



Freedom of Information Act 2000 (Section 50)

Decision Notice

Dated 9 August 2006

Public Authority: Gwynedd Local Health Board
Address: Eryldon
Campbell Road
Caernarfon
Gwynedd
LL55 1HU

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. In the light of this decision, this Notice specifies no remedial steps to be taken by the public authority.

1. Freedom of Information Act 2000 (the 'Act') – Application 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- the application has been withdrawn or abandoned,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.



Information Commissioner's Office
Promoting public access to official information
and protecting your personal information

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 has advised that on the 28 July 2005 the following information request was submitted to the public authority in accordance with section 1 of the Act:

"... discussions are in progress between the Local Authority and the Local Health Trust regarding Health and Social Care Partnership relating to local hospitals. ... please provide me with information relating to these discussions and progress on this issue."

2.2 On the 8 August 2005 the public authority wrote to the complainant confirming that informal discussions between senior officers of the Local Health Board and the Local Authority had taken place. However, as no papers were written by the public authority on this matter, it did not hold any information related to the request.

2.3 The complainant disputed that the public authority did not hold the information requested. In particular, he felt that it was inconceivable that a meeting between senior officers of two public authorities would not be recorded. The complainant requested a review of the public authority's decision on the 26 September 2005.

2.4 The outcome of the internal review was communicated to the complainant on the 10 October 2005. The public authority reiterated that it did not hold the information requested as discussions had been purely verbal and no notes have been taken. The complainant was still dissatisfied and so complained to the Commissioner on the 26 October 2005.

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 In addition to the information supplied by the public authority in response to the complainant's request and subsequent request for internal review, the Commissioner asked the following questions of the public authority:

- Was the information requested ever held?
- If so, when did you cease to retain this information?
- Do you have a formal records management policy and, if so, what does it say about the retention and deletion of records of this sort?
- Is it possible for you to locate and produce the information requested?
- What steps were taken to locate the information requested?
- For what business purpose would you have held the information?
- Are there any statutory requirements to keep the information requested?

4.2.1 These questions were put to the public authority by letter on the 12 May 2006. The public authority responded as follows:

- Was the information requested ever held?
No
- Do you have a formal records management policy?
Yes
- If so, what does it say about the retention and deletion of records of this sort?
Not applicable as there was no record in existence.
- Is it possible for you to locate and produce the information requested?
No
- What steps were taken to locate the information requested?
It was confirmed that the information requested pertained to verbal and informal discussions and therefore no possible steps could be taken to locate it.
- For what business purpose would you have held the information?
Not applicable to verbal and informal discussions.
- Are there any statutory requirements to keep the information requested?
Not at this verbal and informal stage.



Information Commissioner's Office
Promoting public access to official information
and protecting your personal information

5. The Commissioner's Decision

- 5.1 The Commissioner has considered the response given to the questions put to it, and notes that the public authority continues to maintain that the information in question is not held.
- 5.2 The public authority has stated that the discussions between the Local Health Board and the Local Authority were purely verbal and not recorded. The Commissioner has not found any evidence to suggest that these discussions were recorded and that any information is therefore held by the public authority. Furthermore, no evidence has been put forward by the complainant that would cast doubt on the public authority's assertion.
- 5.3 In the light of the above, the Commissioner is satisfied that the requested information is not held by the public authority. Therefore, the public authority dealt with the complainant's request in accordance with section 1 of the Act.

6. Action Required

- 6.1 In the light of the matters set out above, the Commissioner requires no remedial steps to be taken by the public authority.

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
Arnhem House Support Centre
PO Box 6987
Leicester
LE1 6ZX

Tel: 0845 600 0877
Fax: 0116 249 4253
Email: informationtribunal@dca.gsi.gov.uk



Information Commissioner's Office
Promoting public access to official information
and protecting your personal information

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 9th day of August 2006

Signed

**Phil Boyd
Assistant Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**