CITY OF GLASGOW COLLEGE

Board of Management

Audit Committee

Date of Meeting	**Wednesday 24 May 2016**
Paper No.	**AC4-E**
Agenda Item	**8**
Subject of Paper	**FOISA Report**
FOISA Status	**Disclosable**
Primary Contact	**Paul Clark; College Secretary/Planning** **Julia Henderson; Director of Corporate Support**
Date of production	**May 2016**
Action	**For Discussion and Decision**

1. Recommendations

1. The Committee is invited to review and discuss the report. It is recommended that the report is passed to the full Board for noting, together with any comments the Committee may wish to provide.

2. Purpose of report

2.1 The purpose of this report is to provide the Board, through the Audit Committee, with an update on the nature and volume of requests received in relation to the Freedom of Information (Scotland) Act 2002 (FOISA) and the Environmental Information (Scotland) Regulations 2004 (EIRs). For the purposes of this report we will refer to the requests as FOISA requests. The application of the EIRs is very similar in nature to the FOISA with almost exactly the same exemptions etc., and a duty to disclose information we hold to those who make requests to us, as a public authority.

3. Context

3.1 Policy
The legislation and its operation reflect the Scottish Government's stated commitment to open and transparent government and to responsive public services. The government is committed to increasing openness as demonstrated by its consultation to extend coverage of FOISA to registered social landlords, which closed in February 2017.

3.2 College
3.2.1 The legislation and its operation reflects the College's values of integrity, honesty and transparency. The Act provides that requested information must be provided unless it is subject to one or more of the exemptions, as set out in the Act. If the requestor is dissatisfied with the response received or the lack of a response then they can ask the authority to review its decision and the handling of the request. Requestors who remain dissatisfied can then appeal to the Scottish Information Commissioner for a decision.

3.2.2 Members will note from the graphs appended to this report that the volume of requests has risen significantly over the last two academic years (Appendix Table 1). Requests this year are already standing at 58, at the time of drafting this report, with two months of the year remaining. Members will note the table, which provides some examples of the nature of the requests received (Appendix Table 2). The complexity of the requests has also increased and there is now a significant amount of in-house legal expertise provided to augment the existing resources and support the decision making and drafting of responses. The senior managers now committed are the College Secretary/Planning and the Director of Corporate Support.

3.2.3 Members should note, from a relationship and risk management perspective, that we have increased our dialogue with the Information Commissioners Office in relation to difficult, complex or repeat requestors e.g. where we feel the number of requests is becoming vexatious in nature. This open dialogue is helpful and the

Commissioner's advance awareness of such cases and our level of cooperation and commitment to compliance has already proven useful to us. The Commissioner's Office has, in response, increasingly taken a more proactive and open approach with the College, providing assurance and advice.

3.2.4 An increase in numbers of requests is common across the public sector although it would be fair to say that the College Sector has had relatively few requests and, at least anecdotally from speaking to other colleges, this remains the case. By way of example the Scottish Government 's last performance report on FOISA for 2015 showed that they had received their highest number of requests ever at 2,155. The building of the New Campus and the increased positive profile of the College, as a consequence, have naturally and undoubtedly attracted more requests. This may level out over the next year.

3.2.5 The Appendix also includes data on the response deadlines met, indicating an improving position in 2016-17 compared to 2015-16 (Table 3) and a record of requestors by category, e.g. Journalists, MSPs, Trade Unions (Table 4).

