



Freedom of Information Act

Valid request – name and address for correspondence

The Freedom of Information Act 2000 (FOIA) gives a right 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.

Section 8(1) of the FOIA sets out the requirements of a valid request for information and says that a request must, amongst other things, “state the name of the applicant and an address for correspondence”. This guidance provides advice on how these two terms should be interpreted.

In providing this guidance we are seeking to encourage public authorities to adopt a common sense approach to establishing the validity of a request which maintains the spirit of the FOIA that disclosure is to the world at large. However, the Information Commissioner is bound by his legal duties under the FOIA which means that pseudonymous requests are outside the scope of his jurisdiction.

Overview

- A public authority is entitled to treat as invalid a request where the real name of the applicant (whether an individual or a corporate body) has not been used.
- Requests involving known pseudonyms cannot be the subject of a valid complaint to the Information Commissioner under section 50 of the FOIA.
- Where a public authority knows that a pseudonym has been used, as a matter of good practice it should still consider the request, for example where identity is not relevant and it is content to disclose the information requested, even though technically the request is invalid.
- Either an email or postal address is acceptable as an address for correspondence.

The name of the applicant

The use of the phrase “**the** name of the applicant” in section 8(1)(b) indicates that the real name of the applicant should be used when requesting information and not any other name, for example, a pseudonym.

Although one of the underlying principles of the FOIA is that the identity of the applicant is not taken into account, it can be relevant in certain circumstances. For example, when:

- a request is being made by the applicant for his/her own personal data and so would be exempt under section 40(1) of the FOIA (and would comprise a subject access request under the Data Protection Act 1998);
- a public authority has good reason to believe a requester is using a pseudonym to shield his/her identity in order to avoid the possibility of the request being considered as vexatious or repeated; or
- determining whether to aggregate costs for two or more requests in accordance with the Fees Regulations.

Therefore, we are of the view that it was the intention of the legislation that an applicant should provide their real name so that the request can be processed in accordance with the requirements of the FOIA.

The definition of “applicant” in section 84 of the FOIA adds weight to this as the phrase in section 8(1)(b) should be read as “ the name of the person making the request”. This also suggests that the use of a false or fictitious name is not acceptable. Therefore, where a public authority receives a request from a person using an obvious pseudonym, there is no obligation to comply with the request; nor would it fall within the jurisdiction of the Information Commissioner. If a public authority chooses not to comply with the request it should, in keeping with its duty under section 16, advise the applicant that the FOIA requires their real name to be provided.

We recognise that it may be difficult for a public authority to be certain that a pseudonym has been used by an applicant. A relatively low-key approach is recommended and public authorities should not seek proof of the applicant’s identity as a matter of course. In accordance with the spirit and purpose of the FOIA, the default position of a public authority should be to accept the name provided by the applicant unless there is good reason to enquire further about the applicant’s name, as indicated above.

Even when an obvious pseudonym has been used, as good practice a public authority should still consider the request even though technically it can be regarded as invalid. This approach could be adopted in cases where identity is not relevant to the request and, in view of the general principle within the FOIA of disclosure to the world at large, where the authority is content to disclose the information.

What constitutes a real name?

We consider that a relatively informal approach is also appropriate in this context. Therefore, title and/or first name with surname satisfies the requirement for provision of a real name, as does the use by a female applicant of her maiden name. The prime consideration is whether enough of a person’s full name has been provided to give a reasonable indication of that person’s identity.

Example:

Mr Arthur Thomas Roberts could satisfy section 8(1)(b) of the FOIA by stating his name in a request for information as “Arthur Roberts”, “A. T. Roberts”, or “Mr Roberts”, but not by stating his name as “Arthur” or “A.T.R.”

In the case of a company, it is not necessary to provide the full registered name. It will be acceptable to provide another name which exists as a real entity, such as a trading name. Similarly, a sole trader could provide his or her real name or trading name.

In most cases, it will be reasonable for a real name to comprise a name by which the person making the request is widely known and/or is regularly used by that person and which is not an obvious pseudonym or fictitious name.

An address for correspondence

The requirement is for an address to be supplied such that it enables correspondence to reach the applicant.

Postal address

A postal address will meet this requirement. This does not have to be the applicant’s own address, and it is acceptable for the applicant to provide a “care of” or PO Box address.

Email address

An email address also satisfies the requirement of section 8(1)(b) that the applicant should provide an address for correspondence. Support for this is found in the FOIA as follows:

- a request for information can be made by email.
- the access regime is a relatively informal one – for example the applicant does not have to state formally that the request is being made under the FOIA.

Addresses for service of notices

There is no special provision in the FOIA as to what constitutes service of a notice, but the Commissioner considers that a decision notice can be served on an email address that was provided as the address for correspondence in the original complaint.

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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