

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 29 September 2023

**Public Authority:** Cherwell District Council  
**Address:** Bodicote House  
Bodicote  
Banbury  
Oxfordshire  
OX15 4AA

#### **Decision (including any steps ordered)**

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1. The complainant requested information from Cherwell District Council ("the Council") relating to the submission of FOI requests submitted via WhatDoTheyKnow.com or by any third party means. The Council stated that it did not hold any information within the scope of the request.
2. The Commissioner's decision is that, on the balance of probabilities, the Council does not hold any information within the scope of the request.
3. The Commissioner does not require the Council to take any steps.

#### **Request and response**

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4. On 1 May 2023, the complainant wrote to the Council and requested information in the following terms:

"Please provide copies of all email communications and minutes from meetings from the past 18 months where the Council have discussed the submission of FOI requests submitted via WhatDoTheyKnow.com or by any third party means."

5. The Council responded on 3 May 2023. It stated that no information was held within the scope of the request. It upheld this position at internal review.

## Reasons for decision

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### Section 1(1) – duty to provide information held

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

“Any person making a request for information 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.”

7. The Council’s position is that it does not hold any information within the scope of the request.
8. The complainant believes the Council holds information within the scope of the request because the automated response that requestors receive when submitting an FOI request to the Council through WhatDoTheyKnow.com has changed. They stated, “someone at the Council must have taken the decision to change the automatic response and therefore must hold the information”.
9. In scenarios where there is some dispute between the amount of information located by a public authority and the amount of information that a complainant believes may be held, the Commissioner must decide whether on the balance of probabilities a public authority holds any further information which falls within the scope of the request (or was held at the time of the request).
10. During the course of his investigation the Commissioner asked the Council to provide details of the searches it had carried out to identify any information held within the scope of the request.
11. The Council confirmed that it had carried out searches using the terms “FOI”, “whatdotheyknow auto response”, “Freedom of Information auto response” “decoupling project” and the names of the Information Governance Officer at that time. It confirmed it had searched Information governance inboxes, network drives and key officer inboxes and network areas. It also stated it had searched its IT service request

system for tickets requesting any changes. No information within the scope of the request was identified.

12. The Council also stated it had consulted with senior management, "as they would have held any information regarding this change as they were involved when the Council moved over from Oxford County Council who used to manage our Information requests and would have made the decisions as to the change of processes."
13. In addition the Council added that it was possible that the change may have been discussed verbally in meetings (but not recorded in any minutes) and that this would explain why no recorded information was held.
14. The Commissioner is satisfied that the Council has carried out appropriate searches and staff consultations designed to identify any information held within the scope of the request. As no information was identified, his decision is therefore that, on the balance of probabilities, the Council does not hold any information within the scope of the request.

## Right of appeal

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15. 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@justice.gov.uk](mailto:grc@justice.gov.uk)

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

16. 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.
17. 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 .....**

**Victoria James**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**