

FREEDOM OF INFORMATION (JERSEY) LAW 2011

DECISION NOTICE

JOIC Reference	CAS-05204-B8W2X4
Date of Decision Notice	13 May 2026
Scheduled Public Authority	Department for the Economy
Address	Ministerial Offices Government of Jersey Union Street St. Helier Jersey JE2 3DN

Summary

1. The Complainant requested information from the Department for the Economy (the **SPA**) about any recommendations that had been made about the reform of the Economic Crime and Confiscation Unit (**ECCU**) (the **Request**).
2. The SPA responded (the **Request Response**) stating that it was rejected the Request on the basis it was considered vexatious, citing the exemption at Art.21(1) of the Freedom of Information (Jersey) Law 2011 (the **FOI Law**). The Complainant did not agree with the Response and requested an internal review (the **IR Request**). The SPA upheld the previous decision that had been made (the **IR Response**).
3. The Complainant issued an appeal to the Information Commissioner (the **Commissioner**) on 17 March 2025 (the **Appeal**).
4. The Commissioner investigated and found that the SPA had [partially] failed to comply with the FOI Law in responding to the Complainant's request. The Commissioner's decision is to that the appeal is upheld. [The steps the SPA needs to take are as set out at the end of this Decision Notice.

The Request

5. The Complainant's Request dated 19 January 2025 was in the following terms:

"The Post MONEYVAL Ministerial Priorities and High-Level Action Plan - available at <https://www.gov.je/SiteCollectionDocuments/Industry%20and%20finance/R%20MON>

[EYVAL%20High%20Level%20Action%20Plan.pdf](#) - contains (amongst other things) the following in respect of the Economic Crime and Confiscation Unit (ECCU):

"In respect of ECCU - priority actions centre around the delivery of a programme of reforms to ECCU. This will give effect to a series of recommendations for reform which have already been agreed by the Attorney General and the Government."

1. Please provide full details of all of the "recommendations for reform" referred to as having already been agreed.

2. Please: (a) confirm whether there are any "recommendations for reform" that have not been agreed; and (b) provide full details of all such recommendations.

3. Please provide copies of any reports, memos or other documents setting out any of the "recommendations for reform".

4. Please confirm whether any consultation with external parties has been undertaken regarding reform of ECCU."

6. On 22 January 2025 the SPA provided its Response in the following terms:

"Thank you for your Freedom of Information request of 19 January 2025 regarding proposed reforms to ECCU.

We are writing to inform you that this request is being refused under Article 21 (1) of the Freedom of Information Law as vexatious.

21 A scheduled public authority need not comply with vexatious requests

(1) A scheduled public authority need not comply with a request for information if it considers the request to be vexatious.

(2) In this Article, a request is not vexatious simply because the intention of the applicant is to obtain information -

(a) to embarrass the scheduled public authority or some other public authority or person;

(b) for a political purpose.

(3) However, a request may be vexatious if-

(a) the applicant has no real interest in the information sought; and

(b) the information is being sought for an illegitimate reason, which may include a desire to cause administrative difficulty or inconvenience.

For further information I refer you to the following guidance: JOIC Guidance Note on Dealing with vexatious requests.

Our internal review procedure is attached for your information."

7. The SPA declined to respond to the Request, citing Art.21(1) of the FOI Law.

8. Following receipt of the SPA's Response, the Complainant wrote (later that same day, at 17:41) to the Central Information Governance Unit (the **Central Unit**) seeking clarification on certain aspects of the Response. Specifically, the Complainant asked the two following questions:

"1. Which is the relevant scheduled public authority (SPA) that considers the request to be vexatious?"

2. Can you please confirm that the SPA's decision to omit any reasoning from the response is deliberate (i.e. it has not been accidentally omitted from the response?)

I appreciate that the JOIC guidance that you have kindly referred me to states: "There is no obligation to explain why the request is vexatious" (see page 23). However, I note that the guidance goes on to immediately say: "Nonetheless, authorities should aim to be as helpful as possible. The Information Commissioner considers it good practice to include the reasoning for the decision in its refusal notice" (emphasis added).

I certainly believe it would have been reasonable and fair for this particular response to contain some reasoning, in order that I may understand the decision and ensure that any submissions made when requesting an internal review are properly directed. At the moment, I am in the dark as to why the SPA has reached this conclusion (and, indeed, which SPA has done so)..."

9. The Central Unit responded to the Complainant on 23 January 2025 (at 17:00) confirming that *"the Department for the Economy is the SPA in question"* and that *"in line with paragraph 108 of the JOIC Guidance, that further requests to the SPA on the same or similar topic will not receive a response."* (It is not clear whether the SPA knew about or authorised the sending of that email as no one else was copied to that exchange.)
10. This response prompted further correspondence from the Complainant on 28 January 2025 (at 07:37) where they commented as follows:

"Thank you for your email of 23 January 2025 below, confirming that the Department for the Economy is the SPA.

As you know, I did not direct the request specifically to the Department for the Economy (or specify any particular SPA); this was decided internally by the Government of Jersey (not by me).

You also state in your email that further requests to the SPA on the "same or similar topic" will not receive a response. This is the first request that I have made seeking information about the recommendations for reform of the Economic Crime and Confiscation Unit (ECCU). I should therefore be grateful if you could please clarify whether this topic (i.e. recommendations for reform of ECCU) is the topic referred to, or whether the SPA had something else in mind?

I would be grateful if the SPA could please also provide the reasoning for its decision. In a situation such as this, where an SPA has taken the decision to apply section 21 to an applicant's request for the first time, it is not consistent with the duty of fairness for the SPA to refuse to provide an explanation for the decision taken. If I am not told the SPA's reasoning, I am denied a fair opportunity to make properly directed submissions to the internal review panel.

I do not believe that either of these requests are unreasonable.

Should the SPA be refusing to (a) clarify which topic is referring to and/or (b) provide the reasoning for its decision, however, a simple confirmation of this from you will suffice.

I shall then confirm whether I am requesting an internal review."

11. The Central Unit replied to that email (again, it is unclear whether the SPA was aware of or had authorised such) on 31 January 2026 (at 15:21) as follows:

"The SPA has followed the published Guidance of the Jersey Office of the Information Commissioner on vexatious requests, in determining that your present FOI request is vexatious.

If you wish to proceed to an Internal Review, the panel will be asked to carefully consider the rationale and supporting evidence the SPA have applied in determining that this request is vexatious, in line with the published Guidance, and whether, on balance, that determination should be upheld or overturned. If it is overturned, then the request will be processed in the usual fashion."

12. In light of that response, the Complainant issued their IR Request on 31 January 2026 indicating that they did not agree with the SPA's reliance on Art.21 of the FOI Law. Specifically, in their IR Request, the Complainant set out the following reasons why they did not consider that the SPA's refusal to respond to the Request had been provided in compliance with the FOI Law:

"I am writing to request an internal review of the SPA's response to FOI-679967117.

I should be grateful if you could please ensure that the content of this email is presented to the Internal Review Panel.

Regrettably, the SPA has refused to provide its reasoning for considering the request as vexatious.

In response to my asking for the rationale for the SPA's decision, the Freedom of Information Unit has simply referred me to the Guidance of the Jersey Office of the Information Commissioner on vexatious requests. This guidance is 32 pages long and generic; it does not help me to understand why the SPA has considered this specific request to be vexatious.

The Freedom of Information Unit has stated that "the rationale and supporting evidence the SPA have applied in determining that this request is vexatious" will be provided to the Panel.

If this "rationale and supporting evidence" exists and is to be provided to the Panel, it is entirely unclear why it (or, at least, a summary) cannot be provided to me to help me better understand the SPA's decision and respond accordingly.

The SPA's refusal to provide me any reasoning for its decision is not only unhelpful; it is also inconsistent with principles of natural justice. It is unfair, because it does not allow me to understand (even in summary form) why the SPA contends that the request is vexatious.

Whilst I have been denied an opportunity to specifically respond to the SPA's apparent concerns, as I have not been told what they are, I set out below why I believe that the request cannot fairly be considered as "vexatious".

I (the applicant) have a real interest in the information sought Following its publication in July 2024, I read the "Post MONEYVAL Ministerial Priorities and High-Level Action Plan".

That Plan referred to a "series of recommendations for reform [of ECCCU] which have already been agreed by the Attorney General and the Government." The Plan only contains limited information about those reforms, however, noting only: "The programme of reform will include the provision of new investigative powers and the establishing of an independent review process.

In the 6 months since the Plan's publication, I have not been able to locate any significant further information about the proposed reforms to ECCU, despite searching publicly available resources (including the Government of Jersey's website, the website of the States Assembly and other open source materials accessible via desktop searches).

I note that the Plan was discussed during the Economic and International Affairs Scrutiny Panel, Quarterly Public Hearing, held on 24 July 2024. At that hearing, Mr George Pearmain confirmed that: "The high level action plan addresses a number of areas of changes that have already been agreed between the Government and the Attorney General because, of course, again the unit is independent inside his office." What those agreed "areas of changes" are, however, has remained unclear.

More recently, during the Economic and International Affairs Scrutiny Panel, Quarterly Public Hearing, held on 3 December 2024, the Minister for External Relations (Deputy Ian Gorst) stated: "there is also the E.C.C.U. (Economic Crime and Confiscation Unit) changes legislation, which we have continued to work with the Law Officers' Department on. They will themselves ... I think we have agreed that they will provide some extra resource to make sure that that gets over the line as well in that prioritisation process." Again, there was little detail provided about the proposed reforms.