4. Impact and implications

5.1 Questions are often asked about the cost of FOISA and why we do not charge given the large commitment of time often involved. By way of example over the last year, over and above the time of the dedicated senior staff and support member of staff, there has been a heavy commitment of time required from the Deputy Principal in relation to the various requests in relation to the New Campus. Unfortunately the feeing regulations do not make it economical to administer a charging regime and most authorities do not charge (a few may charge in very exceptional cases). The College Board considered this matter in 2012. A very brief summary of the regulations:

   o Authorities can only charge a maximum of £15 per hour for their most senior staff and the fee charged must reflect the seniority of staff on a sliding scale.

   o Where the cost is £100 or less (equating to over 6 hours at £15), no charge can be made

   o If £100 is exceeded then the authority is only allowed to charge 10% of those costs (not for the first £100) up to a maximum of £600

   o Only if the cost exceeds £600 can the authority refuse to comply

   4.2 Committee should note that the College was recently the subject of an appeal to the Information Commissioner and a Decision Notice was released in

March 2017 setting out that the College had failed to comply with the Environmental Information (Scotland) Regulations 2004 by responding to a request relating to New Campus contract documentation under FOISA legislation when it should have been dealt with under the EIRs. We were required to respond to the request under EIRs, which we duly did. In a practical sense this made no difference to the response we issued and the release of information. This was very much a technical legal matter.

4.3 The dividing line between what is considered to be environmental information and what is not is unclear and indeed the Information Commissioner's own guidance states that 'determining whether or not information is environmental is not always easy'. This decision appears to be part of a policy trend from the Commissioner to more broadly define environmental information. Three other (almost identical) decisions were released around the same time as our decision, which confirmed and made clear this approach. These cases all concerned contract information relating to new build projects by Lothian Health Board, Inverness College and Shetland Islands Council.

Appendix:

