



Scottish Information
Commissioner
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Decision Notice 203/2024

Whether requests were vexatious

Authority: Glasgow City Council

Case Ref: 202400881, 202400975, 202400976, 202400977 and 202400978

Summary

The Applicant asked the Authority for information on several matters related to the education and experiences of primary and secondary schoolchildren. The Authority declined to comply with the requests as it considered them 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 requests); 21(1), (8)(b) and (9) (review by a Scottish public authority); 47(1) and (2) (Application for decision by Commissioner)

Background

1. On 2 May 2024, 11 June 2024 (two requests), 14 June 2024 and 19 June 2024, the Applicant made five requests for information in total to the Authority. The information requested concerned several matters related to the education and experiences of primary and secondary schoolchildren. The full wording of each request can be found at Appendix 1.
2. The Authority responded on 30 May 2024 to one of the requests, on 20 June 2024 to two of the requests and on 21 June 2024 to the two remaining requests. The Authority provided information in response to the Applicant's request dated 2 May 2024, but stated that it considered his other requests were vexatious and, in line with section 14(1) of FOISA, it was not obliged to comply with them.

3. On 3 June 2024 and 25 June 2024, the Applicant wrote to the Authority requesting a review of its decisions for each of his five requests. For his request dated 2 May 2024, the Applicant disagreed that the Authority had provided him with all relevant information in response to his request. For his other requests, the Applicant disagreed that they were vexatious.
4. On 24 June 2024 and 9 July 2024, the Authority notified the Applicant of the outcome of its reviews for each of his five requests. For the Applicant's request dated 2 May 2024, the Authority revised its original decision and stated that it considered the request was vexatious (as was the requirement for review). For the Applicant's other requests, the Authority upheld its original decision that they were vexatious (as were the requirements for review).
5. On 27 June 2024 and 15 July 2024, the Applicant wrote to the Commissioner, applying for a decision in terms of section 47(1) of FOISA for each of his five requests. The Applicant stated that he was dissatisfied with the outcome of the Authority's reviews because he did not agree that his requests were vexatious.

Investigation

6. The Commissioner determined that the applications complied with section 47(2) of FOISA and that he had the power to carry out an investigation.
7. On 23 July 2024 and 20 August 2024, in line with section 49(3)(a) of FOISA, the Authority was notified in writing that the Applicant had made valid applications for each of his five requests. All cases were 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 all five applications and to answer specific questions on each. These questions related to why the Authority considered the requests were 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

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

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
- (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 submissions

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

15. The Commissioner is unable to reproduce or 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 requests were vexatious for the following reasons:

- the Applicant's history of dealings with the Authority, both by requests using information legislation and through other correspondence and interactions (relating to the education of his child and to other matters)
- it did not believe that the requests had any serious purpose or value and were instead a means to cause annoyance and disruption
- the requests had the effect of harassing the Authority and its staff.

17. The Authority provided evidence of previous relevant communications from (and interactions with) the Applicant and background information for those communications and interactions.

18. The Authority noted that, since January 2024, the Applicant had submitted 20 requests for information, nine requirements for review, six subject access requests and five applications to the Commissioner (those under consideration in this decision).

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 requests in question as they were vexatious in terms of section 14(1) of FOISA.

The Applicant's submissions

20. The Applicant explained that he had sought information under FOISA as it was the only way to get a response from the Authority because it had "banned" him from communicating with it.

21. The Applicant submitted that his requests were made due to genuine concern about the education and safety of his child (and other children) and that his requests were not vexatious in any way.

The Commissioner's view

22. Taken in isolation, the Applicant's requests might not appear to be vexatious. However, the vexatious nature of a request may only emerge after considering it in the context created by previous correspondence and dealings the Applicant has had with an Authority.
23. The Commissioner is satisfied, having reviewed the submissions provided by the Authority, that it was reasonable for the Authority to consider previous correspondence and interactions with the Applicant when deciding whether the requests in question should be treated as vexatious.
24. Given the history and nature of the Applicant's correspondence (as set out in the Authority's submissions), the Commissioner is also satisfied that the Authority was entitled to conclude that the requests in question were vexatious.
25. 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.
26. 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.
27. In this case, having considered all relevant submissions and the terms of the requests, the Commissioner is satisfied that the Authority was entitled to refuse to comply with the requests in question by virtue of section 14(1) of FOISA.
28. 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 requests in question by virtue of section 14(1) of FOISA, considering the submissions provided by the Authority and bearing in mind that the requests in question were clearly linked by subject matter (albeit without such focus as would suggest any reasonable purpose in extracting information on them).
29. 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

16 September 2024

Appendix 1:

Date of request for information	Request for information
2 May 2024	I would like to know all the facts children are taught at P1-P7 about teeth health.
11 June 2024	<p>How many cases of abusive/violent behaviour by primary school children towards school staff and other pupils were reported to the council in the school year 2022/2023.</p> <p>How many cases of abusive/violent behaviour by secondary school children towards school staff and other pupils were reported to the council in the school year 2022/2023.</p>
11 June 2024	Are computer/iPad games used in any form in your secondary schools?
14 June 2024	<p>Are secondary pupils checked for weapon possession?</p> <p>How many cases of weapon possession were registered in secondary schools in the last 2 years?</p>
19 June 2024	What do you teach children in primary and secondary schools about dairy consumption effects on health of children and of adults?