I am genuinely interested to learn what the agreed recommendations for reform of ECCU are. I am also genuinely interested to understand whether any recommendations for reform were not accepted. I am genuinely interested to see the reports, memos or other documents setting out these recommendations, since I believe this will help place the recommendations in context and may contain helpful explanations as to why those recommendations have been made. I am also genuinely interested to know whether any consultation with external parties has been undertaken, since I have not seen any consultation advertised but I am aware that sometimes the Government consults privately with industry representatives or other persons.

I do not desire to cause administrative difficulty or inconvenience; when I submitted the request, I did not even know which SPA the request would be directed to. It was the Government of Jersey that determined which SPA should respond.

I have sought to find the requested information online, but have not been able to locate it. I note that the Law Officers' Department does not appear to have published an Annual Review since 2021. I have not requested this information before; nor, from the requests

published on the Government of Jersey's website, does it appear that any other person has requested this information before.

The request was reasonably targeted (not a 'fishing expedition'), specifically seeking information about "recommendations for reform" that had been directly referenced in the "Post MONEYVAL Ministerial Priorities and High-Level Action Plan".

Not only is the requested information of genuine interest to me, it will also be of interest and value to the wider public.

The "Post MONEYVAL Ministerial Priorities and High-Level Action Plan" was widely publicised by the Government of Jersey, which clearly regarded the matters set therein to be matters of public interest.

The fact that the reforms have since been mentioned to Scrutiny a number of times, further demonstrates that this is a matter of public interest.

The local Press (such as the Jersey Evening Post) frequently carries stories about the work of ECCU, often as a result of press releases issued by ECCU or the Government of Jersey, further indicating that the general public is likely to be interest in the reforms to ECCU that have been recommended.

It is disappointing, in the circumstances, that the SPA has labelled the request vexatious; particularly so given that it made no attempt to first take a conciliatory approach and discuss any concerns it may have with me (the applicant).

Taking into account the matters set out above, I respectfully request that the Panel overturn the SPA's determination that the request is vexatious and process the request in the usual fashion."

13. The IR Response was communicated to the Complainant on 10 February 2025 as follows:

"The Internal Review Panel was asked to review the response provided and confirm the following:

- 1. Has the SPA applied the appropriate rationale and supporting evidence the SPA in determining that this request is vexatious, in line with the published Guidance, and*
- 2. Whether, on balance, that determination should be upheld or overturned.*

On presentation of the rationale and supporting evidence by the SPA, the Panel concluded that the request had appropriately been determined to be vexatious, in line with the published Guidance, and upheld the original refusal under Article 21 (1) of the Freedom of Information Law".

The Investigation

Scope of the case

14. On 17 March 2025, the Complainant contacted the Commissioner to appeal against the IR Response. The Complainant provided comprehensive grounds supporting their appeal, but essentially asked the Commissioner to review the Complainant's Request and the responses received from the SPA to ascertain whether the decision to refuse their Request on the grounds that it was vexatious was in accordance with the FOI Law and whether Art.21(1) of the FOI Law as cited by the SPA was appropriately applied. The Complainant's position was a straightforward one: they did not consider that the Request was vexatious. The Complainant's view was that they had asked the SPA to explain why the Request was vexatious and they had failed to do so and thus been denied the opportunity to put across their position. They were also concerned that *"The SPA's unusually speedy response to the Request contributes to concerns that the Response may arise from a pre-determined decision, on the part of the SPA, to refuse the Request as vexatious based on the identity of the requestor (i.e. the Complaint (sic)) rather from considering the nature of the Request itself"* and that, in any event, the manner in which they had dealt with this Complainant was at odds with the Government of Jersey's on "Freedom of Information Vexatiousness Procedure" which stated (it has since been removed) that *"If, following review, the request is deemed to be vexatious, the reasons for this will be explained to the requestor, including the grounds on which that decision was taken in reference to the table below"*.
15. The Complainant also questioned why it was the Department of the Economy who was chosen as the appropriate SPA noting that *"It is not clear why the Request was allocated to the Department for the Economy, since subsequently published correspondence indicates that it is the Department for External Relations that is responsible for related legislation: see Letter, Minister for External Relations to Economic and International Affairs Scrutiny Panel re Legislative Programme – 28 February 2025, page 2 (section headed: "Economic Crime and Confiscation (Investigatory Powers) (Jersey) Law"), available at: <https://statesassembly.je/getmedia/ae507123-cc8c-4054-a4e6-5b74de621d9c/2025-02-28-MER-letter-to-EIA-Scrutiny-panel.pdf?ext=.pdf>".*

Role of the Information Commissioner

16. It is the duty of the Commissioner to decide whether a request for information made to a SPA has been dealt with in accordance with the requirements of the FOI Law.
17. The Commissioner has set out in this Notice the issues he has had to consider in respect of the relevant exemptions cited by the SPA and sets out his decision.
18. In coming to a decision on this matter, the Commissioner has considered all the relevant submissions, or parts of submissions, made to him by both the Complainant and the SPA. He is satisfied that no matter of relevance has been overlooked.

Chronology

19. On 26 March 2026, the Commissioner wrote to advise that the Complainant had made an Appeal to the Commissioner, pursuant to Art.46 of the FOI Law. The SPA was asked to provide their written submissions in response to the complaint made by the Complainant and to answer certain questions posed by the Commissioner. A response was requested by 5pm on 9 April 2025, this being ten (10) working days, and in line with the process set out at para.57 of the Article 44 Code of Practice.

20. The Central Unit responded to that letter (on behalf of the SPA) on 9 April 2025, providing the Commissioner with answers to the questions raised and providing copies of other documentation including a pro-forma "Vexatious Request Assessment" form and a "Note on application of Vexatiousness Test to new FOI Requests", together with the GoJ's internal review guidelines and internal review process flowchart. Further questions were raised by the Commissioner in an email dated 12 May 2025 to which the SPA responded on 27 May 2025, on 8 October 2025 which the SPA responded to on 17 November 2025.

Commissioner's Analysis and Findings

VEXATIOUS AND REPEAT REQUESTS

Art.21 – A SPA need not comply with vexatious requests

The Complainant's Position

21. The Complainant's position is as set out in para.14 above and is not repeated.

The SPA's Position

22. The SPA indicated that it had "*...elected not to disclose the reasoning that the request had been classed as vexatious, on this occasion, given that Applicant's previous behaviour demonstrated that this would be likely to generate further correspondence and requests.*"

23. In its submissions to the Commissioner, however, the SPA provided its reasons why it considered that this request could be deemed as vexatious. Their submissions may be distilled, as follows:

- a. The Complainant has made ten (10) requests to the Department for the Economy as lead SPA in the past twelve (12) months, with nine (9) of those requests "...relating to the investigation and prosecution of financial crime in Jersey, particularly in relation to the establishment of ECCU" (**Reason 1**).
- b. Whilst acknowledging that there is a substantial public interest in understanding the operation of the ECCU together with top level detail of any reform proposals, the SPA considered that there were potential security concerns about divulging sensitive information about potential reforms and it was therefore not in the public interest to divulge specific details about necessary reforms (**Reason 2**).
- c. The Request is likely to cause (and has caused) an unreasonable burden/distress to staff. This is advanced on the basis that the sheer number of requests submitted by this Complainant, the fact that they have been made in quick succession, coupled with the fact that five (5) have been submitted to internal review, and two (2) others to the Commissioner under Art.46 of the FOI Law mean that a significant burden has been placed on the SPA to deal with such requests. The SPA was concerned that this Complainant would likely question any response provided. It also considered that this Request met certain criteria set out in guidance issued by the UK ICO for being "*a request which is the latest in a series demonstrating the obsessive behaviour can have the effect of harassing staff due to the collective burden they place on staff*" (**Reason 3**).
- d. The Complainant's pattern of behaviour was considered to meet certain criteria set out in guidance issued by the Commissioner in that the applicant "*is placing*

significant strain on the resources of a SPA by submitting a long and frequent series of requests, and the most recent request, although not obviously vexatious in itself, may contribute to the suggestion that the real purpose of the request is illegitimate” (Reason 4).

Analysis

24. Art.21 of the FOI Law states that a scheduled public authority is not obliged to comply with a request for information if it considers that the request is vexatious and the Commissioner recently had cause to consider the provisions of Art.21 of the FOI Law for the first time in CAS-04797-M4X8FX, dated 29 April 2025.

25. Art.21 of the FOI Law is as follows:

"21 A scheduled public authority need not comply with vexatious requests

(1) *A scheduled public authority need not comply with a request for information if it considers the request to be vexatious.*

(2) *In this Article, a request is not vexatious simply because the intention of the applicant is to obtain information –*

(a) *to embarrass the scheduled public authority or some other public authority or person; or*

(b) *for a political purpose.*

(3) *However, a request may be vexatious if –*

(a) *the applicant has no real interest in the information sought; and*

(b) *the information is being sought for an illegitimate reason, which may include a desire to cause administrative difficulty or inconvenience.*

26. As noted in the Commissioner’s previous decision, the word “vexatious” is not defined in the FOI Law. However, as the Commissioner’s guidance on Art.21 of the FOI Law states, it is established that Art.21 is designed to protect scheduled public authorities by allowing them to refuse any requests which have the potential to cause a disproportionate or unjustified level of disruption, irritation or distress, but only in circumstances where the requester has:

a. No real interest in the information; AND

b. The information is being sought for an illegitimate reason, which may include a desire to cause administrative difficulty or inconvenience.

27. The Commissioner’s published guidance note on [Dealing with Vexatious Requests](#) and in its overview notes *inter alia* that:

"...

- *Article 21(1) may be used in a variety of circumstances where a request, or its impact on a public authority, cannot be justified. Whilst SPAs should think carefully before refusing a request as vexatious they should not regard Article 21(1) as something which is only to be applied in the most extreme of circumstances.*

- *Article 21(1) can only be applied to the request itself and not the individual who submitted it.*
- *Sometimes a request may be so patently unreasonable or objectionable that it will obviously be vexatious.*
- *In cases where the issue is not clear-cut, the key question to ask is whether the request may include a desire to cause administrative difficulty or inconvenience.*
- *This will usually be a matter of objectively judging the evidence of the impact on the authority and weighing this against any evidence about the purpose and value of the request.*
- *The public authority may also take into account the context and history of the request, where this is relevant.”*

28. And further at paras.8 and 9 of that Guidance Note that:

“8. The Information Commissioner recognises that dealing with unreasonable requests can place a strain on resources and get in the way of delivering mainstream services or answering legitimate requests. Furthermore, these requests can also damage the reputation of the legislation itself.

9. Article 21 is designed to protect SPAs by allowing them to refuse any requests which have the potential to cause a disproportionate or unjustified level of disruption, irritation or distress but only in circumstances where the applicant has:

a) No real interest in the information; and

b) The information is being sought for an illegitimate reason, which may include a desire to cause administrative difficulty or inconvenience.”

29. This position is consistent with the [report accompanying the draft FOI Law](#) in 2011 where the following observations are recorded on the intended operation of Art.21:

“Vexatious and repeated requests for information

Article 21 – A scheduled public authority need not comply with vexatious requests

5.1 Key Policy Outcome 17 stated – “Existing exemption (c), concerning whether an application is frivolous, vexatious or made in bad faith is retained but clarified by the inclusion of the statement as follows – “Only rarely should this exemption be used and an applicant must be told that he retains the right to appeal against the refusal to release the information”.

5.1 Article 21 makes the meaning of ‘vexatious’ clear, in that it is not taken to mean any intention simply to embarrass the authority or person, however if there is no real interest in the information being sought, or information is being sought, for example, simply to create work for an authority, then the request may be refused.”¹

¹ Page 28

30. The FOI Law gives individuals a greater right of access to official information in order to make bodies more transparent and accountable. As such, it is an important constitutional right. Therefore, engaging Art.21 is a high hurdle.
31. However, the Commissioner recognises that dealing with unreasonable requests can strain resources and get in the way of delivering mainstream services or answering legitimate requests. These requests can also damage the reputation of the legislation itself.
32. The emphasis on protecting scheduled public authorities' resources from unreasonable requests was acknowledged by the Upper Tribunal (UT) in England, in the leading case on section 14(1) (the equivalent provision under the Freedom of Information Act 2000), *Information Commissioner vs Devon County Council & Dransfield* [2012] UKUT 440 (AAC) (28 January 2013) (Dransfield). Whilst not directly applicable in this jurisdiction, the Commissioner considers the findings of assistance in this jurisdiction, particularly as there is no precedent in Jersey on this issue. It is referred to in the Commissioner's guidance note.
33. Although the Dransfield case was subsequently appealed to the English Court of Appeal, it established that the key question for a public authority to ask itself is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation, or distress. The four broad themes considered by the UT in Dransfield were:
 - a. the burden (on the public authority and its staff);
 - b. the motive (of the requester);
 - c. the value or serious purpose (of the request); and
 - d. any harassment or distress (of and to staff).
34. However, the UT emphasised that these four broad themes are not a checklist and are not exhaustive. It stated: "*all the circumstances need to be considered in reaching what is ultimately a value judgement as to whether the request in issue is vexatious in the sense of being a disproportionate, manifestly unjustified, inappropriate or improper use of FOIA*" (paragraph 82).

Commissioner's Decision

35. In cases where a scheduled public authority is relying on Art.21, it is for that scheduled public authority to demonstrate why it considers that a request is a disproportionate, manifestly unjustified, inappropriate, or improper use of the FOI Law. Specifically, the Commissioner's position (which is echoed in published guidance and referred to in the earlier [Decision Notice relating to CAS-04797-M4X8F6](#)) is that in order for the SPA to successfully rely on Art.21 of the FOI Law it needs to demonstrate that the applicant has no real interest in the information sought and that there is an illegitimate reason motivating the request.
36. The SPA has sought to argue that the request is vexatious, for the four reasons set out at para.23 above. The burden is on the SPA to be able to demonstrate that the request was vexatious.
37. Give the legal framework outlined above, the Commissioner considers that the four broad themes identified at para.33 above to be a useful starting point. Whilst a helpful tool, however, the Commissioner has adopted a holistic approach and taken into account all of

the relevant circumstances in order to determine whether or not the Request was properly rejected by the SPA on the grounds that such was vexatious.

38. Based on the information at hand at the time of writing this decision notice, the Commissioner finds that, on balance, the Request **does not** meet the threshold criteria to be considered vexatious under Art.21.
39. For ease, the Commissioner has structured his reasoning with reference to the four broad themes in Dransfield.

