

## **Freedom of Information Act 2000 – Vexatious and repeated requests**

### **Who is subject to the Act?**

The Freedom of Information Act 2000 (the “Act”) creates a right of public access to information held by three types of bodies: public authorities; publicly owned companies that are wholly owned by the crown or by a public authority; and bodies designated by the Secretary of State that exercise a function of a public nature. If a body falls into one of these three categories, it is subject to the Act and must make a disclosure in response to all requests for information under the Act unless the cost of compliance with a request exceeds an appropriate limit or a request is labelled repeated or vexatious.

### **Disproportionate Costs**

The Act provides that a public authority does not have to comply with a request for information if the cost of complying “exceeds the appropriate limit,” which is deemed to be “such amount as may be prescribed”. The Freedom of Information and Data Protection (appropriate limit and fees) regulations 2004 has set the current “appropriate limit” at £600 for central government and £450 for all other public authorities. Where a public authority does not have to comply with a request on this basis, the authority must send the requester a written refusal notice stating that the cost of complying with their request would exceed the prescribed limit. However, the notice must also state whether the authority holds the information requested.

### **What is a repeated request?**

Similarly, the Act states that a public authority does not have to comply with a request for information if a request is repeated. If a public authority has already complied with a request for information from an individual, the public authority does not have to comply with an “identical or substantially similar” request from the same individual unless a “reasonable” amount of time has passed between requests. What constitutes a reasonable amount of time will depend on the circumstances of the request, including how likely the information is to change, how often records are updated and any advice previously given to the requester.

### **What is a vexatious request?**

Finally, the Act also provides that a public authority does not have to comply with a request for information if the request is vexatious. For a request to qualify as vexatious, the public authority must be able to show that the request will cause “unjustified distress, disruption or irritation.” If a request is designed to harass the public authority, cause a significant burden, disruption, or annoyance, lacks a true purpose, or can be seen as obsessive, it is likely the request is vexatious. In dealing with potentially vexatious requests, it is important for public

authorities to view the request and the person requesting the information as separate entities. It is the request, rather than the requester that must be vexatious. The authority must also focus on the effects of the request as opposed to the requester's intentions, and determine if the request would distract staff from their day-to-day work.

### **How to refuse a request**

If a public authority decides a request is vexatious or repeated, the body must issue a referral notice to the requester within 20 working days of receiving the request, giving an explanation of the internal review process and drawing attention to the right to appeal to the Information Commissioner's Office. Bodies that are subject to the Act should note that one of the easiest ways to avoid unwanted requests is to voluntarily publish frequently requested information.

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