



Scottish Information
Commissioner
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Decision Notice 164/2026

Whether request vexatious

Applicant: The Applicant

Authority: General Teaching Council for Scotland

Case Ref: 202500210

Summary

The Applicant asked the Authority for information concerning the searches carried out, information collected and any analysis that had led to the Authority's response to a previous information request 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); 21(1) and (8)(b) (Review by Scottish public authority); 47(1) and (2) (Application for decision by Commissioner).

Background

1. On 22 October 2024, the Applicant referred to the Authority's response to a previous information request he had made on 17 January 2023 in which it stated: "5 cases had reached the hearing stage and were cancelled following consideration at procedural hearings". He asked the Authority, of these five cases, how many had the complaint (referral) been made within five years of the most recent alleged misconduct.

2. The Authority responded on 19 November 2024. It informed the Applicant that it did not hold a record identifying the specific five cases and issued him with a notice, in terms of section 17(1) of FOISA, that it did not hold the information requested. By way of advice and assistance, it advised him that it had been able to identify four cases as part of its searches for these records.
3. Later that same day, the Applicant asked the Authority to provide some clarification of its response. He noted the quotation from the Authority's response to his request of 17 January 2023 (set out in paragraph 1) and asked the Authority:
 - Whether it had consulted FOI logs from the time it responded to his request of 17 January 2023, which he presumed would hold records of where the figure of five cases came from.
 - Whether it was saying its response to his request of 17 January 2023 was wrong and that there were only four cases.
4. On 21 November 2024, the Authority responded that it had searched the records referred to by the Applicant, including previous responses, and that it had issued him with a notice, under section 17(1) of FOISA, as a result.
5. Later that same day, the Applicant made a request for information under consideration in this decision notice to the Authority. He asked for all of the information the Authority held "concerning the searches carried out, information collected, and any analysis" which led to him "being told, for 22-23-60" (i.e. his request of 17 January 2023) that: "5 cases had reached the hearing stage and were cancelled following consideration at procedural hearings".
6. The Authority responded on 13 December 2024. It informed the Applicant that it considered his request to be vexatious, in line with section 14(1) of FOISA, and explained why. It therefore did not consider that it was obliged to comply with the request.
7. Later the same day, the Applicant wrote to the Authority requesting a review of its decision. He stated that he was dissatisfied with the Authority's decision because he disagreed that his request was vexatious and explained why.
8. On 13 January 2025, the Authority informed the Applicant that it considered his requirement for review to be vexatious and explained why. It stated that it was therefore not obliged to comply with his requirement for review and that it maintained its original decision to apply section 14(1) of FOISA to his request.
9. On 6 February 2025, 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 Authority's handling of his request because he disagreed that his request was vexatious and explained why.

Investigation

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

12. 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 request to be vexatious.
13. The Applicant also provided further comments during the investigation.

Commissioner's analysis and findings

14. The Commissioner has considered all the submissions made to him by the Applicant and the Authority.
15. As stated in previous decisions, in [Scottish Ministers v Scottish Information Commissioner \[2006\] CSIH 8](#)¹, at paragraph [18], the Court of Session recognised that:

"... in giving reasons for his decision, [the Commissioner] is necessarily restrained by the need to avoid, deliberately or accidentally, disclosing information which ought not to be disclosed."
16. In this decision notice, the Commissioner has endeavoured to give as full an account of his reasoning as he can, but, by necessity, in this case the comments of the Court of Session are applicable to some aspects.

Section 14(1) – Vexatious or repeated requests

17. 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. 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.

¹ https://www.bailii.org/scot/cases/ScotCS/2008/CSIH_08.html

² <https://www.foi.scot/sites/default/files/2023-07/BriefingSection14VexatiousorRepeatedRequests.pdf>

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 Commissioner's 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 Authority's submissions

