

# Dealing with repeat requests

## About this detailed guidance

This guidance discusses section 14(2) of FOIA in detail and is written for use by public authorities. Read it if you have questions not answered in the guide, or if you need a deeper understanding to help you apply section 14(2) in practice.

## In detail

- [What is section 14\(2\) of FOIA?](#)
- [What does FOIA say?](#)
- [Is the request identical or substantially similar?](#)
- [Has the authority previously provided the information or confirmed it is not held?](#)
- [Has a reasonable interval elapsed?](#)
- [What is the likelihood that the information covered will differ significantly from that previously provided?](#)
- [The amount of time between requests](#)
- [How do I treat multi-parted requests?](#)
- [How do I refuse a repeated request?](#)
- [When should advice and assistance be provided?](#)

### What is section 14(2) of FOIA?

Under section 14(2) of the Act, you do not have to comply with a request which is identical, or substantially similar to a previous request submitted by the same individual, unless a reasonable period has elapsed between those requests. There is no public interest test.

- You may only apply section 14(2) if you have:
  - previously provided the same requester with the information in response to an earlier FOIA request; **or**
  - previously confirmed that you do not hold the information, in response to an earlier FOIA request from the same requester.

If neither of these conditions applies, then you must deal with the request in the normal manner.

- A request is identical if both its scope and its wording precisely matches that of a previous request.
- It is substantially similar if:
  - the wording is different but the scope of the request is the same; or
  - the scope does not differ significantly from that of the previous request.
- The reasonable interval is largely dependent on how likely it is that any of the information caught within the scope of the request differs or has changed since you previously provided it.
- If the information is unlikely to be different, then you need to consider the amount of time between requests and decide whether this is enough to make it reasonable to provide the same information again.
- You must issue a refusal notice, unless you have already served the requester with a notice under section 14(2) in response to a previous request for the same information, and it would be unreasonable for you to issue another one.
- There is no requirement under section 14(2) for you to carry out a public interest test or confirm or deny whether you hold the information.

### What does FOIA say?

Section 14(2) states:

“

“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.”

This means that you may only apply section 14(2) when all three of the following criteria have been fulfilled:

- the request is identical or substantially similar to a previous request from the same requester;
- you have previously provided the information to the requester or confirmed that you do not hold it in response to an earlier FOIA request; and
- a reasonable interval has not elapsed between the new request and your compliance with the previous request.

If you have not already provided the information to the requester, or advised them that you do not hold the information, then you must deal with the request in the normal manner.

As the scope of section 14(2) is fairly narrow, the circumstances in which you may apply it are unlikely to arise very often because:

- it will be rare that a requester will ever need to ask for the same information twice; and
- unless the information caught by the requests is identical, or the differences or changes are insignificant, it is likely to be reasonable for you to provide an up-to-date version of the information.

You cannot use section 14(2) to refuse identical or substantially similar requests that were submitted by different requesters. If you receive numerous requests from different requesters, for information that you have already disclosed, then we recommend that you consider making the information available on your website or via your publication scheme. For more information about publication schemes please see our [Guide to Freedom of Information](#).

### Is the request identical or substantially similar?

If you are satisfied that the requests do originate from the same requester then the next step is to determine whether they are identical or substantially similar.

A request will be identical if both its wording and its scope (the criteria, limits or parameters which define the information being sought) precisely match that of a previous request.

If the wording is identical but the scope of the request is different, the request will not be the same. For example, a recurring request asking for “any new or amended information” on a particular subject, or for “last month’s figures”.



#### Example 1

On the last day of April an individual submits an FOIA request to their local fire brigade asking:

“How many emergency call outs have you responded to this month?”

The fire brigade provides them with the information they requested.

At the end of June they send them a further request with exactly the same wording.

Although the phrasing of these requests is exactly the same the request will not be identical because the information they are asking for, (the call out figures for April and June respectively) is entirely different.

