



Scottish Information
Commissioner
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Decision Notice 082/2026

Whether meta request was vexatious

Authority: Scottish Ministers

Case Ref: 202501732

Summary

The Applicant asked the Authority for all internal communications relating to a previous request for information he had made. 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 grounds 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); 16(1) and (5) (Refusal of request); 47(1) and (2) (Application for decision by Commissioner).

Background

1. On 18 August 2025, the Applicant made a request for information to the Authority. He asked for “all internal communications related to the creation of a [previous information request he had made]”.
2. The Applicant’s previous information request sought information from the Authority relating to the Commissioner’s request (referred to at paragraph 36 of [Decision 144/2025](#)) for a named Special Adviser to provide a voluntary affidavit to clarify their role in the redaction process for James Hamilton’s report following his investigation into the First Minister under the Ministerial Code.

3. The Authority responded on 8 September 2025. It stated that it had interpreted the request as being for all internal communications related to the creation of the Authority's response to the request in question and notified that 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.
4. Later that same day, 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 and explained why.
5. The Authority notified the Applicant of the outcome of its review on 30 September 2025, which fully upheld its original decision without modification.
6. Later that 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 same reasons set out in his requirement for review.

Investigation

7. The Commissioner determined that the application complied with section 47(2) of FOISA and that he had the power to carry out an investigation.
8. On 9 October 2025, the Authority was notified in writing that the Applicant had made a valid application. The case was subsequently allocated to an investigating officer.
9. 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 why it considered the request to be vexatious.

Commissioner's analysis and findings

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

Section 14(1) – vexatious or repeated requests

11. 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.
12. 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.”
13. 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

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

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.

14. 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.
15. 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.
16. 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.

The Applicant's submissions

17. The Applicant disagreed that his request was vexatious. He noted paragraph 29 of the Commissioner's guidance on section 14 of FOISA, which refers to campaigning in furtherance of legitimate concerns being an appropriate activity in a democratic society and states that public authorities should not deal with a campaign as vexatious simply because it is a campaign.
18. The Applicant believed that his requests could be described as campaigning in furtherance of legitimate concerns. He considered that his campaign was well founded and had reasonable prospect of success as had been demonstrated by previous decisions of the Commissioner and a judgment from the Court of Session.
19. The Applicant noted that he had submitted meta requests in the past and had received the information requested. He considered that these requests, which asked for communications, should be relatively straightforward given that everything would be recorded with the FOI reference number and should be readily accessible. He also pointed out that the timeframe for the present request was "clearly limited".
20. The Applicant referred to paragraph 29 of [Decision 209/2010](#)² of the Commissioner, which considered to be directly relevant to his present request:

² <https://www.foi.scot/sites/default/files/Decision209-2010.pdf>

“... [The Commissioner] sees no reason why a request relating to the day-to-day processes followed by staff and the judgements they apply should be considered by their nature to be particularly harassing: on the contrary, he would suggest that transparency on such matters is a key underlying purpose of any freedom of information regime.”

21. The Applicant noted that the Commissioner had published decisions on a number of meta-requests and had not found them to be vexatious. He also noted that the guidance from the UK Information Commissioner’s Office (UK ICO) was that these types of requests should be dealt with in the same way as any other request.
22. The Applicant explained that the present request did not seek to challenge the Authority’s response to his previous request; instead, it sought entirely new information. He said that it was never his intention to use the present request to challenge the Authority’s previous response. Given that his present request sought new information, he said he that he could not see how it could be used to circumvent the normal FOI appeal pathway as the Authority suggested. He also noted that he had never been accused of attempting to circumvent the normal FOI appeal pathway in response to his previous meta requests
23. The Applicant argued that if requests such as his present request were to be seen as vexatious, this would lead to a “complete chilling effect” of individuals asking for meta-FOIs and seeking to understand how their original FOI was handled.

The Authority’s submissions

24. The Authority submitted that all of the factors set out in paragraph 18 above were of relevance in its decision to deem the Applicant’s request vexatious. It said that it considered paragraph 9 of the Commissioner’s guidance said that section 14(1) of FOISA is “concerned with the effect of a request on the authority and its staff”. It explained that it had balanced this impact against the potential value and purpose of the information to the Applicant in coming to its conclusion that the request was vexatious.
25. While it acknowledged that requests should be treated as applicant blind, the Authority said that it had viewed the Applicant’s request in the context of the overall pattern and scale of his communication and that it had, to some extent, considered the cumulative impact of that overall communication as well as considering the request individually when considering its response.

Significant burden

26. The Authority believed that handling the Applicant’s request would impose a significant burden on it. It said that this burden became “more acute” as it considered that the s request was the latest in a long series of requests, the vast majority of which have been answered substantively.
27. The Authority noted that the Applicant’s request related to its handling of an previous request of his, which related to its handling of the appeal that resulted in [Decision 144/2025](https://www.foi.scot/decision-144/2025)³ of the Commissioner. It said that it had provided a substantive response, and information, in response to the Applicant’s previous request.

