

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 24 June 2015

**Public Authority:** Mid Suffolk District Council  
**Address:** High Strteet  
Needham Market  
Ipswich  
IP6 8DL

### Decision (including any steps ordered)

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1. The complainant has requested information about the local code of conduct with effect from 31 July 2012. Mid Suffolk District Council (the Council) did not reply to his request. The Commissioner considers that, on the balance of probabilities, the Council did not receive the request from the complainant and therefore has not breached section 1 of the FOIA.
2. The Commissioner does not require the public authority to take any steps.

### Request and response

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3. On 14 January 2015, the complainant wrote to the Council and requested information in the following terms:

*"IN RELATION TO THE SUFFOLK LOCAL CODE OF CONDUCT WEF 1 JULY 2012.*

*GUIDANCE NOTES FOR THE COMPLETION OF MEMBERS REGISTER OF INTERESTS DECLARATION FORMS*

*DATES AND DURATION OF TRAINING PROVIDED TO MEMBERS FOR THE COMPLETION OF MEMBERS REGISTER OF INTERESTS DECLARATION FORMS TOGETHER WITH A LIST OF ATTENDEES"*

4. The Council did not respond.

### **Scope of the case**

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5. The complainant contacted the Commissioner on 16 February 2015 to complain about the way his request for information had been handled.
6. On 9 March 2015 the Commissioner wrote to the Council asking that a response be issued to the complainant within 10 working days.
7. On 16 March 2015 the Council wrote to the Commissioner advising that it had not received the complainant's request. The Council confirmed that the complainant had attended its offices on 14 January 2015 and had submitted four requests for information. The council had provided a receipt to the complainant at the time and stated to the Commissioner that there were four requests attached to it. These detailed the general nature of the requests. Two of the four requests were identical and none of the requests related to the local code of conduct.
8. The Council suggested to the Commissioner that perhaps the complainant had meant to submit four different requests but had erroneously submitted a duplicate of one request instead of the request which is now the subject of this decision notice.
9. The complainant has now received a response to the request and information within the scope of the request has been disclosed.
10. The Commissioner considers the scope of this complaint is to consider whether the Council has breached section 1 of the FOIA.

### **Reasons for decision**

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#### **Section1 – General right of access**

11. Section 1(1) of FOIA states that:

*1(1) Any person making a request to a public authority is entitled –*

- (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and*
- (b) if that is the case, to have that information communicated to him.*

*(2) Subsection (1) has effect subject to the following provisions of this section and to the provisions of section 2, 9, 12 and 14.*

*(3) Where a public authority-*

*(a) reasonably requires further information in order to identify and locate the information requested and*

*(b) has informed the applicant of that requirement,*

*The authority is not obliged to comply with subsection (1) unless it is supplied with that further information*

12. The initial request was dated 14 January 2015 but, according to the Council, was not submitted when the complainant called at its offices on that date. The council asserts that it checked the carbon copy of the receipt given to the complainant in respect of four requests. The Council has submitted that two requests were identical and none of the requests referred to the code of conduct. Although the complainant disputes the Council's position, the Commissioner's position is to accept that on the balance of probabilities, the Council did not receive the request and therefore there is no breach of section 1 of the FOIA.

## **Other matters**

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13. Following contact from the Commissioner's office about the complaint, the Council handled the request and responded to the complainant.
14. A response to the request was ultimately issued to the complainant on 20 April 2015, following a request for clarification dated 8 April 2015. It is the Council's position that it did not receive a response to the clarification request but in the circumstances decided to issue its final response on 20 April 2015, disclosing information falling within the scope of the request.
15. The complainant's initial complaint was about the Council's lack of response but he has since asked the Commissioner to also consider the request for clarification from the Council. He has described it as "*a crude attempt to try and gain further time*" and has described the nature of the clarification as "*absurd.*" He has disputed the fact that he did not respond to the request for clarification advising the Commissioner that the issue was discussed at a meeting on 13 April 2015 with the Council's monitoring officer.
16. The Council has confirmed that the complainant attended the Council offices on 13 April 2015 but not specifically for the purpose of discussing

this case. The Council asserts that the complainant spoke to the monitoring officer and although the complainant raised the issue of this request, the monitoring officer does not recall any discussion about the letter. The Council set out, in its letter of 20 April 2015, that it had not received a response to the request for clarification. It remains the Council's position that it did not receive a response regarding clarification.

17. It is the Commissioner's position that the Council was entitled to seek clarification of the request, and the purpose of the clarification was to make sure that the Council understood what information the requester wanted. Whilst the Commissioner cannot confirm whether any conversation about this issue took place between the complainant and a third party at the Council, he accepts that the Council attempted to be helpful by interpreting the scope of the request in the broadest form before disclosing information. The Commissioner is satisfied that in doing so, the Council has not conceded that clarification was unnecessary.
18. In all of the circumstances the Commissioner is satisfied that the Council has responded to a request which was notified to it by the Commissioner. Having never received the request from the complainant himself, the Council was under no obligation to handle it when notified by the Commissioner. The Council could have required the complainant to submit the request directly. Instead, the Council elected to deal with the request and issue a response.

## Right of appeal

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19. 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: 0870 739 5836

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

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

20. 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.
21. 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**