



Scottish Information
Commissioner
www.foi.scot

Decision Notice 214/2026

Whether requests were vexatious

Authority: Scottish Further and Higher Education Funding Council
Case Ref: 202501763

Summary

The Applicant made various multi-part requests to the Authority. The Authority declined to comply with the requests as it considered them to be vexatious. The Commissioner investigated and found that the requests were vexatious and so the Authority was not obliged to comply with them.

Relevant statutory provisions

Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1), (2) and (6) (General entitlement); 14(1) (Vexatious or repeated requests); 17 (Information not held); 47(1) and (2) (Application for decision by Commissioner).

Background

1. From 4 August 2025 to 26 August 2025, the Applicant made various multi-part requests for information to the Authority. He made 21 such requests in total.
2. The Authority responded 9 September 2025. It advised the Applicant that it was refusing to comply with each of his 21 requests as it considered them be vexatious in line with section 14(1) of FOISA.
3. Later the same day, the Applicant wrote to the Authority requesting a review of its decision. He stated he was dissatisfied with the Authority's decision for the following reasons:
 - the Authority had inappropriately aggregated his requests when considering refusal under section 14(1) of FOISA
 - the Authority had failed to provide him with advice and assistance on how to refine his requests to make them more manageable

- the Authority's response in relation to one of his requests was excessively prompt, and
 - the Authority had not provided adequate details or evidence of why his requests were vexatious in terms of section 14(1) of FOISA.
4. On 26 September 2025, the Authority wrote to the Applicant with the outcome of its review. It largely upheld its position, but it assessed that two requests would not be excessively burdensome to respond to and advised the Applicant it would substantively respond to these requests separately.
 5. On 1 October 2025, the Applicant wrote to the Commissioner, applying for a decision in terms of section 47(1) of FOISA. The Applicant stated he was dissatisfied with the outcome of the Authority's review for the same reasons as his requirement for review.

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 21 January 2026, the Authority was notified in writing that the Applicant had made a valid application.
8. 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 remaining 19 requests 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 on the application of [section 14\(1\)](#)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 reasoning. Although this is not an exhaustive list, the following factors will be relevant to a

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

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;
 - (v) or 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 Authority's submissions

17. The Authority submitted that it had received 21 requests from the Applicant within a short time frame, including 20 within one week. The requests were wide in scope – all requests are multifaceted, each with up to six parts – and broad ranging in subject areas. As noted above, the Authority's position at review stage was that 19 of these 21 requests were vexatious: the two not considered vexatious were responded to separately.
18. The Authority explained that it was a small organisation and that responding to the requests would impact the Authority's ability to undertake its statutory duties and core work. For example, the colleagues who would need to be engaged to respond would be diverted from dealing with institutions with financial challenges and analysing the most recent financial information to understand emerging and changing risks. This work underpins the Authority's Assurance and Accountability Framework and diverting resource away from it would impact the Authority's ability to ensure institutional sustainability and governance.
19. The Authority therefore concluded that responding to the requests would impose a significant burden, requiring a disproportionate amount of time and the diversion of an unreasonable proportion of its resources away from its statutory functions and core operations.
20. In reaching this conclusion, the Authority explained that it had taken into account the volume (in quantity and within a short time period), the complexity (wide in scope and subject areas), the time it would take to comply with the requests and the impact on its ability to perform its statutory and/or core functions.

21. In terms of assessing the burden and cost of responding to the requests, the Authority noted that it sent each request to the relevant business areas and asked them to confirm what information they held. Based on these responses, it documented, among other things, where the information was located; an estimate of the time required to locate the information; whether the time taken to locate the information would exceed the upper cost limit under FOISA; and whether the request was vexatious and the reasons why.
22. As a sampling exercise, the Authority explained that it performed two searches within Microsoft Purview for one part of two of the requests. It selected these requests because the search ranges, in terms of dates, key words, meetings and stakeholders, were clearly defined. These two searches produced results of 2,034 and 12,450 items, respectively.
23. As it determined that complying with just one part of either of these two requests would exceed the upper cost limit under FOISA, the Authority considered this demonstrated that complying with all 19 requests in full would impose a collective significant burden on it to the extent that the requests were manifestly unreasonable and disproportionate.
24. The Authority also noted [Decision 036/2021](#)² of the Commissioner, which stated (at paragraph 21) that:

