



**Information Commissioner's Office**  
Promoting public access to official information  
and protecting your personal information

## **Freedom of Information Good Practice Guidance No 6**

### **Consideration of requests without reference to the identity of the applicant or the reasons for the request**

The Information Commissioner's Office has produced this guidance as part of a series of good practice guidance designed to help understand and apply the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR).

The aim of this guidance is to help the staff of public bodies involved in handling requests for information, and members of the public seeking information from public authorities.

This guidance covers the principle that requests for information should be considered without reference to the identity of the requester or the reasons behind the request.

#### **Applicant blind**

There is no specific reference in the FOIA or the EIR to the principle that the identity of the requester should be ignored, but it is the absence of references in the legislation to the identity of the applicant from which the general principle is drawn. It is an approach endorsed by the Information Tribunal.

"FOIA is, however, applicant and motive blind. It is about disclosure to the public, and public interests. It is not about specified individuals or private interests."<sup>1</sup>

As with any general principles, there are circumstances when the identity of the applicant may be an important factor.

Section 1 of the FOIA refers to any person making a request for information being entitled to a response. An application does require a statement of the name of the applicant and an address for correspondence, but section 1 does not limit in any way the class of persons who can submit requests. A request therefore has to be considered on the basis that it could have been made by any person; the identity of

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<sup>1</sup> S v Information Commissioner and the General Register Office (EA2006/0030; 9 May 2007)

that person is not a material consideration when deciding whether or not to release information. It is for this reason that we do recommend as good practice that requests under obvious pseudonyms should normally be considered, unless there is reason to think that any of the matters below need to be taken into account.

There are three obvious exceptions under the Act to this general principle:

- The first is in relation to the consideration of whether a request is vexatious or repeated. The identity of the applicant will need to be known to decide whether a request is repeated; knowledge of the applicant's identity and of their previous conduct may be a relevant factor in considering whether a request is vexatious.
- The second is where the applicant requests information that amounts to their own personal data, which is exempt under section 40(1).
- The third is for the purposes of the aggregation of costs under the Fees Regulations.

The identity and known circumstances of the applicant can also be taken into account when looking at other provisions:

- Under the exemption in section 38 the applicant falls within the definition of "any individual" when considering whether the release of information would be likely to endanger health or safety.
- The applicant is also mentioned in the exemption in section 21. It may be possible to decide whether or not information is reasonably accessible to the applicant only when in possession of the applicant's identity or other details. This will also be relevant where there are access regimes available only to certain classes of individual, for example access by councillors to information held by their council.

There are also exemptions where the applicant blind approach affects how they are applied, of which the following are examples:

- The prejudice based exemptions must be considered on the basis of whether prejudice would be caused or would be likely to be caused by releasing the information, not just to the person requesting it, but to any member of the public.
- Section 40 (2) in relation to third party personal data must be considered on the basis of whether it would be contrary to the data protection principles to release the information to the general public and not whether it would be contrary to the data protection principles to release it to the particular applicant.

Under the EIR the reference is to making environmental information available on request; there is no reference to the provision of a name.

The EIR contain provisions, in Regulations 13 and 5(3), similar to those in FOIA about third party personal data, and the personal data of the applicant. The EIR exceptions that require consideration of whether the release of information would adversely affect any of the matters referred to in regulation 12(5) require that consideration to be made on the basis that this would be the result if the information were generally available to anyone.

We have produced more detailed guides on vexatious requests and the application of exemptions, which are available on our website.

### **Motive blind**

There is also no specific reference in the FOIA to the principle that requests for information must be considered without reference to the motives of the requester. However, there are no references in the Act indicating that anyone can be asked to provide a reason for requesting information and it is from this absence that the principle is drawn. The European Directive on public access to environmental information, on which the EIR are based, specifically states that an applicant does not have to disclose an interest in the information requested.

The Lord Chancellor's Code of Practice under section 45 of the FOIA makes reference to the principle in relation to the clarification of requests as part of the duty to advise and assist under section 16:

“Authorities should be aware that the aim of providing assistance is to clarify the nature of the information sought, not to determine the aims or motivation of the applicant. Care should be taken not to give the applicant the impression that he or she is obliged to disclose the nature of his or her interest as a precondition to exercising the rights of access, or that he or she will be treated differently if he or she does (or does not). “

Similarly the Secretary of State's Code of Practice under Regulation 16 of the EIR states in relation to the clarification of requests,

“Care should be taken not to give the applicant the impression that he or she is obliged to disclose the nature of his or her interest ...”

This approach has also been endorsed by the Information Tribunal:

“There is no provision for a public authority to decide whether the application merits a response, or to appease what they consider the motive to be behind the request, instead of answering the request itself.”<sup>2</sup>

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<sup>2</sup> Mr L Meunier v Information Commissioner and National Savings and Investments (EA2006/0059; 5 June 2007)

Where a request for information is ambiguous or otherwise unclear it may assist in making it more certain to know the reasons behind the request. If a public authority seeks clarification in this way it must make it clear that this is being requested solely for the purpose of clarification and not for any other reason.

It is important to remember this principle when considering requests, often in the form of questionnaires, which are submitted for commercial purposes. As the reason behind the request is immaterial to its consideration, such requests should be dealt with in the same manner as any other.

The one area where motive can be taken into account is in considering whether a request is vexatious. There is full guidance on this in our [Awareness Guidance Number 22](#). Otherwise, the motives of the applicant are immaterial.

### **Summary of correct approach**

As a general summary, the correct approach in considering requests for information and the application of the exemptions and exceptions should be on the basis that the application could have been made by anyone, anywhere in the world, for any (non vexatious) reason.

### **More information**

If you need any more information about this or any other aspect of freedom of information, please contact us.

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