22. The Authority provided detailed submissions on why it considered the Applicant's request to be vexatious in terms of section 14(1) of FOISA. The Commissioner has fully considered these submissions, but he has only summarised and reproduced in this decision notice what he considers to be the most salient points. It would be disproportionate and impractical to reflect them more fully. For the avoidance of doubt, the Commissioner did not consider that further information was needed on any point from the Authority.
23. The Authority considered that the pattern of use of FOISA requests by the Applicant, including the request under consideration, were directly relevant to its finding that the request was vexatious. It stated that the Applicant had, on this occasion and others, made a request for information, followed by a review, and each time received a response, in terms of section 17(1) of FOISA, that the information requested was not held.
24. However, rather than challenging the searches and analysis of results by making an application under section 47 of FOISA to the Commissioner, which he would have been entitled to do, the Authority noted that the Applicant instead used a further information request to challenge how the Authority dealt with a request and review, in terms of the scope of the search it had conducted as it related to the original request.
25. The Authority considered that such a use of FOISA was far more resource intensive for it as a public authority with limited resources, than simply following the section 47 of FOISA route for the initial request. It involved duplication of process for the Authority, having to deal with two requests, two reviews and one appeal to the Commissioner, rather than one request, one review and one appeal. It described this as indicative of the Applicant's intentions as attempting to circumvent the statutory process and submitted that:

"...any reasonable person would regard the use of a second FOISA request to challenge the scope of a search where information is not held and a section 17 FOISA notice has been issued, rather than simply applying to [the Commissioner] for a decision in relation to the first review request, to be vexatious and manifestly unreasonable."
26. The Authority commented that, had the Applicant applied to the Commissioner rather than making a second FOI request on searches, and the Commissioner considered the Authority's searches to have been insufficient, then the Commissioner's decision would have instructed the Authority to comply with any requirement in relation to further searches.

27. The Authority argued that the only appropriate finding in respect of the Applicant's present application would be to uphold the application of section 14(1) of FOISA. It submitted that failure to make such a finding would set a precedent in terms of how requesters could seek to challenge information not held responses to information requested. It considered that such a precedent could result in "gridlock" in terms of the volume of requests being made, with an "inexhaustible pattern of duplication of requests", which would be "wholly unnecessary and untenable in terms of resources".
28. The Authority described the request under consideration as a "meta, meta-request" regarding two previous responses it had provided to two requests for information (i.e. the 17 January 2023 and 22 October 2024 requests). It also submitted that, by the time it refused to comply with the request under consideration on the basis that it was vexatious, it had already twice explained to the Applicant that it did not hold the information requested.
29. The Authority noted that the 17 January 2023 request concerned cases, as data extracted on 14 December 2016, at various stages of the Fitness to Teach process administered by the Authority. It disclosed statistical information in response to this request but explained that the record created by this response "did not record the names of the individuals identified by the response but reported these as numbers".
30. The Authority stated that the 22 October 2024 request then asked, of the five cases referred to in its response to the request of 17 January 2023, how many "had reached the hearing stage and were cancelled following consideration at procedural hearings". In its response of 19 November 2024 to that request, it explained that its Regulatory Investigations team had searched and "could not identify the specific five cases for further interrogatories". As a result, it noted that the Applicant submitted the request under consideration, which it described as being "for the searches carried out in [request of 22 October 2024] and which forms the basis of the present application".
31. Upon discussion with colleagues and after searches of its records, the Authority confirmed that it was not able to identify the five individual cases referred to in the response to the 17 January 2023 request. This was because the records held relating to the request only provided statistical information: they did not list individual cases.
32. To provide information on the individual cases in the original response, the Authority said that it would need to carry out a full interrogation of its records to re-identify the cases that made up the statistical response to the 17 January 2023 request, "if that was considered possible and reliable to do two years later as is the case in this application". In short, it stated that the statistics it had provided to the Applicant in response to his 17 January 2023 request did not identify cases.
33. The Authority refuted the "spurious accusation" that it had "lost" any confidential, sensitive Regulatory Investigations files. Rather, it submitted that there was never a need to keep a list of the specific cases. In fact, due to data protection reasons, it would not have kept a list referring to specific cases, to ensure data minimisation, and instead the recording of these numbers was as statistical information only, as requested through the original information request.
34. The Authority considered that it had now "provided the same answer four times to different questions regarding these specific numbers" but the Applicant had continued to question the accuracy of the information provided. It argued that the Applicant had exhibited a level of distrust regarding its searches, which it believed was "unfounded and has resulted in considerable resources devoted to the search for records which do not exist".

