

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 8 November 2017

Public Authority: Chief Constable of Norfolk Constabulary
Address: Jubilee House
Falconers Chase
Wymondham
Norfolk
NR18 0WW

Decision (including any steps ordered)

1. The complainant requested information relating to a section 34 Dispersal Notice. Norfolk Constabulary asked for confirmation of the requester's identity which they declined to give. Norfolk Constabulary refused to deal with the request citing section 8(1)(b) of the FOIA (request for information).
2. The Commissioner's decision is that, in the circumstances of this case, Norfolk Constabulary was entitled to consider the request did not meet the criteria for a valid request at section 8(1)(b) of the FOIA without confirmation of the complainant's identity.
3. The Commissioner does not require Norfolk Constabulary to take any steps as a result of this decision.

Background

4. The request in this case relates to a section 34 Dispersal Notice.
5. Sections 34 - 42 of the Anti-social Behaviour, Crime and Policing Act 2014 concern dispersal powers. Sections 34 - 42 came in to force on 20 October 2014¹.

¹ http://www.cps.gov.uk/legal/d_to_g/dispersal_power/

6. An authorisation under section 34 of the Anti-social Behaviour, Crime and Policing Act 2014 must:
 - be in writing;
 - be signed by the officer giving it; and
 - specify the grounds on which it is given.

Request and response

7. On 30 May 2017, the complainant wrote to Norfolk Constabulary and requested information in the following terms:

"Please email me a signed copy of the Section 34 of the Anti-social Behaviour, Crime and Policing Act 2014 authorisation for UPPER KING STREET, NORWICH for 19th March 2017, along with reasons for authorising same".

8. Norfolk Constabulary responded on 1 June 2017 advising the complainant that, due to the receipt of a recent and substantially similar request from another applicant, it would need him to provide some form of identification in order to proceed with the request.
9. It told the complainant:

"Please note that your request is placed on hold until we are satisfied that the criteria at section 8 of the Freedom of Information Act is met".

Scope of the case

10. For the purposes of this decision notice, and in the absence of proof of the complainant's identity, the Commissioner has adopted Norfolk Constabulary's approach of referring to the requester as being male. No inference should be drawn from the Commissioner taking that approach.
11. The complainant contacted the Commissioner on 1 June 2017 to complain about the way his request for information had been handled.
12. The analysis below considers whether Norfolk Constabulary was entitled to refuse to deal with the request unless confirmation of identity was provided in light of the requirement of section 8(1)(b) of the FOIA.

13. This decision notice does not examine whether the complainant stated his real name when making the request and the Commissioner has not sought confirmation of his identity from the complainant.

Reasons for decision

14. Section 8(1) of the FOIA sets out the requirements for a request to be valid for the purposes of that Act. Section 8(1)(b) requires that a request must state the name of the requester.
15. The Commissioner, in her guidance on section 8², has interpreted this as meaning that the requester must state their real name and that a request which is submitted using a pseudonym will be invalid under the FOIA. This means that a public authority is not obliged to deal with a request made under a pseudonym, and someone who uses a pseudonym when making a request cannot enforce the rights provided by the FOIA in respect of that request.
16. The request in this case was sent from an email address comprising a local-part, an @ symbol and a domain address, ie in the format 'xxx@gmail.com'.
17. The 'display name' or 'from' comprised a first initial and surname.
18. The request was not 'signed' and there was no indication of the requester's 'title, eg Mr, Mrs, Ms.
19. During the course of her investigation, the Commissioner asked Norfolk Constabulary to explain the reasons behind the decision to ask for proof of identity in this case.
20. The Constabulary confirmed that it does not, in normal circumstances, question the validity of a requester's name, excepting where the name of the applicant is not complete. It told the Commissioner:
- "We recognise that it is within the spirit of the Act not to routinely or randomly check an applicant's identity....."*
21. Norfolk Constabulary explained that, at the time of this request, it had received '*a recent and substantially similar request*', from another applicant.
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² <https://ico.org.uk/media/for-organisations/documents/1164/recognising-a-request-made-under-the-foia.pdf>

22. As the request in this case bore a similarity to another request submitted by another applicant, the Constabulary told the requester that it sought proof of his identity:

"... in order for us to ensure that applicants are not acting together in order to seek this information..."

23. In the same way, it told the Commissioner that it had noticed similarities between this and other recent requests it had received and that the requirement to know the identity of the requester was in order to ensure the request was valid and to establish whether section 14 of the FOIA (vexatious or repeated request) would be relevant in this case.
24. The question for the Commissioner to consider is not whether applicants are acting together or the complainant used his real name, but whether Norfolk Constabulary acted proportionately in asking him to confirm his identity before it would consider his request.
25. The Commissioner does not expect identity verification to become a routine part of FOIA request handling. However, 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 multiple requests from the same person or refusing a request as vexatious or repeated. In such circumstances the identity of the requester will be relevant and where the public authority has reason to believe that a requester may not be using their own name, the Commissioner accepts that it may seek confirmation of their identity. Inevitably, this means that requesters who *are* using their real names will also be asked to confirm as such.
26. In correspondence with the Commissioner, Norfolk Constabulary drew her attention to a number of FOI requests it had received over a short period of time, noting the similarities in the wording and subject matter of those requests.
27. Norfolk Constabulary told the Commissioner that, in light of the similarities across those other requests, it was concerned that requesters could be working together to obtain information or were not using their real names when requesting information.
28. Norfolk Constabulary considered, in the circumstances, that it was not unreasonable for it to ensure that the FOIA was not being abused.
29. Norfolk Constabulary's position is supported by the Commissioner's guidance on section 8, which states:

"In our view, 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."

30. The Commissioner's guidance '*Consideration of the identity or motives of the applicant*³ also states that, when determining whether a request is valid, it will be permissible for a public authority to enquire about the identity of the requester if it has reason to believe that they have not provided their real name.
31. The Commissioner has considered Norfolk Constabulary's grounds for concern regarding the request in this case.
32. She accepts that it has received a small number of requests that show similarities to the request in this case and is concerned that they could indicate that parties are working together.
33. The Commissioner recognises that, in most cases, authorities should consider FOI and EIR requests without reference to the identity or motives of the requester. Their focus should be on whether the information is suitable for disclosure into the public domain, rather than the effects of providing the information to the individual requester.
34. The Commissioner accepts that it is entirely possible that multiple requesters may be interested in the same subject matter.
35. However, as stated above, the identity of the requester becomes relevant under the FOIA where a public authority may otherwise be entitled to refuse requests as vexatious or repeated, or would be entitled to aggregate the costs of dealing with linked requests.
36. From the evidence she has seen, the Commissioner is satisfied that Norfolk Constabulary has demonstrated that it had grounds to seek to confirm the requester's identity before considering the request in this case. She considers that by taking steps to ascertain the identity of the requester, Norfolk Constabulary was acting in accordance with her guidance.
37. She considers that it was reasonable and proportionate for it to ask the requester to provide confirmation of his identity before considering his request. It follows that she is satisfied that Norfolk Constabulary was entitled to consider that the request was not valid under section 8(1)(b) of the FOIA without proof of the complainant's identity.

³ <https://ico.org.uk/media/for-organisations/documents/1043418/consideration-of-the-identity-or-motives-of-the-applicant.pdf>

Other matters

38. If the complainant wishes Norfolk Constabulary to process his request, he should provide it with confirmation of his identity. She notes that the Constabulary provided the complainant with an example of the type of identification document acceptable to it.
39. The Commissioner is unable to act as an intermediary between the complainant and Norfolk Constabulary in this regard.

Right of appeal

40. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0300 1234504
Fax: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

41. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
42. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

**Jon Manners
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
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SK9 5AF**