



Scottish Information
Commissioner
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Decision Notice 165/2026

Whether request vexatious

Applicant: The Applicant

Authority: General Teaching Council for Scotland

Case Ref: 202500213

Summary

The Applicant asked the Authority for information relating to searches it had carried out in order to respond to a previous information request of his. 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); 21(1) and (8)(b) (Review by Scottish public authority); 47(1) and (2) (Application for decision by Commissioner).

Background

1. On 21 November 2024, the Applicant made a request for information to the Authority. He asked for all of the information the Authority held about searches it had carried out in order to respond to a previous request for information of his. He specified that his request included the following information:
 - communications with staff asking them to search, their responses and any logs of searches carried out
 - any correspondence with technical staff asking how to retrieve backup copies, archives, deleted items, emptied deleted items etc.

2. For context, the previous request for information referred to was dated 23 October 2024 and asked for all internal correspondence held by the Authority relating to the preparation of an email sent to him by the Chief Executive on 7 December 2022. The Applicant explained, as part of that request, that the content of that email (specifically, the use of a term within that email) had led him to wonder whether part of it had been provided by a person other than the Chief Executive, which was concerning given that it was responding to an email he had sent in confidence. The Authority issued the Applicant with a notice, in terms of section 17(1) of FOISA, in response to his request dated 23 October 2024.
3. The Authority responded on 13 December 2024. It notified the Applicant that it was refusing to comply with his request dated 21 November 2024 as it considered it to be vexatious, in line with section 14(1) of FOISA and explained why.
4. Later the same day, the Applicant wrote to the Authority requesting a review of its decision. He was dissatisfied with the Authority's decision because he disagreed that his request was vexatious and explained why.
5. 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.
6. 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

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 12 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.
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, related to why it considered the Applicant's request to be vexatious.
10. The Authority provided comments and the Applicant also provided further comments during the investigation.

Commissioner's analysis and findings

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

12. 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."

13. 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

14. 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."

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 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

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

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

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

19. 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.
20. The Authority explained that it had taken a holistic approach to the application of section 14(1) of FOISA and considered the pattern of use of FOISA requests by the Applicant, including the present request, to be directly relevant to its finding that this request was vexatious in terms of section 14(1) of FOISA.
21. The Authority submitted that the Applicant had, on this occasion and others, made a request for information, followed by a requirement for review, and each time received a response, in terms of section 17(1) of FOISA, that the information requested was not held. However, rather than then challenge the Authority's searches and analysis of results by way of an application under section 47 of FOISA to the Commissioner, the Applicant had instead used a further information request to challenge how the Authority had dealt with his request and requirement for review, in terms of the scope of the searches conducted as they related to his earlier request.
22. The Authority considered that such a use of FOISA was "far more resource intensive" for it, than if the Applicant had simply applied to the Commissioner for a decision in respect of its handling of his earlier request. It considered that any reasonable person would regard the use of a second FOISA request to challenge the scope of a search where information was not held and a notice under section 17 FOISA issued, rather than simply applying to the Commissioner for a decision in respect of its handling of the earlier request, to be vexatious and manifestly unreasonable.
23. The Authority noted that if the Applicant had made an application to the Commissioner for a decision in respect of its handling of his earlier request, the Commissioner could have required it to comply with any requirement in relation to further searches if he found that they were insufficient. It considered that the Applicant's present request sought to challenge the searches undertaken in response to his earlier request and that it therefore served no serious purpose or value in seeking to replace the Commissioner's role under FOISA, including the ability to review the adequacy of searches.
24. 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".
25. To assist, the Authority outlined the factors contained in the non-exhaustive list of criteria (set out above in paragraph 15) in the Commissioner's guidance on section 14(1) of FOISA. In

what follows, the Commissioner has summarised what he considers to be the key aspects of the Authority's submissions on each factor.

Manifestly unreasonable or disproportionate

26. The Authority considered the Applicant's present request to be manifestly unreasonable and disproportionate because the earlier request to which it related was based on the Applicant's assertion that use of the term in the email sent to him on 7 December 2022 was indicative of impropriety. It said that this was entirely an assertion and noted that there was "no record for disclosure" in respect of the earlier request.