35. For the purposes of the request under consideration, the Authority considered it vexatious to request a search for records when the Applicant knew that they would have been deleted – only to receive confirmation of searches for non-existent records and then appeal this to the Commissioner. It submitted that the request under consideration was a “tipping-point” in “its pursuit of a narrow grievance related to the efficacy of searches”.
36. The Authority stated that it considered the request under consideration to be vexatious, having adopted a holistic approach to the application of this term, including the background of a collective burden of previous requests made by the Applicant. It explained that it had interpreted the term “vexatious” in line with the ordinary, natural meaning of the word, read in its legislative context, an approach endorsed by the Court of Session in the interpretation of FOISA.
37. To assist the Commissioner, the Authority outlined the factors in the non-exhaustive list of criteria that the Commissioner has published in his own guidance on section 14(1) of FOISA.

Manifestly unreasonable or disproportionate

38. The Authority stated that it had now explained to the Applicant on four separate occasions that it did not hold the information requested. It provided evidence to the Commissioner of previous responses and review outcomes issued to the Applicant.
39. The Authority argued that it was clear from multiple searches carried out by multiple individuals that it did not (and would not) hold records relating to the names of the individuals referenced in the request of 17 January 2023.
40. Additionally, the Authority considered that the request under consideration echoed a pattern of “meta requests” resulting in review and appeal. It provided evidence of these requests to the Commissioner.

Significant burden

41. The Authority noted that the Applicant had made numerous information requests to it over an extended period, which had created a collective burden on the Authority which could reasonably be described as “grossly oppressive” in terms of its objective impact. It commented that it would be extremely challenging to reflect the time, resources, energy and work that had gone into dealing with the Applicant’s requests, applications and complaints over that period.
42. The Authority provided further details to the Commissioner regarding the nature and volume of correspondence from the Applicant. In particular, it described the request under consideration as sitting within a broader pattern of behaviour in relation to requests made by the Applicant and noted that the collective burden included costs in terms of the hours spent by employees on work generated by the Applicant, with the quantity of work compounded by the frequency of requests.
43. Given the pressures that this correspondence was having on the Authority and its staff, the Authority confirmed that the Chief Executive advised the Applicant that he would not receive a response to his correspondence unless the Authority had a legal requirement to do so and that, in order to manage his correspondence, all of it would be forwarded to the Authority’s Information Governance inbox.
44. However, the Authority stated that the Applicant had, at no stage, been advised by the Authority that all correspondence must be by way of FOISA requests. It commented that the

Applicant now appeared to be submitting numerous FOISA requests to continue his correspondence with the Authority.

45. The Authority reiterated the impact of the significant burden being placed on it by the Applicant and noted the acute challenges created by the diversion of its resources away from its critical statutory functions.

The request lacks serious purpose or value

46. The Authority reiterated that the Applicant had been made aware that it did not hold the information requested. It described the Applicant as having demonstrated a consistent distrust in the Authority and that he had indicated that his request was motivated by a concern about the Authority performing its functions in relation to Fitness to Teach cases and “losing” strictly confidential Fitness to Teach case files. It considered that the Applicant was therefore not seeking information to further his understanding of a matter, but to pursue a campaign of distrust.
47. The Authority acknowledged that the Applicant had given the following explanation of the useful purpose of his request:
- To try to get a better understanding of the information held, given the inconsistencies and anomalies between previous FOISA responses
 - To ascertain if there are any deficiencies in the Authority’s search practice with respect to information requests and in the Authority’s record-keeping with respect to both Fitness to Teach cases and the handling of information requests.
48. However, the Authority noted that the Applicant had himself stated that he would not be satisfied if it were to provide records of its searches. In particular, it referred to the Applicant’s statement that: “Provision of information about the searches that you carried out is unlikely to remove [his concerns] – it may however provide information which helps me to hold [the Authority] to account to improve your processes and procedures”. It considered that this showed that no disclosure would appease the Applicant’s concerns and that it further exemplified the real motives behind his request.

Designed to cause disruption or annoyance

49. In relation to this element, the Authority stated that it wished to rely on the submissions it had provided in relation to the other elements of the application of section 14(1) of FOISA. In particular, it noted the scale, volume and growing frequency of requests from the Applicant and what it considered to be his motivation for the request under consideration (i.e. to continue a grievance, communicate his distrust and undermine the Authority’s processes).
50. The Authority submitted that it was the intention of the Applicant to cause disruption and/or annoyance to it rather than to access the information requested. It reiterated that it had previously provided the information requested to the Applicant and expressed concern that the Applicant, in his distrust of the Authority, had sought to further disrupt it and create an even greater burden on its finite resources by submitting an information request, requirement for review and, ultimately, an appeal to the Commissioner.

