



Scottish Information
Commissioner
www.foi.scot

Decision Notice 298/2025

Whether requirement for review was vexatious

Authority: General Teaching Council for Scotland
Case Ref: 202501297

Summary

The Applicant asked the Authority for details relating to a list of referrals sent to the Professional Standards Authority for Health and Social Care (PSA). The Authority responded but declined to conduct a review, as it believed the Applicant's requirement for review was vexatious. The Commissioner investigated and found that the Authority was not obliged to conduct a review.

Relevant statutory provisions

Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1), (2) and (6) (General entitlement); 14(1) (Vexatious or repeated requests); 20(1) (Requirement for review of refusal etc.); 21(1), (8) and (9) (Review by Scottish public authority); 47(1) and (2) (Application for decision by Commissioner).

Background

1. On 2 June 2025, the Applicant made the following request for information to the Authority:
"This is an FOI request. There is a potential link with my current SAR so please don't do unnecessary work. I am not sure if the copy of cases sent to the PSA to participate in the random selection process phase, i.e., the 123 cases were fully anonymised or not. If it was not then its still my personal data, if it was it isn't. Its a bit of a grey area. With this in mind I have decided to submit this FOI."

If the 123 cases shared with the PSA were fully anonymised for the random selection process phase please provide me with a copy of the anonymised cases for the Initial Consideration decision point only. I don't need this for the other decision points.”

2. The Authority sought clarification from the Applicant on his request and corresponded with him on 4, 5 and 6 June 2025 in respect of two matters:
 - whether the reference to 123 cases in his request should have been 132 cases. The Applicant confirmed that reference should have been made to “132”.
 - to clarify the meaning of “copy of the anonymised cases” – whether he meant “the list of cases, the referral related to it or all records regarding the case”.
3. The Applicant confirmed that he meant 132 cases and clarified that:

“If the information provided to the PSA, i.e., the 132 cases for the random selection process was fully anonymised then it's no longer personal data hence this FOI request to obtain a copy of the anonymised information shared with them. If the information was not anonymised, I would like a copy of my personal data shared with the PSA which is covered under my SAR.”
4. The Authority responded on 4 July 2025. It disclosed some information to the Applicant and withheld other information under various exemptions in FOISA.
5. On the same date, 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 the exemption in section 38(1)(b) of FOISA applied to the list of referrals provided to the PSA as the PSA had already shared this data with him in an anonymised form
 - while he accepted that the exemption in section 30(c) of FOISA applied to “other referrals”, he disagreed that it or the exemption in section 38(1)(b) applied to his “own” fitness to teach referrals as he was the one asking for this information
 - he considered that the public interest test favoured disclosure.
6. The Authority notified the Applicant of the outcome of its review on 31 July 2025. It informed the Applicant that it considered his requirement for review to be vexatious, in terms of section 21(8)(a) and explained why.
7. On 31 July 2025, the Applicant wrote to the Commissioner, applying for a decision in terms of section 47(1) of FOISA. He stated he was dissatisfied with the outcome of the Authority's review because he disagreed that his requirement for review 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 13 August 2025, 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 related to why it considered the Applicant's requirement for review to be vexatious.

11. During the investigation, the Applicant asked that the Commissioner focus on whether the Authority should have disclosed the information that it had withheld under the exemption in section 38(1)(b) of FOISA (and which the PSA had disclosed to him) and whether the Authority was entitled to determine that his requirement for review was vexatious.
12. The Commissioner's remit is limited to considering whether the Authority complied with Part 1 of FOISA in its review outcome. He therefore cannot consider whether the Authority should have disclosed the information that it withheld under the exemption in section 38(1)(b) of FOISA (and which the PSA has disclosed to the Applicant), but he will consider whether the Authority was entitled to determine that the Applicant's requirement for review in relation to that part of his request was vexatious.

Commissioner's analysis and findings

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

Section 21 of FOISA - Review by Scottish public authority

14. Section 21(1) of FOISA states that a Scottish public authority receiving a requirement for review must (unless that requirement is withdrawn or is as mentioned in subsection (8)) comply promptly; and in any event by not later than the twentieth working day after receipt of the requirement.
15. Section 21(8)(a) of FOISA states that subsection (1) does not oblige a Scottish public authority to comply with a requirement for review if the requirement is vexatious.
16. In this case, the Authority argued that it considered the Applicant's requirement for review to be vexatious, therefore applying section 21(8)(a).

Whether requirement for review was vexatious

17. FOISA does not define the word "vexatious". The Commissioner has published [guidance](#)¹ on section 14 of FOISA. Each case must be considered on its own merits, but he has identified several factors he considers relevant in finding that a request is vexatious. In the Commissioner's view, the following factors are equally relevant to the application of section 21(8)(a) of FOISA:
 - (i) the request (or requirement for review) 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
 - (iv) it would otherwise, in the opinion of a reasonable person, be considered to be manifestly unreasonable or disproportionate.

¹ <https://www.foi.scot/sites/default/files/2023-07/BriefingSection14VexatiousorRepeatedRequests.pdf>

18. This is not an exhaustive list. Depending on the circumstances, and provided the impact on the authority can be supported by evidence, other factors may be relevant.
19. While the Commissioner's view is that the term "vexatious" must be applied to the request (or, in this case, the requirement for review) and not the requester, he also acknowledges that the applicant's identity, and the history of their dealings with a public authority, may be relevant in considering whether a request is vexatious.

The Applicant's submissions

20. As stated above, the Applicant asked that the Commissioner focus on whether the Authority should have disclosed the information that it had withheld under the exemption in section 38(1)(b) of FOISA (and which the PSA had disclosed to him) and whether the Authority was entitled to determine that his requirement for review was vexatious.
21. By way of background, the Applicant explained that he had made a subject access request to the Authority in January 2025. Frustrated at not yet receiving a substantive response and fearing that the Authority might say the data he had requested was anonymised, he decided to submit an FOI request to the Authority and the PSA on 2 June 2025.
22. The Applicant noted that the PSA responded to him on 1 July 2025, disclosing two spreadsheets of anonymised data. However, the Authority withheld the same information under the exemption in section 38(1)(b) of FOISA. His position, therefore, was that the Authority should have disclosed this information to him (like the PSA had) on the basis that it was anonymised data.
23. The Applicant submitted that the Authority's position that his requirement for review was vexatious was wrong as he had the right to challenge its position on withholding the information requested. He said that the Authority should have apologised for "getting this wrong" and said that it had "no need to share it" as he already had it and, if it had, then "that would have been that".

The Authority's submissions

24. The Authority referred to submissions it had provided to the Commissioner in response to previous applications from the Applicant and stated that it wished these to form part of its response to his current application.
25. In this instance, the Authority considered that a reasonable person would conclude that the Applicant's requirement for review had no serious purpose or value and had the effect of causing disruption and annoyance to Authority staff in the performance of their duties which had the effect of harassing them.

Serious purpose or value

26. The Authority noted that the Applicant said in his requirement for review that he had already obtained the shared list of referrals from the PSA. It therefore considered that complying with the Applicant's requirement for review would bring no benefit to him: he already had the information requested and sought "to use FOISA to request the same record a second time". It also noted that no decision by the Commissioner would result in the Applicant gaining any more information than he already had.
27. Given the lack of public interest in the information requested (no other requester had asked for it), the requester already holding the record and the absence of any public interest served

by any disclosure, the Authority considered there to be no serious purpose or value to this request.

Causing disruption and annoyance

28. As stated above, the Authority referred to submissions it had provided to the Commissioner in response to previous applications from the Applicant and stated that it wished these to form part of its response to his current application. Specifically, it said that it wished to rely on these submissions to the extent that they are indicative of the Applicant using FOISA as a “vehicle to pursue a grievance” by using various requests to “as an opportunity to ventilate disagreement and distrust” with the Authority.
29. While it accepted the Applicant’s initial interest in the information requested, the Authority deemed that this requirement for review went beyond the provision of information. It considered that, in the view of a reasonable person, “this would appear to be an attempt to pursue a campaign by vocalising their distrust and disrupting the work of the organisation”.
30. From the perspective of a reasonable person, even in the absence of intent to disrupt the work of the organisation, the Authority submitted that the objective effect of the requirement for review had been the disruption or annoyance of staff in the performance of their duties.

Harassment of staff

31. The Authority provided details of the number of requests for information (including subject access requests) that the Applicant had made since April 2025, as well as details of other actions he had undertaken. Taken together, it considered that this information was indicative of the actions of an individual which any reasonable person would conclude has had the effect of harassing the Authority’s staff.

The Commissioner’s view

32. The Commissioner is required to determine not whether the Applicant’s request for information was vexatious, but whether his requirement for review was vexatious. In doing so, he has considered all of the submissions made by both the Applicant and the Authority.
33. The Applicant’s requirement for review disputed the Authority’s application of the exemption in section 38(1)(b) of FOISA to list of referrals provided to the PSA on the basis that the PSA had already disclosed this information to him in an anonymised form. In other words, his requirement for review sought to challenge the Authority’s application of an exemption to information he was at that time already in possession of.
34. As stated above, the Applicant submitted that the Authority should have apologised for “getting this wrong” and said that it had no need to now provide him with the information as he was already in possession of it and, if it had, “that would have been that”. He went on to say that his requirement for review “did not ask for a copy of the data as I [he] already had it”. Instead, he just wanted the Authority to review its original decision as he was entitled to in order to be sure that it was right to apply the exemption in section 38(1)(b) of FOISA.
35. The Commissioner acknowledges that the Applicant believes that the Authority’s initial response was incorrect. However, FOI law is fundamentally about the extraction of information. In this case, the Applicant was already in possession of the information in question at the time he submitted his requirement for review, and he has now expressly said that he did not require this information from the Authority.

36. The Commissioner recognises that there may be circumstances in which a requirement for review that seeks to challenge whether the response of a public authority complied with FOI law may still have a serious purpose notwithstanding the fact that the requester is already in possession of the information requested. However, in this case, it appears that the principal purpose of the Applicant's requirement for review was not to extract information (as he already had it), but to secure an admission (and apology) from the Authority that its initial response to his information request was wrong.
37. In all of the circumstances, the Commissioner agrees with the Authority that, in this case, the Applicant's requirement for review lacked purpose and value to the extent that it was entitled to consider it to be vexatious. As the Commissioner is satisfied that the Applicant's requirement for review was vexatious based on this factor alone, he will not go on to consider the other factors cited by the Authority in support of its position.
38. In all the circumstances of this case, the Commissioner considers it reasonable to conclude that the Applicant's requirement for review was vexatious and that section 21(8)(a) of FOISA applied. Accordingly, the Authority was not required to conduct a review in terms of section 21(1) of FOISA.

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.

David Hamilton

Scottish Information Commissioner

11 December 2025