

# Freedom of Information Policy

## FREEDOM OF INFORMATION (FOI) POLICY STATEMENT

Skills Development Scotland (SDS) will comply with the spirit as well as the letter of the Freedom of Information (Scotland) Act 2002 (FOISA). To this end we will (i) set out our commitments on information request handling in our Information Charter, and (ii) establish a standard handling process for FOI requests, based on the principles of openness and transparency.

At the same time we will seek at all times to maintain the trust and confidence of our customers and clients. To support this we will ensure that where information relating to third parties is the subject of a request we will consider whether it is appropriate to apply exemptions, and we will consult the third parties as appropriate to enable us to make this decision.

SDS is committed to the routine publication of a wide range of information of interest to the general public about SDS and its services and also to becoming a provider of official statistics. To reflect the wide range and frequency of information that is and will be routinely published by SDS we will review and update our publication scheme on a regular basis. We will include information in our publication schedule about any official statistics that we publish.

So that our staff are well-equipped to deal with FOI requests we will provide SDS staff with regular training and continuous professional development on FOI matters. We will ensure that induction arrangements for new members of staff include information on FOI.

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## **1. Introduction and context**

This policy document sets out the principles of the approach adopted within SDS to ensure compliance with the Freedom of Information (Scotland) Act 2002 (FOISA). FOI policy sits under the fourth organisational goal outlined in our Corporate Strategy 2012-15: Organisational Excellence.

As a general principle SDS seeks to maintain high standards of transparency and openness with regard to information handling and publication, and to process FOI requests in accordance with statutory obligations, in particular with regard to:

- i. FOISA;
- ii. The Code of Practice issued by the Scottish Ministers in accordance with Sections 60 and 62 of the FOISA on the Discharge of Functions by Scottish Public Authorities under, respectively, the FOISA and the Environmental Information (Scotland) Regulations 2004 (EIR)s;
- iii. Section 61 of the FOISA, the Code of Practice on Records Management;
- iv. The Public Records (Scotland) Act 2011 (PRSA)
- v. The Public Services Reform (Scotland) Act 2010 (PSRA);
- vi. Other relevant statutory requirements.

SDS will also take into account relevant guidance issued from time to time by the Scottish Government, Scottish Information Commissioner or Keeper of the Records of Scotland.

SDS commitments to our customers and stakeholders are set out in our 'Information Charter'. In line with Section 23 of the FOISA, SDS is committed to the expansion and routine publication of information of interest to the general public. To this end we have established an SDS publication strategy and associated work plan.

This FOI policy is consistent with the SDS and Scottish Government Memorandum of Understanding (MOU) which applies to the handling of requests received by SDS for information made under the FOISA and the EIRs. Under the MOU both the Scottish Government and SDS recognise that there may be a need to communicate sensitive information to each other in the course of their working relationship<sup>1</sup>.

## **2. Purpose**

The purpose of this policy is to establish the framework for SDS's FOI procedures and practices and to inform staff of their obligations when dealing with individual requests for information under FOISA.

## **3. Scope**

The policy aims to ensure the effective management of individual requests for information submitted to SDS and that SDS fully meets all its obligations under FOISA. The policy also sets out elements of good practice in relation to FOI. SDS seeks at all times to demonstrate good practice in relation to FOI, as part of our commitment to openness and transparency and to organisational excellence.

The policy applies to all information held by SDS in all formats.

The policy applies to all staff, whether part-time, full-time, permanent, a contractor, temporary or seconded.

## **4. Definitions**

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<sup>1</sup> Insert link to MOU on SDS website

**4.1 Exemption:**

One of the grounds for withholding information permitted under FOISA.

**4.2 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).

**4.3 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.

**4.4 Information Owners**

Each class of information in the SDS publication scheme (see 4.10 below) 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.

**4.5 FOI Coordinators**

The FOI Coordinator is the designated person in a Directorate who is responsible for ensuring that FOI requests received by the Directorate are processed promptly and in accordance with the standard processes. The 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 central FOI contacts.

**4.6 Memorandum of Understanding between SDS and the Scottish Government:**

Applies to the handling of requests received by SDS and Scottish Government (SG) for information made under FOISA and EIRs

**4.7 Personal Information:**

Information held about living identifiable individuals, including expressions of opinion or intention about them.

**4.8 Public Interest Test:**

The process of considering the public interest in making available information which might otherwise be exempt.

**4.9 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.

**4.10 Publication Strategy:**

An approach and plan approved by SDS to expand the range of information it publishes routinely, in line with the interests of the public as identified through systematic monitoring of external requests.

**4.11 Publish:**

To make information available publically – on the internet and/or in hard copy.

**4.12 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. Information requests may be received by any part of the organisation and all colleagues 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.

## **5. Policy Authorisation and Review**

This policy is subject to approval by the Executive Leadership Group (ELG) and will be reviewed annually, or more frequently as circumstances require.

## **6. Roles and Responsibilities**

6.1 Some FOI responsibilities and functions are corporate in nature and are delivered centrally:

### **6.1.1 Executive Leadership Group/ Chief Executive**

ELG collectively, headed by the Chief Executive as Accountable Officer, has overall accountability for approving SDS FOI Policy and for ensuring its application throughout the organisation.

### **6.1.2 Information Governance Leadership Group**

Cross-directorate governance oversight for the regular monitoring and reporting of FOI policy implementation lies with the Information Governance Leadership Group (IGLG). IGLG meets quarterly and reports annually to the SDS Audit & Risk Committee.

