

Freedom of Information Internal Review decision

Internal Reviewer	Katherine Leslie, BBC FOI Advisor
References	<ul style="list-style-type: none"> • IR2017008 / RFI20170032 • IR2017009 / RFI20170033 • IR2017010 / RFI20170040 • IR2017011 / RFI20170128 • IR2017012 / RFI20170137 • IR2017015 / RFI20170296 • IR2017016 / RFI20170257 • IR2017017 / RFI20170210 • IR2017019 / RFI20170336 • IR2017020 / RFI20170320
Date	6 March 2017

Requested information

The Applicant submitted ten requests for information under the Freedom of Information Act 2000 (the Act) between 9 January 2017 and 19 February 2017. All the requests were submitted under the name “Common Law Jurisdiction” and/or “Bart Joseph” via the website www.whatdotheyknow.com (WDTK).

The documentation for eight of the Applicant’s requests is publically available on WDTK at:

- i. https://www.whatdotheyknow.com/request/child_abuse_since_2007#incoming-933380
- ii. https://www.whatdotheyknow.com/request/savile_and_operation_yewtree#comment-76153
- iii. https://www.whatdotheyknow.com/request/paedophilia_policy_2#incoming-933409
- iv. https://www.whatdotheyknow.com/request/paedophile_enquiry#comment-76116
- v. https://www.whatdotheyknow.com/request/doctor_who
- vi. https://www.whatdotheyknow.com/request/policy_on_involving_children_in
- vii. https://www.whatdotheyknow.com/request/doctor_who_and_operation_yewtree?utm_campaign=alaveteli-experiments-
- viii. https://www.whatdotheyknow.com/request/doctor_who_and_operation_yewtree

I am aware that two of the Applicant’s requests have been removed from WDTK. These two requests were received by the BBC on 15 January 2017 and 22 February 2017 and assigned the BBC reference numbers RFI2017012 and RFI20170336.

BBC’s response to the requests

The BBC responded to the Applicant’s first five requests¹ with the following identical response:

¹ IR2017008 / IR2017009 / IR2017010 / IR2017011 / IR2017012

“Under section 8(1)(b) of the Act, public authorities are not obliged to comply with a request for information if the request does not provide the valid name of the requester.”

The BBC responded to the final five requests² as follows:

“Under section 8(1)(b) of the Act, public authorities are not obliged to comply with a request for information if the request does not provide the valid name of the requester. We believe that “Bart Joseph” may be a pseudonym.”

In accordance with its obligations and duties under section 16 of the Act to provide advice and assistance, the BBC referred the Applicant to the Information Commissioner’s guidance on what constitutes a valid name.³

Requests for internal reviews

The Applicant requested an internal review for all ten requests listed above on the basis that the BBC should accept “Common Law Jurisdiction” as a valid name, and/or in the alternative “Bart Joseph” should be accepted. As an example of the Applicant’s request for an internal review⁴, he or she said:

Why has it taken so long for you to decide that you don't like the name. Under both Common Law and Statute you can be called Common Law Jurisdiction, but if you want another name you could put Bart Joseph.

....

*Yours faithfully,
Common Law Jurisdiction*

Other examples of the Applicant’s correspondence includes “[t]he act doesn't allow fake news companies to call names fake”⁵ and “[t]he FOI act doesn't give you the power to class people's names as fake. Especially with no evidence to substantiate your claim.”⁶

Issues on review

For a request to be in valid under section 8 of the Act, the request must:

- a) be in writing;
- b) include the requester’s name and an address for correspondence; and
- c) describe the information being requested.

² IR2017015 / IR2017016 / IR2017017 / IR2017019 / IR2017020

³The Information Commissioner’s guidance is available here: <https://ico.org.uk/for-organisations/guide-to-freedom-of-information/receiving-a-request/>

⁴ IR2017008, as submitted on 6 February 2017.

⁵ IR2017020, as submitted on 25 February 2017.

⁶ IR2017017, as submitted on 14 February 2017.

The issue I must consider in this internal review is whether the BBC was too correct to conclude that the request was not valid, in accordance with section 8(1)(b).

The FOI Act and the Information Commissioner's guidance

A requester can be an individual, a company or an organisation, but in each case section 8(1)(b) requires that a request include the name of the requester.

The Information Commissioner's Office (ICO) has issued detailed guidance on what constitutes a valid name, which I summarise below.⁷ The intention of the legislation is for the requester to provide their real name so their request could be processed in accordance with the requirements of the FOIA. As outlined in the ICO's guidance:

This is supported by the fact that there are circumstances under the FOIA where a requester's true identity can be relevant, for example, where an authority is considering aggregating the cost of requests or refusing a request as vexatious or repeated'.

A real name

The ICO defines a 'real name', as:

The definition of a 'real name'

21. *For a request to be valid, the requester must provide enough of their real name to give anyone reading that request a reasonable indication of their identity.*

...

25. *Any variation of the requester's title or first name combined with their surname (e.g. Mr Smith or John Smith) will be sufficient to meet this requirement. However, a first name or surname provided in isolation, or a set of initials, will not.*

A company or an organisation

If a request is received from a company, a full registered name or a name that exists as a legal entity (such as a trading name) should be accepted as valid.⁸ The ICO goes on to state that:

37. *Again, companies' names should generally be accepted at face value, but in any case where the authority has reason to verify the authenticity of the company, it*

⁷ Information Commissioner's guidance 'Recognising a request made under the FOIA'. Accessed via <https://ico.org.uk/media/for-organisations/documents/1164/recognising-a-request-made-under-the-foia.pdf>.

⁸ Ibid. See paragraphs 35 to 39.

should check Companies House or the Charity Commission Register to clarify whether it is a genuine organisation.

38. *Requests from unincorporated bodies such as campaign groups or clubs are also valid and in most cases should be accepted at face value. However, if the authority has reason to check whether the organisation is authentic, it may need to take a more pragmatic approach to validating its identity because these bodies are often relatively informal associations of people with no 'official' status.*
39. *We therefore recommend that authorities adopt a lower and more informal test for determining whether a name provided by an unincorporated body is genuine.*

Pseudonym

The ICO provides that if a requester has used a pseudonym, then the request will be invalid. If the name provided is not an obvious pseudonym and the public authority has no reason to believe that a pseudonym is being used, the authority should accept the name provided at face value.⁹

Requests via WDTK

The ICO has included specific guidance concerning section 8(1)(b) to applied when a request is received via WDTK:¹⁰

Requests made through the whatdotheyknow.com website will be valid, provided the requester supplies their real name and describes the information concerned.

Decision

For the reasons articulated below, I am satisfied that the BBC was correct to conclude that the Applicant has not provided a valid name to fulfil the requirements of section 8(1)(b).

Analysis

All ten requests for information were signed off from 'Common Law Jurisdiction' and/or "Bart Joseph".

Although the Commissioner advises that authorities should adopt an informal test for determining whether an organisation is genuine, I do not consider that "Common Law Jurisdiction" to be a genuine organisation. As recommended by the Commissioner, I have searched relevant databases and publicly available information. I can find no reference to such a group.

The Applicant claimed that "Common Law Jurisdiction" could in fact be someone's real name. To constitute a valid name, the Applicant must provide enough of their real name to give

⁹ Ibid. See paragraphs 28 to 31.

¹⁰ Ibid. See paragraph 106.

anyone reading that request a reasonable indication of their identity. “Common law” is law developed through the legal systems, and “jurisdiction” concerns the power provided to an authority to make decisions and judgements. I do not consider “Common Law Jurisdiction” to be a real name, nor does this phrase enable the BBC to identify the Applicant.

The Applicant has also said that if the BBC wants another name we “could put Bart Joseph”¹¹. The Applicant signed off four FOI requests¹² under the name “Bart Joseph” (within quotation marks) in addition to “Common law Jurisdiction”. I consider that the reference to “if you need another name” and the use of quotation marks around “Bart Joseph” implies that the Applicant has used a fictitious name. I agree that the Applicant’s correspondence gave the BBC reason to believe that “Bart Joseph” is a pseudonym and it is not the Applicant’s real name.

Verify the identity of the Applicant

The ICO’s website recognises that there may be situations where a public authority will be required to verify a requester’s identity. In the circumstances of these ten requests, I consider it appropriate to request that the Applicant verify his identity before the BBC is required to consider any future requests as valid under section 8 of the Act.

If Applicant can provide evidence that he or she is “Common Law Jurisdictions” or “Bart Joseph”, the BBC will reconsider the requests in accordance with the FOIA. The Applicant should consider sending this evidence directly to foi@bbc.co.uk, rather than submitting the evidence through WDTK.

Appeal Rights

If you are not satisfied with the outcome of your internal review, you can appeal to the Information Commissioner. The contact details are: Information Commissioner’s Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF; Telephone 01625 545 700 or www.ico.gov.uk

¹¹ IR2017008 / IR2017009 / IR2017010 / IR2017011 / IR2017012

¹² IR2017015 / IR2017016 / IR2017019 / IR2017020