



Scottish Information  
Commissioner  
[www.foi.scot](http://www.foi.scot)

# Decision Notice 190/2026

---

## Hall staff duties of prison officers

Authority: Scottish Prison Service  
Case Ref: 202301585

### Summary

The Applicant asked the Authority for various information relating to hall staff duties. The Authority refused to comply as it considered the request to be vexatious. The Commissioner investigated and found that the request was vexatious and that the Authority was not obliged to comply.

### Relevant statutory provisions

Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1), (2) and (6) (General entitlement); 14(1) (Vexatious or repeated requests); 47(1) and (2) (Application for decision by Commissioner).

### Background

1. On 17 September 2023, the Applicant made a handwritten request for information to the Authority. He requested a “full breakdown of hall staff duties” and specified 19 separate duties. The text of the request is reproduced at Appendix 1.
2. The Authority responded on 13 October 2023. It notified the Applicant that it was refusing to comply with the request as it considered it to be vexatious, in line with section 14(1) of FOISA.
3. On 19 October 2023, the Applicant wrote to the Authority requesting a review of its decision. He stated that he was dissatisfied with the Authority’s decision as he disagreed that his request was vexatious.
4. The Authority notified the Applicant of the outcome of its review on 17 November 2023, which fully upheld its original decision.

5. On 4 December 2023, 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 because he disagreed that his request was vexatious.

## Investigation

6. The Commissioner determined that the application complied with section 47(2) of FOISA and that he had the power to carry out an investigation.
7. On 1 February 2024, and in line with section 49(3)(a) of FOISA, the Commissioner gave the Authority notice in writing of the application and invited its comments. The Authority provided its comments.
8. The case was subsequently allocated to an investigating officer.

## Commissioner's analysis and findings

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

### ***Section 14(1) – Vexatious or repeated requests***

10. 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.
11. The Commissioner's [guidance](#)<sup>1</sup> 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."
12. 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.
13. 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.

14. 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.
15. 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*

16. The Applicant explained that he had raised a number of concerns about staff activities in the prison services and that part of his request was to see if his concerns had been logged or not and whether others had raised similar concerns. He argued that there was a "genuine interest" in how many officers had been "reported for each offence or type of activity while at work".
17. The Applicant commented that he knew the Authority would not want these concerns to become common knowledge but that did not mean it was entitled to refuse to comply with his request. He submitted that the comments in his request were valid as staff members of the Authority had "done some or all of the issues" he was asking about. He provided examples of alleged behaviour to the Commissioner.

#### *The Authority's submissions*

18. The Authority explained that it deemed the request to be vexatious, in terms of section 14(1) of FOISA, because it contained "accusations, assumptions and unsavoury comments" directed towards its employees.
19. In particular, the Authority noted that it considered that the request included the following allegations against its employees: "deal drugs to prisoners", "be sexually active with prisoners", "promote violence and drug use", "lie" and "be as lazy as possible".
20. The Authority stated that it had considered whether it would be appropriate to respond to elements of the request that were not of the same nature as those that contained accusations and assumptions. However, it concluded that this was not appropriate and that it considered the request to be vexatious in its entirety.
21. The Authority acknowledged that it had not given the Applicant advice and assistance, in line with section 15 of FOISA, to the effect that if he submitted a new request that did not include the elements it deemed to be vexatious, then it would have processed that request and responded to it. On reflection, it considered that it should have advised the Applicant of "the option to submit a request which did not contain any vexatious elements".

#### *The Commissioner's view*

22. The Commissioner has taken account of all the relevant submissions provided by both the Applicant and the Authority.
23. The Commissioner accepts that the Applicant has a genuine interest in matters concerning the conduct of the Authority's staff members while on duty. However, a request which has

an underlying serious purpose may nevertheless be vexatious if, having regard to its wording, tone and context, it would be reasonable for the authority to regard it as such.