Harassing the public authority

51. The Authority considered that the tone and content of some of the Applicant’s communications with it and its staff had been demanding to the point of causing harassment, individually and collectively. It submitted that the Applicant had not engaged with it reasonably but rather had made ever more demands through multiple avenues.

52. The Authority explained that it considered it reasonable that, in view of correspondence from its Chief Executive (which predated the request under consideration), the Applicant would be aware of the effect of his ongoing correspondence. It argued that, collectively, the tone and content of the Applicant's correspondence, as well as the volume of work generated, had had the objective effect of causing harassment to the Authority and its staff and that any reasonable person would view this behaviour in that way.

The Applicant's submissions

53. The Applicant provided detailed submissions on why he considered the Authority was wrong to deem his request to be vexatious in terms of section 14(1) of FOISA. The Commissioner has fully considered these submissions, but he has only summarised and reproduced in this decision notice what he considers to be the most salient points. It would be disproportionate and impractical to reflect them more fully. For the avoidance of doubt, the Commissioner did not consider that further information was needed on any point from the Applicant.
54. By way of background, the Applicant explained that he had made a significant submission to the Professional Standards Authority (PSA) [review](#)³ regarding the Authority's Fitness to Teach process – a process about which he had been raising concerns for some years.
55. The Applicant said that the PSA review identified the need for significant improvements, which were the "driving force" behind the work he had been doing over a number of years to try to improve the Authority's Fitness to Teach process. He commented that the number of information requests he had made to the Authority were part of this work and an important part of the work that informed his submission to the PSA review.
56. As such, the Applicant submitted that he was not pursuing a grievance. Instead, he said that he had been working towards much needed improvements in the Authority's Fitness to Teach process – at first in collaboration with the Authority's Chief Executive and then by other means, including information requests, following the Authority's "refusal to communicate except through FOI".
57. The Applicant commented that most of the matters he had raised had subsequently been confirmed as problematic, which he said demonstrated that his concerns were both legitimate and serious. He explained in detail his specific concerns about the Fitness to Teach process and how he had over time raised and pursued them with the Authority.
58. In terms of the request under consideration, the Applicant noted that it followed from the Authority's response to his request of 17 January 2023. He explained that the response to his request of 17 January 2023, at that time, seemed "completely reasonable" as it had correctly identified the period in which the cancellations took place and appeared to have provided the information without difficulty. He said that he had "no reason to doubt" what he had been told and "no reason to request a review".
59. However, the Applicant said that it later became obvious to him that, although he had information about which cases had been cancelled at each stage, he did not know which of those cases had already been more than five years old when referred, and how many had become more than five years old while the Authority was processing them. He commented that this was an important distinction, as cases in the latter category were "essentially cancelled due to [the Authority's] length of processing (the elapsed time since receipt)".

³ <https://www.professionalstandards.org.uk/publications/advice-general-teaching-council-scotland-aspects-its-fitness-teach-process>

