



Freedom of Information Act 2000 (Section 50)

Decision Notice

Dated 7 April 2006

Public Authority: The Western Health and Social Services Board
Address: 15 Gransha Park
Clooney Road
Derry
BT47 6FN

Summary Decision and Action Required

The Commissioner's decision in this matter is that the Public Authority has dealt with the Complainant's request in accordance with Part I of the Act, therefore no remedial action is required in this instance.

1. Freedom of Information Act 2000 (the 'Act') – Applications for a Decision and the Duty of the Commissioner

1.1 The Information Commissioner (the 'Commissioner') has received an application for a decision whether, in any specified respect, the Complainant's request for information made to the Public Authority has been dealt with in accordance with the requirements of Part I of the Freedom of Information Act 2000 (the 'Act').

1.2 Where a complainant has made an application for a decision, unless:

- a complainant has failed to exhaust a local complaints procedure, or
- the application is frivolous or vexatious, or
- the application has been subject to undue delay, or
- the application has been withdrawn or abandoned,

the Commissioner is under a duty to make a decision.

1.3 The Commissioner shall either notify the Complainant that he has not made a decision (and his grounds for not doing so) or shall serve a notice of his decision on both the complainant and the public authority.

2. The Complaint

2.1 The Complainant requested the following information on 24 July 2005 from the Department for Health, Social Services and Public Safety Northern Ireland (DHSSPS) in accordance with section 1 of the Act:

“What is Government guidelines, polices [sic], prodicals [sic] for the retention of all records after a Hospital has been decommissioned?”

The Old Waterside Hospital, was decommissioned approximately around the late 1980s. Can you clarify, who has responsibility for all the Old Waterside Hospital records after it was decommissioned?”

On 10 August 2005 the DHSSPS transferred the second part of the request to the Western Health and Social Services Board (the “WHSSB”), as the DHSSPS felt they may hold the information requested. On 18 August the DHSSPS responded to the Complainant and provided information in response to the first part of the request. The Complainant alleged that the DHSSPS did not act properly in transferring her information request to the WHSSB. Following discussion with the DHSSPS the Commissioner is satisfied that the DHSSPS does not hold the information requested, and that the DHSSPS acted correctly in transferring the Complainant’s request to the WHSSB. Therefore this Decision Notice relates solely to the WHSSB.

The WHSSB having received the transferred request on 10 August 2005, responded to the Complainant on 24 August 2005. The WHSSB stated that they had reviewed all the files they held on the Old Waterside Hospital, but had been unable to ascertain who held responsibility for records after the hospital was decommissioned. The WHSSB advised the complainant that the Old Waterside Hospital had stopped providing acute hospital services in 1960. Medical records from the Old Waterside Hospital were only transferred if requested, and despite contacting other departments and authorities, The WHSSB explained that they had been unable to find any member of staff who would have been an employee at the time and was currently working within the health service.

The Complainant requested an internal review on 6 September 2005. Pursuant to the review, the WHSSB provided a document relating to the transfer of assets to Trusts during the reorganisation of HPSS bodies in 1992-3. The WHSSB reaffirmed that they had not been able to find any other information on who had responsibility for Old Waterside Hospital records.

The Complainant wrote to the Information Commissioner’s Office on 11 October 2005 to make a formal complaint, stating that the WHSSB had not answered her information request.

3. Relevant Statutory Obligations under the Act

3.1 Section 1(1) provides 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.”

4. Review of the case

4.1 Scope of the review

The Commissioner contacted the Complainant on 4 November 2005 to clarify her complaint, and to ascertain how she felt the WHSSB had not answered her information request. The Complainant responded on 11 November that she had been trying to access records relating to the Old Waterside Hospital, but had been unable to ascertain who held the records. The Complainant advised the Commissioner that in her view they ought to hold the information requested, and that some records had been found in a builders' skip 30 years ago. The Commissioner asked the Complainant to provide evidence of the WHSSB holding the information requested, but the Complainant did not offer any other evidence to support her complaint.

4.2 **The Commissioner's Investigation**

The Commissioner advised the WHSSB of the nature of the complaint and requested an explanation. The WHSSB confirmed to the Commissioner that they had made extensive enquiries regarding the information requested, but had been unable to locate any records relating to this information. The WHSSB explained that their investigation in relation to these records had included researching the Old Waterside Hospital's history, contacting other organisations who dealt with the hospital, and attempting to locate staff members who may have knowledge of the hospital. The WHSSB also advised the Commissioner that they had offered the complainant an informal meeting to discuss issues surrounding her information request. The WHSSB informed the Commissioner that they had tried to assist the Complainant as much as possible, but concluded that they did not hold the information she requested.

The Commissioner is of the view that the information sought by the Complainant is unlikely to be held by the WHSSBS for the following reason. The structure of health and social services provision in Northern Ireland has changed significantly over the last forty years. During the 1960s local councils had responsibility for these services, but responsibility was transferred to the four area Health and Social Services Boards under the Local Government (Northern Ireland) Act 1972. Each Health and Social Services Board acts as a commissioning agent for their respective catchment areas, purchasing services from Trusts and General Practitioners. This means that most of the information held by the WHSSB is management information about the various health and social services providers in the WHSSB catchment area. This does not generally include patient information or records, which are held by service providers.

The Commissioner has advised the Complainant of this conclusion. The Complainant has accepted that the WHSSB had conducted an investigation but were unable to locate the information. However the Complainant remains of the view that the public authority in question ought to hold the information. The Commissioner has advised the Complainant that this aspect of the complaint lies outside the Commissioner's remit, and the Complainant accepts this. However the Complainant did not wish to withdraw her complaint, and has requested that the Commissioner make a formal decision in this case.

5. The Commissioner's Decision

5.1 The Commissioner's decision in this matter is that the information requested is not held by the WHSSB, and that the WHSSB has dealt with the Complainant's request in accordance with Part I of the Act. The Commissioner's responsibility in this case was to investigate whether or not the information was in fact held, specifically by the WHSSB, not whether it ought to be held by any public authority.

6. Action Required

6.1 Given the Commissioner's view that the WHSSB has complied with Part I of the Act, no action is required to be taken by the WHSSB.

7. Right of Appeal

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

Information Tribunal	Tel: 0845 600 0877
Arnhem House Support Centre	Fax: 0116 249 4253
PO Box 6987	Email: informationtribunal@dca.gsi.gov.uk
Leicester	Web: www.informationtribunal.gov.uk
LE1 6ZX	

7.2 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 7th day of April 2006

Signed

Phil Boyd
Assistant Commissioner

Information Commissioner's Office
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Water Lane
Wilmslow
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