College FOISA Request Data

- Table 1 – Volume of Requests
- Table 2(a)+(b) – Nature of Requests
- Table 3 – Response Deadlines Met
- Table 4 - Requestor
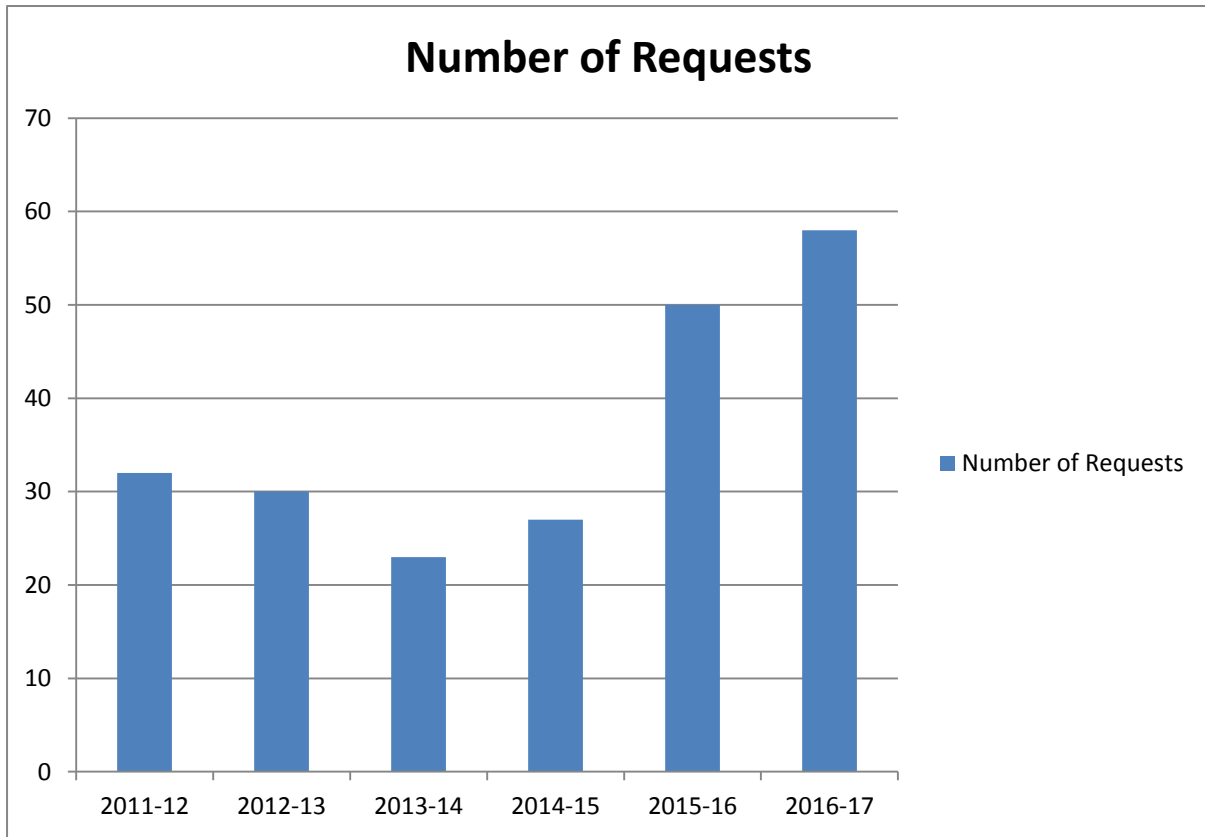
FOISA Request Data
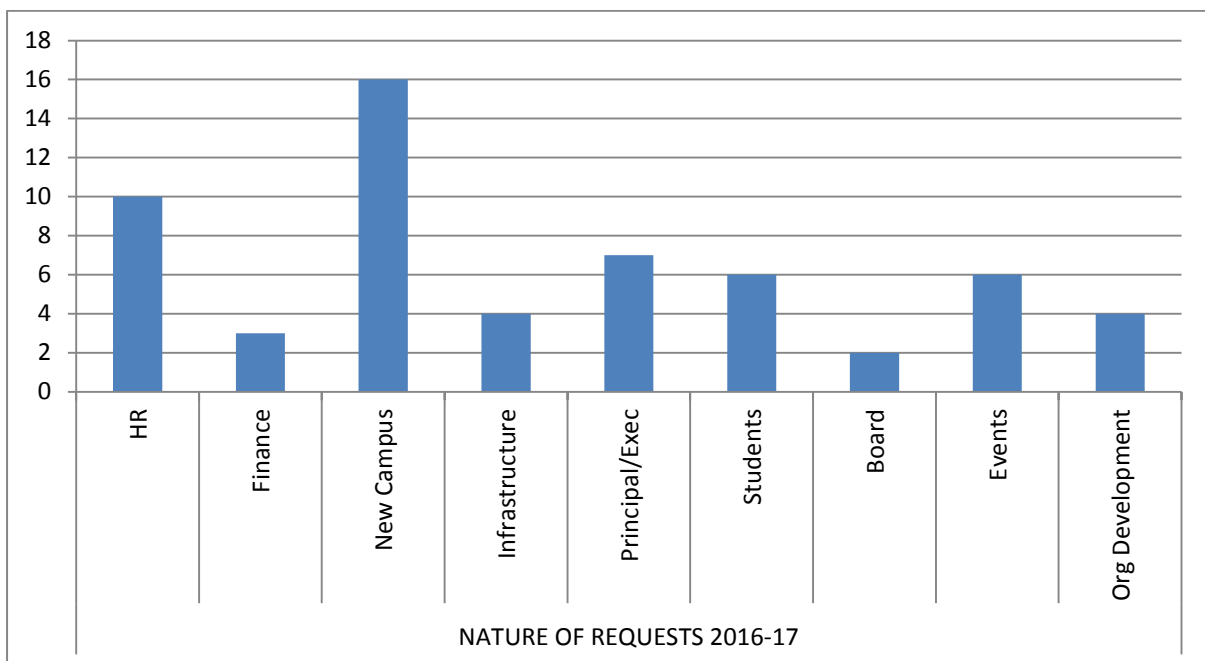
TABLE 1 – Volume of Requests

Number of Requests

Year	Number of Requests
2011-12	32
2012-13	30
2013-14	23
2014-15	27
2015-16	50
2016-17	58

TABLE 2(a) – Nature of Requests

NATURE OF REQUESTS 2016-17

Category	Number
HR	10
Finance	3
New Campus	16
Infrastructure	4
Principal/Exec	7
Students	6
Board	2
Events	6
Org Development	4

