



SECTION 4 REQUESTING CLARIFICATION OR FURTHER INFORMATION

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SECTION 4

REQUESTING CLARIFICATION OR FURTHER INFORMATION

If required, request clarification or further information (clock starts only when this extra information is received)

Key Points

- To be valid the request should explain clearly, what information is required. If it does not, it is not a valid FOI request and you can request clarification.
- You may also reasonably require further information from the applicant in order to answer the request. You are not obliged to answer the request until the extra information is received.

4.1 Motive for request

The motive behind a request is irrelevant and you should not question an applicant as to why they want particular information.

4.2 I do not understand what they are asking

If you cannot understand what the applicant is asking for because they have not described the information being requested with sufficient precision, then it is not a valid FOI request.

Remember that when clarifying the request, the applicant does not have to give the reason why they want the information, so you should not ask. When trying to clarify the request, you should be careful not to ask questions like 'why do you want this information?' or 'what are you going to do with this information?' or 'what precisely do you want to find out'?

The request is not technically a valid FOI request until you can understand what the applicant is asking. You must advise the FOIO of the request so that she can log it onto the FOI Monitoring System, but the 20 working day deadline does not have to be applied until the request is clarified. Remember that there is a requirement to provide advice and assistance to FOI applicants, so you should offer as much help as you can.



4.3 I need more information to be able to find it

Another circumstance would be if you do understand the question, but you need more information in order to identify and locate the information. Is there enough information for a search? Do you need more details to be able to find the information? For example, if someone asks 'I'm looking for information on the making of a tree preservation order in 1981' then you'd be perfectly within your rights to ask for further information, such as a more specific location within the Borough.

Technically, such a request is an FOI request. However, s.1(3) of the FOI Act says that if you reasonably need more information to identify and locate the information requested, you do not have to, (or you are not obliged to), provide the information requested until you get that extra information.

S.10(6) of the FOI Act says that the 20 working day deadline only begins when you receive the extra information in order to identify and locate the information requested – and this counts as 'the date of receipt'.

For practical purposes, subject to the rules on Day-to-Day Business [Annex B], you should be treating requests for information as if they were valid FOI requests and starting the clock when the request is received into your Department, whether the request is technically valid at that point or not. If you need to clarify the request, the clock will be stopped while you wait for clarification. Clarification should be sought on the first day the enquiry is received.

The s.45 Code of Practice has the following to say on this:

para.	s45 Code of Practice
8	A request for information must adequately specify and describe the information sought by the applicant. Public authorities are entitled to ask for more detail, if needed, to enable them to identify and locate the information sought. Authorities should, as far as reasonably practicable, provide assistance to the applicant to enable him or her to describe more clearly the information requested.
9	Authorities should be aware that the aim of providing assistance is to clarify the nature of the information sought, not to determine the aims or motivation of the applicant. Care should be taken not to give the applicant the impression that he or she is obliged to disclose the nature of his or her interest or that he or she will be treated differently if he or she does. It is important that the applicant is contacted as soon as possible, preferably by telephone, fax or e-mail, where more information is needed to clarify what is sought.

para.	s45 Code of Practice
10	<p>Appropriate assistance in this instance might include:</p> <ul style="list-style-type: none"> ▪ providing an outline of the different kinds of information which might meet the terms of the request; ▪ providing access to detailed catalogues and indexes, where these are available, to help the applicant ascertain the nature and extent of the information held by the authority; ▪ providing a general response to the request setting out options for further information which could be provided on request; <p>This list is not exhaustive, and public authorities should be flexible in offering advice and assistance most appropriate to the circumstances of the applicant.</p>
11	<p>In seeking to clarify what is sought public authorities should bear in mind that applicants cannot reasonably be expected to possess identifiers such as a file reference number, or a description of a particular record, unless this information is made available by the authority for the use of applicants.</p>
12	<p>If, following the provision of such assistance, the applicant still fails to describe the information requested in a way which would enable the authority to identify and locate it, the authority is not expected to seek further clarification. The authority should disclose any information relating to the application, which has been successfully identified and found for which it does not wish to claim an exemption. It should also explain to the applicant why it cannot take the request any further and provide details of the authority's complaints procedure and the applicant's rights under section 50 of the Act.</p>

4.4 Insufficient particulars and contact with applicant [Annex XY]

If the request does not contain sufficient particulars to enable the information to be identified, you should:

- contact the applicant, if possible by phone;
- advise the applicant that the request cannot be processed because the information supplied is insufficient and/or ambiguous;
- inform the applicant about information held which may relate to the matter of his/her interest;
- discuss with the applicant the terms and scope of the request;
- agree (in writing) with the applicant the details of their request;
- acknowledge receipt of the request, as now agreed, with effect from the date of such agreement.

You should explain to the applicant that in the absence of clarification or supply of relevant particulars, the request will have to be refused [Annex H].

In the event that the particulars are not furnished, a note should be made and retained on file, of all steps taken and of assistance and advice offered as the matter may subsequently become the subject of a complaint.

It should be made clear to the applicant that the purpose of the contact is to assist in meeting the request in every way possible. In no circumstances should any attempt be made to dissuade the applicant from pursuing the request.



ACTION

- Are you ready to request clarification if necessary?
- Do you understand that you cannot ask the reason why the information is sought?
- Do you understand the requirement to provide advice and assistance?