A request is substantially similar if it meets either of the following criteria:

- the wording is different but the scope of the request is the same as for a previous request; or
- the scope of the request does not differ significantly from that of the previous request (regardless of how the request is phrased).

The following is an example of a substantially similar request which, although differently worded, has the same scope as an earlier request.



#### Example 2

A local council decides to outsource its street cleaning services and invites private companies to tender for the contract.

Following this decision, a local resident sends the council the following FOIA request:

“Can you please identify the factors that influenced the Council’s decision to outsource local street cleaning services?”

The council provides them with the information they requested.

Two months later they send another FOIA request asking;

“I would like to know why the Council has decided to outsource local street cleaning services to a private company.”

In this case, the requests are phrased differently but the scope is the same. In both instances the requester is asking the Council to explain the reasons for outsourcing the service. The second request can therefore be regarded as substantially

similar to the first.

If there is an overlap in the scope of the requests, then the question about whether they are substantially similar depends on the significance of those differences in scope.

If the area in which the requests differ is insignificant, as in the example below, then the second request may be considered substantially similar.



### Example 3

In January 2019 a requester sends a request to a secondary school asking:

"Please provide me with a breakdown of the number of pupils suspended, excluded or otherwise subjected to disciplinary action in the period between September 2017 and July 2018?"

The school provides the requested information.

Several weeks later the same requester submits a substantially similar request which is phrased as follows:

"I would like to know how many pupils were suspended, excluded or otherwise subjected to disciplinary action in the academic year 2017 – 2018."

The school recognises that the scope of the second request is wider than the first because the 'academic year' also includes August. However, as the pupils were on their summer holidays during that month, it concludes that little, if any, disciplinary action would have taken place during that additional period.

In this case therefore, given that the differences in the information caught by the requests are likely to be insignificant, the second request may be considered substantially similar to the first.

However, if the difference in scope is clearly of more than minor significance, then the requests will not be substantially similar for the purposes of the Act, and you will need to deal with the new request in the normal manner.



### Example 4

An individual makes the following request to their local parish council:

"I would like copies of all minutes of all the parish council's monthly meetings from October 2010 to September 2011."

The Council provides the information.

Six weeks later they submit another request:

"I require you to send me copies of all your monthly meeting minutes from July 2010 to May 2012."

Whilst there is a clear overlap between these requests, in that they both cover the council minutes from October 2010 to May 2011, the area where they do not overlap is significant. It includes July 2010 to September 2010, as well as October 2010 to May 2011. Consequently it encompasses an additional 11 sets of meeting minutes.

In this case, therefore, the differences in scope are sufficiently meaningful that the second request cannot be regarded as substantially similar to the first.

However, if the Council wants to avoid having to resend the same information, it could choose to rely on section 21 (information accessible to the applicant by other means), for the minutes from October 2010 to September 2011, as it has already provided these.

You will need to make a judgement about the significance of any difference in scope, taking into account what you know about your own records and practice and the context in which the request is made. If a complaint is made to the ICO then we would expect you to be able to explain why you have decided that any differences in scope are insignificant. We strongly recommend that you consider explaining to the complainant why this is the case. By explaining to them why you consider the differences are insignificant, it may help them to understand your position.

It also is important to keep in mind that you cannot apply section 14(2) to requests where only the subject or theme is identical or substantially similar. This was considered in the Tribunal decision of Robert Brown vs ICO (EA/2006/0088, 2 October 2007).



### Example 5

In the case of [Robert Brown vs ICO](#) (EA/2006/0088, 2 October 2007) the appellant had made a substantial number of separate requests to The National Archives. Each referred to a particular document and asked for any information it contained about the Princess Margaret Townsend affair, and any illegitimate child born to the Princess in 1955.

The National Archives refused these requests as repeated. However, the Tribunal did not accept that 14(2) was engaged.

In allowing the appeal they commented that:

"TNA relies on section 14(2) to assert that all the Appellant's individual requests were identical or substantially similar requests, and that therefore, it was not obliged to comply with them. In our view this misconstrues section 14(2). The Appellant's requests were for information about "Princess Margaret Townsend Affair; and or any illegitimate child born on or about 05/01/55 to Princess Margaret" from specific records. If TNA had complied with the request in relation to one specific record and the Appellant had then repeated the request for the information from the same record, section 14(2) would apply." (para 85)

"There is nothing on the evidence to suggest that except in rare cases, the content of different records would be identical or substantially similar. That being the case, we find that a request for information relating to the same subject from another record is not an identical or substantially similar request for the purposes of section 14(2). If it were, it would lead to the surprising result that applicants wishing to search for information about a particular subject in TNA's archives, could find themselves only able to make that request in relation to a single record." (para 86)

### Has the authority previously provided the information or confirmed it is not held?

The key words in section 14(2) are "**previously complied** with a request for information". The term 'previously complied' means complied with section 1 of FOIA.

This means that you can only apply section 14(2) to a request where you have either;

- already provided the information to the same requester in response to their previous FOIA request; **or**
- previously confirmed that you do not hold the information in response to an earlier FOIA request from the same requester.

If neither of the above criteria applies, then the request is not repeated and you must process it in the usual manner.

### Has a reasonable interval elapsed?

A request which is identical or substantially similar to a previous request by the same individual cannot be refused as repeated if a reasonable interval has elapsed between the requests.

The Act does not define what is meant by a "reasonable interval" but it is our view that this should be determined by taking the following into account:

- The likelihood that the information will differ significantly from what you provided in response to the previous request.
- The amount of time that has passed (if it is unlikely that the information will differ in any significant way) since you complied with the previous request.

### What is the likelihood that the information will differ significantly from what you previously provided?

If you are satisfied that the scope of the request is identical or substantially similar, then your next step should be to assess the likelihood of the information being different from that caught by the previous request.

For example, if the requests relate to an investigation that was completed immediately following an incident that took place many years ago, and that incident has not been re-examined since then, you may be confident that no new material has been produced recently. However the situation will be different if the requests are about issues which are ongoing.

If you consider it likely that the information will differ significantly, then we would normally expect you to conclude that a reasonable interval has elapsed since you answered the last request and not refuse the request as repeated.

If you are concerned about the costs of answering multiple requests from the same requester for information that changes frequently then it may be appropriate to consider the aggregation provisions under section 12 of FOIA (the appropriate costs limit).

If you think the information is likely to be the same, or that any differences are likely to be insubstantial, then you should go on to consider the amount of time that has passed since you last provided the information.

### The amount of time between requests

If you are confident that the information will not differ to any significant degree, then your only remaining consideration will be the amount of time between the current request and your compliance with the previous request.

Often, it will be obvious that a reasonable interval has not elapsed because the requests have been submitted within a relatively short time of each other, as in the example below.



### Example 6

In May 2016 an individual makes the following request to his local police;

"I would like to know how much was charged to our two local football clubs for policing their grounds at each individual league fixture this season."

The police provide the information and include a breakdown of the charges for each of the 58 fixtures played so far.

Two weeks later the individual submits a substantially similar request:

"Please advise me of the amounts charged for policing our two local football clubs at each of their individual league games this season".

As each club only plays at their stadium every other week the police know that only two further league matches took place in the period between the first and second requests. They are therefore confident that the information caught by the second request would not differ significantly from that already provided.

In this case, as only two weeks have elapsed since the police complied with the original request, they would have justifiable grounds to conclude that the relatively short interval between the requests was not a reasonable period.


We cannot give a definitive answer to the question of when the interval between requests changes from being unreasonable to reasonable. This will depend on all the circumstances of the case. However, we do encourage you to adopt a practical approach to this. If you can readily answer a request, it may be easier, and certainly good practice, to provide a second copy of the information rather than refuse a request as repeated.

The use of section 14(2) is reserved for those situations when it is really needed. For example, when the requester submits another identical or substantially similar request despite still having the original information and been given a clear indication that no new information is likely to be available for the foreseeable future, as in the case below.

Whatever conclusion you reach you should be sure to make your decision objectively, taking into account the specific circumstances surrounding each particular request.



### Example 7

In [Lampert vs ICO and the Financial Services Authority \(FSA\)](#)  (EA/2010/0203, 7 June 2011) an MP had asked the FSA to investigate a bank's decision to call in Mr Lampert's loan guarantee. On 6 August 2007 the FSA wrote back to the MP to advise him that the bank had not acted improperly and the matter was therefore closed.

On 4 March 2008 Mr Lampert asked the FSA for copies of the files relating to its investigation into the loan guarantee. On 17 January 2009, he made another request for all information held by the FSA in regard to his dispute with the bank. The FSA complied with both these requests. However, on 13 January 2010 Mr Lampert made a further request for the outcome of any investigations the FSA had carried out into the loan guarantee issue. The FSA refused this request on the grounds that it was both repeated and vexatious.

The Tribunal found that section 14(2) was engaged and commented:

"...As we record at paragraphs 5 and 6 above, the FSA supplied various documents to Mr Lampert following his request of 4 March 2008 and 17 January 2009. In the light of our findings of fact at paragraphs 13 and 14 above it is clear that the provision of those documents represented full compliance with the earlier requests. It is also clear that the request we are concerned with is a "substantially similar request" to those of 4 March 2008 and 17 January 2009. Again, given our finding of fact that there was no investigation going beyond the limited inquiry culminating in the letter dated 6 August 2007 and that Mr Lampert had been informed of that fact by the FSA, it is clear that a reasonable interval had not elapsed before the subsequent request. In these circumstances, we consider that the FSA were entitled to rely on section 14(2) in relation to the request we are concerned with..." (para18)

### How do I treat multi-part requests?

Sometimes requesters submit multi-part requests. You need to treat each element as a separate request and can only refuse any repeated elements under section 14(2).

**Example 8**

An individual makes the following requests to his local parish council.

"I would like copies of your policies in place in June 2011 on the following matters:

1. Health and safety
2. Equality and diversity
3. Whistleblowing"

The council provides the information.

Six weeks later he submits another request:

"Please could you send me:

1. your equality and diversity policy in use in June 2011;
2. your whistleblowing policy in use in June 2011; and
3. your recruitment policy in use in June 2011."

In this case parts one and two of the later request are repeated, but the council treats part three separately as it is not a repeated request.

**How do I refuse a repeated request?**

In most cases you will need to issue a refusal notice stating that you are relying on section 14(2) (for exceptions to this, see below).

If you have an internal review procedure then you should include these details in your refusal notice. The notice must also inform the requester of their right to appeal to the ICO.

Section 17(6) of FOIA states that there is no need to issue a new refusal notice if:

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

We consider it to be good practice to explain in the refusal notice why you consider the request to be repeated. However, whether or not you issue a refusal notice, you should keep written records clearly setting out the procedures you followed and your rationale for concluding that section 14(2) applied. This will make it easier to evidence the reasoning behind your decision, should the requester decide to take the matter further.

If the requester submits a repeat of a request which you have recently refused, in which they express clear dissatisfaction about the handling of their previous request, then it is good practice to ask them if they would like you to treat their latest request as a request for an internal review of the original decision.

**When should advice and assistance be provided?**

You are not obliged to provide advice and assistance in response to a repeated request. However, if the requested information is liable to change in future, and you can reasonably predict when this will happen, then it is good practice to advise the requester of the likely timeframe in your refusal notice.

**Further reading**

You may also want to read our detailed explanation of the [prejudice test](#) and our guidance on [information in the public domain](#) and [requests where the cost of compliance exceeds the appropriate limit](#).