

Freedom of Information Office  
Basingstoke and North Hampshire Hospital  
Aldermaston Road  
Basingstoke  
Hampshire  
RG24 9NA

Switchboard: 01256 473202  
E-mail: [foi@hhft.nhs.uk](mailto:foi@hhft.nhs.uk)

Date : 17<sup>th</sup> December 2012  
Ref. No. : FOI 798

Mr Robert Jameson

By email: [request-134646-c056c49b@whatdotheyknow.com](mailto:request-134646-c056c49b@whatdotheyknow.com)

Dear Mr Jameson,

**Your request for internal review following your request for information under the Freedom of Information Act 2000**

I am writing in response to your email, received on 20<sup>th</sup> November 2012, asking for the Trust to conduct an internal review of your request for information dated 22<sup>nd</sup> October 2012.

The internal review process requires that your initial request is reviewed and a new response made based on all the available evidence. The internal review process does not seek to review the original decision made by the Trust.

In line with the Code of Practice issued by the Secretary of State for Constitutional Affairs pursuant to section 45(5) of the Freedom of Information Act 2000, I have undertaken this review on behalf of the Trust as an individual who had no involvement in responding to your original request.

**Request**

Your initial request for information made to Hampshire Hospitals NHS Foundation Trust on 22<sup>nd</sup> October 2012 was:

“For the years 2005 to date, please provide the following information, broken down by year and as percentages.

- 1) The number of Subject Access Requests received by the trust annually.
  - a. How many were fully complied with, within the 21 day NHS guidelines.
  - b. How many were fully complied with, within the 40 day statutory timescale.
  - c. How many required "additional information" and were them completed within the 40 day statutory timescale.

- d. How many required "additional information" and then were formally discontinued by the applicant.
  - e. How many required "additional information" and then were informally discontinued by the trust due to the applicant not responding to the request.
  - f. How many were refused before the 21 day point, and break down the reasons for refusal.
  - g. How many were refused before the 40 day statutory timescale, and break down the reasons for refusal.
  - h. How many were refused after the 40 day timescale, and break down the reasons for refusal.
- 2) Of the above SARs, please break down in percentages how many were for medical records, and how many in relation to other matters. This need not be annualised.
  - 3) Of the above SARs, how many refused requests were instigated by a patient's representative. This need not be annualised.
  - 4) Please provide sample copies of your "Refusal", "Additional Information" and "Letter of authority" letters or forms as required for each of the years in question and for each of the trusts."

## **Internal Review**

In performing the internal review of your request I have revisited the relevant information held by the Trust. This review has highlighted that the Trust only holds records of Subject Access Requests for Health Records which are received by the Medical Records Department. Requests for Health Records may also be made as part of on-going litigation to which the Trust is party and when this occurs, the request is noted by the Legal Department in the form of a file note before being passed to the Medical Records Department. The details of Subject Access Requests made to the Trust for other information (e.g. personnel records) are not recorded as the Trust receives very few of these requests.

A review of the records held by the Trust detailing the Subject Access Requests which have been processed by the Medical Records department has revealed that this information is recorded in free text. This does not allow the information to be searched, sorted or analysed by an automated means and as a result it is not possible to easily extract the detailed information you have requested from these records.

From the information held It is however possible to provide a response to questions 1) a. – c. This was provided to you in the Trust's initial response dated 19<sup>th</sup> November 2012. For questions 1) f. – h. and question 3) it has been possible to identify the information requested for the period 9<sup>th</sup> January 2012 – 22<sup>nd</sup> October 2012 by contacting the individuals who have been responsible for managing Subject Access Requests during this time. These individuals have been able to recall the few instances when Subject Access Requests have been refused as this is a relatively rare occurrence. The Trust endeavours to ensure Data Subjects (or their personal representatives where the Data Subject's consent has been provided) are able to exercise their Data Protection rights and access information to which they are entitled. This information has also been provided to you in the Trust's initial response dated 19<sup>th</sup> November 2012.

In order to respond to questions 1) d. – h. outlined in your request however, a more detailed and comprehensive review of each subject access request would need to be undertaken. Each record would need to be accessed in turn and the relevant information extracted manually from the free text fields.

Section 12 of the Freedom of Information Act 2000 allows public authorities to exempt information where the cost of complying with a request exceeds the appropriate limit. The appropriate limit for NHS organisations, as set out in The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004, is £450.

The Information Commissioner indicates that when calculating whether a request will exceed the appropriate limit, staff time must be calculated “at £25 per person per hour, regardless of who does the work, including external contractors.” This equates to 18 hours of staff time. The Trust may however only take the following activities into account when calculating whether a request will exceed the appropriate limit:

- determining whether information is held
- finding the requested information, or records containing the information;
- retrieving the information or records; and
- extracting the requested information from records.

During the time period covered by your request the Trust received a total of 9494 requests for personal information. I estimate that it would take approximately 4 minutes to review each record and to identify, extract and record the relevant information contained therein. To review every record would therefore take a member of staff a total of 632 hours which exceeds the appropriate limit of 18 hours.

## **Conclusion**

Following this internal review of your request for information, I have concluded that to provide the information requested would exceed the appropriate limit. The Trust is therefore exempting the information requested under Section 12 of the Freedom of Information Act 2000. This is in line with the information provided to you by the Trust on 19<sup>th</sup> November 2012. I am therefore satisfied that the Trust acted in accordance with the Freedom of Information Act 2000 when providing this response.

## **Staff Involvement**

Although outside the scope of the internal review process, I would like at this stage to address your concern that, contrary to your request, a specific member of Trust staff may have been involved in responding to your request.

The Freedom of Information Act 2000 does not contain provisions which permit requestors to indicate the manner in which information is collected when responding to a request. In addition, I do not believe that in these specific circumstances you are able to exercise your rights under section 10 of the Data Protection Act 1998 to prevent the processing of personal data likely to cause damage or distress by virtue of paragraph 3 of schedule 2.

Despite this, my internal review has confirmed that in responding to your request the member of staff you specified was not involved. It was necessary to obtain information from the Legal Department's records; however this search was conducted by the Trust's Freedom of Information Officer. No other members of the Legal Team were involved in responding to this request.

I hope that you are content with the internal review which has been undertaken and the additional explanations provided detailing the reasons why certain items of information requested have been deemed exempt under Section 12 of the Freedom of Information Act 2000.

If you are still not satisfied with the response you have received from the Trust you have the right under Section 50 of the Freedom of Information Act 2000 to complain to the Information Commissioner. The Information Commissioner can be contacted at the following address:

Information Commissioner,  
Wycliffe House,  
Water Lane,  
Wilmslow,  
Cheshire  
SK9 5AF

[www.ico.gov.uk](http://www.ico.gov.uk)

Yours sincerely,



**Adam Spinks LLB**  
**Information Governance Manager**  
**Hampshire Hospitals NHS Foundation Trust**