

What should be considered when interpreting a request?

Freedom of Information Act 2000

Interpreting a request

The Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR) provide rights of public access to information held by public authorities. This is part of a series of guidance notes produced to help public authorities understand their obligations and to promote good practice.

This guidance explains what a public authority should consider when interpreting a request, and when it should ask the requester for clarification. The guidance in this document primarily refers to the FOIA but is also relevant to the EIR.

Overview

- The public authority should read the request objectively, that is, it should take care not to read into a request any meaning which is not in the plain wording.
- Where the request is not clear, or can be read in more than one way, the public authority will need to ask the requester for clarification. The authority should not try to guess what the requester might want.
- If the authority needs further clarification, there is no duty to comply with the request until this has been received. The 20-day deadline for a response begins when the authority receives the further information or clarification it needs.
- There is no requirement to seek clarification if the authority is able to comply with the request without further information. However, as a matter of good practice, the authority may contact the requester if it has any reason to believe the requester wants different or additional information from what has been requested.

What does the law say?

Section 1(3) of the FOIA states that a public authority is not obliged to comply with a request if:

- it **reasonably requires** further information before it can identify and locate the information requested; and
- it has asked the applicant for this further information.

In this case, the authority does not need to comply until or unless it has received a response which sufficiently clarifies the request.

Under section 16, the authority also has a duty to provide reasonable advice and assistance to requesters. The [Code of Practice](#) issued under section 45 of the FOIA explains that this includes assistance in clarifying unclear requests, when the authority has asked for more detail.

There are similar provisions in the EIR. Where an authority receives a request phrased "in too general a manner", regulation 9 requires the authority to help the requester provide the necessary detail. Regulation 12(4)(c) allows the authority to refuse a request if the request is too general and it has assisted the requester to provide further details.

Part III of the [EIR Code of Practice](#) provides guidance on the advice and assistance a public authority should offer.

Interpreting a request

The FOIA and EIR are applicant and motive blind, but this does not mean that the public authority cannot contact a requester to ask for clarification. A public authority is required to read a request impartially. Where the request clearly specifies the information required, the authority's background knowledge of the requester or their interests should not affect the information they receive. Where the request is ambiguous, the authority will need to seek clarification from the requester in order to ensure that it can comply with the request properly.

You should not:

- provide the requester with the information you think they want rather than what the request asks for;
- try to guess the meaning of an ambiguous request, make assumptions, or attempt to work it out from your background knowledge of the requester;
- refuse a request on the grounds that the information would not meet the stated purpose or interest of the requester;
- refuse an otherwise clear request because the requester does not use the same terminology to describe the information as used by the public authority; or,
- refuse a request because the requester uses derogatory language or because the request is intended to make a point, unless it is vexatious. See our guidance on how to identify [vexatious requests](#).

Example:

National Savings & Investments (NS&I) refused a request because the information it thought would be most helpful to the complainant was exempt. Later it provided different information from what had been requested, according to its knowledge of the requester's interests. The Information Tribunal reminded NS&I that there is no provision for a public authority to "appease what they consider the motive to be behind the request, instead of answering the request itself" or to "fail to comply because they feel that the applicant will not be content with the answer". [Mr L Meunier v IC and National Savings & Investments](#) (EA/2006/0059; 5 June 2007).

Example:

A requester asked for information about five instances of what he described as “failed standards” on the part of the then Inland Revenue. The authority claimed that it held no information about the failures because it did not accept that there had been failures. The Information Tribunal rejected this argument, stating that “any reasonable public authority” would have understood the request to relate to the five areas listed, and that the response was influenced by past disputes with the requester. [Mr E Barber v IC](#) (EA/2005/004; 11 November 2005).

Requests that do not require clarification

Where a request specifies certain information or documents, and has a single clear objective meaning, the authority will comply with the FOIA by responding to the obvious meaning of the request.

In the majority of cases, requests should be read in isolation. There is no need to speculate as to additional or alternative meanings, nor to check any previous correspondence from the requester, unless the requester has drawn attention to it or specified that the request should be read in this context.

Example:

North Norfolk District Council could not be expected to know that a request under the EIR for information about the development of North Lodge Park was intended to cover a nearby building outside the park. The request was “absolutely clear and unambiguous” and the council had no obligation to “second guess”. [Mr C Boddy v IC and North Norfolk District Council](#) (EA/2007/0074; 23 June 2008).

Nevertheless, an authority should be as helpful as possible in dealing with a request. Even where the request is clear, it is good practice to contact the requester to confirm that you have received their request and to check that you have understood it correctly.

Asking for clarification

If the public authority is unable to identify and locate the information being requested, it will need to ask the requester for clarification. This could arise where the request:

- can be read in more than one way;
- does not have an obvious interpretation;
- is so general and open-ended that it is impossible to determine what information falls within its scope; or
- is rendered unclear by the context.

The authority should always ask for clarification in any of these circumstances to ensure that it can comply with the request properly.

Example:

National Savings & Investments received a request for “all informations [*sic*] about the last three months of declared Premium Bonds Winners”. The Tribunal found the authority was wrong to assume this referred to the names and addresses of winners. Instead, NS&I should have asked for clarification. [Mr L Meunier v IC and National Savings & Investments](#) (EA/2006/0059; 5 June 2007).

An authority may be found in breach of the FOIA even though it has responded correctly to one possible objective reading of the request, if there is also an alternative meaning which is equally correct.

Example:

The London Borough of Richmond received a request containing the phrase “...all working papers and documents attached to agendas”. The Information Tribunal found that the council had breached the FOIA in only considering working papers that were attached to agendas, even though this was an objective reading. They had failed to identify the alternative meaning, which would include all working papers. [Mr A Berend v IC and LBC Richmond upon Thames](#) (EA/2006/0049 & 0050; 12 July 2007).

An authority can (but is not required to) seek clarification in any case where it may be helpful, even if it is able to respond to the request without further information.

When asking for clarification, the authority must make sure that:

- the purpose of asking for clarification is only to ensure that the authority understands what information the requester wants;
- it does not give the impression that the requester is obliged to explain their reasons for making the request; and,
- the individual's interest in the information is only taken into account in so far as it helps to determine the scope of the request; it should not have any bearing on the authority's response.

The public authority should inform the requester promptly if it requires further information or clarification before it can comply with the request. In this case, the authority has a duty to provide advice and assistance to the requester in reformulating or clarifying their request. The Codes of Practice under the FOIA and the EIR give recommendations on how to provide advice and assistance.

Reading a request in context

Requests for information should usually be read in isolation, but there are some cases in which an authority may have no choice but to read a request in the light of previous or ongoing correspondence. This could occur, for

example, where the requester specifically refers to a previous letter. If this makes the request ambiguous, the authority should ask for clarification.

Example:

“Please send me all the legal advice you have received relating to the development of Anywhere Hall”

- This request is clear and unambiguous

“Please send me all the legal advice you have received relating to the development of Anywhere Hall, as listed in your letter of 11 August”

- This request may be ambiguous, for example if the letter of 11 August listed advice about a different property.

Where the request makes sense on its own, and the requester does not draw attention to previous correspondence, the authority is not required to ask for clarification. However, the authority may choose to do so if its prior knowledge of the requester suggests that they want different or additional information from what has been requested.

Time for compliance

The normal time limit for responding to a request for information, either under the FOIA or the EIR, is 20 working days. Where the authority can comply with the request as it stands and does not need clarification, it may contact the requester to make sure it is providing the information they want, but the duty to comply within 20 working days will still apply.

Where an authority reasonably requires further information or clarification before it is able to respond to a request, it must contact the requester within 20 days to inform them of this and provide assistance. The authority has no duty to comply with the request until the further information or clarification has been received. FOIA section 10(6)(b) specifies that the 20-day period for compliance with the request begins when the authority receives the information it requires to identify and locate the information requested.

Environmental information

Public authorities should be aware that the wording of regulation 9 differs from that of the FOIA, in that it refers to requests formulated “in too general a manner”.

As stated above, the usual time limit for responding under the EIR is 20 working days. If the authority has reasonably asked for clarification and has not received it, the authority has no duty to respond.

However, an authority may also refuse a request under regulation 12(4)(c) where it has complied with its duty to assist the requester in reformulating their request but the request is still too general. In this case, the authority should send the requester a formal refusal notice explaining that it is relying on this exception. This exception is subject to the public interest test.

Other useful guidance

- [Code of Practice on the discharge of public authorities' functions under Part I of the Freedom of Information Act 2000](#)
- [Code of Practice on the discharge of the obligations of public authorities under the Environmental Information Regulations 2004](#)
- [Advice and assistance](#)
- [Vexatious and repeated 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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