

# When can a request be considered vexatious or repeated?

# Freedom of Information Act

## Vexatious or repeated requests

The Freedom of Information Act 2000 (FOIA) gives rights of public access to information held by public authorities. This is part of a series of guidance notes to help public authorities understand their obligations and to promote good practice.

This guidance will help public authorities understand when a request can be considered vexatious or repeated under section 14 of the FOIA, and how to use that section. See also [Vexatious requests – a short guide](#).

It first explains when requests may be vexatious (page 2) or repeated (page 10). It will then cover how to refuse these requests (page 11) and other procedural and good practice issues (page 12).

This guidance replaces Awareness Guidance 22.

## Overview

- Under section 14(1), public authorities do not have to comply with vexatious requests. There is no public interest test.
- Deciding whether a request is vexatious is a balancing exercise, taking into account the context and history of the request. The key question is whether the request is likely to cause unjustified distress, disruption or irritation. In particular, you should consider the following questions:
  - Could the request fairly be seen as obsessive?
  - Is the request harassing the authority or causing distress to staff?
  - Would complying with the request impose a significant burden in terms of expense and distraction?
  - Is the request designed to cause disruption or annoyance?
  - Does the request lack any serious purpose or value?

- Under section 14(2), public authorities do not have to comply with repeated requests for the same information from the same person. There is no public interest test.
- If the cost of compliance is the only or main issue, you should consider section 12 instead (exemption where cost of compliance exceeds appropriate limit).
- Remember that you can also avoid unwanted requests by voluntarily publishing any frequently requested information.

## General principles of section 14

Section 14 of the FOIA is intended to protect public authorities from those who might abuse the right to request information. It states:

*14.—(1) Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious.*

*(2) Where a public authority has previously complied with a request for information which was made by any person, it is not obliged to comply with a subsequent identical or substantially similar request from that person unless a reasonable interval has elapsed between compliance with the previous request and the making of the current request.*

The section is similar to an absolute exemption. If a request is vexatious or repeated, you do not have to provide any information or confirm or deny whether you hold it. There is no need to consider a public interest test. However, you must in most cases issue a refusal notice.

We recognise that having to deal with clearly unreasonable requests can strain your organisation's resources, damage the credibility of the FOIA and get in the way of answering other requests. We would encourage you to consider section 14 where there are genuine grounds for considering a request to be vexatious or repeated.

## Is the request vexatious?

The term "vexatious" is intended to have its ordinary meaning and there is no link with legal definitions from other contexts (eg vexatious litigants).

Deciding whether a request is vexatious is a flexible balancing exercise, taking into account all the circumstances of the case. There is no rigid test or definition, and it will often be easy to

recognise. The key question is whether the request is likely to cause distress, disruption or irritation, without any proper or justified cause.

To help you identify a vexatious request, we recommend that you consider the following questions, taking into account the context and history of the request:

- Can the request fairly be seen as obsessive?
- Is the request harassing the authority or causing distress to staff?
- Would complying with the request impose a significant burden in terms of expense and distraction?
- Is the request designed to cause disruption or annoyance?
- Does the request lack any serious purpose or value?

To judge a request vexatious, you should usually be able to make relatively strong arguments under more than one of these headings.

The questions are likely to overlap, and the weight you can place on each will depend on the circumstances. You do not need to be able to answer yes to every question, and may also consider other case-specific factors. However, if you consider each of the questions in turn, you should be able to more easily and consistently assess the overall balance of the case.

## Context and history

You should take account of the wider context and history of the request when considering the questions. A request may not be vexatious in isolation, but when considered in context (for example if it is the latest in a long series of overlapping requests or other correspondence) it may form part of a wider pattern of behaviour that makes it vexatious.

### **Example**

In [Betts v Information Commissioner EA/2007/0109 \(19 May 2008\)](#), the request concerned health and safety policies and risk assessments. There was nothing vexatious in the content of the request itself. However, there had been a dispute between the council and the requester which had resulted in ongoing FOIA requests and persistent correspondence over two years. These continued despite the council's disclosures and explanations. Although the latest request was not vexatious in isolation, the Tribunal

considered that it was vexatious when viewed in context. It was a continuation of a pattern of behaviour and part of an ongoing campaign to pressure the council. The request on its own may have been simple, but experience showed it was very likely to lead to further correspondence, requests and complaints. Given the wider context and history, the request was harassing, likely to impose a significant burden, and obsessive.

The context of the request may also occasionally indicate that it should not be considered vexatious. For example, your previous dealings with a requester may show that they have a good reason for making persistent requests.

Your knowledge of the requester's circumstances may also affect your obligations as a service provider under the Disability Discrimination Acts.

