



TITLE: FREEDOM OF INFORMATION POLICY

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Approved By	Management Board	Date Approved	05 September 2018
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Superseded or Obsolete Policy / Procedure(s)		Owner	
		Freedom of Information Officer	

1. Purpose of Policy

The *Freedom of Information (FOI) Act 2014* gives members of the public access, to the greatest extent possible, consistent with the public interest and the right to privacy, to information in the possession of public bodies. Carlow College, St. Patrick's (hereafter Carlow College) is a public body for the purposes of the Act under Section 6(1)(g) as it is 'a higher education institution in receipt of public funding'.

The objectives of FOI legislation include:

- Holding public bodies to account for the decisions they make;
- Individuals knowing what information is held about them, and that it is accurate, complete and up to date;
- Ensuring openness and transparency in expenditure of public moneys;
- Ensuring good governance and the efficient provision of services.

The purpose of this Policy is not to explain the *FOI Act* in detail as extensive information regarding it is available online, but to set down Carlow College's internal administrative arrangements for responding to its obligations under the Act. Instructions for Governors and staff members are available in: Appendix 1 (*Instructions for Governors and Staff Members*) and Appendix 2 (*Frequently Asked Questions about FOI*).

This Policy should be read in conjunction with the *Records Management Policy* and other policies and procedures within the records management framework, and the *Data Protection Policy*.¹

2. Definitions

The following definitions are taken or adapted from Section 2 of the *FOI Act*:

Effective date means the date on which an organisation became a public body within the meaning of FOI legislation. In the case of Carlow College, the effective date is 21 April 2008.

Electronic device means any device which uses any electrical, digital, magnetic, optical, electromagnetic, biometric or photonic means, or other forms of related technology, or any combination thereof, to store or transmit data, or both store and transmit data.

Exempt record is one for which an FOI request would be refused.

FOI request means a request for access to a record.

Head of an FOI body means, inter alia, the person who holds, or performs the functions of, the office of chief executive officer (by whatever name called) of the body.

Personal information means information about an identifiable individual that either,

- a. Would, in the normal course of events, be known only to the individual or members of the family or friends of the individual or;
- b. Is held by an FOI body on the understanding that it would be treated as confidential.

Personal information includes, but is not limited to, information relating to the educational history, medical history, financial affairs, employment or employment history, trade union membership, criminal history, religion, age, racial or ethnic origin, sexual orientation or civil status and the views or opinions of another person about the individual.

Personal information does not include,

- a. In a case where the individual holds or held (a) office as a director of (b) a position as a member of staff of or (c) any other office or position remunerated from public funds, in an FOI body, the name of the individual, or information relating to the office or position or its functions or the terms upon and subject to which the individual holds or held that office or occupies or occupied that position or anything written or recorded in any form by the individual in the course of and for the purpose of the performance of the functions aforesaid;
- b. In a case where the individual is or was a service provider, the name of the individual or information relating to the service or the terms of the contract or anything written or recorded in any form by the individual in the course of and for the purposes of the provision of the service;
- c. The views or opinions of the individual in relation to an FOI body, the staff of an FOI body or the business of the performance of the functions of an FOI body.

Record means, inter alia,

¹ Other important documents to consult are: *Freedom of Information Publication Scheme* and *Code of Practice for Freedom of Information for Public Bodies* (FOI Central Policy Unit, Department of Public Expenditure and Reform, September 2015).

- a. A book or other written or printed material in any form (including in any electronic device or in machine readable form)
- b. A map, plan or drawing
- c. A disc, tape or other mechanical or electronic device in which data other than visual images are embodied so as to be capable, with or without the aid of some other mechanical or electronic equipment, of being reproduced.

This definition should be considered very widely.

Requester means a person who makes an FOI request.

3. Scope of Policy

All records created and received by Governors and employees in the course of their duties are the property of Carlow College. As such, they are potentially accessible under the *FOI Act* and come within the scope of this Policy.

In accordance with the *Records Management Policy*, except in exceptional circumstances, all records created and received by Governors and employees are to be captured and held within official records systems. Where an official record is held on a personal electronic device (for instance, laptop or phone) it is deemed to be under the control of the College and is also potentially accessible under the *FOI Act*.²

Records held by service providers with regard to the service provided to Carlow College also come within the scope of this Policy.

4. Policy Statement

4.1 Access to information

The *FOI Act* entitles individuals to apply for access to information in records that are not otherwise publicly available.

Each individual has a right to:

- Access information held in records by public bodies;
- Have official information held by a public body relating to him/herself amended where it is incomplete, incorrect or misleading;
- Obtain reasons for decisions affecting him/herself taken by a public body.

Access to information is subject to certain exemptions. Some of the key exemptions are:

- Personal information (other than information relating to the person who makes the request);
- Commercially sensitive information;
- Information supplied to the College in confidence;
- Deliberations of the College;

² <http://foi.gov.ie/download/official-information-held-in-non-official-systems-email-accounts-and-devices/> (accessed on 8 December 2017).

- The performance of investigative functions and negotiations;
- Law enforcement and public safety;
- Research and natural resources.

Carlow College came within the remit of FOI legislation under the 2014 Act. As such, the following records are accessible:

- Personal records no matter when created;
- Non-personal records from 21 April 2008.

4.2 How to make an FOI request

- Applications must be in writing to foi@carlowcollege.ie or FOI Officer, Carlow College, St Patrick's, College Street, Carlow;
- The application must state that it is made under the *FOI Act*;
- Provide contact details so that you are easily contactable if clarification of the request is necessary;
- Any person whose request relates to personal information may be asked for proof of identity. Typical forms of identification are a driving licence, passport or student card.
- If you request access to information in records, you must:
 - Indicate if records are required in a particular form e.g. email, photocopy;
 - Include as much detail as possible in order to enable the College to identify relevant records.
- If you believe that records held by Carlow College about you are incorrect, incomplete or misleading you may apply to have them amended as follows:
 - You must give details of the information, which you believe is incorrect, incomplete or misleading;
 - You must specify the amendments that you wish to have made;
 - You must supply information in support of your application.

4.3 Processing FOI requests and appeals

All requests and appeals will be processed with regard to the *FOI Act*, *Code of Practice for Freedom of Information for Public Bodies* (FOI Central Policy Unit, Department of Public Expenditure and Reform, September 2015), and the various guidance notes issued by the FOI Central Policy Unit.³

5. Roles and Responsibilities

Under Section 20 of the *FOI Act*, the head of the public body may delegate in writing functions of the head under the Act. An FOI Officer, Decision Makers and Internal Reviewers have been appointed by the College President.

³ <http://foi.gov.ie/code-of-practice/>; http://foi.gov.ie/guidance/cpu-guidance-notice/?cp_cpu-guidance-notice=3 (accessed on 8 December 2017)

The functions performed by the Management Board, FOI Officer, Decision Makers and Internal Reviewers are as given in the ‘Code of Practice for Freedom of Information for Public Bodies’ (FOI Central Policy Unit, Department of Public Expenditure and Reform, September 2015).

Additionally, the FOI Officer is responsible for:

- Liaising with relevant staff to create and keep updated the Publication Scheme required under Section 8 of the *FOI Act*;
- The keeping of statistics regarding the operation of the Act within the College.

The Director of Operations is responsible for:

- Providing the FOI Officer with information on a quarterly basis of public contracts awarded (including awards from mini-competitions under existing framework agreements) for values over €25,000 (exclusive of VAT);
- Providing the FOI Officer with details of purchase orders in excess of €20,000 on a quarterly basis.

Relevant details will be published as part of the Publication Scheme.

All other staff members and Governors are to:

- Comply with this Policy and any associated guidelines;
- Assist the FOI Officer, Decision Makers and Internal Reviewers in their duties;
- Avail of training that is provided.

6. Associated Documentation

- Appendix 1: Instructions for Governors and Staff Members
- Appendix 2: Freedom of Information – Frequently Asked Questions

7. Referenced Policies

- *Data Protection Policy*
- *Records Management Policy*

8. Monitoring and Review

The FOI Officer will seek to review this Policy in the case of legislative change and otherwise, the Policy will be reviewed every three years.

Disclaimer

This Policy does not purport to be a complete or definitive interpretation of the FOI Act 2014.