Significant burden

27. The Authority explained that the Applicant had made numerous information requests to the Authority over an extended period, which had created a collective burden on the Authority. It commented that it would be extremely challenging to completely and accurately reflect the time and resource that had gone into handling the Applicant's requests, applications and complaints over that period. However, it said that the collective burden could reasonably be described as "grossly oppressive in terms of its objective impact".
28. The Authority provided further details to the Commissioner regarding the nature and volume of correspondence from the Applicant.
29. 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.
30. 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.

The request lacks serious purpose or value

31. The Authority noted that the Applicant's present request said that the reason he requested the information was so that he could assess the degree to which the searches were reasonable and adequate and the likelihood that the Chief Executive received help in drafting the email she sent to him on 7 December 2022, despite the Authority finding no evidence of this.
32. The Authority commented that the Applicant had stated, as part of correspondence in relation to a different request, that he had wide-ranging concerns about the Authority's processes and procedures on a number of matters and that "[p]rovision of information about the searches you carried out is unlikely to remove those concerns". It therefore considered that complying with the present request would not "appease" the Applicant's concerns.

Harassing the public authority

33. The Authority considered that the tone and content of some of the Applicant's communications had been demanding, to the point of causing distress and harassment, individually and collectively. It explained, as stated above, that the Chief Executive had informed the Applicant, in an effort to protect the wellbeing of staff members, that communication from him would be "centralised" and only responded to where the Authority was legally obliged to do so.

34. The Authority submitted that any reasonable person looking at the matter through an “objective lens” would view the Applicant’s behaviour as having the effect of harassing the Authority and its staff.

Designed to cause disruption or annoyance

35. In relation to this factor, the Authority said that it wished to rely on the submissions it had provided in relation to the other factors, particularly the scale, volume and growing frequency of the Applicant’s requests and what it considered to be his motivation for the present request.
36. The Authority submitted that it considered the Applicant’s intention was to cause disruption and/or annoyance to the Authority and to continue a grievance rather than to access the information requested.

The Applicant’s submissions

37. 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.
38. 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.
39. 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.
40. 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”.
41. 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.
42. In terms of his present request, the Applicant explained that it followed from previous requests relating to his concerns regarding the Authority’s Fitness to Teach process. However, the earlier request from which his present request immediately followed concerned the preparation of an email sent to him by the Authority’s Chief Executive on 7 December 2022. He advised the Commissioner of the specific nature of his concerns regarding the

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

preparation of the Chief Executive's email response to him and of the concerns he had which had led to his prior contact with the Chief Executive.

43. The Applicant said that an application to the Commissioner regarding the Authority's response, in terms of section 17(1) of FOISA, to his earlier request would not have provided him with the information sought in his present request. He commented that he wanted to "find out exactly what searches had been carried out – not whether they were considered adequate by the Commissioner" and that "[t]elling [him] which places had been searched is not something the Commissioner can do".
44. The Applicant submitted that it was false to suggest that he had at no stage been advised by the Authority "that all correspondence must be by way of Freedom of Information request". He provided evidence to the Commissioner in support of this and considered that the insistence that his correspondence be addressed through FOISA had been made clear by both the Chief Executive and the fact that the Authority had refused to respond in any other way.
45. The Applicant explained why any distrust he had for the Authority was reasonable and legitimate, rather than being a sign of unreasonable behaviour or distorted perception on his part. He provided examples to the Commissioner in support of his position.
46. The Applicant disagreed that complying with his present request would impose a significant burden on the Authority. He noted that it was best practice to keep logs of searches carried out and it would have been "very easy" for the Authority to have let him know what these logs showed.
47. The Applicant also considered that the Authority was wrong to view the content, tone or volume of his correspondence negatively as there were no examples of unacceptable content or tone in his correspondence and the volume was due to his legitimate concerns and the Authority's insistence that his correspondence must be progressed through FOISA. He provided detailed comments to the Commissioner on his previous requests to the Authority and explained the reasons for, and value in, making these requests.

The Commissioner's view

48. The Commissioner has taken account of all the relevant submissions provided by both the Applicant and the Authority.
49. 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](https://ico.org.uk/for-organisations/foi/freedom-of-information-and-environmental-information-regulations/requests-about-previous-information-requests-meta-requests/)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."
50. 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

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

relates) the Applicant has had with the Authority. 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.