60. The Applicant also noted that the importance of this distinction was something picked up by the PSA review at paragraph 7.22:
- “We note that [the Authority] has provision to apply the five-year rule at later points in the process than initial consideration, which we note as unusual. A five-year rule usually only applies at the point of receipt. The inclusion of the rule at later stages allows [the Authority] to close cases on the basis (in part) of elapsed time since receipt, which of itself should not usually be a factor in decision-making on how a case is concluded.”
61. The Applicant explained that he therefore made the request under consideration because of the discrepancies in numbers between the Authority’s responses to his requests of 17 January 2023 and 22 October 2024 (five in the former and four in the latter). He considered that this meant that potentially one of the searches had not been carried out correctly, or one of the files previously counted had now gone missing. In the absence of further clarification from the Authority, he considered the best way for him to work out what was going on was to request information about the searches carried out in response to his request of 17 January 2023.
62. The Applicant submitted that, even if his understanding was wrong in some way, his intention was purely to fact-find about a serious issue of potentially not acting in Fitness to Teach cases according to best regulatory practice.
63. The Applicant reiterated that the request under consideration asked for information about searches carried out in response to his request of 17 January 2023 and that this was not something that the Commissioner could take forward because he had not asked for a review of the Authority’s response to that request as he had no reason to doubt the response at that time.
64. In light of the above, the Applicant considered the idea that he was “seeking to replace the Commissioner’s role under FOISA” to be “nonsense”, as the Commissioner could not have had such a role.
65. In any event, if it were possible for him to seek a late review of the Authority’s response to his request of 17 January 2023 and to then appeal to the Commissioner, the Applicant noted that the Commissioner’s role would be to determine if the searches were adequate. He submitted that this would not help him understand the anomalies in the responses provided by the Authority and that the correct way for him to obtain the information he was seeking was to make the request under consideration.
66. The Applicant also drew attention to what he regarded as the Authority’s apparent acknowledgement, as part of the revised review outcome required by Decision 213/2025, that its response to his request of 17 January 2023 may not have been correct.
67. The Applicant also responded to the factors in the non-exhaustive list of criteria that the Commissioner has published in his own guidance on section 14(1) of FOISA and cited by the Authority in support of its position that the request under consideration was vexatious.

The request lacks serious purpose or value

68. The Applicant referred to the submissions already set out above in support of his position that the request under consideration did not lack serious purpose or value.

Manifestly unreasonable or disproportionate

69. The Applicant considered the Authority’s claim that the request under consideration was manifestly unreasonable or disproportionate to be based on its position that it had already

explained to him that it did not hold the information requested. He disagreed with the Authority's position and explained why. He reiterated that the request under consideration sought information about the searches carried out in response to his request of 17 January 2023.

70. The Applicant submitted that the Authority's claim that the request under consideration was manifestly unreasonable was therefore incorrect.

Significant burden

71. The Applicant stated that it was not clear at all how the request under consideration could impose a significant burden given that either the searches carried out in response to his request of 17 January 2023 were properly logged (in which case the information could easily be disclosed) or no logs were kept (in which case a notice under section 17(1) of FOISA could easily be issued).
72. The Applicant noted the Authority's claim regarding the collective burden his previous correspondence had imposed on it. On the face of it, he accepted that the number of emails he had sent to the Authority since 2018 (350 since 2018, around 50 a year) sounded like a lot.
73. However, the Applicant commented that it appeared that the Authority was including simple acknowledgements and double-counting where an email was addressed to more than one person. He also noted that this period covered very significant and complex Fitness to Teach cases and the provision of evidence to the Authority, which involved a significant amount of communication.
74. The Applicant accepted that he had submitted a high number of requests to the Authority. However, he said that the reason for this was the Chief Executive's insistence that all his correspondence be processed through FOI, and the refusal to correspond in any other way. He commented that information that might be exchanged within a one-hour meeting might instead take ten or more FOI requests to establish, particularly if follow-up questions need to be asked. He also noted that his preference was to ask only about one specific matter per request, which had the effect of increasing the number of requests, when another requester might ask about multiple matters within the same request.

Designed to cause disruption or annoyance

75. The Applicant considered that the Authority had failed to evidence its claim that the request under consideration was designed to cause disruption or annoyance.
76. The Applicant referred to an email he had received from the Authority's Chief Executive in which she concluded that she believed she and the Applicant had "a similar drive to ensure system improvement". He considered it clear throughout his interactions with the Chief Executive that she understood that he was driven by a desire to make improvements. As such, the claim that he had been trying to cause disruption or annoyance was not true.

Harassing the public authority

77. The Applicant acknowledged that once, in respect of a different request, he had asked the Authority to avoid "wasting everyone's time" and carry out the searches he had requested. However, he considered that the Authority had failed to evidence its claim that his request or his correspondence had the effect of harassing it.
78. The Applicant disagreed with the Authority's position that it had already informed him that it did not hold the information sought in the request under consideration and explained why.

He reiterated that the request under consideration sought information about the searches carried out in response to his request of 17 January 2023.