### **6.1.3 Corporate Affairs**

ELG has delegated responsibility for the review and approval of individual FOI request responses to the Depute Director, Corporate Affairs. Where appropriate the Depute Director will seek Chief Executive approval prior to release of information under FOISA.

The Head of Corporate Affairs has responsibility for ensuring effective management of FOI request handling, including the coordination of any reviews under FOISA of responses to FOI requests and providing information where an FOI request is referred to the Scottish Information Commissioner for a decision.

Within Corporate Affairs the Team Leader (Parliamentary Liaison & Information Governance) has day-to-day responsibility for FOI request handling and is the main point of contact for the Scottish Government in relation to requests in which both the Scottish Government and SDS might have an interest.

Corporate Affairs ([FOI@sds.co.uk](mailto:FOI@sds.co.uk)) is the point of contact within SDS for all formal FOI requests from applicants: that is, for requests where FOI is specifically referred to by the person making the information request. Corporate Affairs is also responsible for coordinating responses to information requests which have been received elsewhere in the organisation and do not explicitly reference FOI, but where, due to their sensitive, complex or non-routine nature, FOI exemptions may apply. These should be treated in a consistent manner with formal FOI requests and will require a corporate response.

Corporate Affairs ([FOI@sds.co.uk](mailto:FOI@sds.co.uk)) is also the point of contact for applicants requesting web access, hard copy or e-mail copies of information in the SDS publication scheme.

### **6.1.4 Corporate Office**

The Head of Corporate Office has responsibility for developing and reviewing FOI policy, for monitoring, advising and reporting on SDS compliance with FOISA (and with FOI policy) and for promoting awareness and information about FOISA and EIRs within SDS.

Corporate Office ([Corporate.Office@sds.co.uk](mailto:Corporate.Office@sds.co.uk)) has oversight for developing and maintaining the SDS publication scheme under FOISA and for ensuring (through appropriate and proportionate monitoring and follow-up) that local Information Owners keep current any information that is referenced in the publication scheme. Corporate Office is also responsible for implementation of the SDS publication strategy.

Corporate Office is responsible for promoting awareness and information about the FOISA and the EIRs within SDS and to provide FOI training and continuing professional development (CPD) for colleagues. All new staff members will be provided with information about FOI obligations and policy as part of their induction to the organisation. Key staff members involved in the handling of FOI requests will be required to undertake regular FOI refresher training. This will ensure colleagues are aware of FOI obligations, policy, procedures and support, enabling them to be confident in handling requests for information, with support from the central FOI team as required.

### 6.1.5 Legal Services

The SDS Legal Adviser provides advisory support on the legal requirements of FOISA and on current FOI guidance and good practice, to inform the development of FOI policy and procedures and help inform SDS senior management decision-making on FOI matters.

### 6.1.6 Enterprise Information Services (EIS)

The SDS Chief Information Officer (Head of EIS Governance) and the EIS Information Assurance Manager provide advice and support to Corporate Affairs on the consistency of individual FOI request responses with wider SDS information management policy and procedures, including in particular compliance with statutory obligations on data protection and retention and requirements regarding information security.

It is expected practice under FOISA that reviews of FOI requests are undertaken by staff not involved in the original decision, to ensure an objective approach. Reviews of requests will normally be undertaken by the EIS Information Assurance Team (unless they have had previous involvement in the original decision).

6.2 Other FOI responsibilities are delivered through Directorates and teams at a local level.

#### 6.2.1 FOI Coordinators

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

#### 6.2.2 Information Owners

For individual FOI requests the responsibility for retrieving the information relevant to a request and ensuring that it is accurate, up to date and fully addresses the terms of the request rests with the local 'Information Owner'.

Where an information request is a routine part of business interaction with external partners or stakeholders and there is no sensitivity about releasing the information, the request should normally be handled and responded to locally.

## **7. 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.<sup>2</sup>

## **8. 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.

## **9. Application of exemptions**

Decisions on the use of exemptions for initial FOI requests and FOI reviews, including consideration of the public interest test, will be reached through discussion between the SDS Information Owner and Corporate Affairs. Legal and compliance advice will be sought where appropriate. Corporate Affairs will make a recommendation to the Depute Director, Corporate Affairs for decision on information release. Where appropriate a final decision regarding the release of information which is exempt under the terms of FOISA may be made by the SDS Chief Executive.

## **10. 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.

## **11. Legislation and Associated Policies**

### **11.1 Legislation:**

Relevant statutory obligations are set out in the following pieces of legislation:

- Data Protection Act 1998
- Freedom of Information (Scotland) Act 2002
- Public Records (Scotland) Act 2011

### **11.2 SDS Policies**

The following SDS policies and policy statements are relevant to effective FOI management:

- [Client Confidentiality Policy](#)
- [Data Protection Policy](#)
- [Information Assurance Strategy](#)
- [Information Classification and Handling Policy](#)

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<sup>2</sup> Please see Scottish Ministers Code of Practice on the Discharge of Functions by Public Authorities under the Freedom of Information (Scotland) Act 2002.

- [Information Technology and Systems Usage Policy](#)
- [Information Charter](#)
- Records Management Policy
- Retention & Disposal Policy
- [Social Media Policy](#)

## **12. Monitoring and Review**

SDS's FOI Policy will be reviewed annually and updated whenever organisational or procedural changes take place that affect the information contained in the policy.

Skills Development Scotland  
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