



Scottish Information
Commissioner
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Decision Notice 154/2025

Whether request was vexatious

Authority: General Teaching Council for Scotland
Case Ref: 202401100

Summary

The Applicant asked the Authority for all information relating to an independent review of its Fitness to Teach process. The Authority refused to comply as it considered the request to be vexatious. The Commissioner investigated and found that the request was vexatious and that the Authority was not obliged to comply.

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. The Authority has a statutory duty to maintain a register of teachers and to investigate concerns relating to the conduct or professional competence of teachers on that register (or applying to be placed on that register) through its [Fitness to Teach process](https://www.gtcs.org.uk/fitness-to-teach)¹.

¹ <https://www.gtcs.org.uk/fitness-to-teach>

2. In May 2024, the Authority [commissioned](#)² the Professional Standards Authority for Health and Social Care (PSA) to undertake an independent review of its Fitness to Teach process. (The [PSA's review report](#)³ was published during the Commissioner's investigation.)
3. On 21 June 2024, the Applicant made the following request for information to the Authority:
"I would like a copy of all information held in relation to the independent review by the PSA announced by the [Authority] in May. To include all emails, related documents etc."
4. The Authority responded on 16 July 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 the same day, 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 Authority notified the Applicant of the outcome of its review on 15 August 2024, which fully upheld its original decision without modification. It did so on the grounds that:
 - complying with the request would impose a significant burden
 - the request was designed to cause disruption or annoyance
 - the request would otherwise, in the opinion of a reasonable person, be considered to be manifestly unreasonable or disproportionate.
7. On the same day, 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

8. The Commissioner determined that the application complied with section 47(2) of FOISA and that he had the power to carry out an investigation.
9. On 5 September 2024, the Authority was notified in writing that the Applicant had made a valid application. The case was subsequently allocated to an investigating officer.
10. 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.
11. Multiple further submissions were also received from the Applicant.

² <https://www.gtcs.org.uk/news/news-and-updates/gtc-scotland-appoints-the-professional-standards-authority-to-review-fitness-to-teach-process>

³ <https://www.gtcs.org.uk/documents/advice-to-the-general-teaching-council-for-scotland>

Commissioner's analysis and findings

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

Section 14(1) – Vexatious or repeated requests

13. 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.
14. The Commissioner's [guidance](#)⁴ 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.”
15. 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.
16. 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.
17. 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.
18. 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.

⁴ <https://www.foi.scot/sites/default/files/2023-07/BriefingSection14VexatiousorRepeatedRequests.pdf>

The Authority's submissions

19. The Authority provided the following context to the Applicant's request:
 - it had appointed the PSA to undertake an independent review of its Fitness to Teach process as part of a wider review of its Fitness to Teach rules
 - it considered it necessary, as a responsible regulator, to regularly review the procedures it carried out as part of its statutory obligations, including its obligation to perform its functions in a way consistent with best regulatory practice
 - the decision to initiate the review was entirely voluntary and self-directed, to ensure it kept pace with ongoing changes within the regulatory environment and that its processes continually improved
 - the review process involved a significant investment of financial and human resources for the Authority, in the context of its overall organisational scale and capacity.
20. The Authority explained that it considered the cost of providing the information in this case would significantly exceed £600, as the request sought "all information held in relation to the independent review by the PSA".
21. The Authority explained that it considered the Applicant's information request vexatious because it would impose a significant burden on it to comply for the following reasons:
 - it held 30.5GB of data relating to the review across six subfolders and 703 files (which included video files), with each file requiring conversion
 - the resulting document would comprise several thousand pages, with each page requiring assessment for potential redaction.
22. Based on this, the Authority estimated that it would take no less than 68 hours to supply the information. It provided the following calculation:
 - preparation: transcription of videos (3 hours) + identification and downloading of email attachments (2 hours) + preparation of Excel documents for review (2 hours) + conversion of documents into PDFs = "no less than 10 hours"
 - redaction: 703 documents @ 5 minutes per document = 3,515 minutes (approximately 58 hours)
 - (3,515 minutes * £15.00 p/h = £878.75)
23. The Authority explained that it had based its projected redaction time on the time taken to redact a single document which had already been successfully converted.
24. The Authority submitted that its Regulatory Case Manager and Head of Regulatory Investigations would, given their knowledge of the PSA Review and subject area, be responsible for assessing and applying redactions (with the support of its Information Governance Officer).
25. The Authority explained that complying with the Applicant's request would therefore divert staff from its Regulatory Investigations Team away from, among other duties, progressing Fitness to Teach investigations. It noted that it was experiencing high demand in relation to Fitness to Teach investigations, which formed a vital part of its own statutory obligations and, in many cases, related to public and child protection matters.

26. While the Authority considered that responding the Applicant's request would impose a significant burden on its own, it confirmed that it had also taken the Applicant's previous information requests into account when considering the burden imposed.
27. The Authority submitted that the Applicant had made requests for information from 2019 onwards and that the complexity and volume of these requests had increased significantly. It also noted that it was a small public authority and that these requests had placed a significant demand on it.
28. The Authority noted that the Applicant's requests related to similar themes, centring on its Fitness to Teach function and concerns held by that Applicant regarding that function. In support of this, the Authority provided the Commissioner with submissions which indicated that the Applicant had made eleven information requests from November 2023 to June 2024, ten of which related to Fitness to Teach matters (requiring a review in relation to four of those requests).
29. The Authority explained that, given the subject matter, the collective burden of responding to those requests fell upon its Regulatory Investigations Team (diverting the team away from important statutory functions).
30. The Authority further contended that the Applicant held a grievance regarding the Authority's response to specific concerns they had raised via its Fitness to Teach process – a grievance which now extended to its Fitness to Teach process more generally. In support of this, the Authority noted that the Applicant had (at the time of their request) made:
- thirteen referrals in relation to three teachers (ten of which had been dismissed; two required no action following investigation; one remained under consideration)
 - two service-level complaints (which were not upheld)
 - submitted 240 emails to staff (and had contacted trustees to raise complaints)
 - brought legal action against the Authority for failing to pursue a Fitness to Teach referral following an investigation (a Decree of Absolvitor was granted in the Authority's favour)
 - submitted two subject access requests (one of which made reference to Fitness to Teach referrals).
31. In these circumstances, the Authority considered that the Applicant's request represented an ongoing grievance against the Authority, which formed part of an extended campaign which was not designed to extract information, but to continue to "litigate" the Applicant's grievances in relation to its Fitness to Teach process.
32. The Authority explained that it had made the fact of the PSA's review public to demonstrate its commitment to transparency and accountability and to ensure members of the public were aware of the review and the Authority's work. It noted it had issued a public call for views to inform the review and that it had committed to publishing the PSA's report on the outcome of the review. It also noted that the PSA's review had not (at the date of the review outcome) been completed.
33. For these reasons, the Authority considered the Applicant's request lacked a serious purpose. It considered the request, particularly given the timing and scale, was instead a "deliberate misuse" of FOI law to cause disruption to the Authority and to the PSA's review process.

34. The Authority referred to paragraph 29 of the Commissioner's guidance on section 14 of FOISA. While campaigning in furtherance of legitimate concerns is appropriate activity in a democratic society, a campaign can be vexatious where it is either not well founded or has no reasonable prospect of success or where the requester refuses to consider any alternative point of view on the matter. The Authority argued that these factors applied in the present case.
35. The Authority further submitted that, in all the circumstances, the Applicant's request also had the effect of harassing the Authority, given the context of their various interactions with the Authority.
36. The Authority explained that it had informed the Applicant in November 2023 that it would not enter further discussion regarding investigations or referrals concluded through its Fitness to Teach process.
37. The Authority submitted that the Applicant had multiple forms of contact with its Information Governance Team on what it described as "a near-daily basis", that the tone of some of their correspondence (which included stating their distrust of the Authority) had the effect of harassing staff and that any reasonable person would take this view. It provided examples of such correspondence to the Commissioner.
38. More specifically, the Authority contended that the Applicant had, over time, engaged in communications of a "certain tone", including "unfounded allegations and accusations" against the Authority and its employees that had the effect of increasing the harassment to the Authority and its employees, whether intentional or not.
39. The Authority further argued that, in all the circumstances, providing a response to the Applicant's request would be considered manifestly unreasonable or disproportionate in the opinion of a reasonable person.

