

FREEDOM OF INFORMATION ACT 2000 (SECTION 50)

DECISION NOTICE

Dated 4th October 2005

Name of Public Authority: Sherwood Forest Hospitals NHS Trust

Address of Public Authority: King's Mill Centre
Mansfield Rd
Sutton in Ashfield
Nottinghamshire
NG17 4JL

Nature of Complaint

The Information Commissioner (the "Commissioner") has received a complaint which states that on 24th February 2005 the following information was requested from Sherwood Forest Hospitals NHS Trust (the "Trust") under section 1 of the Freedom of Information Act 2000 (the "Act"):

This request was for information relating to proposed changes to the services offered by Eastwood Community Hospital. The request specified that the response should include materials relating to a presentation given on this subject by a member of staff of the public authority as well as any memoranda, letters, e mails, minutes or invoices relating to that subject.

It is alleged that:

- (1) The information was not provided within 20 working days of the public authority's receipt of the request
- (2) The information was not provided in full.

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a local complaints procedure, or where the complaint is frivolous or vexatious, subject to undue delay, or has been withdrawn, the Commissioner is under a duty to consider whether the request for information has been dealt with in accordance with the requirements of Part I of the Act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 is as follows:

- (1) The complainant made his request by letter dated 24th February 2005. The Trust did not reply to the request until 11th April 2005. The Trust has therefore not dealt with the complainant's request in accordance with the requirements of Part I of the Act in that it has failed to comply with section 10(1).

Section 10(1) of the Act states:

“...a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt.”

(2) The Trust has described the steps taken to ensure that all relevant information was located and the Information Commissioner is satisfied that all such information was located. However, the Trust has informed the Commissioner that some information was withheld from their response to the information request as it had been provided to the complainant in connection with a previous information request.

Although section 14(2) of the Act provides that the Trust were not obliged to supply this information for a second time, Section 17(5) provides that the complainant be informed of this fact in a refusal notice. The Trust has therefore not dealt with the complainant’s request in accordance with the requirements of Part I of the Act in that it has failed to comply with section 17(5).

Section 14(2) of the Act states:

“Where a public authority has previously complied with a request for information which was made by any person, it is not obliged to comply with a subsequent identical or substantially similar request from that person unless a reasonable interval has elapsed between compliance with the previous request and the making of the current request.”

Section 17(5) of the Act states that:

“A public authority which, in relation to any request for information, is relying on a claim that section 12 or 14 applies must, within the time for complying with section 1(1), give the applicant a notice stating that fact.”

Action Required

The Commissioner has now conveyed to the complainant the fact that part of their information request was turned down on the grounds that it was repeated. In view of this, the Commissioner hereby gives notice that he requires no 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: informationtribunal@dca.gsi.gov.uk
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.

Dated the 4th day of October 2005

Signed:

Graham Smith
Deputy Commissioner

Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF