

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 23 July 2024

Public Authority: Police Federation of England and Wales
Address: Federation House
Highbury Drive
Leatherhead
Surrey
KT22 7UY

Decision (including any steps ordered)

1. The complainant requested information about salaries of senior staff. The Police Federation of England and Wales ("PFEW") suspected she had made the request using a pseudonym. It asked for confirmation of her identity, which she did not provide. PFEW then argued that the request was not a valid request for information within the meaning at section 8(1)(b) (Request for information) of FOIA.
2. The Commissioner's decision is that, in the circumstances of this case, PFEW was entitled to consider the request did not meet the criteria for a valid request at section 8(1)(b) of FOIA without confirmation of the complainant's identity.
3. The Commissioner does not require further steps as a result of this decision

Request and response

4. On 4 February 2024, the complainant wrote to PFEW and requested information in the following terms:
 - "1. In 2023 how many FOI requests were made to PFEW requesting details relating to the COO and CEO's salary including information relating to benefits, allowances and honararia.

2. How many of the above requests were published on the PFEW website.
3. How many of the above requests were not published on the PFEW website.
4. What is the intended date of publication of the said information about the COO/CEO's salary, where will it be published and where has that decision/rationale been minuted."
5. PFEW responded on 1 March 2024. It answered the first three parts of the request. For part (4), it said: "The date and format of publication is under consideration and has not yet been determined. With no decision having been made, there is no minute/record of any decision."
6. Following an internal review, PFEW wrote to the complainant on 27 March 2024. It maintained that section 22(1)(a) (Information intended for future publication) of FOIA was correctly engaged.

Scope of the case

7. The complainant contacted the Commissioner on 7 April 2024 to complain about the way her request for information had been handled. She disagreed with the application of section 22 to refuse the request.
8. During the Commissioner's investigation, on 17 April 2024, PFEW wrote to the complainant regarding other requests she had submitted and told her that it believed she was using a pseudonym. It said that in order to deal with her requests, the complainant must verify her identity. The complainant did not provide the requested verification.
9. PFEW then told the Commissioner that, in light of the complainant's failure to verify her identity, its position regarding this request had changed. It withdrew reliance on section 22. It said that it had grounds to believe that the request had been made using a pseudonym. In the absence of any proof to the contrary by the complainant, it believed the request was not a valid request for information within the meaning at section 8(1)(b) of FOIA and the complainant was not entitled to enforce the rights provided by FOIA in respect of it.
10. The analysis below considers whether, in the particular circumstances of this case, PFEW was entitled to require that confirmation of the complainant's identity be provided, in light of the requirement of section 8(1)(b) of FOIA.

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

Reasons for decision

Section 8 – Request for information

12. Section 8(1) of 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 applicant and an address for correspondence.
13. The Commissioner, in his guidance on section 8¹, states:

“The requester can be an individual, a company or an organisation but in each case they must provide their real name. A request made under a pseudonym will be invalid”.
14. 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 FOIA in respect of that request.
15. The Commissioner’s guidance explains further:

“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.

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”.
16. The Commissioner does not expect identity verification to become a routine part of FOIA request handling. However, as noted above, there are circumstances under FOIA where a requester’s true identity may be relevant. In such circumstances, where the public authority has credible reasons to believe that a requester might not be using their own name,

¹ <https://ico.org.uk/for-organisations/foi/freedom-of-information-and-environmental-information-regulations/recognising-a-request-made-under-the-freedom-of-information-act-section-8/>

the Commissioner's guidance² states that it is allowed to seek confirmation of their identity.

17. Inevitably, this means that there may be some instances in which requesters who are using their real names are asked to confirm as such. This will be permissible, as long as, in the circumstances of the case, it was a proportionate measure.
18. Regarding the request in this case, the question for the Commissioner to consider is not whether the applicant used her real name, but whether PFEW acted proportionately in asking her to confirm her identity.
19. PFEW has explained to the Commissioner that it believed a pseudonym was being used in order to evade the aggregation of costs in respect of related requests:

"...in early 2024, we experienced a significant uptick in the number of FOIA requests, including those of a similar nature, seeking detailed information from us, predominantly financial/HR-related information. These requests were made by unknown individuals (including, as detailed below, the complainant).

The PFEW initially began responding to these requests in compliance with its obligations under FOIA. This was despite the significant burden which they placed on our resources not just those responsible for responding to FOIA requests, but other teams within the PFEW (such as Finance and HR) from whom information needed to be obtained in order for us to respond to the requests.

Where detailed financial / HR information is sought, even confirming whether or not the PFEW holds the information requested can itself be a laborious task, as can consideration of how long it would take to compile the information for disclosure (and therefore whether Section 12 of FOIA might be applicable).

...

As a result of these suspicions, the PFEW wished to determine: (a) whether or not certain FOIA requests were valid under section 8 of FOIA; and (b) whether the requests were being made by the same

² <https://ico.org.uk/for-organisations/foi/freedom-of-information-and-environmental-information-regulations/consideration-of-the-applicant-s-identity-or-motives/>

individual / group of individuals working together, so that we could consider aggregating the burden imposed by multiple requests.

Accordingly, since 5 April 2024, the PFEW has asked 12 individual requestors for ID as we suspected that the requestors are using pseudonyms (some of whom have made more than one FOIA request): The Information governance team have paused on these requests until the requestor/s provides the following information:

- (a) proof of identity, in the form of photo ID; and
- (b) confirmation as to whether the request is made on behalf of any other group or party."

20. PFEW said that none of this group of 12 requesters had provided the requested verification information and only one had come back voicing any objections to these steps.

21. It said the complainant, had submitted four requests for information between 4 February 2024 and 6 April 2024. In view of the subject matter of her requests, and PFEW's suspicions that it was subject to an organised campaign which was placing a strain on its resources, it had asked the complainant to verify her identity when dealing with her fourth request, and also when dealing with her request for an internal review of her second request. It said:

"In common with the other requestors of whom the Confirmation Request was made, the complainant has not responded to the Confirmation Request or submitted any further FOIA requests since receiving it.

We consider that this indicates that our suspicions are well founded: if [name redacted] was the complainant's real name, then we would have expected them to have either provided proof of this, or at least objected to the Confirmation Request in some way. They have done neither of these things, nor have they complained about the PFEW's failure to respond to their two outstanding internal review requests."

22. The Commissioner considers that, in most cases, public authorities should consider FOIA 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.

23. Nevertheless, and as set out above, he recognises that there will be instances where the identity of individual requesters is relevant. The Commissioner has considered PFEW's grounds for concern regarding the request in this case and the reasons given for believing that the requester has not used her real name. In that respect he notes that it

has evidence of similarities between requests, submitted by ostensibly different requesters, including the particular focus and persistence of those requests. He has also considered the steps PFEW has taken to establish the identities of those requesters, and that with one exception, no objection was received from any of them. He also notes that the complainant has not complained about PFEW's verification request to him.

24. The Commissioner accepts that it is entirely possible that multiple requesters may be interested in the same subject matter.
25. He is mindful, however, that, as noted above, the identity of the requester becomes relevant under 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.
26. From the evidence before him, the Commissioner is satisfied that PFEW has demonstrated that it had reasonable grounds for seeking to confirm the requester's identity in this case and it has explained why the requester's identity is relevant to how it deals with this and other requests. He considers that by taking steps to ascertain the identity of the requester, PFEW was acting in accordance with his guidance.
27. In the circumstances of this case, he considers that it was reasonable and proportionate for PFEW to ask the requester to provide confirmation of her identity. As she has not provided it, the Commissioner is satisfied that PFEW 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.

Right of appeal

28. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

29. 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.
30. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Samantha Bracegirdle
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
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