information handling in our [Information Charter](#), and (ii) establish a standard handling process based on the principle of openness.

**3.2.** At the same time we will seek at all times to maintain the trust of our customers and we will ensure that in all cases where information relating to third parties is the subject of a request we will consider whether it is appropriate to use the commercial interests or personal information exemptions, and we will consult the third parties as appropriate to enable us to make this decision.

**3.3.** Decisions on the use of exemptions, including consideration of the public interest test, will be reached through discussion between the business owner, the local FOI Coordinator and the central FOI Team. Legal advice will be sought where appropriate. The FOI team will make a recommendation to the Director of EIS who will confirm the final decision. As appropriate a decision regarding the release of information which is exempt under the terms of the Act may also be made by the SDS Company Secretary or delegated to the Head of Corporate Support & Government Relations.

### **4. Charging**

SDS will not charge for fulfilling requests for information which is not in our publication scheme but reserves the right to invoke the provisions relating to excessive cost of compliance.

### **5. Refusal on Grounds of Excessive Costs**

When a request is received where we estimate that it will cost over £600 to retrieve and supply the information, we will, whenever possible, attempt to narrow the scope of the request and provide what we can within the threshold rather than refusing it outright.

### **6. Requests for Environmental Information**

Access to environmental information is governed by separate regulations, known as the Environmental Information (Scotland) Regulations 2004 (EIRs). We will only treat such requests differently when the regulations require us to do so. These circumstances are:

- The need to include oral requests for environmental information in the formal process
- The application of the exemptions/exceptions which are different in FOISA and EIRs
- The handling of complex or voluminous requests, as there is no cost ceiling under EIRs

The SDS Corporate Office will be involved in considering all requests for environmental information which are sensitive, complex or voluminous.