51. The Commissioner accepts that there is a distinction between the Applicant seeking recorded information evidencing the searches undertaken in response to his earlier request and the Commissioner reaching a decision in respect of an application to him on whether the Authority's response, in terms of section 17(1) of FOISA, to that earlier request was appropriate.
52. However, the Commissioner considers it relevant in this case that the Applicant declined to make an application to him regarding the Authority's response to his earlier request. While FOISA does not require requesters to state why they want information, the Applicant's meta request stated that he needed the information so that he could "assess" the "degree to which the searches carried out were indeed reasonable and adequate". During the investigation, the Applicant said that he wanted to "find out exactly what searches had been carried out – not whether they were considered adequate by the Commissioner".
53. The Commissioner understands the Applicant's position. However, public authorities are required to carry out adequate and proportionate searches in response to information requests. He accepts that this requirement is not necessarily the same as searches that would satisfy a requester. However, where a requester is dissatisfied with a response that information is not held, they have a right of appeal to the Commissioner to come to a view, based on the balance of probabilities, as to whether the searches were adequate and proportionate, and whether the response was appropriate. In terms of the statutory scheme established by FOISA, the Commissioner is the appropriate person to make that determination.
54. In all the circumstances of this case, the Commissioner considers that, while it would appear relatively straightforward for the Authority to comply with the Applicant's meta request, there is force to the Authority's argument that doing so would, to some extent, have the effect of displacing or undermining the function of the statutory right of application to the Commissioner in respect of its response to the Applicant's earlier request.
55. The Commissioner also considers it important to consider the nature of the earlier request to which the Applicant's meta request relates. The earlier request was already highly specific; it arose from the Applicant's personal concern about the circumstances of the preparation of a single email sent to him by the Authority's Chief Executive on 7 December 2022. The Applicant's meta request is necessarily even more specific given that it relates to the searches undertaken by the Authority in response to his earlier request.
56. The Commissioner acknowledges the Applicant's wider and longstanding substantive concerns regarding child protection in the context of the Authority's Fitness to Teach process. In general terms, requests relating to such concerns would appear to have a serious purpose and value. The Commissioner would also note that he does not accept that seeking information regarding the process of responding to an FOI request can necessarily be said, in itself, to be vexatious.
57. The Commissioner recognises that the Applicant's meta request is not entirely removed from the Applicant's substantive concerns. However, given that it follows from the earlier (and highly specific and personal) request, the Commissioner considers it to be sufficiently removed from these substantive concerns that it has materially reduced the serious purpose

and value of the meta request. This is particularly so given that the Applicant could have applied to the Commissioner for a decision in respect of the Authority's response to his earlier request and that the specific information requested, while of subjective importance to the Applicant, would appear to be of only limited concern to the wider public (it is at least questionable whether the involvement of another member of the Authority's staff, or a professional adviser to the Authority, in the matter in question would necessarily be indicative of impropriety).

58. The Commissioner's guidance on section 14(1) of FOISA recognises that a request may also be vexatious if it is unlikely that the information requested would shed light on, or alter, the requester's situation. In this case, the Commissioner considers it reasonable to view the Applicant's position as being that the Authority either holds information which would show that the searches it undertook in response to his earlier request were not adequate or proportionate or that it holds information which would undermine its response, in terms of section 17(1) of FOISA, to that earlier request. This is particularly so given the Applicant's reminder to the Authority as part of his earlier request of the provisions in section 65 of FOISA.
59. In the Commissioner's view, the appropriate route, in all of the circumstances of this particular case, to consider the Applicant's concerns regarding the Authority's searches was through an application to the Commissioner in respect of the Authority's handling of his earlier request. To the extent that the Applicant has concerns about the Authority's handling or processing of information he provided to it in confidence, mechanisms outwith FOISA exist to pursue these concerns.
60. In all of the circumstances, the Commissioner is therefore satisfied, on balance, that the Authority was entitled to refuse to comply with the request on the basis that it was vexatious in terms of section 14(1) of FOISA. Consequently, he also finds that the Authority was not obliged to comply with the Applicant's requirement for review.
61. 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.
62. The right to request information is an important legal right. It should not be abused, but the provisions of 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.

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

25 June 2026