“... it is not inappropriate to expect a reasonable degree of thought and care in setting out what the applicant is looking for, if there is to be a reasonable expectation of the authority being able to respond without an undue burden being placed on its time and resources.”
25. As well as imposing a significant burden, the Authority commented that the very broad nature of the majority of the Applicant’s requests, in both subjects and time periods, meant that responding to the requests would be likely to produce records of no serious value or purpose. In its initial response, the Authority made clear to the Applicant that more specific requests might have led to a different decision. In its submissions to the Commissioner, the Authority also noted that the format of the requests suggested that artificial intelligence (AI) might have been used to help draft them, which might have contributed to their complexity and length.
26. In summary, the Authority considered that, the timing, volume and broad framing of the requests would inevitably place a significant burden on it, such that a reasonable person would consider the requests to be manifestly unreasonable and disproportionate.

The Applicant’s submissions

27. The Applicant provided detailed submissions, for each request, why he did not consider his requests 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.
28. In his application, the Applicant referred to various purported sections of the Scottish Ministers’ Code of Practice on the Exercise of Functions under FOISA and the EIRs ([the Section 60 Code](#)³) that he considered supported his position that his requests were not vexatious. He argued that the Authority had refused his requests as vexatious in one blanket decision, without any individual assessment of burden, purpose or disproportionality.

² <https://www.foi.scot/sites/default/files/Decision036-2021.pdf>

³ <https://www.gov.scot/publications/foi-eir-section-60-code-practice/>

29. During the investigation, the Applicant summarised that his requests were not vexatious for the following reasons:
- each request was narrowly scoped
 - each request covered a defined time period
 - each request targeted a specific governance function
 - none of his requests targeted individuals personally
 - none of his requests repeated earlier requests
 - none of his requests impose unreasonable burden
 - all of his requests related to multi-million-pound public funds and statutory oversight.

The Commissioner's view

30. The Commissioner has taken account of all the relevant submissions and supporting evidence from the Applicant and the Authority, as well as the terms of the requests.
31. In the Commissioner's view, it is clear that, regardless of whether any individual request would consume resources on the scale that the Authority predicts, the volume of requests, any of which would plausibly require substantial time and effort by the Authority to comply with, would cumulatively have a substantial impact on the Authority.
32. The Commissioner considers this to be particularly true for a relatively small organisation, although he recognises that the scale of these requests would reasonably put pressure even on large organisations.
33. The Commissioner recognises the Applicant's dissatisfaction that the Authority has considered the burden of these requests together. However, he considers that ignoring the context of the Applicant's numerous other requests (which are, in any event, described by the Applicant as being part of a unified line of inquiry) would, in this case, be clearly artificial.
34. Given the nature of the requests and that they were submitted in close succession, the Commissioner agrees that the Authority was entitled to consider them collectively when assessing the burden that complying with them would impose.
35. In all of the circumstances, the Commissioner agrees with the Authority that, in this case, the requests were cumulatively sufficiently burdensome to the extent that it was entitled to consider them to be vexatious.
36. As the Commissioner is satisfied that the Applicant's requests were vexatious based on this factor alone, he will not go on to consider the other factors cited by the Authority in support of its position.
37. The Commissioner is therefore satisfied that the Authority was entitled to comply with the requests on the basis that they were vexatious in terms of section 14(1) of FOISA.
38. 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.

39. 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.

