

Freedom of Information Requests Received by Public Authorities about Deceased Individuals

1. We, the Bona Vacantia Division of the Treasury Solicitor's Department, are regularly contacted by various public authorities ('the Recipients') regarding requests to such Recipients for information concerning deceased individuals, such as the deceased's name, date of birth and death, last known address and the estimated value of the estate. The Recipients will of course make their own decisions on how to reply, based on their own legal advice as required, but the Division felt for consistency and efficiency reasons that a paper detailing how it deals with such requests might be of interest.
2. In short, we would not normally disclose any of the information noted above at least until the assets of the estates had been secured.
3. When an estate is referred to the Treasury Solicitor's Department our normal practice is to establish through a series of enquiries the value of the estate (and that it is not insolvent) and whether it is indeed bona vacantia. For example, we will write to Banks and Building Societies to freeze accounts, ascertain the estate value and make enquires into the location of the title deeds to any property and the existence of a Will. We then secure any assets found. Revealing details of the assets of an estate before such steps had been taken would provide an opportunity for criminal acts to be committed e.g. theft and fraud (including ID fraud)).
4. Similarly, there would be concerns about making the last known address of the deceased available in any event, as the property is likely to be unoccupied and might still contain the deceased's personal papers and effects. There is also the danger of illicit occupation. The Treasury Solicitor's Department would therefore consider relying on S.31(1)(a) of the Act on the basis that disclosure of the information would be likely to **prejudice the prevention of crime** by enabling or encouraging the commission of offences. The Recipients may well also consider this exemption in its decision making process.
5. The Division would also consider whether we hold the information under a duty of confidence depending on who had provided the information to us and for what reason. S41 of the Act may be engaged if the disclosure of the

information would constitute an **actionable breach of confidence**. The Recipients, if also considering this exemption, would need to consider whether a) the information has the necessary quality of confidence b) the information was imparted in circumstances importing an obligation of confidence and c) there has been an unauthorised use or disclosure of the information. The Recipients will need to take their own legal advice on these points. The issue of confidentiality is not simple and it is for Recipients to consider whether the information has the necessary quality of confidence and whether it was obtained in such a way that gives rise to a duty of confidence.

6. The Division would also consider whether some of the information sought under the request is **accessible to the researcher elsewhere** (s21 of the Act) or is intended for future publication by the Treasury Solicitor's Department (s22) on www.bonavacantia.gov.uk, as we publish details of most estates valued at £500+ on this website once our initial enquiries have been completed. However, we do not advertise all estates referred to us on our website and so it may not be possible for Recipients to rely solely on these exemptions. For example, details of an estate with assets totalling less than £500 or where our enquiries locate kin would not be published.
7. In our view, giving the **values of estates** highlights valuable estates, making them more vulnerable to fraud. Therefore, as an anti-fraud measure, the Division does not give information about the value of estates in our adverts or generally in response to FOI requests. This information is withheld using s31(1)(a) or S.21 (information accessible elsewhere) if a Grant of Probate has been issued.
8. If Recipients believe that disclosure of information in response to specific FOI requests they have received may impact on the work of this Division, we would be grateful if they would contact us prior to making any disclosure.

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