Appendix 1: Instructions for Governors and Staff Members



Instructions for Governors and Staff Members

1. No one other than an FOI Decision Maker or Internal Reviewer is to answer an FOI request or appeal on behalf of Carlow College.
2. If you are contacted by any person who wishes to make an FOI request, please direct them to the FOI Officer, foi@carlowcollege.ie.
3. If you receive a request in writing which cites the *FOI Act*, please send it to the FOI Officer without delay.
4. If you are not sure about the nature of a request for information, please contact the FOI Officer to discuss it.
5. If the FOI Officer is absent, please re-direct any written request to the Office of the President.
6. The *Data Protection Policy* details an informal mechanism whereby staff and learners may access their own personal information. Personal information may also be sought under the *FOI Act*. The mechanism outlined in the *Data Protection Policy*, and its limits, is also operational under this Policy.
7. Where an FOI request or appeal is received by the College, the assigned Decision Maker or Internal Reviewer, as appropriate, may request assistance from Governors and staff members who have direct knowledge of the scope of the request. This may involve asking Governors and staff members to locate relevant records or for their opinion on the request. FOI decisions are subject to strict time limits and all persons are requested to provide assistance in a full and timely manner. Where it is necessary for Governors and staff members to provide records, they will be asked to certify in writing that they have produced all relevant records.

Appendix 2 – Freedom of Information: Frequently Asked Questions



Freedom of Information: Frequently Asked Questions

1. Can people ask for any information at all?

Yes, but that does not mean that they will get all or any of it. There is an assumption towards release and if a request for information is refused it must be justified. The *FOI Act* includes exemptions, for instance, for commercially sensitive information.

2. Is email a record? Are text messages records? Is my diary a record? Are draft records included?

The answer to all of these questions is yes if the content pertains to your work.

3. Who makes the decision whether to grant a request for information?

The FOI Officer will assign a Decision Maker, who will make the decision on behalf of the College. The Decision Maker will take the views of relevant staff into consideration.

4. Can I make an FOI request?

Yes, anyone can make an FOI request.

5. How do you recognise an FOI request?

It will be in writing and must cite the FOI Act somewhere in it, which can mean in the body of the text, the subject line of an email or the person to whom it is addressed. Carlow College must assist requesters to put requests in a valid format, so if you receive a request for information, and are unsure of its status, please contact the FOI Officer.

6. Can I see my personnel records?

Yes. Carlow College operates an 'open access' policy for personnel records, which means you can usually access your personnel record without submitting an FOI (or Data Protection) request. However, some personnel records may include personal information regarding more than one person (for example, a grievance record). In such cases, a request will be processed through the formal FOI or Data Protection process.

7. How much does it cost?

There is no application fee for FOI requests. There are charges for search and retrieval, which the Decision Maker will calculate. There is no charge for personal records, except where a significant number of records is involved.

8. How much time do we have to work on a request?

A request has to be acknowledged by the FOI Officer within two weeks, and must usually be responded to by the Decision Maker within four weeks. If there is a

requirement to consult third parties, this period is extended by three weeks. Reviews must be decided within three weeks.

9. Can anyone ask for reasons for decisions made about him/her?

Yes. A person who is materially affected by a decision may request reasons for that decision but must do so within a year of becoming aware of the decision. If no reasons are recorded on file a statement of reasons must be compiled within four weeks.

10. What can people do if they are unhappy with the decision made on their request?

They can ask for an Internal Review. If they are still unhappy when that has been completed, they can ask for a review by the Information Commissioner. There is a further right of appeal to the High Court on a point of law.

11. Can parents / guardians see their children's records?

There are regulations and guidelines which deal with the issues to be considered. The child will be told of the request, and the age of the child, the nature of the relationship with the parent/guardian, and the nature of the records are some of the factors which will be taken into consideration in the making of a decision.

12. Can anyone see the records of a deceased person?

Regulations and guidelines set down the issues to be considered in reaching a decision.

13. How does FOI affect Data Protection rights?

Personal information may be requested under either FOI or Data Protection legislation.

14. Can we destroy records after receiving an FOI request in order to avoid release?

No. Such action is an offence under Section 52 of the Act.

15. What is the public interest?

The 'public interest' is not defined in the *FOI Act*. It has been described as something that is of serious concern or benefit to the public.