

## FREEDOM OF INFORMATION ACT 2000 (SECTION 50)

### DECISION NOTICE

Dated 24<sup>th</sup> November 2005

**Name of Public Authority:** The Human Fertilisation & Embryology Authority  
**Address of Public Authority:** 21 Bloomsbury Street  
London  
WC13HF

#### **Nature of Complaint**

The Information Commissioner (the "Commissioner") has received a complaint which states that on 8<sup>th</sup> February 2005 the following information was requested from The Human Fertilisation & Embryology Authority (the HFEA) under section 1 of the Freedom of Information Act 2000 (the "Act"):

The relevant research literature that a peer reviewer might have been referring to, in relation to the HFEA's decision to grant research licence R0158.

It is alleged that the HFEA did not comply with the Complainant's request.

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a local complaints procedure, or where the complaint is frivolous or vexatious, subject to undue delay, or has been withdrawn, the Commissioner is under a duty to consider whether the request for information has been dealt with in accordance with the requirements of Part I of the Act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

The HFEA wrote to the complainant by letter dated 8<sup>th</sup> March 2005. The complainant did not receive this letter and a further copy was e-mailed to him on 29<sup>th</sup> March 2005. In any event, whilst this letter provided some information about the HFEA's decision to grant licence R0158, the Commissioner does not consider that it disclosed the information requested by the complainant.

However, by way of e-mails from the HFEA dated 29<sup>th</sup> March 2005, 30<sup>th</sup> March 2005 and 31<sup>st</sup> March 2005 the complainant was provided with copies of the two peer reviews submitted to the licensing committee, a bibliography of

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publications submitted with the licence application, a copy of the original licence application including a list of bibliographical references, and a copy of the licence applicant's response to the peer review.

In supplying the complainant with the information summarised above, the Commissioner is satisfied that the HFEA have now complied with section 1(1) of the Act.

Section 1(1) states:

“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.”

However, in failing to disclose all the information requested by the complainant until the 31<sup>st</sup> March 2005, the HFEA are in breach of Section 10 (1) of the Act which 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.”

In reaching this decision, the Commissioner has only considered whether the relevant information held by the HFEA was supplied to the complainant. He has not made an assessment of whether or not the literary references referred to actually support the peer reviewer's comments, as this is outside of the remit of his role.

### **Action Required**

In view of these matters the Commissioner hereby gives notice that he does not require any further action to be taken by The HFEA.

### **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  
Arnhem House Support Centre  
PO Box 6987  
Leicester  
LE1 6ZX

Tel: 0845 6000 877  
Fax: 0116 249 4253  
Email: [informationtribunal@dca.gsi.gov.uk](mailto:informationtribunal@dca.gsi.gov.uk)

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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 24th day of November 2005

Signed: .....

Graham Smith  
Deputy Commissioner

Information Commissioner  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF