

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 18 December 2012

Public Authority: Wyre Borough Council

Address: Wyre Civic Centre
Breck Road
Poulton-le-Fylde
Lancashire
FY6 7PU

Decision (including any steps ordered)

1. The complainant has requested all information relevant to 'auto-forwarding' set ups at Wyre Borough Council. The Commissioner's decision is that Wyre Borough Council, on the balance of probabilities, does not hold the requested information. The Commissioner does not require any steps to be taken.

Request and response

2. On 20 March 2012, the complainant wrote to Wyre Borough Council ('the council') and requested information in the following terms:

"...I require all internal information relevant to "auto forwarding" set ups at Wyre Borough Council and all internal information in relation to my email as timed on 26/05/2011 at 12:06:44 GMT Daylight Time being received at Wyre Borough Council. I also require all internal information as to the precise set up that allowed my email to be "auto forwarded" to Lancashire County Council and **also automatically deleted** at Wyre Borough Council. I also wish to receive internal information that would allow or justify a Wyre Borough Councillor "auto forwarding" a Wyre Borough Council email to Lancashire County Council and also automatically deleting a Wyre Borough Council email from Wyre's server when it involved purely Wyre business."

3. The council responded on 21 March 2012. It provided narrative information in response to the request but did not explicitly state

whether recorded information within the scope of the request was held by the council. It stated the following:

"In order to ensure value for money [named councillor] has been provided with one set of IT equipment for use in his Wyre and LCC duties. This kit is provided and fully supported by LCC.

[Named councillor's] Wyre emails are automatically forwarded to his LCC email account. This feature was setup by the Wyre IT team on the mail server and not by [named councillor] as a user of Wyre's systems. The Wyre email server does not therefore retain anything in the original inbox. It is in effect a forwarder and nothing more and does not operate in the same way as a mailbox might work at someone's home address. [Named councillor] accesses all email correspondence sent to his Wyre or LCC email addresses via his LCC email account.

Wyre Council has enabled no blocks whatsoever relating to [complainant's] email address.

Blocks, deletions, archiving or other user options may have been performed by either [named councillor] on his LCC email account or by the LCC IT team. You would need to contact them to find out if this is the case, if you have not already done so.

No emails are deleted on receipt; they are not stored on any server at Wyre Council.

Please see attached a list of emails received by Wyre from [complainant] since 01/05/2011. There are a number of emails which have been rejected by Spamhaus. Any queries on why these were rejected would need to be made to either www.spamhaus.org or your own Internet Service Provider (aol.com)."

4. The complainant requested a review on 16 May 2012 stating that he requires internal documentary evidence that supports the narrative provided. He specifically requested the following:

- All information related to the "one set of IT equipment for use in his Wyre and LCC duties". All paperwork related to this set of equipment, when it was supplied, who set it up and any other detail will be relevant...Please also supply any or all authorisation held demonstrating that the above actually happened.
- All internal information held pursuant to the claim that the specific Councillor's emails are automatically forwarded to his Lancashire County Council email account. All detail of when, how and any other information held pursuant to my request about Wyre's IT team

setting up the email server will be relevant. All recorded information related to this section is required including internal documentation showing that Wyre business emails were not retained at Wyre and automatically forwarded to Lancashire County Council.

5. The council provided an internal review on 29 May 2012. It stated that although it had given a full and detailed explanation in relation to the operation of the IT equipment referred to in the request, it failed to clearly identify whether information was held. It then stated that no information is held in regards to the request.

Background

6. The complainant made this request after having sent a complaint, by email, to the specific councillor and not receiving a response. The Commissioner understands that the complaint email was never received due to it being auto-forwarded to Lancashire County Council who, at the time, had blocked emails from the complainant. The Commissioner is currently investigating another complaint, from this complainant, regarding Lancashire County Council blocking emails under case reference FS50459846.

Scope of the case

7. The complainant contacted the Commissioner on 5 July 2012 to complain about the way his request for information had been handled.
8. The complaint letter also contained a related complaint under the Data Protection Act 1998. The data protection complaint has not been considered in this decision notice but has been dealt with separately under case reference RFA0470005.
9. The Commissioner has considered whether information is held in relation to the request.

Reasons for decision

Section 1 – Is the information held?

10. Sections 1 of the FOIA states that any person making a request for information is entitled to be informed by the public authority whether it holds the information and if so, to have that information communicated to him.