³ <https://www.foi.scot/decision-144/2025>

28. The Authority explained that the request that is the subject of this appeal was a subsequent request that asked for all information created in relation to the handling of its response to the Applicant's previous request.
29. The Authority described the present request as being about its "handling of another, previous request, which in turn was about our handling of an appeal". It considered that this showed that it was "in a loop" of answering requests about its handling of the same issue. That is, the provision of a signed statement relating to the redactions made to the report by the independent advisor on the Ministerial Code, James Hamilton, into the conduct of the former First Minister". It noted that the signed statement itself had been disclosed to the Applicant.
30. The Authority believed that to continue to answer such requests would place it in the position of being (now repeatedly) put under a substantial burden of considering information held on our handling, as well as dealing with the requests themselves and any subsequent reviews and appeals". It submitted that that reviews and appeals were the statutory mechanism by which its handling of requests may be properly investigated.
31. Acknowledging that it had, in the past, answered "meta" data requests (requests about requests) from the Applicant, the Authority advised that it could not continue to answer requests along the same line of questioning on the handling of previous requests without a significant burden on its resources. It stated that this, combined with the number of overall requests (119) and reviews (45) since 2021 from the Applicant since 2021, This, it stated, "combined with the number of overall requests that total as 119 requests and created a cumulative significant burden.
32. The Authority disagreed with the Applicant's position that a response to this request would further his legitimate concerns. It submitted that:

"This request solely asks about the handling of a previous meta data request and the information that held is compliance information in relation to the FOI and some handling discussions. As such, it does not reasonably further his interest in the Hamilton report and the matter of [Special Adviser] involvement in the redactions. This matter is addressed by the Commissioner in decision 144/2025."
33. The Authority argued that if the Applicant were to continue to ask for "meta data requests originating from Hamilton report related requests", then the significant burden placed on it would increase. It said that this would result in "many different strands of questioning" which would ultimately divert resources away from meeting statutory obligations in responding to other requests both from the Applicant and other requesters.

Manifestly unreasonable or disproportionate

34. The Authority also considered that the Applicant's request manifestly unreasonable because it was designed to circumvent the statutory process of review and appeal set out in FOISA.
35. The Authority noted that the Applicant made the present request on 18 August 2025. It responded on 8 September 2025 and advised the Applicant that the proper route to investigate its handling of the previous request was to ask for a review of that response. The Applicant subsequently asked for a review of the previous request on 18 September 2025, eight days after the deadline to accept a review.
36. The Authority explained that the Applicant submitted the present request a month in advance of submitting his requirement for review for the previous request. It suggested that the present request was the method by which the Applicant sought to challenge its handling of

the response to his previous request, which it argued “effectively circumvents the review process”.

37. Furthermore, the Authority considered the Applicant’s present request similarly sought to circumvent the appeal process that provides that a requester, if still dissatisfied with a response, can appeal to the Commissioner. In this scenario, the Authority would present the in-scope information to the Commissioner, who would then determine if the request was handled appropriately. By continuing to make such requests, the Authority considered that the Applicant disrupted that process and did not receive any further information that would be relevant to their particular topic of interest.
38. The Authority confirmed that it would continue to deal with the Applicant’s requests where he asked for substantive information about a particular topic, but it considered “circumventing the statutory process of requesting a review” to be manifestly unreasonable.

The Commissioner’s view

39. The Commissioner has carefully considered the submissions made by the Applicant and the Authority. In this case, he 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.
40. The type of request made by the Applicant in this case is commonly referred to as a “meta request”. The UK ICO’s [guidance](#)⁴ on meta requests advises that they should be dealt with in the same way as any other information request. The UK ICO’s guidance further advises:

“When a requester makes a meta request, they are exercising their right of access to the recorded information you hold about the handling of the original request. This is distinct from a request for internal review, which is a complaint about how you dealt with the original request.”
41. Taken in isolation, the Applicant’s request is not vexatious. 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.
42. 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. 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.
43. The Commissioner acknowledges that the Applicant has submitted a relatively large number of FOI requests (119) to the Authority since 2021. The Authority has not indicated to the Commissioner the breadth of topics that these requests have covered. He further notes that this amounts to an average of around two per month – which is not excessive, particularly for a large public authority.
44. The Authority submitted that were the Applicant to continue to submit “meta data” requests, then the significant burden imposed on it would increase which would ultimately divert resources away from it meeting its statutory obligations. However, the Authority has not indicated how many of these 119 FOI requests were meta requests or further explained the

⁴ <https://ico.org.uk/for-organisations/foi/freedom-of-information-and-environmental-information-regulations/requests-about-previous-information-requests-meta-requests/>

burden these particular requests impose. It is therefore not clear to the Commissioner how much of a cumulative burden these meta requests have imposed to date on the Authority (or, for that matter, that meta requests are necessarily particularly burdensome to a public authority).

45. The Commissioner does not consider the prospect of future requests being submitted to be an appropriate or relevant factor in determining whether a request is vexatious. Public authorities must always assess 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.
46. Considering the specific terms of the request in this case, the Commissioner does not consider that the burden of complying with it would be significant. He notes that the previous request to which the present request referred was made on 12 June 2025 with a response sent on 10 July 2025. This means that there is less than a month of internal communications relating to a narrow and specific topic falling within the scope of the present request.
47. In all of the circumstances, including having considered the UK ICO's guidance on meta requests, the Commissioner does not agree that the Applicant's present request was designed as a way of – or had the effect of – circumventing the statutory process of review and appeal. He notes that the Applicant did not attempt to seek a review of the previous request until after he made the present request, which would indicate – as would the terms of the present request – that it sought new information, not to challenge the Authority's response to the previous request.
48. The Authority explained that it interpreted the present request as asking for “all information created in relation to the handling of [its response to the previous request]”. Based on the Authority's description of the information falling within the scope of the present request, the Commissioner accepts that disclosure of this information may not necessarily add to the Applicant's legitimate interest in matters relating to the Hamilton Report. However, in all of the circumstances, he does not accept that seeking information regarding the internal decision-making and the process of responding to FOI request can be said, in itself, to be vexatious.
49. Where section 14(1) of FOISA is applied, it falls to the Authority to satisfy the Commissioner that it has met the requirements of the legislation in each 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 refuse to comply with the Applicant's request on the basis it was vexatious.
50. 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 him otherwise than in terms of section 14(1) of FOISA.

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 **12 June 2026**.

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.

David Hamilton

Scottish Information Commissioner

28 April 2026