



Scottish Information
Commissioner
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Decision Notice 122/2025

Speed checks at a specified location

Authority: Police Service of Scotland
Case Ref: 202401399

Summary

The Applicant asked the Authority for information relating to speed checks at a specified roundabout. 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 9 November 2023, the Applicant made the following request for information to the Authority:

“I have a major concern about the issue of driver speed on and approaching the mini roundabout on Blacklaw Drive East Kilbride at its junction with Mount Cameron Drive North. Police claim to have carried out physical speed checks 5 times during the year 2022 and [several] times in 2023 I should point out that I am not enquiring about observations on an occasional basis, rather that they carried out physical speed checks. I make this differentiation as a result of one of the officers insisting that speed could not possibly be estimated simply by observation.”

2. The Authority sought clarification of the Applicant's request on 10 November 2023 on the basis that it was uncertain whether the Applicant was seeking recorded information or wished to register a complaint.
3. The Applicant responded the same day and clarified that their request was "looking for the records of 5 sessions where speeding was measured in 2022 and several times in 2023".
4. The Authority responded on 6 February 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.
5. On 4 March 2024, the Applicant wrote to the Authority requesting a review of its decision. They stated that they were dissatisfied with the decision because they disagreed that their request was vexatious.
6. The Applicant did not receive a response to their requirement for review.
7. The Applicant wrote to the Commissioner on 4 September 2024, stating that they were dissatisfied with the Authority's failure to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
8. In [Decision 219/2024](#)¹, the Commissioner found that the Authority had failed to respond to the Applicant's requirement for review within statutory timescales.
9. The Authority notified the Applicant of the outcome of its review on 12 September 2024, which fully upheld its original decision without modification on the grounds that the request:
 - was designed to cause disruption or annoyance
 - had the effect of harassing the public authority
 - would otherwise, in the opinion of a reasonable person, be considered to be manifestly unreasonable or disproportionate.
10. On 21 October 2024, the Applicant wrote to the Commissioner, applying for a decision in terms of section 47(1) of FOISA. They stated that they were dissatisfied with the outcome of the Authority's review because they strongly disagreed that the request was vexatious.

Investigation

11. The Commissioner determined that the application complied with section 47(2) of FOISA and that he had the power to carry out an investigation.
12. On 11 February 2025, the Authority was notified in writing that the Applicant had made a valid application, and the case was subsequently allocated to an investigating officer.
13. 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.
14. Further submissions were also sought and obtained from the Applicant.

¹ <https://www.foi.scot/decision-2192024>

Commissioner's analysis and findings

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

Section 14(1) – Vexatious or repeated requests

16. 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.
17. The Commissioner's [guidance](#)² 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.”
18. 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 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.
19. 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.
20. 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.
21. 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.

² [BriefingSection14VexatiousorRepeatedRequests.pdf](#)

The Applicant's submissions

22. The Applicant explained that they had serious concerns about poor driving near their home, and that vehicles failing to reduce speed when approaching the specified roundabout had resulted in a number of near misses. They said they had raised their concerns with the Authority via a number of different routes over a period of several years.
23. The Applicant stated that, in response to their making a complaint in person at a specified police station, an officer had committed to carrying out "days of action" at the location in question to enforce traffic law. They said they had subsequently seen police activity at the location but that this had only consisted of a ten-minute police presence.
24. The Applicant explained that they had asked their MSP to intervene, who was then informed by a senior officer that several speed checks had been carried out at the location and that "no issue had been found". They said their MSP had, thereafter, declined to assist them further.
25. The Applicant explained that their request therefore sought records of the alleged checks described to their MSP.

The Authority's submissions

26. The Authority submitted that the Applicant had made numerous requests which focused on their belief that there was a road traffic issue at the location concerned (and the Authority's position that no such issue existed).
27. The Authority considered that the Applicant was attempting to access information to contradict or disprove information previously provided to them in good faith by officers who had advised them that no evidence existed to support their view that a road traffic issue existed at the location concerned.
28. The Authority explained that the Applicant had also previously submitted a FOISA request for records of contact between their MSP and the senior officer (to which it had responded that the contact had been verbal), which it considered was submitted with the intention of proving that the Authority had not only misled them, but also their MSP.
29. The Authority submitted that its decision to treat the Applicant's request as vexatious was not taken lightly, noting that it had relied on section 14(1) of FOISA in relation to just 0.4% of requests for information received in 2023.
30. The Authority stated that the request had a harassing effect, given that responding would result in the Authority having to "rake over old ground". It considered the Applicant was using FOI law to disprove information that had otherwise been communicated to them in good faith.
31. In support of its view, the Authority noted that the Applicant had submitted 16 subject access requests or requests for information (or requirements for review) under FOISA over a three-year period in relation to their perception that there was a road traffic issue at the specified location. It also stated that the Applicant had spoken to a number of officers over that period (who alluded to extensive correspondence with the Applicant) and provided an example of a note from an officer to support its position.
32. The Authority further stated that the Applicant had made six complaints to the Authority in recent years and had also engaged with the Police Investigations & Review Commissioner on five occasions, which it considered did not appear to have resolved the Applicant's concerns.

