

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 6 February 2012

**Public Authority:** Waveney District Council  
**Address:** Town Hall  
High Street  
Lowestoft  
Suffolk  
NR32 1HS

#### Decision (including any steps ordered)

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1. The complainant has requested evidence of training records of a named councillor (councillor x).
2. The Commissioner's decision is that Waveney District Council (the "Council") has correctly claimed that the request was vexatious under section 14(1) of FOIA.
3. The Commissioner does not require the Council to take any steps as a result of this notice.

#### Request and response

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4. On 23 August 2011 the complainant wrote to the Council and requested information in the following terms:

*"I wrote to yourself on 27 july (sic) via e-mail requesting a sight of [councillor x] complete attendance of all training. I gave the reasons as to why I require this information.*

*Today, I read the latest e-mail from [person y] to [a member of the Council]. The attachments included a recommendation from the standards committee, (which was another complaint against [councillor x]) to undergo more training.*

*I do not want documents thrown at me, last minute, at a standards Committee hearing. I like to have all my papers in front of me already read.*

*I therefore respectfully request that I am provided with all the training records of [councillor x] since he took office & any training completed as per the recommendations from the last Standards (sic) Committee hearing."*

5. The Council did not initially treat the request under the provisions of FOIA. Instead, it stated on 24 August 2011 that it would canvass for dates for the Standards Committee hearing, with the intention that sufficient preparation time was allowed. The Council therefore considered the request to be premature.
6. Following a further exchange with the complainant, the Council issued its substantive response to the request on 14 September 2011. This found that the request was vexatious and therefore the exclusion set out by section 14(1) of FOIA applied.
7. The Council advised the complainant that it did not have a procedure by which any appeal against the decision would be reviewed and therefore it stated that she should apply to the Commissioner if she was dissatisfied with the Council's response.

### **Scope of the case**

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8. The complainant contacted the Commissioner to complain about the way her request for information had been handled.

### **Reasons for decision**

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9. Section 14(1) of FOIA states that a public authority is not obliged to deal with a request for information if the request can reasonably be considered vexatious.
10. In finding that section 14(1) applies, the Council has observed that it is the request and not the requester that must be vexatious. Nevertheless, it is appropriate for a public authority to consider the context and history of a request.
11. The Council has argued that the request in question mirrors a request already made by an associate (person y) of the complainant on 18 July 2011. This had been refused on 25 July 2011 pursuant to section 14(1) of FOIA, the application of which has been considered separately by the Commissioner under the reference FS50413391.
12. The Council has argued that the complainant's request is effectively trying to circumvent the refusal in the above case and so, by extension, should also be deemed vexatious.

13. To support its position, the Council has stated that both the complainant and person y are closely involved with a pressure group campaigning to protect North Denes. The Council considers it reasonable to assume that, in light of the common cause adopted by both the complainant and person y and the interaction that would arise from this, the request was an attempt to engineer the Council's compliance with the request to the benefit of both parties.
14. In the Commissioner's view it is highly likely that the complainant and person y would engage on issues connected to the pressure group, not least because both parties appear to be active members of the campaign. Furthermore, the Commissioner does not find it an unwarranted step to assume that a level of co-operation exists when approaches are made to the Council for information that might be helpful to the pressure group.
15. This, the Commissioner has reflected, is not to say that the complainant does not have her own reasons for wanting to be provided with the requested information. It should be noted, for example, that the complainant is also party to a complaint against councillor x, which raises the possibility that the duplication of the requests is entirely coincidental.
16. However, the Commissioner has considered it reasonable for the Council to conclude that, given the chronology of the requests (one following shortly after the refusal of the other) coupled with the association of the complainant and person y, the requests can be linked. On this basis, the Commissioner has arrived at the view that, ultimately, the effect of the receipt of the request would be the same as on FS50413391 – that is, it would vex the Council because of the context and history associated with the making of the request.
17. It is for this reason that the Commissioner has decided that the Council was correct to apply section 14(1) to the request.

## **Other matters**

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18. The Council has stated that, while it employs a three step procedure for dealing with complaints, the process in place does not allow a right of appeal in relation to FOI requests.
19. The section 45 Code of Practice associated with FOIA states that each public authority should have a mechanism by which a fair and thorough review of decisions taken pursuant to FOIA can be taken. The Commissioner would therefore expect the Council to adopt such a review system when handling requests in the future.

## Right of appeal

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20. 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: 0116 249 4253

Email: [informationtribunal@hmcts.gsi.gov.uk](mailto:informationtribunal@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm)

21. 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.
22. 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** .....

**Rachael Cragg**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**