Scottish Information Commissioner
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Decision Notice 280/2026

Whether request was vexatious

Authority: Queens Cross Housing Association Ltd
Case Ref: 202600866

Summary

The Applicant asked the Authority for information relating to the working hours and whereabouts of the Authority's Chief Executive on specified dates. The Authority declined to comply with the request as it considered it to be vexatious. The Commissioner investigated and found that the request was vexatious and so 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 requests); 47(1) and (2) (Application for decision by Commissioner).

Background

1. On 8 April 2026, the Applicant made the following request for information to the Authority:

   (i) "The office working hours of the [Authority's] Chief Executive Officer: Tuesday March 28, 2023; Wednesday March 29, 2023; Thursday March 30, 2023?"

   (ii) "The hours of the [Authority's] Chief Executive Officer: Tuesday March 28, 2023; Wednesday March 29, 2023; Thursday March 30, 2023. When that Chief Executive Officer was either in the office off working hours, or engaged in an activity outside the entrance/pavement of the office building's main door public door?"

2. The Authority responded on 1 May 2026. It withheld the information requested under the exemption in section 38(1)(b) of FOISA.

3. Later the same day, the Applicant wrote to the Authority requesting a review of its decision. He stated that he was dissatisfied with the decision because he considered that it was in the public interest for the information requested to be disclosed.

4. The Authority notified the Applicant of the outcome of its review on 6 May 2026. It substituted its original response and notified the Applicant that it was refusing to comply with his request as it considered it to be vexatious in terms of section 14(1) of FOISA. It explained that it considered the constant questioning around the whereabouts of the Chief Executive did not "pass any public interest test", was "bordering on harassment" and the request was made to cause "harm and distress" to the Chief Executive.

5. On 7 May 2026, 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 8 July 2026, the Authority was notified in writing that the Applicant had made a valid application. The case was subsequently allocated to an investigating officer.

8. 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.

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 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 has published guidance[1] on the application of section 14(1) of FOISA. This 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

[1] 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) it would otherwise, in the opinion of a reasonable person, be considered to be manifestly unreasonable or disproportionate.

13. While the Commissioner's view is that the term "vexatious" must be applied to the request and not the requester, he also acknowledges that the applicant's identity, and the history of their dealings with a public authority, may be relevant in considering whether a request is vexatious.

The Authority's submissions

14. The Authority provided detailed submissions explaining why it considered the Applicant's request as vexatious in terms of section 14(1) of FOISA.

15. The Commissioner is unable to summarise those submissions in any detail, within this decision notice, without breaching the obligation of confidentiality in section 45 of FOISA.

16. However, the Authority stated that it considered the Applicant's request was vexatious because it formed part of a continuing pattern of conduct directed towards its Chief Executive, rather than a genuine attempt to obtain information about the Authority's public functions.

17. The Authority submitted that the Applicant's request was not assessed in isolation and that it had experienced a prolonged history of correspondence, complaints and information requests from the Applicant, together with repeated public commentary referring to the Chief Executive personally.

18. The Authority provided evidence of previous relevant dealings with the Applicant, together with background information about, and actions arising from, those dealings.

19. The Authority explained that it had responded to communications from the Applicant wherever possible, but it had concluded that it was not obliged to comply with the request in question as it was vexatious in terms of section 14(1) of FOISA.

The Applicant's submissions

20. The Applicant commented that the refusal at review stage of his request as vexatious appeared "very sinister and incompetent", noting the allegation by the Authority that he had engaged in harassment.

21. The Applicant disagreed that his request was vexatious. He considered that this was an "unreasonable" basis on which to refuse his "legitimate" information request and that any refusal must be "specific" and "cite a tangible reason rather than create rumour".

22. The Applicant provided further submissions to the Commissioner explaining why the information requested was of importance to him. The Commissioner has fully considered these reasons, but he does not consider it appropriate to set them out here.

The Commissioner's view

23. The Commissioner has taken account of all relevant submissions provided by the Applicant and the Authority.

24. Having considered the focus of the request and the submissions provided by the Authority, the Commissioner is satisfied that it was reasonable for the Authority to consider previous dealings with the Applicant when deciding whether the request should be treated as vexatious.

25. Given the history and nature of the Applicant's previous dealings with the Authority (as set out in the Authority's submissions), the Commissioner is also satisfied that the Authority was entitled to conclude that the request was vexatious.

26. Section 45 of FOISA makes it a criminal offence for the Commissioner or a member of his staff to disclose without lawful authority information which he has obtained, or which has been furnished to him, under or for the purposes of FOISA if the information is not at the time of the disclosure, and has not previously been, available to the public from another source.

27. In the circumstances, the Commissioner does not consider it possible to set out in greater detail the reasons for his conclusions, without potentially breaching section 45 of FOISA.

28. In this case, having considered all relevant submissions and the terms of the request, the Commissioner is satisfied that the Authority was entitled to refuse to comply with the request by virtue of section 14(1) of FOISA.

29. The Commissioner would like to make clear that his finding in this decision does not mean that any request from the Applicant to the Authority would necessarily be vexatious. In this case, the Commissioner is satisfied that the Authority was entitled to refuse to comply with the request in question under section 14(1) of FOISA, having considered the submissions provided by the Authority and the focus and nature of the request.

30. However, the right to request information is an important legal right. It should not be abused, but the provisions within 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

18 November 2026