

Our ref: FOI 2021-22 071
21 September 2021

Contact:
Alan Redhead
foi@sqa.org.uk

Dear Mr McEnaney

Freedom of Information Request for Review

On 08 September 2021, SQA received your request for a review under the Freedom of Information (Scotland) Act 2002 (FOISA). I can confirm that as the Reviewer I have had no involvement in our original response to you. You requested a review in relation to our reply to your original freedom of information request, as shown below.

1 ORIGINAL REQUEST

I would like to request the following information under FOISA:

- Any communication discussing / responding to concerns about the quantity of appeals that the SQA may receive in relation to any 2021 appeals processes

The time frame for this request is 1/2/2021 - 2/6/2021

SQA's RESPONSE

Please note SQA has published the [2021 National Qualifications Appeals Process Consultation Analysis](#) and the [Consultation responses](#).

In addition to this the information you have requested has been provided in the attached file. The Freedom of Information (Scotland) Act (FOISA) provides the right of access to information and not documents and SQA has provided a table of the references to the quantity of appeals that SQA may receive in relation to the 2021 appeals process from a variety of internal documents. This has been redacted for personal data only.

2 REVIEW REQUEST

Good afternoon.

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I would like to request a review of how this FOI response has been handled. It appears that the SQA has provided me with redacted email chains but in the case of documents has simply extracted some text and placed it into the table at the top of the document? This is not an acceptable approach, nor is it in line with previous disclosures or those from other public bodies. Please reissue this response providing the actual documents being referenced, with material then redacted from them if necessary

SQA's RESPONSE

The original response provided you with links to published information relating to your request. It also provided an attachment containing extracts from various documents that were relevant to your request.

You state that this is not an acceptable approach and is not in line with previous disclosures or those from other public bodies. You have asked for the actual documents to be provided with the necessary redactions made.

The Freedom of Information (Scotland) Act 2002 states, 'A person who requests information from a Scottish public authority which holds it is entitled to be given it by the authority'.

Section 8 of the Freedom of Information (Scotland) Act 2002 states what is required for a request to be valid. Section 8 (1) (c) makes it clear that the request must describe the information required. You did this in your original request and we provided the relevant information taken from a number of documents.

In 2009 a case went to the Court of Session for consideration. The requester had asked for and insisted on receiving copies of documents. The Court ruled that the legislation provides the right to information rather than the right to receive copies of documents. However, it also concluded that requesting a document would be valid if it was clear that the information requested was contained within the document.

It is also stated in the Scottish Ministers' Code of Practice on the Discharge of Functions by Public Authorities under FOISA and the EIRs that 'FOISA provides a right of access to information and not a right of access to copies of specific documents. However, authorities should not refuse requests for copies of documents (eg a report, a minute or a contract) as long as it is reasonably clear from the request that it is the information recorded in the document that the applicant wants.'

The guidance provided by the Scottish Information Commissioner recommends that there is nothing stopping a public authority from providing copies of documents when it is deemed to be easier to do that than extract the information from the document.

Your request did not mention any documents and simply asked for 'any communication discussing / responding to concerns about the quantity of appeals that the SQA may receive in relation to any 2021 appeals processes'. This was clearly a request for information rather than specific documents and the relevant information that was provided was taken from various documents, which contain information that was not relevant to the request and would have required considerable redaction.

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A link to the guidance provided by the Scottish Information Commissioner is below.
[RighttoInformationorCopies \(5\).pdf](#)

By providing the extracted information, we believe we complied with your request appropriately.

If you remain dissatisfied, you have a right to apply to the Scottish Information Commissioner for a decision. You must apply to the Commissioner within six months of this response. The Scottish Information Commissioner has launched a new online appeal service. You can now access this online service by using the following web-link:

www.itspublicknowledge.info/Appeal

Should you wish to appeal against this decision, you have the right to appeal to the Court of Session on a point of law only. Further details on this process are available on the Commissioner's website www.itspublicknowledge.info, other contact details are as follows:

The Scottish Information Commissioner
Kinburn Castle
Doubledykes Road
St Andrews
KY16 9DS
Tel: 01334 464610
E-mail: enquiries@itspublicknowledge.info

Yours sincerely



Dr Sue
Pope Head
of Service