



Scottish Information
Commissioner
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Decision Notice 010/2025

Firearms licensing policies

Authority: Chief Constable of the Police Service of Scotland
Case Ref: 202301520

Summary

The Applicant asked the Authority for information relating to policies of the firearms licensing section that “ignore or overrule guidance and/or statutory legislation”. 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 20 October 2023, the Applicant made a request for information to the Authority. He stated that certain policies of the Authority’s firearm licensing section contravened legislation and asked:

“What, if any, other policies do the licensing section operate that ignore or overrule guidance and/or statutory legislation”
2. The Authority responded on 3 November 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 7 November 2023, the Applicant wrote to the Authority requesting a review of its decision. He stated that he was dissatisfied with the decision because he disagreed that his request was vexatious.
4. The Authority notified the Applicant of the outcome of its review on 27 November 2023, which fully upheld its original decision.
5. On 30 November 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 for the reason set out in 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 16 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.
8. The Authority provided its comments, and 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](#)¹ 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

¹ [BriefingSection14VexatiousorRepeatedRequests.pdf](#)

- (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.

Submissions from the Applicant

16. As rehearsed earlier, the Applicant stated as part of his request for information that certain policies of the Authority's firearm licensing section contravened legislation.
17. The Applicant explained that if he was provided with a list of policies that contravened legislation and guidance this would be "of benefit to both sides". He noted that the shooting community relied on statutory legislation and various Home Office guidance manuals to avoid conflict with the licensing section and that members of the shooting community "other than learning the hard way... have no way of knowing when licensing branch staff literally takes the law into their own hands".
18. The Applicant stated that he had chosen the wording of his request carefully considering the long record of communication between himself and the Authority. He explained that if he made a complaint to the Authority regarding policies of its firearms licensing section, he believed it might only revise those policies of which he was aware and, rather than discovering any others "by experience", he would prefer to have them all identified in "one fell swoop".

Submissions from the Authority

19. The Authority noted that the Applicant appeared to believe that certain firearms licensing section policies contravened other guidance or legislation. It submitted that it considered his request was designed to illicit comment on this point rather than being a "serious request".
20. In responding to the Applicant's requirement for review, the Authority explained that, even if it accepted that the request was asking for recorded information, it was unreasonable as it sought confirmation that it operated policies in contravention of relevant legislation, which it submitted would never be the case. It further stated that it was difficult to see any purpose or value to the request as the information requested would not exist.
21. By way of providing advice and assistance, the Authority provided the Applicant with a link to its Firearms Licensing Guidance. It also advised the Applicant that if he believed certain policies were unlawful this should be raised as a complaint.

22. However, as it considered the request was not genuinely seeking access to recorded information but was instead intended to make a point or further a complaint, the Authority deemed the request to be vexatious in line with section 14(1) of FOISA. Specifically, it submitted that it would be “nonsensical” to imagine that any of its policies or guidance would “provide instruction with an explicit comment that it was in contravention of legislation”.

The Commissioner’s view

23. The Commissioner has taken account of all of the relevant submissions provided by both the Applicant and the Authority.
24. Even if an authority thinks that a request lacks serious purpose or value, the requester might, from a subjective and reasonable point of view, have a genuine desire and/or need to obtain the information. The requester is not obliged to share their motives for seeking the information with the public authority. However, this criterion recognises that some requests may be so lacking in serious purpose or value that they can only be seen as vexatious. A primary purpose other than the extraction of information is likely to fall into this category, for FOISA purposes.
25. The Commissioner has considered the specific terms of the request, which asked the Authority what policies its firearms licensing section operated that ignore or overrule guidance and/or statutory legislation.
26. The Commissioner acknowledges that the Applicant has stated that his motivation for his request is for policies operated by the Authority’s firearms licensing section that contravene relevant legislation or guidance to be identified so that he does not discover them “by experience”. However, his request, as written, presupposes the existence of policies that are non-compliant with legal requirements and requires the Authority to engage with the Applicant’s underlying premise, which it has rejected. (The Commissioner has no locus to comment on how the Authority complies with its policies and procedures or with other legal requirements in relation to firearms licensing.)
27. The Applicant explained that he had expected the Authority to “vigorously rebut” his suggestion that its firearms licensing section actively contravened legislation by highlighting any misinterpretation on his part. The Commissioner would stress that FOI law provides a right to receive recorded information from public authorities – it is not a means to further a complaint or to challenge any issues one is currently experiencing (or anticipates to experience) as a result of the actions of a public authority. That, rather than the extraction of information, would appear to have been the Applicant’s primary purpose here.
28. In the circumstances, the Commissioner considers that the request, as written and irrespective of the Applicant’s intention, lacks serious purpose or value. He agrees with the Authority that, if the Applicant believed it was operating policies in contravention of relevant guidance or legislation, then this was best addressed by means of a complaint.
29. The Commissioner is therefore satisfied that the Authority was entitled to refuse to comply with the request in line with section 14(1) of FOISA.

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

20 January 2025