TABLE 2(b)

Request broad descriptors and numbers 16/17*	Examples of requests received
New Campus - 16	Multiple requests re. the financial model, detailed costs and savings and the model plane in the atrium (majority from the same requestor)
HR -10	Staff headcount, EU workers, voluntary redundancies
Principal/Executive - 7	Multiple requests re. discretionary payments/performance payments and salary levels of senior executive managers
Students - 6	Leavers destinations, childcare, EU and international students
Events - 6	Costs of launch event, St Patrick's Day and events run on college premises e.g. SNP campaign launch
Infrastructure - 4	Facilities management costs, health and safety, building defects
OD - 4	Use of certain training providers, costs of EFQM
Finance - 3	Expenditure incurred on flights as an organisation, information re. College Foundation

* Please note that the groupings used are for the purposes of illustration and that many requests fall under several descriptors. As an example many requests have a financial element but in order to better describe the nature of the requests received we have not grouped these all under finance.
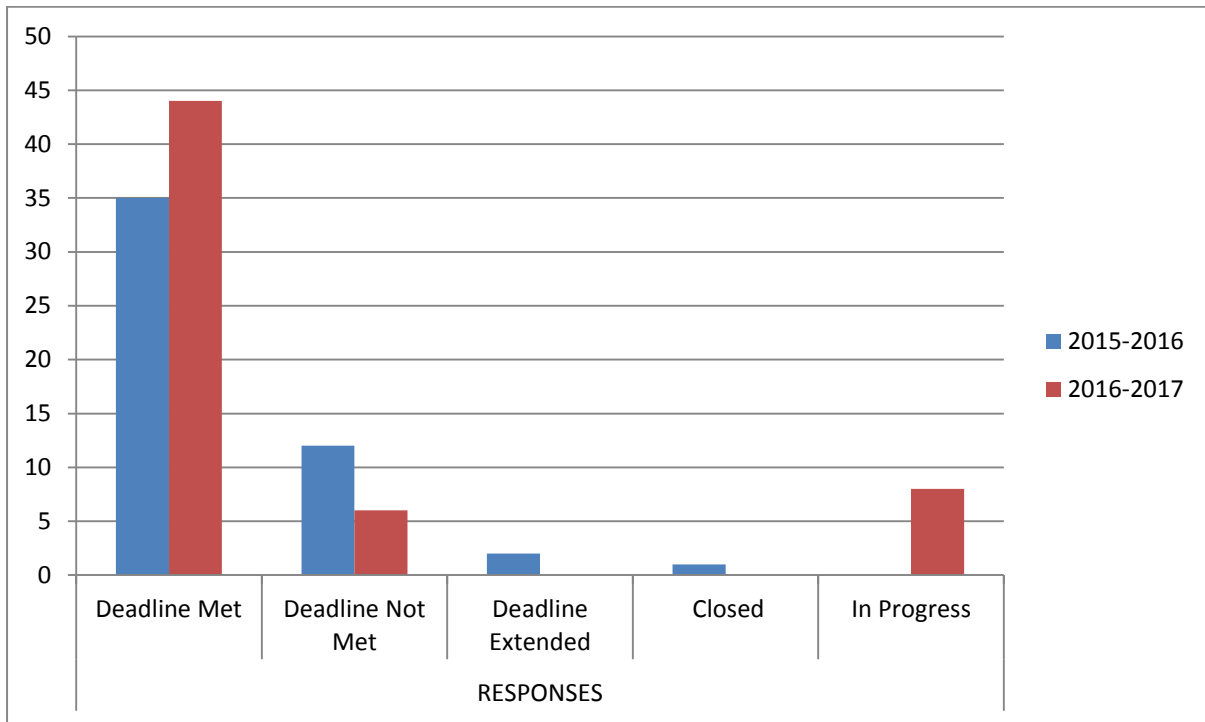
TABLE 3 – Response Deadlines Met

TABLE 4 – Requestor Type