33. The Authority explained that it had advised the Applicant that there were various ways in which it could assist them in respect of FOISA, including the provision of information on road traffic incidents and/or crimes at the location specified. It also noted that it had disclosed information relating to speed checks in 2022 as part of a previous response to a request for information.
34. However, the Authority considered that the matter had been exhausted, and that the Applicant was continuing to revisit this issue solely on the basis that they were dissatisfied with the Authority's position that there was no apparent traffic issue at the location concerned.
35. In these circumstances, and at a time when its resources were under extreme pressure, the Authority argued that the volume of requests from the Applicant on the same subject (when they had exhausted other avenues to pursue their concerns) constituted harassment, whether intended by the Applicant or otherwise.
36. The Authority recognised the Applicant's frustration with its response to the traffic-related matters raised but submitted that it remained open to them to submit a formal complaint if they felt that this response was deficient or that any officer had misled them.

The Commissioner's view

37. The Commissioner has taken account of all of the relevant submissions provided by both the Applicant and the Authority.
38. In this case, the Commissioner is limited to considering whether the Authority has provided sufficient evidence and submissions to support its claim that the application of section 14(1) of FOISA was appropriate in the circumstances.
39. Taken in isolation, the Applicant's request is not vexatious. However, the vexatious nature of a request may only emerge after considering it in the context created by previous correspondence.
40. The Commissioner acknowledges that the Applicant has engaged with the Authority on this topic via various routes, including through making information requests under FOISA over a period of several years. He also recognises the Authority's position that the Applicant has been provided with various assurances that no evidence exists to support their concerns and that they will not accept these assurances, resulting in further requests and correspondence on this topic.
41. The Authority has outlined the volume of requests for information, subject access requests and complaints made by the Applicant, together with various other interactions with officers of the Authority. It has also made clear that it considers the matter to have been exhausted, and that the Applicant is continuing to "rake over old ground" as he is not satisfied with the Authority's position that there is no apparent road traffic issue at the location concerned.
42. Where section 14(1) of FOISA is being applied, it falls to the Authority to satisfy the Commissioner that it has met the requirements of the legislation in each individual case. In the circumstances of this case, and on balance, the Commissioner cannot conclude, on the basis of the submissions he has received, that the Authority was entitled to rely on the exemption in section 14(1) of FOISA.
43. The Commissioner is not satisfied that the Authority has provided sufficient evidence that the specific matter raised in this request has been exhausted under FOISA or other avenues to the extent that this request is vexatious. While the positions of the Applicant and the

Authority on whether a road traffic issue exists at the specified location are at odds, he is satisfied that the purpose of the request is to obtain the information requested, not merely to further pursue an argument.

44. For the same reasons set out above, the Commissioner is also satisfied that the request was not designed to cause disruption or annoyance and that the request would not, otherwise, in the opinion of a reasonable person be considered to be manifestly unreasonable or disproportionate.
45. It is apparent the Applicant has submitted a number of information requests to the Authority and otherwise engaged in correspondence relating to this matter over a number of years. No doubt the Authority has found this challenging. Fundamentally, though, responding to requests for information under FOISA is a statutory obligation. That a request may be inconvenient, or may even stretch the resources of an authority, to respond to is not sufficient to make a request vexatious, particularly where there is a reasonable foundation for the request (which, in the circumstances, the Commissioner is satisfied there is).
46. While it is entirely feasible that the nature, history and volume of the Applicant's engagement with the Authority has been challenging, the Commissioner is not satisfied that the Authority has provided sufficient evidence that the request in this case has had the effect of harassing the Authority to the extent that section 14(1) of FOISA is engaged.
47. The Commissioner therefore finds that the Authority was not entitled to refuse to comply with the request on the basis that section 14(1) of FOISA applied. He requires the Authority to carry out a fresh review in respect of the Applicant's request, and to respond to them otherwise than in terms of section 14(1) of FOISA.
48. The Commissioner would like to reiterate that he has reached this conclusion on the basis of the submissions he has received in this case.

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 **4 July 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 May 2025