24. The Commissioner must stress that he would not consider a request to be vexatious merely because it is critical of an authority or concerns matters which may be uncomfortable for the authority. In fact, FOISA is an important tool in permitting legitimate scrutiny of public authorities. However, in this case, the Commissioner considers that the wording and tone of the request, taken as a whole, went beyond legitimate scrutiny.
25. The Commissioner recognises that, if staff of the Authority were engaged in conduct such as dealing drugs to prisoners, engaging in sexual activity with prisoners, promoting violence or drug use, dishonesty or deliberate neglect of duty, that would be a matter of serious concern. Recorded information about complaints, allegations, investigations relating to such matters would seem to serve a legitimate public interest.
26. However, the request was not framed as a neutral request for recorded information about complaints or allegations of that nature. Instead, in several instances, it was framed in terms which presupposed serious criminal or improper conduct by staff of the Authority and that this conduct formed part of their duties. To comply with the request, the Authority would be required to engage with the underlying premise, at least as suggested by the terms of the request, that it in some way condoned or endorsed such conduct.
27. The Commissioner acknowledges that the Applicant may have intended his request to seek recorded information on how many officers had been reported for particular offences or types of activity while at work, whether the Authority had logged his concerns or not and whether others had raised similar concerns with the Authority. However, this is not the information that his request, on a plain and reasonable reading, actually asked for.
28. In light of the allegations of criminality and serious misconduct contained in the request and that they appeared to form part of its underlying premise, rather than simply appearing as incidental wording, the Commissioner accepts that the Authority was entitled to conclude that the request, taken as a whole, would be considered manifestly unreasonable by any reasonable person and therefore was vexatious in its entirety.
29. In all of the circumstances, the Commissioner is therefore satisfied that the Authority was entitled to refuse to comply with the request in terms of section 14(1) of FOISA.

### ***Handling matters***

30. As stated above, the Authority confirmed that it had not advised the Applicant that it would respond to a new request which did not contain any vexatious elements. The Commissioner agrees that it would have been useful for the Authority to have provided the Applicant with advice and assistance, in terms of section 15 of FOISA, to this effect.
31. During the investigation, the Authority confirmed to the Commissioner that it would respond to the Applicant's request if he resubmitted it without the accusations and assumptions that accompanied his original request.
32. The Commissioner invited the Applicant to make a new request to the Authority. However, he declined to do so and confirmed that he still required a decision on his present application.
33. As the Commissioner has now found that the Authority was entitled to refuse to comply with the request on the basis that it was vexatious, he would again suggest to the Applicant that, if

he is still interested in receiving the information requested, he make a new request to the Authority without the accusations and assumptions that accompanied his original request.

34. Before doing so, the Commissioner would recommend that the Applicant reframe his request to ensure it is focused on recorded information about complaints, allegations, investigations relating to the matters of concern to him. To assist, he will provide the Applicant with a copy of his [Tips for Requesters](#)<sup>1</sup> guidance. It is also open to the Applicant to contact the Authority for advice and assistance, in terms of section 15 of FOISA, on how to frame and word any new request more effectively.

## **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**

**27 July 2026**

---

<sup>1</sup> [https://www.foi.scot/sites/default/files/2022-03/Tips\\_for\\_Requesters.pdf](https://www.foi.scot/sites/default/files/2022-03/Tips_for_Requesters.pdf)

## **Appendix 1: Information request**

Dear Sir / Madam

Would you be so kind as to provide under the Freedom of Information Act

(1) A full breakdown of hall staff duties from unlocking and locking doors –

Prisoner request, menus, canteen issue, enforce prison rules directives, dispense rations, ensure passmen keep hall clean and do their jobs, monitor prisoners, deal drugs to prisoners, dispense medication around doors outwith NHS sight, conduct medical decisions, be sexually active with prisoners... promote violence and drug use by example, be deceitful, lie, falsify prisoners files, be proactive or reactive, transfer prisons, be as lazy as possible every day...