

Board of Management Audit Committee

Date of Meeting	Wednesday 16 May 2018
Paper No.	AC4-D
Agenda Item	7
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 2018
Action	For Discussion and Decision

1. Recommendations

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

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.

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 the Internal Audit Report on Data Protection and Freedom of Information (May 2018), which was undertaken to provide an assessment for the College's preparedness for GDPR implementation, and compliance with FOISA and EIRs. The Report recommendations, agreed by management, are designed to improve the Colleges processes and procedures in these areas.

3.2.3 Members will note from the graphs appended to this report that the volume of requests has risen significantly over the last three academic years (Appendix Table 1). Requests this year are already standing at 79, at the time of drafting this report, with two months of the year remaining. This compares to 58 at the same time last year. Members will note the table, which provides some examples of the nature of the requests

received (Appendix Table 2). The complexity of the requests continues to increase and there continues to be 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.

- 3.2.4 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. It is of note that the Commissioner 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.
- 3.2.5 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.
- 3.2.6 The percentage of responses met within the specified 20-day timescale to date in 2017-18 is 93%. This represents an improvement on 2016-17 (90%) and 2015-16 (76%).
- 3.2.7 The Appendix also includes data on the response deadlines met, indicating an improving position in 2017-18 compared to 2016-1017 and 2015-16 (Table 3) against a backdrop of increasing numbers of requests of increasing complexity. Information requestors by category e.g. WhatDoTheyKnow, Journalists, MSPs, Trade Unions is also provided (Table 4). By way of explanation WhatDoTheyKnow is a site designed to help people in the UK make freedom of information requests. It publishes both the requests and authorities' responses online and accounts for 15-20% of requests to UK Central Government.

4. Impact and implications

- 4.1 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 other senior staff and their teams – particularly in Finance but also Human Resources, Student Data, Student Experience, Events and the Executive Office. 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 undernoted is a very brief summary of the regulations:

- 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.
- Where the cost is £100 or less (equating to over 6 hours at £15), no charge can be made
- 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
- Only if the cost exceeds £600 can the authority refuse to comply

4.2 Committee should note that the College was the subject of an appeal to the Information Commissioner and a Decision Notice was released in November 2017 setting out that the College had complied with Part 1 of the FOISA in responding to the information request made, in giving notice that it did not hold the information requested but that it should have dealt with the request under the Environmental Information (Scotland) Regulations 2004. The College was not ordered to take any action as a result of this decision.

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'.

The College was again the subject of an appeal in November 2017 but, after some investigation, the Information Commissioner determined that the appeal was invalid because the applicant had used a pseudonym.

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 Type

FOISA Request Data

TABLE 1 – Volume of Requests

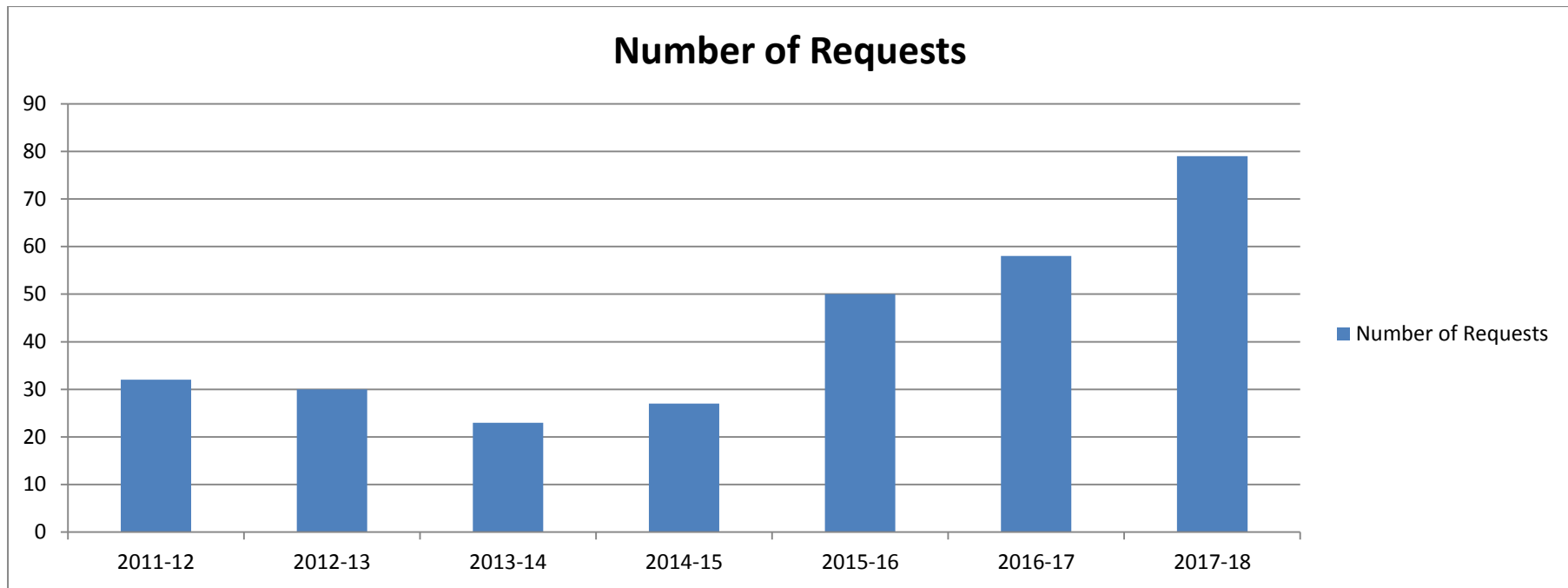
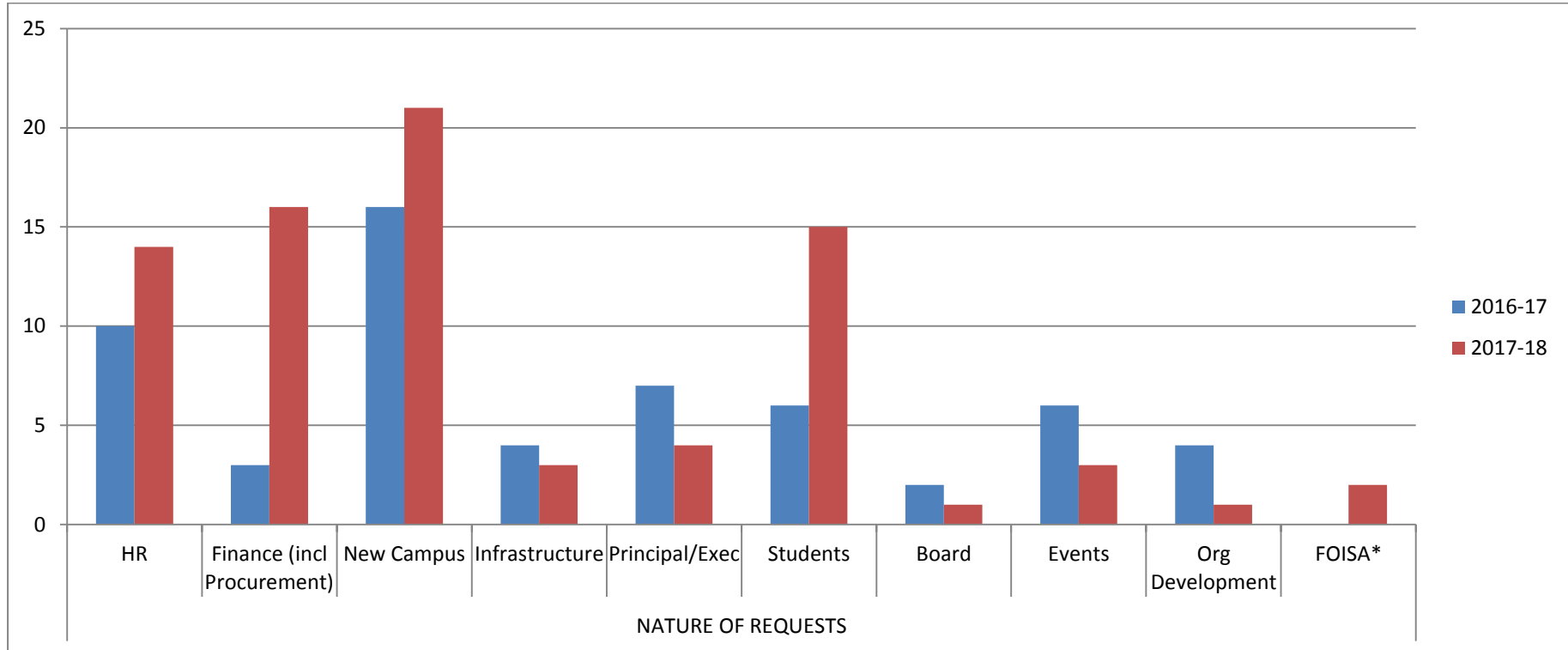


TABLE 2(a) – Nature of Requests



*FOISA – these requests related to how the College has handled FOISA requests.

