



Are you well informed?

The Freedom of Information Act was introduced in January 2005 to allow the public to become better informed. The Act allows members of the public to access information held by public authorities which includes central and local government bodies, the health service, schools, colleges and universities, the police and other non-departmental public bodies, committees and advisory bodies. The press stories since the Act's introduction demonstrate the vast range of information that has been sought and released under the Act.

However the Act does contain exemptions to the right of access in order to protect legitimate interests and sensitivities and public bodies can reject requests for information if they consider them to be vexatious or repetitive. In essence a request is considered vexatious where it would impose a significant burden on the public authority in terms of expense or distraction and meets at least one of the following criteria.

- It clearly does not have any serious purpose or value
- It is designed to cause disruption or annoyance
- It has the effect of harassing the public authority
- It can otherwise fairly be characterised as obsessive or manifestly unreasonable.

The Information Commissioners Office is the UK's independent public body that deals with complaints from members of the public in circumstances where the public body has claimed an exemption or stated that the request is vexatious or repetitive. Some insight into the likely application of the above principles is available from the published Commissioners decisions. A 2007 case concerning the DRD for Northern Ireland demonstrates the difficulties that public bodies face in satisfying the vexatious test. In that case the requester at one stage was making two to three requests per day and at least three members of staff were working full time to deal with the requests. Despite this the Commissioner found in favour of the DRD only on the "obsessive or manifestly unreasonable" limb of the test due to the sheer number of the requests, but did not consider that the nature or number of requests amounted to harassment, disruption or annoyance to the DRD. The published decisions on the whole suggest that a public body cannot easily rely on the vexatious defence even when faced with a vast number of requests from an individual.

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