Burden

40. Reasons 1, 3 and 4 cited by the SPA appear relevant to this theme.
41. As to Reason 1, the SPA noted that the Complainant had submitted ten (10) requests under the FOI Law for the previous twelve (12) month period to this SPA and that nine (9) of those requests focused on matters relating to the ECCU.
42. The SPA also indicated that both the staff of the SPA and Central Unit were distressed and this was due to the number of requests submitted (Reason 3) coupled with the fact that the Complainant has a tendency to ask follow up questions which the SPA considers expands upon the original FOI requests, expanding into unrelated areas. This was placing a significant burden on the SPA, potentially to the detriment of other members of the public wanting to make requests for information.
43. As noted in para.52 of the Commissioner's guidance note, a Complainant's past pattern of behaviour may be a relevant consideration. For instance, if the SPA's experience of dealing with their previous requests suggests that they will not be satisfied with any response and will submit numerous follow up enquiries no matter what information is supplied, then this evidence could strengthen any argument that the purpose of the request is illegitimate.
44. However, the Commissioner's view is that the evidence supplied does not support a finding that the Complainant's request to be burdensome, even against the backdrop of their having submitted a range of requests, this for the following reasons:

- a. It was not the Complainant who chose the receiving SPAs for their previous requests. Whilst the online form provided to applicants now allows them to choose a SPA to whom their request should be directed, that was not in place at the time the Complainant submitted this Request nor any of their earlier ones. In fact, it was the Central Unit which determined the SPA likely to hold the relevant information. In this case, the Complainant was only made aware which SPA had provided the Request Response following a question on 22 January 2025 where they asked "*1. Which is the relevant scheduled public authority (SPA) that considers the request to be vexatious?*" and where the Central Unit replied on 23 January 2025 stating "*We confirm that the Department for the Economy is the SPA in question*". The Complainant responded to that email (on 28 January 2025) noting that "*...As you know, I did not direct the request specifically to the Department of the Economy (or specify any particular SPA); this was decided internally by the Government of Jersey (not by me)...*"

Accordingly, the criticism levied against the Complainant that it is they who have been targeting their questioning as to this particular SPA simply does not reflect the available evidence.

- b. The Commissioner recognises that the Request was part of a series of requests for information and correspondence between the Complainant and the SPA upon related topics linked to the ECCU. Upon questioning by the Commissioner, the SPA provided information about how many emails had passed between the SPA/Central Unit and the Complainant this for the ten (10) appeals referenced. The information supplied showed that the maximum number emails with the requester were twenty-two (22) and the lowest, three (3). For this Request, four (4) emails had passed. The Commissioner does not consider that it is sufficient to simply count the number of pieces of correspondence have passed, in any event, as such will not reveal the content of those interactions (including whether a SPA had contributed to the fact further correspondence was as a result of something done on the part of the SPA). In this case, all the Complainant's correspondence is set out earlier in this Decision Notice and is directed at trying to elicit the SPA's identity together with information about why their Request was deemed vexatious. It was, in any event, very limited.

The SPA notes that there may be internal correspondence that is prompted by a request and also notes that work is done internally in terms of producing, reviewing, and redacting responses, together with dealing with internal reviews and appeals to the Commissioner.

With respect to the SPA and the Central Unit, the work outlined above is simply what is required under the FOI Law, and in order to properly respond to requests submitted by individuals. It cannot be deemed as being burdensome or as harassing behaviour for requiring a SPA to do the very things that are required of it by law, including simply by virtue of the fact that some individuals make greater use of the FOI regime than others. It is very difficult for a SPA to maintain such a stance without having supplied good evidence about why this particular requester has created such a significant burden to the extent that a request is then tipped into the realms of vexatiousness.

- c. The SPA also seeks to rely on the fact, if previous experience is anything to go by, the Complainant is unlikely to be satisfied with the response received and will submit "numerous" follow up enquiries, no matter what information is received. In this regard, the Commissioner notes that of the ten (10) requests for information submitted by the SPA as evidence in support of its decision, that whilst seven (7) has been escalated to an internal review stage, only two (2) were submitted to the Commissioner under Art.46 of the FOI Law. That behaviour is not indicative of a Complainant who will escalate issues come what may or who shows a pattern of behaviour in not accepting responses from the SPA. Of the two (2) appeals submitted one of the Complainant's appeals was upheld in its entirety and whilst the other was not upheld, there were other issues apparent in the SPA's handling of that appeal.
- d. In this case, the correspondence sent by the Complainant (particularly in their emails of 22 January 2025, 28 January 2025 and in their IR Request of 31 January 2025) shows an individual who was trying to understand why the Request had been classified as vexatious. That is not an unreasonable stance for the Complainant to take given the paucity of information contained in the Request Response and which simply stated that "*We are writing to inform you that this request is being refused under Art.21(1) of the Freedom of Information Law as vexatious*", and which then simply quoted that article and provided a link to the Commissioner's published guidance note.

