

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 22 May 2017

Public Authority: Chief Constable of Avon and Somerset Constabulary

Address: Force Headquarters
PO Box 37
Valley Road
Portishead
Bristol
BS20 8QJ

Decision (including any steps ordered)

1. The complainant has made several requests for information relating to Avon and Somerset Constabulary's treatment of Injury on Duty pensions. Avon and Somerset Constabulary was not satisfied that the complainant had stated her real name when making the requests. It asked her for confirmation of her identity, which she declined to provide, whereupon it refused to deal with the requests, citing section 8(1)(b) (Request for information) of the FOIA.
2. The Commissioner's decision is that, in the particular circumstances of the case, Avon and Somerset Constabulary was entitled to consider that the requests did not meet the criteria for valid requests at section 8(1)(b) of the FOIA without confirmation of the complainant's identity.
3. The Commissioner requires no steps to be taken.

Request and response

4. The complainant submitted three requests for information (contained in an annex to this decision notice) to Avon and Somerset Constabulary between 13 December 2016 and 25 February 2017 via the public *WhatDoTheyKnow*¹ website. Avon and Somerset Constabulary declined to deal with each request, citing the requirements at section 8(1)(b) of the FOIA. It said that it had reason to believe the complainant might not have used her real name when making the requests. It invited her to provide confirmation of her identity, on receipt of which it said it would progress the requests.
5. The complainant did not provide confirmation of her identity. Instead, she assured Avon and Somerset Constabulary that she had used her real name to make the requests and asked it to progress them.
6. Following an internal review Avon and Somerset Constabulary upheld its decision not to progress the requests unless and until the complainant provided proof of her identity.

Scope of the case

7. The complainant contacted the Commissioner on 3 January 2017 to complain about the way her first request for information had been handled. She subsequently forwarded complaints about Avon and Somerset Constabulary's handling of two further requests.
8. The complainant objected to being required to prove her identity before her request would be processed. She felt Avon and Somerset Constabulary was being deliberately obstructive, and that it had no valid reason for believing that she had not used her real name. She said she was not confident that it would handle any proof of identity she did supply securely or confidentially, although she did not expand on her reasons for saying this.
9. The Commissioner considers the scope of this decision notice to be whether Avon and Somerset Constabulary was entitled to refuse to deal with the requests unless confirmation of identity was provided, in light of the requirements of section 8(1)(b).

¹ <https://www.whatdotheyknow.com/>

10. This decision notice does not examine whether the complainant has stated her real name in the requests and the Commissioner has not sought from the complainant confirmation of her identity.

Reasons for decision

11. 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.
12. 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.
13. The three requests in this case stated a name (first initial and surname) which the complainant said was her real name. It is Avon and Somerset Constabulary's position that it has reason to suspect the name given might not be the complainant's real name, and that it might be a pseudonym.
14. Avon and Somerset Constabulary explained that the requests relate to its Injury on Duty ("IOD") payment arrangements. Where a police officer has to leave the police service because of injuries sustained on duty they may be offered an IOD pension and an additional award to compensate them for any potential loss of future earnings. Both the pension and the award are paid for life; however, the amounts paid in individual cases may be reviewed during the life of the payments.
15. In 2014, Avon and Somerset Constabulary commenced a pilot review of the IOD awards it paid to former officers. It was the first police force in England and Wales to do so. The decision has proved controversial among former officers. The Constabulary says that awards may be increased as well as decreased, according to individual circumstances. However, many former officers are concerned that they will be disadvantaged by the review.

² <https://ico.org.uk/media/for-organisations/documents/1164/recognising-a-request-made-under-the-foia.pdf>

16. Since starting the pilot review, Avon and Somerset Constabulary has consistently received a large number of requests for information relating to the IOD awards and the review, and these have placed a significant strain on its resources. It has previously refused to deal with a number of requests, citing section 14 of the FOIA (Vexatious or repeated requests) and this has resulted in complaints to the Commissioner. The Commissioner's investigations into these complaints have found evidence of some requesters acting in concert, as part of an orchestrated campaign to disrupt the IOD reviews, a finding which was later upheld by the Information Tribunal³.
17. After the Commissioner's intervention, Avon and Somerset Police said there was a noticeable reduction in the volume of IOD related requests it was receiving, to the extent that they were no longer unduly burdensome and it was able to comply with them. However, it says that it has recently observed an increase in the number of IOD related requests it is receiving. It has also noticed the sorts of similarities between requests submitted by ostensibly different requesters that previously would have led to it refusing the requests under section 14 of the FOIA. In one case it has been able to ascertain that a requester, whose real name it knows, has submitted requests to it using a pseudonym.
18. Avon and Somerset Constabulary said that it does not have a blanket policy of asking for confirmation of identity from all requesters. The complainant was one of a small number of new requesters asked to confirm their identities where it noticed similarities between their requests and those asked by other requesters, and where these new requesters were not already known to them. Each has been told that their request will be processed on receipt of confirmation of their identity. At the date of its correspondence with the Commissioner, it said that none had provided confirmation of their identity.
19. The question for the Commissioner to consider in this case is not whether the complainant used her real name, but whether Avon and Somerset Constabulary acted proportionately in asking her to confirm her identity before it would consider her request.
20. Avon and Somerset Constabulary has said that its position is informed by its previous experience of the FOIA being used as part of an orchestrated campaign, and its contemplation of whether section 14 of

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[http://informationrights.decisions.tribunals.gov.uk/DBFiles/Decision/i1748/Edes,Michael%20EA-2015-0197%20\(10-03-16\)%20.pdf](http://informationrights.decisions.tribunals.gov.uk/DBFiles/Decision/i1748/Edes,Michael%20EA-2015-0197%20(10-03-16)%20.pdf)

the FOIA might be applied to refuse some current requests, where they may fairly be categorised as vexatious or repeated. It considers knowledge of requesters' true identities to be pertinent to making a decision in this regard.

21. Avon and Somerset Constabulary's position is supported by the Commissioner's guidance on section 8, which states:

"16. 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.

17. 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."

22. The Commissioner's guidance on *Consideration of the identity or motives of the applicant*⁴ 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.
23. The Commissioner has considered Avon and Somerset Police's grounds for considering that people may currently be employing pseudonyms to obtain information from it.
24. The small number of requests it is concerned may have been made under pseudonyms contain similar wording to each other and in some cases, have been re-asked by other, known requesters. Each of the requests has been submitted via *WhatDoTheyKnow*. The Commissioner understands that it is relatively easy to set up multiple identities on *WhatDoTheyKnow*, as all that is required for each account is a unique email address, readily obtainable from online webmail service providers.
25. The Commissioner notes that Avon and Somerset Constabulary has, in one case, been able to ascertain that a particular requester has used a pseudonym to make requests. The Commissioner also has separate evidence from another case that another police force has received pseudonymous requests for IOD related information. Consequently, she

⁴ <https://ico.org.uk/media/for-organisations/documents/1043418/consideration-of-the-identity-or-motives-of-the-applicant.pdf>

considers Avon and Somerset Police's concerns in this regard to be credible.

26. The Commissioner accepts that it is entirely possible that other requesters will not be acting in this way; however, Avon and Somerset have no way of knowing which requesters are, and are not, using pseudonyms without first verifying their identities. 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.
27. The Commissioner is satisfied that Avon and Somerset Constabulary has demonstrated its grounds for considering that some requesters may be employing pseudonyms, and that the requesters' identity is relevant to how it deals with these requests. She considers that by taking steps to ascertain the identity of requesters, Avon and Somerset Constabulary is acting in accordance with her guidance. Inevitably this means that some requesters who have used their real names may be asked to prove that, and this will add a level of inconvenience to the FOIA process. However, she is satisfied that the number of instances where this may happen is likely to be low, and that the requesters, once they have provided proof of their identity, will not be asked to do so again in the event they make further requests, thus minimising further inconvenience to them.
28. Taking all the above into account, and in the specific circumstances of the case, the Commissioner is satisfied that Avon and Somerset 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.

Other matters

29. If the complainant wishes Avon and Somerset Police to process her request, she should provide it with confirmation of her identity acceptable to it. The Information Commissioner is unable to act as an intermediary between the complainant and Avon and Somerset Constabulary in this regard.

Right of appeal

30. 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

31. 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.

32. 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

Samantha Bracegirdle
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Annex

1. On 13 December 2016, the complainant wrote to Avon and Somerset Constabulary and requested information in the following terms:

"In FOI #329943, relating to five completed IOD questionnaires returned to you in 2015, you stated that 3 reviews were still outstanding. One was with the pension authority and two were awaiting to be seen by the SMP.

Please advise me

- 1. How many of these outstanding reviews have now been completed?*
- 2. When were the two reviews awaiting the SMP actually seen by the SMP? If not, how and when were these reviews completed?*
- 3. If the reviews are still not completed what is the delay?"*

2. On 25 February 2017 the complainant wrote to Avon and Somerset Constabulary and requested information in the following terms:

"Avon and Somerset Constabulary must meet the requirements of the Public Sector Equality Duty which came into effect 5 April 2011.

Please provide the documentation that shows how you considered the Equality Duty when commencing injury on duty reviews in 2014.

This information should be readily retrievable as it would have to be available to the Equality and Human Rights Commission if requested."

3. Also on 25 February 2017 the complainant wrote to Avon and Somerset Constabulary and requested information in the following terms:

"In 2015 you received 5 completed IOD questionnaires. You have stated that these were all anniversary reviews (FOI # 327460).

- 1. Please advise how many IOD pensioners were 'anniversary' reviewed in 2016.*
- 2. Please advise how many IOD pensioners will be 'anniversary' reviewed in 2017"*