Many previous cases of vexatious requests have been in the context of a longstanding grievance or dispute. However, a request will not automatically be vexatious simply because it is made in the context of a dispute or forms part of a series of requests. There may be genuine reasons for this. For example, a series of successive linked requests may be necessary where disclosures are unclear or raise further questions that the requester could not have foreseen. Similarly, in the context of a dispute, a request may be a reasonable way to obtain new information not otherwise available to the individual. You should not use section 14 as an excuse to avoid awkward questions that have not yet been resolved satisfactorily. You must always look at the effect of the particular request and consider the questions set out below.

An important point to note here is that it is the request – not the requester – that must be vexatious. You cannot judge a request to be vexatious just because the individual concerned has caused problems in the past. Nonetheless, the past behaviour of the requester will be relevant if the request continues that behaviour.

### **Can the request fairly be seen as obsessive?**

Obsessive requests are usually a very strong indication of vexatiousness. An obsessive request will typically fall into several other categories as well.

The wider context and history of a request will be particularly important here, as it is unlikely that a one-off request could ever be obsessive. Relevant factors could include the volume and frequency

of correspondence, requests for information the requester has already seen, or a clear intention to use the request to reopen issues that have already been debated and considered.

**Example**

In [Ahilathirunayagam v Information Commissioner and London Metropolitan University EA/2006/0070 \(20 June 2007\)](#) the requester had been arguing with the university for 13 years over the award of his degree. He had already exhausted the university's appeal procedure, instructed two firms of solicitors, tried to pursue a court case, and complained to the ICO, his MP and the Lord Chancellor's Department. In finding his latest FOI request vexatious, the Tribunal took into account the fact that he was requesting information he already possessed and seemed to want simply to reopen issues that had already been disputed several times before.

**Example**

In [Hossack v Information Commissioner and DWP EA/2007/0024 \(18 December 2007\)](#) the requester had complained after a jobcentre revealed benefit details in breach of the Data Protection Act 1998. The complaint had been investigated and compensation had been paid, and an independent ombudsman's recommendations had been accepted. However, the requester continued a four-year public campaign against the authority, alleging corruption and fraud, threatening legal action and "naming and shaming" individuals. The Tribunal found that the latest FOI requests were obsessive and vexatious. The request was for information the requester already possessed, and was part of a wider campaign which was lengthy and aggressive and showed an endless wish to debate the original issue, each time trying to escalate its importance and gravity, despite the apology and compensation already provided.

It will be easiest to identify an obsessive request where an individual continues with a lengthy series of linked requests even though they already have independent evidence on the issue (eg reports from an independent investigation). The more independent evidence available, the stronger this argument will be.

**Example**

In [Welsh v Information Commissioner EA/2007/0088 \(16 April 2008\)](#), the requester had made a complaint against his GP. The GP's practice, the GMC, the primary care trust and the Healthcare Commission had all investigated the complaint and rejected it. He continued to write to the GP's practice reiterating the complaint and requesting details of the GP's training. The Tribunal found that the request was vexatious: "Mr Welsh simply ignores the results of three separate clinical investigations into his allegation... that unwillingness to accept or engage with contrary evidence is an indicator of someone obsessed with his particular viewpoint, to the exclusion of any other... it is the persistence of [the] complaints, in the teeth of the findings of independent and external investigations, that makes this request, against that background and context, vexatious."

**Example**

In [Coggins v Information Commissioner EA/2007/0130 \(13 May 2008\)](#), the requester suspected that the council had fraudulently charged an elderly lady for care services not provided. Despite a council investigation, a Committee for Social Care investigation and the police all finding no evidence of dishonesty, the requester persisted with the allegations and submitted 20 requests in 73 letters and 17 postcards over a two-year period. The Tribunal found the request obsessive and vexatious.

If an individual repeatedly submits requests for information already provided (or refused), you should consider whether you could refuse these requests as repeated requests under section 14(2) instead (see page 8 below).

**Is the request harassing the authority or causing distress to staff?**

The focus should be on the likely effect of the request (seen in context), not on the requester's intention. It is an objective test – a reasonable person must be likely to regard the request as harassing or distressing.

Relevant factors under this heading could include the volume and frequency of correspondence, the use of hostile, abusive or offensive language, an unreasonable fixation on an individual member of staff, or mingling requests with accusations and complaints.

**Example**

In [Gowers v Information Commissioner and LB Camden EA/2007/0114 \(13 May 2008\)](#) the requester made various requests and complaints about the alleged incompetence of the council in ongoing correspondence. He made personal accusations against a particular member of staff and attempted to identify their spouse through FOI requests and other means. In finding the latest request vexatious, one factor the Tribunal took into account was that the correspondence “would likely have been seen by any reasonable recipient as hostile, provocative and often personal” and that “the requests are likely to have been very upsetting to the staff and that they... are likely to have felt deliberately targeted and victimised”.

The relevant issue here is the request itself, not the information that might be disclosed in response. The question is whether having to deal with the request would be distressing or harassing, regardless of what the request is about. The fact that disclosure of certain information would be embarrassing or distressing cannot make a request vexatious. The Tribunal confirmed in [Betts](#) that: “distress, annoyance, irritation or worry arising from the possible consequences of disclosure cannot turn an otherwise proper request into a vexatious one; indeed that would defeat the purpose of FOIA”.

**Would complying with the request impose a significant burden in terms of expense and distraction?**

You need to consider more than just the cost of compliance. You will also need to consider whether responding would divert or distract staff from their usual work.

**Example**

In [Coggins](#), the requester had sent 20 requests, 73 letters and 17 postcards over a two-year period. The letters were to several different employees and overlapped with each other. Requests were repeated before any response could be issued. The

Tribunal decided that dealing with this correspondence would have been a significant distraction from the public authority's core functions and imposed a significant administrative burden.

The wider context of a request is likely to be relevant here. You may be able to conclude that responding to a relatively simple request would still impose a significant burden because any response would be very likely to lead to a significant number of further requests and complaints. However, you would need to be able to support this argument with evidence from extensive previous experience with the individual concerned.

This factor will not be enough on its own to show vexatiousness. If your only or main concern is the cost of compliance, you should consider section 12 rather than section 14. Under section 12, you can refuse a request if finding and extracting the relevant information would cost more than a set limit (currently £450, or £600 for central government). You can also combine the total cost for all requests received from one person (or from several people acting together) during a period of 60 working days – roughly three months – as long as the requests relate to similar information.

For more information on using section 12, see our guidance on [Using the Fees Regulations](#) and [Redacting and extracting information](#).

## Is the request designed to cause disruption or annoyance?

As this factor relates to the requester's intention, it can be difficult to prove. Cases where this is a strong argument are therefore likely to be rare. However, if a requester explicitly states that they want to cause maximum inconvenience, the request will almost certainly be vexatious.

### **Example**

In ICO decision notice [FS50151851](#) the request included the statement: "I am insincere and my purpose is mischievous subversion." Taking this statement with the volume, length and unfocussed nature of the correspondence, it was fair to conclude that the request was designed to cause disruption or annoyance.

Alternatively, if you have independent evidence that the requester wants to disrupt or deliberately annoy the authority by making

requests, this may be relevant. For example, a requester may have threatened to disrupt the authority during a previous complaint or dispute, or may be involved with a campaign group that has publicly stated it intends to disrupt an authority as part of its campaign.

## Does the request lack any serious purpose or value?

If a request clearly lacks any serious purpose or value, it may help an argument that the request is vexatious when taken together with other factors (eg if the request is also obsessive, harassing or burdensome).

However, an apparent lack of serious purpose or value is not enough on its own to make a request vexatious. The FOIA is not generally concerned with the motives of the applicant, but with transparency for its own sake. You should therefore not dismiss a request solely for this reason, and should be aware that even a request that seems spurious or tedious to you may have genuine value to the individual.

It is not appropriate to use lack of value as an argument simply because you cannot imagine what the value might be. You must demonstrate that a request has no purpose or value, rather than simply suggest that because the requester did not provide a reason there cannot be one.

On the other hand, if a request does have a serious purpose or value, this may be enough to prevent it being vexatious, even if it imposes a significant burden and is harassing or distressing your staff. If the request forms part of a wider campaign or pattern of requests, the serious and proper purpose must justify both the request itself and the lengths to which the campaign or pattern of behaviour has been taken.

### **Example**

In [Coggins](#), the Tribunal found that the requester had a reasonable and genuine desire to uncover a fraud, and this amounted to a serious and proper purpose that could potentially override the harassing and burdensome nature of the request, so that it ought not to be considered vexatious. However, despite the original serious and proper purpose, the requests had now become obsessive after three independent enquiries into the issue and there came a time when the requester should have let the matter drop. Continuing his campaign

was no longer justifiable and, on balance, the latest request was vexatious.

The question of whether a serious and proper purpose can continue to justify an ongoing campaign or series of requests will overlap with the question of whether the latest request can fairly be seen as obsessive. If a request is obsessive (eg if the issue has already been fully considered and debated with the applicant) then it is unlikely that there can be any continuing justification for that request.

## Is the request repeated?

There is also a separate provision relating to repeated requests. Under section 14(2), a request can be refused as repeated if:

- it is made by the same person as a previous request;
- it is identical or substantially similar to the previous request; and
- no reasonable interval has elapsed since the previous request.

To be repeated, the requests must have been submitted by the same person. You cannot refuse similar requests as repeated if they are submitted by different requesters. However, you may be able instead to refuse them as vexatious (if part of a campaign to cause disruption or distress) or under section 12 (if the requesters are acting together and compliance would exceed the cost limit).

## Identical or substantially similar

Both the wording of the request itself and the information that would be provided in response will be relevant here.

Where the wording of the request is identical to a previous request and it is asking for the same information (ie information already provided or refused), you can regard the request as repeated. However, if the wording is identical but the request is actually asking for different information (eg a recurring request asking for "any new or amended information" on a particular subject, or for "last month's figures"), you cannot refuse the request as repeated.

Similarly, a request will be substantially similar to a previous request only if you would need to disclose substantially similar information to respond to both requests (ie with no meaningful differences). You should not refuse a request simply because it relates to the same subject or theme as a previous request, unless you would have to give the same information in response.

If only some of the information you need to disclose is different, you should comply with the request, but you may want to supply only the new information and class the rest of the request as repeated.

If the request is for information recently refused, you should treat the request as a request for internal review of your original decision.

## **Reasonable interval**

Even if the request is the same as or substantially similar to a previous request, you cannot refuse it as repeated if a reasonable interval has passed.

What is a reasonable interval will largely depend on the circumstances, including:

- how likely the information is to change;
- how often records are updated; and
- any advice previously given to the requester (eg on when new information is likely to be available).

For example, it may be reasonable for a requester to resubmit a request after a relatively short time for statistics or other records that you would expect to be updated often, but not for purely historical records. On the other hand, if the requester has been told when information is due to change, it would not generally be reasonable for them to resubmit a request before that time.

If you previously refused the requested information under a qualified exemption, you should also consider whether the passage of time could possibly affect the public interest test for that exemption. If there is any possibility that previously exempt information may no longer be exempt, you must not refuse the request as repeated. You should reconsider disclosure in the usual way.

## **Refusing the request**

If you decide that a request is vexatious or repeated, you must issue a refusal notice to the requester within 20 working days. The refusal notice should state that you are relying on section 14(1) or 14(2) and give details of your internal review procedures and the right to appeal to the ICO.

However, section 17(6) says you will not need to issue a new refusal notice if:

- you have already given the same person a refusal notice for a previous vexatious or repeated request; and
- it would be unreasonable to issue another one.

Refusing a request as vexatious or repeated is particularly likely to lead to an internal review or an appeal to the ICO. Whether or not you issue a refusal notice, you should therefore keep written records clearly setting out the procedure you followed and your reasons for judging the request as vexatious or repeated, so that you can justify your decision to us if necessary.

For more information on refusals, see our guidance on [Refusal notices](#).

## Good practice

In some circumstances you may be able to deal with difficult requests in a less contentious way. To help you avoid unnecessary disputes over vexatious requests, you may want to consider the following alternatives:

- Is the request clear enough? If the request is unclear and you are unsure what (if any) information has been requested, you can contact the requester and ask them to clarify the request. Under section 1(3), you will not then have to comply with the request until you have received that clarification. This may be particularly helpful for lengthy correspondence that contains a confusing mixture of questions, complaints and other content, or is otherwise incoherent or illegible.
- In borderline cases, you may want to consider complying with the request to prevent a more time-consuming dispute developing, but advising the requester that a future request could be seen as vexatious if they continue the same pattern of behaviour.
- If you are confident that the request is vexatious, you may choose to refuse the request but spell out what the requester could do differently in future to ensure you deal with their request.

For more information on clarification and the duty to provide advice and assistance, see [Advice and assistance: Awareness guidance 23](#).

If you receive lots of requests for information on a particular subject or similar theme, you should consider voluntarily publishing the

information as part of your publication scheme. This may reduce the number of unwanted or repeated requests you receive.

You should be aware that you cannot use section 14 to refuse any request for information that should be published under your publication scheme. You will need to provide this information, or direct the requester to where it is available. For more information on publication schemes, see [our website](#).

## Other considerations

You need to take care to distinguish between FOI requests and requests for the individual's own personal data. If a requester has asked for information relating to themselves, you should deal with the request as a subject access request under the Data Protection Act 1998. A subject access request cannot be vexatious (although there is an exception for repeated requests).

For more information on subject access requests, see our [Checklist for handling requests for personal information \(subject access requests\)](#).

## More information

This guidance will be reviewed and considered from time to time in line with new decisions of the Information Commissioner, Tribunal and courts on freedom of information cases. It is a guide to our general recommended approach to this area, although individual cases will always be decided on the basis of their particular circumstances.

If you need any more information about this or any other aspect of freedom of information, please contact us.

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