

## FREEDOM OF INFORMATION ACT 2000 (SECTION 50)

### DECISION NOTICE

Dated 7th December 2005

**Name of Public Authority:** Newcastle Upon Tyne Hospitals NHS Trust

**Address of Public Authority:** Freeman Hospital  
High Heaton  
Newcastle Upon Tyne  
NE7 7DN

#### **Nature of Complaint**

The Information Commissioner (the "Commissioner") has received a complaint which states that on 5 January 2005 the following information was requested from Newcastle Upon Tyne Hospitals NHS Trust (the "Trust") under section 1 of the Freedom of Information Act 2000 (the "Act"):

1. "I wish to be informed on what date the Trust first introduced its 'Policy and Procedure for Handling Habitual or Vexatious Complaints'."
2. "The Trust provided 0[name redacted], Independent Lay Chairman, with information from my data in 2004. I wished to be informed where the information is now and who has control of it."

It is alleged that the Trust failed to provide the complainant with the information requested.

#### **The Commissioner's Decision**

Under section 50(1) of the Act, except where a complainant has failed to exhaust a local complaints procedure, or where the complaint is frivolous or vexatious, subject to undue delay, or has been withdrawn, the Commissioner is under a duty to consider whether the request for information has been dealt with in accordance with the requirements of Part I of the Act and to issue a Decision Notice to both the complainant and the public authority.

The Commissioner's decision in this case is that the Trust dealt with the request in accordance with the requirements of Part I of the Act, by providing the complainant with the information requested as required by section 1 (1).

Section 1(1) of the Act states –

"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.”

With regard to the first piece of information requested, the complainant raised concern that the Trust may have provided inaccurate information, enclosing evidence to support his claim. There was inconsistency between the communications received by the complainant from the Trust in response to his request and information in an email received from the Strategic Health Authority a year earlier.

The Trust's Complaints Manager confirmed that the Trust's response on 24 January 2005 was correct to the best of his knowledge and the Commissioner is therefore satisfied that the Trust responded to the request lawfully. It is not for the Commissioner to adjudicate on the accuracy of the information held and disclosed by a public authority.

With regard to the second piece of information requested, the complainant alleged that the Trust has not provided him with this information. However, the Trust answered the request by explaining to the complainant that all copies of information provided to [*name redacted*] were destroyed once his consideration of the complainant's case had been completed in 2004. This response indicates that the information no longer exists and that nobody has control of it. No evidence has been produced to support a different conclusion and the Commissioner is therefore satisfied that the complainant's request has been answered in compliance with the Act.

### **Action Required**

In view of these matters the Commissioner hereby gives notice that he does not require any remedial steps to be taken by the Trust.

### **Right of Appeal**

Either party has the right to appeal against this Decision Notice to the Information Tribunal (the "Tribunal"). Information about the appeals process can be obtained from:

Information Tribunal	Tel: 0845 6000 877
Arnhem House Support Centre	Fax: 0116 249 4253
PO Box 6987	Email: <a href="mailto:informationtribunal@dca.gsi.gov.uk">informationtribunal@dca.gsi.gov.uk</a>
Leicester	
LE1 6ZX	

Any Notice of Appeal should be served on the Tribunal within 28 days of the date on which this Decision Notice is served.

Reference: FS50070880

Dated the 7th day of December 2005

Signed: .....

Graham Smith  
Deputy Commissioner  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF