

The ten things FOI requesters hate most

Paul Gibbons aka FOIMan, discusses the types of behaviour that are guaranteed to aggravate requesters

Freedom of Information Officers and others administering compliance with the Act have a challenging task. I have already written in this journal about the specific pressures that FOI Officers face, ranging from the rising numbers of requests to the conflicting priorities of requesters, colleagues and senior Officers. It is understandable in these circumstances that some will become cynical about FOI and those who make the requests it encourages. Uncooperative colleagues dragging their heels over providing answers to unwanted questions or wanting to present their position in the best possible light can affect the ability of an authority to comply. Strict compliance may eventually be achieved — but it wouldn't go beyond that.

For me, freedom of information should be about good customer service. Although public employees may feel that the public are not 'customers' as such, whatever they are called, the manner of communication will affect the way that they see organisations, perhaps the public sector in general, and certainly how they see FOI.

Focussing purely on how many responses can be sent out within 20 working days, or identifying the most restrictive way to interpret each request, may serve to allow for a strict compliance with the Act and avoid intervention from the Information Commissioner, but may also leave those making requests with a bitter taste in the mouth. In fact, such an approach makes it more likely that requesters will complain — if not at the time of the current request, then at some future point.

Often FOI Officers and their colleagues are unaware that their handling of requests is causing annoyance. Unless the applicant requests an internal review — something that in my experience is relatively rare — there isn't a way to know what they thought of the response. Or is there?

These days of course, if individuals are unhappy about the way that their requests are handled, they will rush to tell the world on social media. Journalists and others regularly tweet about their dissatisfaction with FOI respons-

es. Furthermore, requests made via whatdotheyknow.com are publicly available and allow the requester or anyone else to comment on the correspondence. Using these sources, I've compiled a (completely unscientific) list of the ten behaviours that cause the most annoyance to FOI requesters.

1. Going silent

There's only one thing worse than answering a FOI request late — that's to answer a request late and fail to keep the applicant informed. A brief look at WhatDoTheyKnow.com will reap several examples of this. The longer the silence from the authority, the angrier (and more frequent) the emails chasing a response. This can cause particular bemusement when the infringing authority ought to know better, as this tweet from @foimonkey of 12th February shows:

'The response to this FOI request is already over a week late. Sections 1 & 10 #FOI seem not to apply to @ICOnews'

Perhaps colleagues have let the person responding down at the last minute. Or perhaps the FOI Officer has been taken ill. Or it's just a matter of not wanting to draw attention to the delay unnecessarily. Whatever the reason, it frustrates those waiting for an answer. The simple action of writing to apologise can prevent a lot of grief.

2. Waiting until the last working day to request clarification

'If it's taken 20 working days to read #FOI and realise you need clarification, there really was no hope of you answering in time, was there?' @clairemilleruk, tweet, 13th February 2015

There are all sorts of reasons why this might happen. A hard-pressed (or reluctant) department in possession of the information may take this long to let the FOI Officer know that the request isn't clear. The request may initially have been misread and the mistake only realised at a late stage.

[\(Continued on page 4\)](#)

[\(Continued from page 3\)](#)

It could well be that it was only following a great deal of work on the request that it became apparent that it would be necessary to seek more clarity.

As is evident from Claire's tweet though, it doesn't make much sense to the outside observer. FOI Officers should encourage their colleagues to read requests carefully, and as soon after receipt as possible so that any need to go back to the requester is identified at an early stage. If it does prove necessary to go back late, once again an apology and an explanation will often help to assuage the irritation of the applicant.

3. Weasel words

An overly pedantic reading of the questions posed or careful wording of an answer to avoid revealing an inconvenient truth (or merely to hinder an irritating enquirer) is poor practice. In many cases, it will transgress the obligation (at section 16 of the Act) to provide advice and assistance to requesters.

Bearing in mind the intention of the Act — to improve transparency — plain English should be the rule.

4. Speaking another language

The BBC's Martin Rosenbaum recently tweeted:

'Does anyone other than civil servants write "It may be helpful if I..."'
@rosenbaum6, tweet, 11th February 2015

It could be argued that this is less important than the other issues identified here; after all, everybody has their own idiosyncrasies. However, if the language used is overly pompous or a response is filled with jargon, it will impede transparency and alienate the individual. Having said that, a friend's reaction to Martin's tweet was 'What's wrong with that?'. This particular individual is a civil servant though.

—
"FOI Officers should be encouraged to read requests carefully, and as soon after receipt as possible so that any need to go back to the requester is identified at an early stage. If it does prove necessary to go back late, once again an apology and an explanation will often help to assuage the irritation of the applicant."
—

to disclose information via the whatdotheyknow.com website after they had refused to do so due to concerns over copyright infringement. More recently, public authorities have been criticised for responding to requests made via the same site with encrypted files — unnecessary for information which by its nature should be available to all.

5. Providing data in an unhelpful format

This one caused so much irritation in some circles that the government legislated to prevent it. Many requesters — especially entrepreneurs — alleged that public authorities were deliberately providing datasets in pdf format to impede re-use. The Protection of Freedoms Act 2011 amended the FOI Act to oblige public authorities to provide such datasets in a re-usable format on request.

On occasion public bodies have placed other barriers in the way of accessing or using the information disclosed. In decision FS50276715, the Commissioner ordered the House of Commons

6. Charging for FOI requests

There are very clear rules on when authorities can charge for information. They can charge for disbursements (photocopying, postage). They can also bill the applicant if the cost of complying is estimated to exceed the appropriate limit. However, they cannot impose a standard fee for FOI requests.

Despite this, a number of organisations have attempted to levy such a charge. For some reason, this seems to be particularly prevalent in the education sector. Of course some smaller public bodies like schools, GPs and pharmacists, may be less informed about their FOI obligations. But this becomes less excusable as the years pass. FOI has now been in force for ten years and there is plenty of guidance and training available to them.

7. Inventing rules

Claire Miller again:

'No, you shouldn't have a blanket principle of suppressing small numbers, it needs to be based on the actual information requested.'
@clairemilleruk, tweet, 10th February 2015

Rules of thumb are useful. In this case, the authority probably had a principle of refusing to disclose figures below a certain value (often five). However, whilst bearing such a rule in mind, it is necessary in each case to consider the information concerned. What's more, if it is felt necessary to suppress figures to protect individuals' identities, the exemption at section 40(2) must be cited and an explanation provided. Internal or industry guidance is just that — guidance. The Act is king.

8. Giving contradictory answers

One of my greatest frustrations as a FOI Officer was getting contradictory answers from colleagues whilst trying to draft responses. Members of the public do not understand when

a public authority gives different answers on different days to the same question. Does it mean that the first answer was a lie? Or is the authority just very disorganised?

9. Not appearing to know whether information is held

There are a number of examples (like ICO decision FS50492748) where a public authority initially cites an exemption, but later decides that it never held the information in the first place. Even worse are those occasions where the public authority claims not to hold the information, only for the applicant to provide evidence that it does. Mistakes happen, but these situations suggest that the authority should be looking to improve its records management.

10. Inconsistency between public authorities

A recent report on Newsnight by Chris Cook illustrated this problem well.

Chris made the same request to 13 government departments. Two provided the information, and half

of the remainder claimed (incorrectly) that the information was publicly available (section 21). The rest refused on grounds of cost (section 12).

As many requesters employ 'round-robin' requests to obtain information, inconsistency adversely affects their ability to collate usable data. Not to mention of course that it becomes clear that many authorities are not taking the appropriate degree of care to ensure that their responses are accurate and that exemptions are only used where appropriate. There may be good reasons why different authorities respond differently, but as this example illustrates, often there aren't.

Unnecessary irritation

It is perfectly possible to comply with the letter of the law whilst at the same time annoying those who make requests to public authorities. However, doing this is ultimately counter-productive. It damages the reputation of public authorities and it is likely to increase the likelihood of time-consuming complaints in the future. Many of these irritations are entirely avoidable. Resolving some of them is likely to assist the organi-

sation to function more effectively in other areas as well.

Of course, it's not all one-way traffic. Many individuals exhibit behaviours and attitudes that frustrate public officials when they make requests. In my next article, I'll examine the ten most annoying habits of those making requests — and how best to handle them.

Paul Gibbons
FOIMan
paul@foiman.com
