



Scottish Information
Commissioner
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Decision Notice 012/2025

Whether request was vexatious

Authority: University of Aberdeen
Case Ref: 202400714

Summary

The Applicant asked the Authority for information over a specified period relating to conversations between named members of staff on the issue of compulsory redundancies and voluntary severance within the modern languages department. The Authority refused to comply as it considered the request to be vexatious. The Commissioner investigated and found that the Authority was not entitled to refuse to comply with the request on the basis that it was vexatious.

Relevant statutory provisions

Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1), (2) and (6) (General entitlement); 14(1) (Vexatious or repeated requests); 47(1) and (2) (Application for decision by Commissioner)

Background

1. On 22 March 2024, the Applicant made a request for information to the Authority. He asked for:

“Any record of conversations (emails, Teams, WhatsApps) involving [named persons] on the issue of compulsory redundancies and voluntary severance within the modern languages department, and the decision to remove risk of redundancy notices from staff, from the 23 of October 2023 to the current date.”

2. The Authority responded on 23 April 2024. It notified the Applicant that it was refusing to comply with the request as it considered it to be vexatious, in line with section 14(1) of FOISA.
3. On 25 April 2024, the Applicant wrote to the Authority requesting a review of its decision. He stated that he was dissatisfied with the decision because he disagreed that his request was vexatious.
4. The Authority notified the Applicant of the outcome of its review on 23 May 2024, which fully upheld its original decision.
5. On the same day, the Applicant wrote to the Commissioner, applying for a decision in terms of section 47(1) of FOISA. He stated that he was dissatisfied with the outcome of the Authority's review for the reason set out in his requirement for review.

Investigation

6. The Commissioner determined that the application complied with section 47(2) of FOISA and that he had the power to carry out an investigation.
7. On 5 June 2024, the Authority was notified in writing that the Applicant had made a valid application and the case was allocated to an investigating officer.
8. Section 49(3)(a) of FOISA requires the Commissioner to give public authorities an opportunity to provide comments on an application. The Authority was invited to comment on this application and to answer specific questions about the reasons it considered the request to be vexatious. The Authority provided its comments.

Commissioner's analysis and findings

9. The Commissioner has considered all of the submissions made to him by the Applicant and the Authority.

Section 14(1) – Vexatious or repeated requests

10. Under section 14(1) of FOISA, a Scottish public authority is not obliged to comply with a request for information if the request is vexatious.
11. The Commissioner's [guidance](#)¹ on the application of section 14(1) of FOISA states:

"There is no definition of "vexatious" in FOISA. The Scottish Parliament considered that the term "vexatious" was well-established in law and chose to give the Commissioner latitude to interpret the term in that context, so that the interpretation might evolve over time in light of experience and precedent."
12. In the Commissioner's view, there is no single formula or definitive set of criteria that allow a formulaic approach to be taken to determining whether a request is vexatious. Each request must be considered on the merits of the case, supported by evidence, clear evaluation and reasoning. Although this is not an exhaustive list, the following factors will be relevant to a

¹ [BriefingSection14VexatiousorRepeatedRequests.pdf](#)

finding that a request (which may be the latest in a series of requests or other related correspondence) is vexatious:

- (i) it would impose a significant burden on the public authority
 - (ii) it does not have a serious purpose or value
 - (iii) it is designed to cause disruption or annoyance to the public authority
 - (iv) it has the effect of harassing the public authority; or
 - (v) it would otherwise, in the opinion of a reasonable person, be considered to be manifestly unreasonable or disproportionate.
13. Depending on the circumstances, other factors may be relevant, provided that the authority can support them with evidence. The Commissioner recognises that each case must be considered on its own merits, taking all the circumstances into account.
14. While the Commissioner's view is that "vexatious" must be applied to the request and not the requester, he acknowledges that the applicant's identity, and the history of their dealings with the authority, may be relevant in considering the nature and effect of a request and its surrounding circumstances. It may be reasonable, for example, for an authority to conclude that a request represents a continuation of a pattern of behaviour it has deemed vexatious in another context.
15. The guidance also says that requesters must not be denied the opportunity to make a genuine information request. Requests may be inconvenient and meeting them may at times stretch an authority's resources, but these factors are not, on their own, sufficient grounds for an authority to deem a request vexatious.

Submissions from the Authority

16. The Authority provided details submissions explaining why it considered the Applicant's request vexatious in terms of section 14(1) of FOISA. The Commissioner is unable to reproduce or summarise those submissions fully, within this decision notice, without breaching the obligation of confidentiality in section 45 of FOISA. However, he will reproduce what he considers to be the key elements of the Authority's submissions (to the extent that he can without breaching section 45).
17. In its review outcome, the Authority stated that it considered the Applicant's request was vexatious for the following reasons:
- "significant burden"
 - "disruption"
 - "disproportionate"

Significant burden

18. In terms of the significant burden, the Authority noted that the request sought correspondence held by named persons on a sensitive and significant matter affecting the Authority and the School of Languages, Literature, Music and Visual Culture (the School). It explained that the named persons comprised four members of the Authority's Senior Management Team (SMT) and the Head of the School.

19. The Authority submitted that complying with the request would require a disproportionate amount of time and the diversion of an unreasonable proportion of financial and human resources away from other priority matters, particularly given the seniority of the named persons and the impact on progressing urgent Authority strategic decision making.
20. The Authority noted that the request did not seek information on the Authority's position on the issue of compulsory redundancies and voluntary severance affecting the School, but instead focused on internal discussions between named individuals who had repeatedly been the subject of information requests from the Applicant.
21. The Authority noted that, since January 2023, the Applicant had made 34 requests for information – ten of which had been for correspondence held by members of the Senior Management Team (SMT) and Head of School.
22. The Authority noted that it was widely known that it had been undergoing a challenging period in terms of financial stability, which had necessitated difficult considerations and decisions. As such, the Authority's SMT were involved in extremely important work to negate this situation. It argued that redirecting SMT resource to respond to large-scale requests which focused repeatedly on the same named persons placed a significant burden on those persons, which had the potential to affect their ability to carry out their roles.
23. The Authority confirmed that it had not carried out comprehensive searches for relevant information in response to the request in this case. However, given the number of previous related requests from the Applicant, the Authority explained that there was already a "gauge" for the volume of work required to comply with the request and for the associated impact on the Authority and the named persons.
24. In terms of responding to the request in this case, the Authority confirmed that the Information Governance Team would be required to work in conjunction with the named persons in the request. It explained that was normal practice for named persons to search their own mailboxes to ensure all relevant information was identified. In any event, the Information Governance Team would be required to work through each communication to assess whether information was suitable for disclosure.
25. The Authority advised the Commissioner that Microsoft 365 is the Authority's approved platform, used by all staff, and it was therefore likely that information relevant to the request would be held in Microsoft Outlook and potentially in Microsoft Teams. It confirmed that during the time period specified in the request, members of the SMT did not use WhatsApp for business purposes.
26. To provide an indication of the work involved, the Authority stated that for the period specified in the request:
 - [redacted] had received 185 emails from [redacted]. While a large number of these would have been focused on the situation in the modern languages department, determining which related to compulsory redundancy or voluntary severance would require each email to be individually reviewed.
 - [redacted] had received 300 emails from [redacted].
 - a search of [redacted] mailbox for the term "redundancy" resulted in 375 emails being identified, with a similar number likely to be found in [redacted] sent items.

27. The Authority considered that this provided an insight into the burden that would have been placed on the SMT and this was only the emails of two of the named persons in the request. It submitted that it was likely that the other named persons would have a similar number of emails. As such, it argued that the work involved in complying with the request would have been significant and would have required it to amend workflows and activities of the SMT.

Disruption

28. In terms of the disruption that complying with the request would cause, the Authority stated that, while it recognised that requests were “applicant blind”, it considered it was entitled to consider, given the volume and pattern of requests from the Applicant focused on correspondence held by the same (or similar) members of the Authority’s SMT, the intention behind his request. In particular, whether the request had the intention of causing disruption of annoyance to the Authority rather than to access information.
29. The Authority submitted that the nature of the request and the pattern of previous requests received from the Applicant had the effect of harassing the Authority’s SMT at a time when they were under pressure and had responsibility for making key decisions for the Authority. It noted that it had never stated it was the Applicant’s intention to harass the named individuals, but, irrespective of his intentions, his request in this case had the effect of harassing members of the Authority’s SMT.
30. The Authority also noted that the Applicant had made the following comment in his application to the Commissioner:
- “I believe this response to be a clear example of an authority abusing the FOI system to halt the spread of potentially negative information...”
31. The Authority argued that it was clear from the wording of the wide-ranging requests made by the Applicant, including the request in this case, that he was seeking correspondence between named persons in the hope that “negative comments” were held. It noted that it had sought to provide advice and assistance to the Applicant on how he may wish to reword his requests to ensure that the focus was on specific information held by the Authority on a particular matter, rather than on correspondence held by named persons of Authority’s SMT on a wide variety of topics.
32. The Authority also submitted that the timing of the request was important to consider, particularly as many of the Applicant’s requests had been made while the matter in question was ongoing and when negotiations and considerations were under way. It explained that this often led to decisions that certain information could not be disclosed at that time, as it could hinder and impede efforts to move forward and resolve the issue in question.

Disproportionate

33. In terms of the request being “disproportionate”, the Authority explained that it deemed the request to be “manifestly disproportionate” because of the time that would be required to complete the work involved and the undue burden it would place on the SMT and others.
34. The Authority noted that, as with some of his other requests, the Applicant’s request in this case was complex, in terms of gathering the relevant information but also in terms of the resultant considerations to ensure only appropriate information was disclosed in response to the request. It also noted that it was another request on a different matter, but which impacted the same individuals.

35. The Authority recognised that campaigning in furtherance of legitimate concerns is appropriate activity in a democratic society, but it considered that there were limits to this. It submitted that requests which targeted the same named persons across a wide range of topics, thereby affecting their ability to deal with significant Authority matters, could be deemed manifestly unreasonable and disproportionate.
36. While the Authority accepted that members of its SMT should expect to respond to information requests in the same way as other staff members, it considered that persistent, wide-ranging requests may have a greater impact in terms of the SMT's ability to carry out other business critical work for the Authority.
37. The Authority acknowledged that section 14(1) of FOISA must not be applied lightly and submitted that it had delayed applying this provision to any of the Applicant's requests for as long as possible.
38. The Authority explained that, having regard to all of the above circumstances, it had decided to apply section 14(1) of FOISA to the request in this case. However, it stated that wherever it had been possible for the Authority to comply with a request from the Applicant it had done so. It had concluded that it was appropriate to apply section 14(1) of FOISA in this case due to the cumulative effect of the requests made by the Applicant and the specific impact of complying with the request in question at the time of receipt.

Submissions from the Applicant

39. The Applicant explained that each request he had submitted to the Authority (including the request that is the subject of this decision notice) had been [REDACTED]
40. Regarding this particular request for information, the Applicant advised that staff within the Authority's modern languages department had been placed at risk of redundancy and he wished to gain a better understanding of the thought processes behind this.
41. The Applicant submitted that the information sought was of value to himself and the public, as the situation within the modern languages department had been a topic of interest for some months. He argued that preserving a record of important conversations between senior managers on the issue was "incredibly relevant", given what he described as "reluctance" from the Authority to engage with the public on the matter of redundancy.
42. The Applicant accepted that the Authority may find his requests "annoying or burdensome", but he did not consider these were sufficient grounds to consider his request in this case vexatious.
43. The Applicant explained that each information request he had made to the Authority was for the purposes [REDACTED]. He considered that there was a clear public interest [REDACTED], and he disputed that he had made any information requests to cause annoyance or disruption to the Authority or to harass it.

The Commissioner's findings

44. Taken in isolation, the Applicant's request is not vexatious. It is not unreasonably broad: instead, it is time-limited, relates to specific individuals and seeks information on a particular topic in which there is a clear public interest. However, the vexatious nature of a request might only emerge after considering the request within, for example, the context of previous dealings the Applicant has had with the Authority.