Section 15 – Duty to provide advice and assistance

40. Section 15 of FOISA requires Scottish public authorities to provide advice and assistance to applicants, so far as it would be reasonable to expect them to do so.
41. Section 15(2) of FOISA provides that a Scottish public authority shall be taken to have complied with this duty if it conforms with the guidance contained in the Section 60 Code.
42. In this case, the Applicant expressed concern that the Authority had offered no advice or assistance to refine or narrow the scope of his requests.
43. The Commissioner notes that the Authority advised the Applicant in its initial response that more specific requests may have led to a substantive response (i.e. otherwise than in terms of section 14 of FOISA). However, it explained to the Applicant that it did not consider it possible to “refine” the actual requests he had made. It went on to explain that this difficulty arose from the number and complexity of the requests and the diverse nature and volume of information requested.
44. The Commissioner considers that the Authority clearly explained the issues with the requests to the Applicant and reminded him that its refusal of these requests as vexatious did not mean that more focused requests would necessarily be refused as vexatious.
45. For the reasons given by the Authority, the Commissioner accepts that speculatively giving advice on refining each of the Applicant’s requests would go beyond requirements of section 15 of FOISA.
46. In the circumstances, the Commissioner therefore finds that the Authority discharged its obligations under section 15 of FOISA. However, he would stress that this does not relieve the Authority of an obligation to give tailored advice on specific requests, were the Applicant to seek such advice on specific requests.

Section 10(1) – Time for compliance

47. Section 10(1) of FOISA requires Scottish public authorities to comply “promptly” with a request for information and gives a maximum of 20 working days following the date of receipt of the request to comply. This is subject to qualifications which are not relevant in this case.
48. The Applicant expressed dissatisfaction that the Authority refused one of his requests after just four working days, far short of the 20 working days statutory deadline.
49. The Commissioner welcomes this prompt response. In the circumstances of this case, he can see no reason for the Authority to delay reaching a decision and advising the Applicant of the vexatious nature of his requests. He notes that the Applicant has suffered no disadvantage from the Authority’s promptness, which assisted the Applicant by allowing him to move to the review and appeal stages without unnecessary delay.

Other matters

50. There is one other issue that the Commissioner must comment on.

51. In his application to the Commissioner the Applicant made various claims regarding a ICO decision notice, section 17 of FOISA and the section 60 Code of Practice that he claimed supported his position.
52. The Commissioner has found no evidence that the ICO decision notice that the Applicant referred to exists, while section 17 of FOISA does not contain the text that the Applicant presented as a quote from it. He also notes that many of the provisions of the Code of Practice referred to by the Applicant did not exist, and the remaining provisions were largely irrelevant.
53. During the Commissioner's investigation the Applicant was invited to explain these fabrications.
54. The Applicant accepted that the reference to the ICO decision notice was in error.
55. He went on to describe the purported section 17 quote and the reference to specific provisions of the Section 60 Code as a "paraphrase."
56. Given section 17 of FOISA does not – contra the Applicant's claim – require authorities to provide applicants with sufficient detail to challenge an Authority's decision, the Commissioner does not accept that the Applicant was paraphrasing section 17 of FOISA.
57. The Commissioner is also unclear how the paragraph numbers given from the Code of Practice can be a paraphrase. Certainly the Applicant has not attempted to show any connection between the paragraph numbers initially provided, and the arguments he claimed they supported.
58. The Applicant did not provide explanation of how these errors arose. However, the Commissioner notes that these have the appearance of large language model (commonly known as AI) "hallucinations."
59. The Commissioner recognises that everyone makes mistakes, and that Applicants cannot always be expected to have detailed knowledge of the provisions of Freedom of Information law. However, the Commissioner expects a reasonable degree of care and accuracy in applications to his office: especially from academics, solicitors, journalists and similar requesters, whose professions demand honesty and accuracy.
60. Access to information under section 1 of FOISA, and to the Commissioner under section 47, may be a right, but all rights need to be used responsibly if the system is to remain effective. Errors of this sort delay and complicate the investigation of cases, in some cases substantially, and the absence of basic checks to references and/or other supporting material suggests an exercise of the Applicant's rights that could not reasonably be described as responsible.
61. The Commissioner notes that both the provisions of FOISA and the Section 60 Code of Practice are available online and can easily be verified.
62. The Commissioner would therefore encourage the Applicant, and indeed all applicants, to take care to ensure their applications – especially applications involving content from a large language model - are clear and accurate.
63. The Commissioner reserves the right to treat applications that fall substantially short of the standards of care and accuracy he expects as vexatious, with the result that he may apply section 49(1)(a) of FOISA and decline to make a decision.

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 August 2026