

Section 14

Freedom of Information Act

What FOIA says

5. Section 14(1) states

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

6. The Freedom of Information Act was designed to give individuals a greater right of access to official information with the intention of making public bodies more transparent and accountable.

7. Whilst most people exercise this right responsibly, a few may misuse or abuse the Act by submitting requests which are intended to be annoying or disruptive or which have a disproportionate impact on a public authority.

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. **Section 14(1)** is designed to protect public authorities by allowing them to refuse any requests which have the potential to cause a **disproportionate** or **unjustified**

10. The emphasis on protecting public authorities' resources from unreasonable requests was acknowledged by the Upper Tribunal in the case of [Information Commissioner vs Devon County Council & Dransfield \[2012\] UKUT 440 \(AAC\)](#), (28 January 2013) when it defined the purpose of section 14 as follows;

'Section 14...is concerned with the nature of the request and has the effect of disapplying the citizen's right under Section 1(1)...The purpose of Section 14...must be to protect the resources (in the broadest sense of that word) of the public authority from being squandered on disproportionate use of FOIA...' (paragraph 10).

11. This being the case, public authorities should not regard section 14(1) as something which is only to be applied in the most extreme circumstances, or as a last resort. Rather, we would encourage authorities to consider its use in any case where they believe the request is disproportionate or unjustified.

Determining whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation, or distress

40. Public authorities must keep in mind that meeting their underlying commitment to transparency and openness may involve absorbing a certain level of disruption and annoyance.

41. However, if a request is likely to cause a disproportionate or unjustified level of disruption, irritation, or distress then this will be a strong indicator that it is vexatious.

42. In *Information Commissioner vs Devon County Council & Dransfield [2012] UKUT 440 (AAC)*, (28 January 2013), Judge Wikeley recognised that the Upper Tribunal in *Wise v The Information Commissioner (GIA/1871/2011)* had identified proportionality as the common theme underpinning section 14(1) and he made particular reference to its comment that; *'Inherent in the policy behind section 14(1) is the idea of proportionality. There must be an appropriate relationship between such matters as the information sought, the purpose of the request, and the time and other resources that would be needed to provide it.'*

43. A useful first step for an authority to take when assessing whether a request, or the impact of dealing with it, is justified and proportionate, is to consider any evidence about the serious purpose or value of that request.