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 8th 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a local complaints procedure, or where the complaint is frivolous or vexatious, subject to undue delay, or has been withdrawn, the Commissioner is under a duty to consider whether the request for information has been dealt with in accordance with the requirements of Part I of the Act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 8th March 2005. The complainant did not receive this letter and a further copy was e-mailed to him on 29th March 2005. In any event, whilst this letter provided some information about the HFEA’s decision to grant licence RO158, the Commissioner does not consider that it disclosed the information requested by the complainant.

However, by way of e-mails from the HFEA dated 29th March 2005, 30th March 2005 and 31st March 2005 the complainant was provided with copies of the two peer reviews submitted to the licensing committee, a bibliography of
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 31st 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                     Tel: 0845 6000 877
Arnhem House Support Centre              Fax: 0116 249 4253
PO Box 6987                              Email: informationtribunal@dca.gsi.gov.uk
Leicester                               Leicester
LE1 6ZX
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