45. Having reviewed the submissions provided by the Authority, the Commissioner considers it was reasonable for the Authority to have considered previous dealings it had with the Applicant when deciding whether the request in question should be treated as vexatious.
46. However, in the circumstances and on balance, the Commissioner does not accept that the Authority was entitled to conclude that the request in question was vexatious.
47. Section 45 of FOISA makes it a criminal offence for the Commissioner or a member of his staff to disclose without lawful authority information which he has obtained, or which has been furnished to him, under or for the purposes of FOISA, if the information is not at the time of the disclosure, and has not previously been, available to the public from another source.
48. In the circumstances, the Commissioner does not consider it possible to set out in full detail the reasons for his conclusions without potentially breaching section 45 of FOISA. However, he will set out the reasons for his conclusion as fully as he can.
49. The Commissioner recognises that the Applicant has made a significant number of information requests to the Authority over a relatively short period of time. However, [REDACTED], he does not consider that unusual or improper. [REDACTED].
50. While the Commissioner accepts that dealing with this number of requests may have been an inconvenience to the Authority and may at times have stretched its resources, these factors are not, on their own, sufficient grounds for an authority to deem a request vexatious.
51. The Commissioner recognises that there may be a significant volume of information falling within the scope of the request. However, he does not regard the request as unreasonably broad, and he is not persuaded that complying with the request would impose a significant burden on the Authority. If complying with a request would exceed the upper cost limit under FOISA, then public authorities should consider applying section 12 of FOISA.
52. While the Commissioner appreciates the concern raised by the Authority that the Applicant may be requesting information in the hope that negative comments are held, he considers the request has a serious purpose. Notwithstanding [the information already published](#)² regarding the Authority lifting the possibility of compulsory redundancies in the modern language department, the Commissioner is satisfied that it was reasonable for the Applicant to request information relating to discussions regarding compulsory redundancy and voluntary severance.
53. The Commissioner recognises the Authority's position that, irrespective of the Applicant's intent, the number of requests made relating to the same (or similar) members of its SMT had the effect of harassing these individuals. He does not doubt that the Authority and members of the SMT will have found the Applicant's request (and some of his other requests) challenging, particularly given the timing of the request and the SMT's other responsibilities.
54. However, the Commissioner considers it reasonable to expect that those in senior positions should expect to be subject to enhanced scrutiny. This is particularly so given the Authority acknowledged that it was widely known that it had been undergoing a challenging period in terms of financial stability, which had necessitated difficult considerations and decisions.

² <https://www.abdn.ac.uk/applications/news/22913/>

55. The Commissioner is also satisfied that the request in this case was sufficiently different from the Applicant's previous requests, that it had a serious purpose and that it was a genuine attempt to obtain information.
56. The Commissioner recognises that the Authority's SMT was under severe operational pressure at the time of the request. The situation was, no doubt, extremely challenging for the Authority, but that does not mean it was permitted any additional latitude in dealing with information requests – and, in particular, it does not permit any lowering of the threshold when it comes to identifying requests as vexatious.
57. While the Commissioner is sympathetic to the circumstances the Authority was dealing with at the time of the request and he recognises that it did not reach the decision apply section 14(1) of FOISA lightly, he finds, on balance, that it was not entitled to refuse to comply with the request in this case on the basis that section 14(1) of FOISA applied.
58. Consequently, the Commissioner requires the Authority to carry out a review in respect of the Applicant's request, and to respond to him otherwise than in terms of section 14(1) of FOISA.
59. If the Authority's review outcome will state that it is not obliged, in terms of section 12(1) of FOISA, to comply with the request because it would exceed the upper cost limit to do so, the Commissioner requires the Authority to provide the Applicant with appropriate advice and assistance, in terms of section 15 of FOISA, to allow him to make a new, refined request, within the cost limit.

Decision

The Commissioner finds that the Authority failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to the information request made by the Applicant.

Specifically, the Commissioner finds that the Authority was not entitled to refuse to comply with the Applicant's request on the basis that it was vexatious. In doing so, it failed to comply with section 1(1) of FOISA.

The Commissioner therefore requires the Authority to carry out a review, in terms of section 21 of FOISA, and respond otherwise than in terms of section 14(1), by **6 March 2025**.

Appeal

Should either the Applicant or the Authority wish to appeal against this decision, they have the right to appeal to the Court of Session on a point of law only. Any such appeal must be made within 42 days after the date of intimation of this decision.

Enforcement

If the Authority fails to comply with this decision, the Commissioner has the right to certify to the Court of Session that the Authority has failed to comply. The Court has the right to inquire into the matter and may deal with the Authority as if it had committed a contempt of court.

Euan McCulloch
Head of Enforcement

20 January 2024