TABLE 2(b)

Request Board Descriptors & Numbers 17/18*	No of Request	Examples of Requests Received
New Campus	21	NPD New Build Procurement & Contract, Unitary Charges, Business Cases for NPD New Build, STEM Centre, Enhancement to External Environment, Nautical, Ship Simulator and Nautical Maintenance Contracts (majority of requests are from the same two requestors).
Finance	16	Glasgow Region Curriculum & Estates Plan Efficiency Savings, Capital Maintenance Funding, Itemised Credit Card Statements, Company Contracts.
Students	15	Leaver destinations, Application Statistics, Bilingual Learners, Students identified as Muslim, Safeguarding Policy and Procedures, Enrolled International Students, Homeless Students, Mandatory Courses Resulting in Benefit Sanctions.
Human Resources	14	Grievance, Disciplinary and Capability Information, Senior Management Job Descriptions, Senior Management Salary and Pension Costs, Living Wage Accreditation, Non UK EU Citizens Working at CoGC, Zero Hours Contracts, Modern Apprenticeships, Paternity Leave, Sexual Misconduct and/or Harassment, External Managers, Stress Management.
Principal/Executive	4	Remuneration, Expenditure for Travel and Accommodation, Spend on Training and CPD.
Events	3	Internal & External Event Costs.
Infrastructure	2	FM Financials, Top Five Suppliers of ICT.
FOISA	2	FOISA Statistics, private individual's communication in relation to FOI requests.
Board of Management	1	Gender Equality.
Organisational Development	1	Media Training.

*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

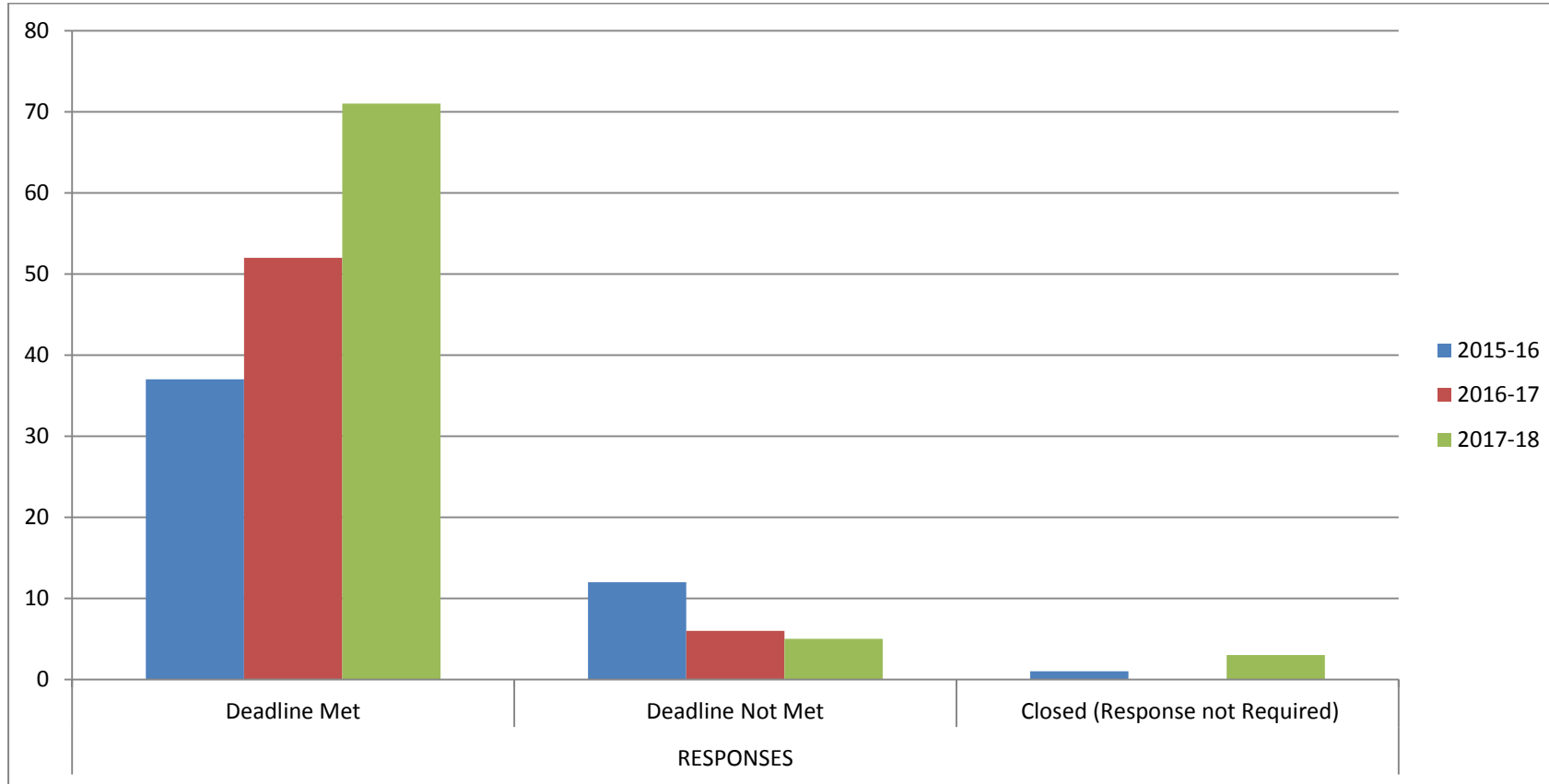


TABLE 4 – Requestor Type