The Applicant's submissions

40. The Applicant provided multiple separate submissions during the investigation. While the Commissioner has fully reviewed these submissions, he will only summarise what he considers to be the key points in what follows.
41. During the investigation, the Applicant confirmed that they had obtained some of the Authority's submissions after submitting a subject access request to the Authority.
42. In relation to the significant burden claimed by the Authority, the Applicant explained that they had had no sense of the volume of effort required to comply with their request. They argued that had they been informed that thousands of pages of documents fell within scope of their request, they would have been prepared to amend the scope of that request. They noted that they had made such an offer in their requirement for review – an offer the Authority had not taken up.
43. The Applicant also noted that, when the Authority found that a previous FOI request of theirs had exceeded the upper cost limit under FOISA, it had provided an estimated cost of compliance. This allowed them to submit a narrower request in response to which the Authority issued a fees notice, which they paid. They queried why that approach had not been taken here, particularly as the Authority had subsequently gone on to respond to two narrower requests for subsets of the information covered in the request in this case.

44. The Applicant argued that the Authority's decision to respond to those requests suggested that the workload to provide a response to the request in this case may not have been as burdensome as the Authority claimed.
45. Similarly, the Applicant noted that, during the investigation, the PSA disclosed information to them following their successful appeal to the UK Information Commissioner. They considered that the material disclosed indicated that the redaction of case files sent by the Authority to the PSA, for the purposes of its review, was not onerous.
46. The Applicant queried why the Authority had not, given the burden claimed, simply applied section 12(1) of FOISA to their request rather than deeming it vexatious. They noted that the Authority had taken this approach in response to a subsequent request of theirs during the investigation.
47. The Applicant strongly refuted the Authority's position that their request lacked serious purpose or was designed to cause disruption or annoyance to the Authority. They explained that they held real concerns about the fitness of the Authority's Fitness to Teach process and explained why. They stated that these concerns were shared by sector experts and MSPs.
48. The Applicant said that their concerns related to deficiencies in the Fitness to Teach referral process, which had failed to satisfactorily escalate referrals made by them in relation to three individuals. They considered that this demonstrated the absence of effective oversight in relation to registered teachers where safeguarding concerns had been raised by members of the public.
49. The Applicant submitted that it was a matter of significant national concern that a regulator tasked with ensuring teachers were fit to teach did not know if this function was fit for purpose and had commissioned the PSA review to "find out". (As noted above, PSA published the findings of the review during the Commissioner's investigation. The Applicant considered these findings supported their position that there are significant issues with the Authority's Fitness to Teach process.)
50. The Applicant further submitted that the Court which had considered their case against the Authority (in relation to its decision not to escalate a Fitness to Teach referral) had accepted that they had "valid" concerns.
51. The Applicant stated that they had sent 51 emails to the Authority over a period of eleven months. 15 were directly in response to requests for clarification from the Authority, while the remaining 36 "unsolicited" emails were sent over a period of 231 working days. They submitted this was not on the "nearly daily basis" described by the Authority and that they could "justify" each of the emails they had sent.
52. The Applicant said that if the Authority was prepared to provide misleading information to the Commissioner on the extent of their contact, then it would not surprise them if it had done the same with the work that would be required to comply with their request.
53. The Applicant also stated that the Authority had never raised any concerns with them regarding their conduct prior to responding to the request in this case in terms of section 14(1) of FOISA. They submitted that the Authority was conducting a campaign against them to prevent them from obtaining information which was in the public interest and would prove that the Authority was not meeting its statutory obligations, thus exposing thousands of children to risk and harm.

The Commissioner's view

54. The Commissioner has taken account of all of the relevant submissions provided by both the Applicant and the Authority.
55. The Authority's rationale for refusing the Applicant's request as vexatious can be grouped, broadly, under the following headings:
 - it would impose a significant burden on it by itself and in the context of the Applicant's history of dealings with the Authority
 - it had the effect of harassing the Authority
 - it was submitted as part of a campaign (one based on a grievance) with the intention of causing disruption and annoyance to the Authority
 - it lacked a serious purpose
 - it was manifestly unreasonable or disproportionate.
56. The Commissioner accepts the Authority's submissions that complying with the Applicant's request would, on its own, be likely to impose a significant burden. This is due to the volume of information falling within the scope of the request, which was very broad in nature in that it requested all information held in relation to a (then) ongoing major piece of work.
57. The Authority provided a cost estimate indicating that the work required to comply with the request would exceed £600 – the threshold for applying section 12 of FOISA. While the Authority did not apply section 12 in this case, the Commissioner considers it reasonable to take this estimate into account when assessing the burden under section 14(1). The estimate appears to be broadly based on a reasonable approach, and it supports the conclusion that complying with the request would require a significant amount of staff time and resources (which would be diverted from other statutory functions).
58. As noted in the Commissioner's guidance on section 14(1) of FOISA, it can be relevant to consider the wider context and history of engagement between a requester and a public authority. The Commissioner is satisfied, having reviewed the submissions provided, that it was reasonable for the Authority to consider the Applicant's history of dealings with it, and the cumulative burden this has imposed, when deciding whether the request in question should be treated as vexatious.
59. The Authority has provided evidence of a sustained pattern of contact from the Applicant, including multiple information requests and other communications over a prolonged period. While individuals are entitled to request information and engage with public authorities, the Commissioner accepts that the volume and persistence (albeit not "nearly daily") of the Applicant's history of dealings in this case has imposed a cumulative burden on the Authority.
60. When the burden of complying with the request in this case is considered alongside this cumulative burden, the Commissioner is satisfied that the Authority was entitled to refuse to comply with the Applicant's request in this case based on the significant burden that would be imposed.
61. The Commissioner would expect public authorities and their employees to be able to withstand reasonable criticism. It is clear that the Applicant is dissatisfied with the Authority's actions and that they feel strongly about this. These feelings are reflected in some of the

Applicant's correspondence. For the most part, the Commissioner does not consider the language or tone of the Applicant's correspondence unreasonable.

62. However, the Commissioner accepts that the cumulative impact of the Applicant's contact has had the effect, regardless of the Applicant's intention, of harassing the Authority and its employees, particularly when the language of some of their correspondence is taken into account. For example, the Applicant has:
- threatened court action unless the Authority responded to certain correspondence by a set deadline
 - suggested collusion and conspiracy on the part of the Authority, including by comparing their concerns about the Authority's actions to the Post Office scandal.
63. The Commissioner acknowledges that a single factor, such as a request imposing a significant burden or having a harassing effect, may be sufficient on its own to justify a finding that a request is vexatious. In this case, he has considered both factors together because he views them as closely connected and mutually reinforcing. That is, the significant burden imposed by the request contributes to the harassing effect, particularly when considered alongside the history (and occasionally the language) of the Applicant's previous contact. Taken together, the Commissioner considers that these factors provide a more complete picture of the overall impact on the Authority.
64. The Commissioner is therefore satisfied, on balance, that the Authority was entitled to refuse to comply with the request on the basis that it would impose a significant burden and because it had the effect of harassing the Authority and its employees.
65. In the circumstances, the Commissioner is satisfied that the Authority was entitled to refuse to comply with the request in question by virtue of section 14(1) of FOISA, considering the submissions provided by the Authority and bearing in mind that the request in question was clearly linked by subject matter to previous requests made by, and correspondence received from, the Applicant.
66. Given his conclusion that the Authority was entitled to refuse to comply with the request on the basis that it would impose a significant burden and that the request had the effect of harassing the Authority, the Commissioner will not go on to consider whether the request was also vexatious for the other reasons set out by the Authority.
67. The Commissioner would like to make clear that his finding in this decision notice does not mean that any request from the Applicant to the Authority would necessarily be vexatious. As ever, his finding simply means that the request under consideration was vexatious – not that the requester was vexatious.
68. The right to request information is an important legal right. It should not be abused, but the provisions within section 14(1) of FOISA must still be used carefully, which means authorities must always consider requests on their own merits and consider all the relevant circumstances, in order to reach a balanced conclusion as to whether a request is vexatious.
69. The Commissioner considers that the Authority has demonstrated such an approach by subsequently complying with narrowed requests from the Applicant for some of the information requested in the present request.

70. Given that the Authority was able to comply with subsequent, narrowed requests from the Applicant, the Commissioner considers it would have been helpful for the Authority to have engaged with the Applicant's offer – set out in their requirement for review – to narrow the scope of their request. However, the Commissioner also considers that requesters should, wherever possible, take steps to frame their requests in a reasonably focused manner (as the Applicant subsequently did), in order to reduce the likelihood that compliance would impose a significant burden on the public authority (and, indeed, to be mindful – whatever the importance of a given matter to them – that such an impact may be likely in the circumstances of a given request or series of requests).

Decision

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

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.

Euan McCulloch
Head of Enforcement

23 June 2025