Similarly, the Central Unit's response to the Complainant's first request for clarity elicited a response simply stating that *"We can confirm, that in line with paragraph 108 of the JOIC Guidance, that further requests to the SPA on the same or similar topic will not receive a response. Please can you indicate if you wish to proceed to an Internal Review?"*.

The Commissioner's view is that the Complainant was clearly trying to understand the decision that had been made and when it was clear that further information was not to be provided, they had little option but to escalate to an internal review. The Complainant tried twice to have the rationale explained to them even after the Central Unit asked them if they wanted to progress to an internal review which shows, in the Commissioner's view, not an individual trying to overburden the system, but one who was trying to understand the decision made, so that they could properly consider whether to appeal that decision or not and, if so, to ensure that their submissions were able to properly address the issues, rather than having to be entirely speculative.

Whilst the Central Unit may have correctly noted that the FOI Law does not stipulate that reasons must be given for a particular decision, as the Complainant noted that in his response when quoting from the Commissioner's guidance *"...authorities should aim to be as helpful as possible. The Information Commissioner consider it good practice to include the reasoning for the decision in the refusal notice"*. It is an obvious risk to SPAs that if they do not fully set out their reasons for a decision (where possible to do so) that this may increase the likelihood of an escalation to an Internal Review and/or appeal to the Commissioner and, in the Commissioner's view, but the Complainant in this case cannot be properly criticised for having raised further questions or pursued matters when they were, in reality, left with little alternative.

- e. Whilst the SPA indicated that the requests variously submitted by the Complainant had placed a significant added burden on the SPA and Central Unit staff, aside from the number of requests submitted by the Requester, no compelling evidence was supplied about the apparent burden this individual was placing on the SPA's resources. Indeed, whilst the Central Unit has primarily been the party directly corresponding with the Complainant and which is noted in the correspondence, no details were provided about any impact on the SPA directly in dealing with this, or any other request.

The SPA confirmed that there is no time recording software currently utilised such as would allow an analysis of staff time or cost related to dealing with this, or any other, request under the FOI Law.

Accordingly, the Commissioner's view is that there is no cogent evidence about either the size, workload or resourcing of either the SPA or Central Unit and how such has been impacted by this Requester. The Commissioner notes from the Government of Jersey's [2025 Annual Report](#) on the operation of the Freedom of Information Law, 1042 requests were received in total, with this SPA receiving 62 requests, with only 7 having been escalated to Internal Review stage, and 1 to the Commissioner for appeal. In 2024, it appears that the SPA received 70 requests, according to the GoJ's [published statistics](#). Noting this material, it appears that the Complainant's Request (and others) form a small portion of the overall number of requests received by the SPA and GoJ as a whole, and which are dealt with by the Central Unit.

- f. If there was a burden on either the SPA or the Central Unit in dealing with the Complainant's Request (which is not apparent from the evidence supplied), then the Commissioner's view is that was a burden created or exacerbated by the SPA's own making and in the lack of detail supplied to the Complainant in either the rejection of their Request, the follow up correspondence and in the IR Response.
45. The Commissioner notes with interest the recent case of [Trevor Smith v. Information Commissioner \[2025\] UKFTT 711 \(GRC\)](#) which notes that there needs to be sufficient clarity and evidence about the context and history of dealings with a requester in order for a public authority to support the argument that a request is vexatious and for there to be sufficient evidence to demonstrate about impact on a public authority's resourcing. Whilst not binding in this jurisdiction, the Commissioner endorses the comments of the judge in that case and agrees that the SPA must supply cogent evidence supporting its stance and be able to show why an individual has behaved in a vexatious manner.
46. Accordingly, and for all the reasons set out above, the Commissioner's decision is that the SPA has not demonstrated any credible burden on either the SPA and/or Central Unit in order to be able to properly categorise the Request as Vexatious.

Motive

47. The SPA appears to have accepted (or certainly does not advance a positive case) that there was no improper motive in the Complainant's Request and does not suggest that the Complainant has submitted this Request (or others) for any improper purpose.
48. If there was, the Commissioner notes that the report cited by the Complainant in their Request and which formed the basis thereof, was not published until July 2024. Approximately six (6) of the Complainant's earlier requests for information that were dealt with by this SPA pre-dated publication of that information (there were two (2) further requests issued in July 2025, however) but the Commissioner's view is that the Complainant cannot be fairly criticised for having only submitted the request after a number of others, if they had only recently become aware of certain information.
49. In any event, the Commissioner's finding is no evidence available to him to support any conclusion other than that there was a proper and appropriate motive behind the Request, even when considered in the context of the earlier Requests that had previously been submitted by the Complainant. The Complainant has clearly maintained an interest in the working of ECCU and this Request was consistent with their earlier requests and apparently prompted by information of which they only had sight of in July 2024.

