

Tel: 0151 – 228 4811

31st January 2019

JJ Evans

request-511029-556dbf08@whatdotheyknow.com

Dear Mr Evans,

Refusal Notice – FOI [2018 – 4261]

Thank you for your email of 8 January providing the clarification requested of your original request and for your further email seeking:

- a) *Copies of all correspondence to/from the Infected Blood Inquiry during the period 1st April 2018 to 7th January 2019.*
- b) *Please advise whether or not you have received any notice or instruction regarding the retention and/or request of documents relevant to the Infected Blood Inquiry?*
- c) *If a request for documentation and/or its retention has been received from the Infected Blood Inquiry, please supply a copy of any such notices or requests.*

Your original request was:

I am writing to request under the freedom of information act any/all copies of administrative correspondence, letters and/or any other documentation including minutes of meetings etc that mention or relate to:

HIV / AIDS or Hepatitis, AND, Haemophilia / Haemophiliacs during the period January 1st 1988 – December 31st 1991.

Please note that I am NOT requesting patient medical records which would obviously be exempt, but administrative correspondence, letters and/or any other documentation including minutes of meetings etc.

You have clarified your request as follows:

In response to you request for clarification:

1. **What you mean by the description of correspondence as “administrative” - any letters to/from other professionals and/or organisations.**
2. **Whether the reference to letters refers to different types of communication other than the correspondence referred to in 1 above (that is what you are looking for/hoping to receive) - No.**
3. **Whether it is only information regarding HIV and hepatitis in relation to haemophiliacs and not otherwise. - Only in relation to Haemophiliacs.**

Response.

We continue with our searches to identify, collate and provide copies of all relevant information to the Infected Blood Inquiry, including those relevant to haemophiliacs. This is an extensive and ongoing exercise in relation to which we are liaising with the officers of the Infected Blood Inquiry.

I am of the view that the information you seek falls within the exemption provided for by section 32(2) of the Freedom of Information Act 2000 ('the Act'). This concerns 'Inquiry records. The Information Commissioner has provided the following by way of explanation – "In effect, section 32 ensures that FOIA can't be used to circumvent existing court access and discovery regimes. Also, public authorities won't be obligated to disclose any information in connection with court, inquiry or arbitration proceedings outside those proceedings."

In reaching the decision that the request is for information covered by section 32, I am very much aware that we are not privy to all the information received by the Inquiry, and are unable to attach specific weight or overall context to the information which we are providing. We are therefore concerned that any release might in some way adversely affect the work of the Inquiry,

It is therefore my view that it is for the Inquiry Chair and his officers in conjunction with those affected by those matters being examined by the Inquiry, to determine what information is released, when it is released and in what sequence, into the public domain.

It is for these reasons that I am applying section 32 'Court Records', in respect of the information you seek.

Section 32 of the Act provides an 'absolute exemption' and therefore there is no requirement to consider whether it is in the 'public interest' for disclosure to take place or not.

Retention of documents

Since 2015, when Dame Lowell Goddard as chair of the Independent Inquiry into Child Sexual Abuse (IICSA) requested retention of documents, we have not destroyed any records held centrally by the Trust. Following the Risk Assessment sent via IICSA from NHS England this decision was reinforced and cascaded throughout the Trust not to destroy but to hold all records in their original format until further instructions are received.

However, we moved into new purpose built premises in 2015 and at that point all information and documents the retention of which was no longer required under the relevant policies and protocols were destroyed.

The approach of the Chair to the Infected Blood Inquiry is publicly available and clearly set out on the web-site including the requests made to the NHS in relation to the retention and non-destruction of documents relevant to the Terms of Reference of the Inquiry:

<https://www.infectedbloodinquiry.org.uk/sites/default/files/documents/2018-07-05-letter-to-CE-of-NHS-England%20%281%29.pdf>

I hope that this sets out as helpfully as possible the Trust's position and how we have reached our decision.

Review

You have the right to make representations to the Trust in respect of this Refusal Notice. If you wish to do so you should write, within 40 working days of receipt of this Refusal Notice, to Information Governance Team, Alder Hey Children's Hospital NHS Foundation Trust, Eaton Road, Liverpool L12 2AP. Alternatively you can send an email to: info.gov@alderhey.nhs.uk

It would assist if any such request for a review were clearly marked as such and specifically referred to this Refusal Notice.

If you are not content with the outcome of any review you have the right under section 50 of the Act to apply to the Information Commissioner for a decision as to whether your request for information has been dealt with in accordance with the requirements of the Act. The Information Commissioner's website is at www.ico.org.uk and gives more information about the role and duties of the Commissioner. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

Yours sincerely

Information Governance Team
Alder Hey Children's Hospital NHS Foundation Trust