The Commissioner's view

79. The Commissioner has taken account of all the relevant submissions provided by both the Applicant and the Authority.
80. In this case, the Commissioner is limited to considering whether the Authority has provided sufficient evidence and submissions to support its claim that the request was vexatious in terms of section 14(1) of FOISA and, as a consequence, that it was not required to carry out a review in terms of section 21(8)(b) of FOISA.
81. As a starting point, the Commissioner must determine the proper interpretation of the request of 21 November 2024.
82. The Authority suggested (as noted in paragraph 30 above) that the request under consideration was for the searches carried out in relation to the Applicant's request of 22 October 2024. The Commissioner does not agree with that interpretation. Given the specific reference in the request under consideration to "being told, for 22/23/60..." (i.e. his request of 17 January 2023), the Commissioner is satisfied that the request of 21 November 2024 is properly interpreted as seeking information about the searches carried out, information collected and any analysis which informed the Authority's response to the Applicant's request of 17 January 2023.
83. The type of request made by the Applicant in this case is commonly referred to as a "meta request". The UK Information Commissioner's Office (UK ICO) [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."
84. 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 (including, at a minimum, the earlier request to which the meta request relates) the Applicant has had with the Authority.
85. 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 under consideration should be treated as vexatious. The question remains whether, having done so, the Authority has shown that the request was vexatious.
86. As stated above, the Authority relied on each of the factors set out in paragraph 18 above in support of its claim that the request was vexatious.

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

87. Prior to addressing each of these factors, the Commissioner will consider the Authority's position that the Applicant's request, and subsequent application to the Commissioner, was indicative of an attempt to circumvent the standard statutory process.
88. The Commissioner accepts that, in general, the appropriate route for a requester who wishes to challenge an authority's response to a request for information is to submit a requirement for review and, if dissatisfied with the review outcome, to apply to the Commissioner for a decision in terms of section 47(1) of FOISA. However, the Commissioner has already set out (at paragraph 82 above) what he considers to be the proper interpretation of the request under consideration.
89. The Applicant appeared to have accepted the Authority's response to his request of 17 January 2023. His concern about the content of that response arose later, following subsequent responses from the Authority, by which point he was out of time to require a review of its response to his request of 17 January 2023.
90. In that context, the Commissioner does not agree that the Applicant's decision not to require a review of the Authority's response to his request of 17 January 2023 was indicative of an attempt to circumvent the standard statutory process.
91. In terms of the significant burden that complying with the request would impose, the Commissioner acknowledges that the Applicant has submitted a significant number of requests to the Authority, including 62 requests since 2019, and that there has been an increase in the number of requests (29) he submitted in 2024-2025. However, the number of requests made by a requester is not, of itself, sufficient to make a particular request vexatious: the focus must remain on the request under consideration, viewed in its proper context.
92. In relation to the request under consideration, the Commissioner is not satisfied that the Authority has shown that complying with it would impose a significant burden. In fact, given the terms of the request and the Authority's submissions, it seems likely that relatively little recorded information (if any) relevant to the request would be held and that complying with the request would not be unduly burdensome.
93. The Commissioner has also considered whether the request under consideration would impose a significant burden when viewed in the wider context of the Applicant's dealings with the Authority. He accepts that the number of requests made by the Applicant, and the increase in requests during 2024-2025, is a relevant consideration.
94. However, the Authority must still demonstrate why complying with the request under consideration would impose a significant burden or add to the existing burden in a way that would justify the application of section 14(1) of FOISA. The Commissioner does not accept that it follows from the fact that a requester has previously imposed a burden on an authority that any further request from that requester will itself impose a significant burden.
95. The Commissioner notes the Authority's position that it would need to carry out "a full interrogation of [its] records to re-identify the cases that made up the statistical response to FOI 22-23/60, if that was considered possible and reliable to do two years later as is the case in this Application". Given what he has found to be the proper interpretation of the request, the Commissioner does not agree that work of this nature would be required.

96. In relation to whether a request has serious purpose or value, the Court of Session observed at paragraph [28] of [Beggs v Scottish Information Commissioner \[2018\] CSIH 80](#)⁵ that this is to be judged objectively:
- "... what is under consideration is value in the information itself, as judged by a reasonable observer, not fanciful or purely idiosyncratic value, and not simply the malicious satisfaction of putting a public authority to trouble and perhaps causing it embarrassment."
97. The Commissioner acknowledges the Authority's position that, by the time it had refused the request under consideration, it had already confirmed that it did not hold information on the five cases. However, that is central to the Applicant's dissatisfaction: he was concerned about an apparent inconsistency between the Authority's response to his request of 17 January 2023 and later responses. (The Commissioner notes that, in Decision 213/2025, he found (at paragraph 30) that he could not accept that the Authority did not hold information relating to the five cases and that the Authority had, in fact, expressly set out how the information requested could be identified, albeit with significant effort.)
98. As stated above, the Commissioner is satisfied that the request of 21 November 2024 is properly interpreted as seeking information about the searches carried out, information collected and any analysis which informed the Authority's response to the Applicant's request of 17 January 2023. In light of the context set out in the preceding paragraph, the Applicant's concerns about the adequacy or accuracy of the Authority's searches and previous responses were not without foundation.
99. That said, the Commissioner accepts that the information sought in the request under consideration may be of more limited value than substantive information about the five cases themselves. However, a request seeking recorded information about how an authority searched for information and how it reached a previous response to a request under FOI law can have a legitimate transparency purpose, particularly where concerns exist about the accuracy or completeness of that earlier response. In the circumstances of this case, the Commissioner is not persuaded that the request lacked serious purpose or value to the extent that it was appropriate to deem it vexatious.
100. The Commissioner acknowledges that the Authority may find the Applicant's correspondence challenging, particularly given the volume and the apparent increase in frequency of requests in 2024-2025. He also notes the Authority's view that the Applicant's intention is to cause disruption and/or annoyance to it, rather than to access the information, as well as its position that it has already provided the information requested to the Applicant.
101. Given what he has found to be the proper interpretation of the request under consideration, the Commissioner does not accept that the information requested (if it is held) has already been provided to the Applicant. He also does not consider that the Authority has provided sufficient evidence to show that the request under consideration was designed to cause disruption or annoyance, rather than to obtain recorded information about the basis of its response to the Applicant's request of 17 January 2023.
102. The Commissioner acknowledges the Authority's position that the Applicant has a distrust of the Authority. To some extent, the Commissioner accepts this was a fair perception for the Authority to have. However, as noted above, the Applicant accepted information provided by the Authority in response to his request of 17 January 2023 at the time of the response and did not seek a review of that response. Instead, the Applicant only came to question the

⁵ https://www.bailii.org/scot/cases/ScotCS/2018/%5b2018%5d_CSIH_80.html

information provided in response to that request in view of the Authority's response to his later request of 22 October 2024.

103. In all of the circumstances, the Commissioner is not persuaded that the request under consideration was designed to cause disruption or annoyance to the Authority.
104. The Commissioner has also considered whether the request under consideration had the effect of harassing the Authority.
105. As stated above, the Commissioner acknowledges that the Authority may find the Applicant's correspondence challenging. The volume of requests and correspondence from the Applicant may be relevant factors, but this persistence does not of itself make the request under consideration vexatious.
106. In the Commissioner's view, the Authority has not provided specific examples of behaviour, language or tone, in connection with this request, which go beyond the Applicant being determined or persistent in understanding the underlying information on which the Authority responded to his request of 17 January 2023. He is therefore not satisfied that the request under consideration had a harassing effect on the Authority.
107. For the same reasons set out above in connection with the other factors cited by the Authority, taking account of all of the circumstances of the case and the submissions from both parties, the Commissioner, on balance, does not accept that a reasonable person would regard the request under consideration as manifestly unreasonable or disproportionate.
108. In conclusion, having considered the case carefully, the Commissioner finds, on balance, that the request under consideration was not vexatious in terms of section 14(1) of FOISA. He therefore finds that the Authority was not entitled to refuse to comply with the request under consideration.
109. Section 21(8)(b) of FOISA provides that a Scottish public authority is not obliged to comply with a requirement for review if, by virtue of section 14, it was not obliged to comply with the request.
110. As the Commissioner has found that the Authority was not entitled to treat the Applicant's request as vexatious, in terms of section 14(1) of FOISA, he does not accept that it was not obliged to comply with the Applicant's requirement for review. He 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).

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.

In particular, the Commissioner finds that the Applicant's request was not vexatious in terms of section 14(1) of FOISA and that, accordingly, section 21(8)(b) of FOISA did not apply.

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 10 August 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.

Euan McCulloch
Head of Enforcement

25 June 2026