Value (or serious purpose)

50. There is no suggestion that the Complainant has requested this for anything other than a serious purpose and fairly acknowledges that members of the public would likely be interested in information about the reform of the ECCU.
51. The SPA, however, considers that the purpose is a private one, and of no real value to the public at large and disclosure of information that could potentially harm the Island's national

security, cannot be in the public interest as a whole. This is, accordingly, a private interest in the information as opposed to something in the broader public interest.

52. The Commissioner does not doubt that the Request has purpose to the Complainant, but he must decide whether the Request and the information sought by them are likely to add material value to discourse about reform of ECCU.
53. Given the SPA's stance, he does consider that it will potentially add value to discourse about the reform of ECCU and on that basis does not support a stance that the Request was vexatious. The question about whether or not it is appropriate to disclose such information or whether it ought to be exempted for some other reason, is a question for another day.

Harassment or distress

54. Whilst the SPA has not suggested that the Complainant has requested the information in order to directly harass staff or to cause distress, it has indicated that it is the impact of the Complainant's various requests for information that has had that effect on staff working within the SPA, and also the Central Unit.
55. The Complainant has not had (as far as the Commissioner is aware) direct correspondence with any member of the SPA's staff; it has all been engagement with the Central Unit (from a generic email address, with no staff member identifiable even in sign off).
56. The Commissioner asked for evidence about the apparent distress caused and this was limited, it appears, to apparent distress caused by the volume of correspondence generated by the Complainant. There was no suggestion that the Complainant has ever used language that is inappropriate or abusive, or that they were targeting specific staff members. Indeed, in respect of this Request, the content of the Complainant's correspondence for this appeal was polite, measured and well-reasoned. We do not know exactly who has been distressed and, if they have, how and to what extent. All that has been provided, is the SPA's assertion of it.
57. Accordingly, the Commissioner does not find any evidence of harassment or distress to any staff.

Balancing exercise

58. The provisions of Art.21 are cumulative; the SPA must be able to show that the Complainant has no real interest in the information sought AND that the information is being sought for an illegitimate reason. The SPA has failed on both aspects; it is clear that the Complainant had a real interest in the information sought and the SPA has failed to provide any cogent evidence to support any stance that the information was being sought for any illegitimate reason.
59. For the reasons outlined above, the Commissioner finds that the SPA was wrong to conclude that the Request was vexatious and it was not entitled to rely on Art.21 of the FOI Law.
60. The Complainant's appeal is accordingly upheld.

GENERAL MATTERS

61. The Commissioner makes it clear to any SPA involved in an appeal process that they must provide evidence in support of their decisions. Mere assertions are not enough and will not

be accepted. This has been made clear in previous decision notices and expectations are clearly set out in the relevant guidance and in the correspondence sent from the Commissioner's office. For the avoidance of doubt, SPAs are reminded that it is for them to be able to evidence why a request has been dealt with in a particular way and that the burden is on them to provide that evidence.

62. The Commissioner has also previously indicated that reasons given to requesters that are light on detail will likely invite questioning from the requester. The Commissioner is satisfied that this was the case here and some of the correspondence complained of by the SPA was of its own making, in that the paucity of responses gave the Complainant little option but to escalate matters. When they did that, they had to guess why their request had been rejected. That is not a fair or reasonable process. Individuals should properly understand (where possible) why a decision has been made, particularly in instances like this where the individual's request was being classed as vexatious. The Complainant had no understanding why this decision was made or on what basis, so they could not properly challenge it in a fair way. The Commissioner expects that decisions issued to individuals will contain sufficient information to allow the recipient to understand the rationale underpinning the decision, not merely a restating of the relevant article of the FOI Law

The Decision

63. The Commissioner has concluded that the SPA was not entitled to rely on Art.21 of the FOI Request and must issue a fresh response to the Request and send that to the Complainant within 35 days of the date of this Decision Notice (i.e. by 5pm on 17 June 2026). The SPA is required to provide the Commissioner's officer with confirmation that this action has been completed, along with copies of the additional information sent to the Complainant. This is the latest day on which the SPA must comply; the deadline does not prevent the SPA from doing so earlier.

64. Accordingly, the Complainant's appeal is fully upheld.

Right of Appeal

65. An aggrieved person (i.e. either the Complainant or the SPA) has the right to appeal against this Decision Notice to the Royal Court of Jersey.

66. Any Notice of Appeal should be served within 28 (calendar) days of the date on which the Decision Notice is issued.

67. Information on how to appeal may be obtained from:

Judicial Greffe
Royal Court House
Royal Square
St Helier
Jersey
JE1 1JG

Enforcement

68. If the SPA fails to comply with this decision, the Commissioner has the right to certify to the Royal Court of Jersey that the SPA has failed to comply. The Court has the right to inquire into the matter and may deal with the SPA as if it had committed a contempt of court.

Dated this 13th day of May 2026



Signed.....

Mr Paul Vane
Information Commissioner
Office of the Information Commissioner
5 Castle Street
St Helier
Jersey