11. In cases where a dispute arises over the extent of the recorded information that was held by a public authority at the time of a request, the Commissioner will consider the complainant's evidence and argument. He will also consider the actions taken by the authority to check that the information is not held and he will consider if the authority is able to explain why the information is not held. For clarity, the Commissioner is not expected to prove categorically whether the information was held, he is only required to make a judgement on whether the information was held on the civil standard of the balance of probabilities.
12. The complainant has stated that he just does not believe that the council has no information concerning actual physical set ups on its computer systems enacted by its IT staff. He is also sceptical that the council has no internal information relevant to the Lancashire County Council equipment that it is claimed is used by the specific councillor in his role as a dual hatted councillor. He is concerned that the council can justifiably or reasonably "auto forward" people's complaints to another public authority and thereby not retain a record of complaints made to Wyre Borough Council at Wyre Borough Council. He believes that to not hold records of complaints and correspondence is administratively crass and in serious breach of Local Government Ombudsman guidance. He believes that the relevant councillor could manipulate complaints or even ignore/conceal them if there was no record at the council to which they were actually addressed. He has claimed that the council, in stating that the emails are auto-forwarded, has concocted an elaborate story to protect the specific councillor and that there should be information to prove that the set up was ever enacted and is still enacted and that there should also be information to prove what is claimed is possible in terms of manuals and procedural documents. He believes it is highly improper and remiss if the council has no records outlining what emails had been sent to them and automatically forwarded to Lancashire County Council. He believes that there has to be some sort of audit trail to demonstrate or prove actions.
13. In his investigation letter to the council, the Commissioner stated that the request in this case could cover the following information:
 1. Information relevant to auto-forwarding setups at WBC;
 2. Information held about the complainant's email of 26/05/2011;
 3. Information about the setup allowing auto-forwarding and automatic deletion of the complainant's email;
 4. Information which allows or justifies a Wyre Borough councillor auto-forwarding (to Lancashire County Council) and automatically deleting (from Wyre Borough council's server) an email sent to Wyre Borough council which is about Wyre Borough council business.

He also stated that a broader interpretation of the request could also include recorded information held by the council relating to when Lancashire County Council provided the IT facilities, what the set up involved and how it is fully supported by Lancashire County Council.

14. The council explained that there is no formal agreement with Lancashire County Council regarding the auto-forwarding of emails and officers understand that the current arrangements were introduced informally with support from the Lancashire County Council IT team possibly as far back as 2006. It stated that there is no information specifically in relation to the complainant and explained that auto-forwarding would be performed for a particular elected member who acts as a district and county councillor and would apply to all of their incoming emails not just emails from any particular or named member of the public.
15. With regard to information held about the complainant's email of 26/05/11, the council explained that it now has a facility to produce a log of incoming emails to the specific councillor's email address with the date and time it was received, from which email address, subject, spam score, file size, server and category information along with the outgoing mail from Wyre's server to the auto-forwarding address. However, it explained that this facility was not previously available in May 2011 and was only introduced in January 2012 when the server was replaced.
16. The council explained that there is no policy or procedure which exists to show how or why it decides to implement auto-forwarding. It stated that the practise is introduced at a councillor's request to avoid them having to manage two separate email accounts using the equipment provided by Lancashire County Council.
17. In response to the request concerning information related to the "one set of IT equipment for use in his Wyre and LCC duties" and specifically the request to provide all paperwork related to the equipment, when it was supplied, who set it up and any other details, the council explained that paperwork relating to the IT equipment provided for use by the specific councillor would have been retained by Lancashire County Council as the supplier of the equipment.
18. With regard to the request for details of when, how and any other information held pursuant to the request about Wyre's IT team setting up the email server and information showing that Wyre business emails are not retained at Wyre but automatically forwarded to Lancashire Council, the council provided the Commissioner with a screen shot indicating the current server forward settings but explained that the server was replaced in January 2012 and no record exists of similar settings on the previous server. It further explained that whilst a note may have been made of the settings required in advance of them being

applied, this would have been destroyed as soon as the configuration of the server was complete.

19. The Commissioner enquired as to whether the information has ever been held, the scope, quality, thoroughness and results of the searches carried out by the council and whether copies of information may have been made and held in other locations. The council explained that no formal electronic searches were undertaken because the arrangement with Lancashire County Council was not documented and was verbally agreed. It further stated that it could find no evidence of any relevant information as manual or electronic records and consequently no information was deleted or destroyed. It also explained that copies of emails which are auto-forwarded are not retained at the council.
20. The Commissioner also enquired as to what the council's record management policy says about records of this type. The council explained that configuration settings and emails which are auto-forwarded are not regarded as records requiring retention in accordance with its records management policy. It provided the Commissioner with a copy of its records management policy for information.
21. In reaching a decision as to whether the requested information is held, the Commissioner has also considered whether there was any legal requirement or business need for the council to hold the information. The council stated that there are no statutory requirements to retain the requested information but accepted that there is a business purpose for documenting the arrangements with Lancashire County Council which would thereby facilitate notification of any changes such as the blocking of emails by Lancashire County Council. It stated that it has not been notified of any decision to block emails received from the complainant by Lancashire County Council and was therefore not able to inform the complainant accordingly.
22. The Commissioner also considered whether the council had any reason or motive to conceal the requested information. He appreciates the complainant's view that the council has concocted a story regarding auto-forwarding to protect the specific councillor but he has not seen any evidence of this. Therefore he has not identified any reason or motive to conceal the requested information.
23. In the circumstances, the Commissioner does not consider that there is any evidence that would justify refusing to accept the council's position that it does not hold any information relevant to this request. The Commissioner is therefore satisfied that on the balance of probabilities, the information is not held by the council. Accordingly, he does not consider that there was any evidence of a breach of section 1 of the FOIA.

Right of appeal

24. 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

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

25. 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.
26. 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

Andrew White
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF