

[Home](#) > [News](#) > New FOI ruling finds NHS Tayside fell short in request handling

New FOI ruling finds NHS Tayside fell 'significantly short' in its handling of Eljamel request

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A [new decision](#) by the Scottish Information Commissioner has found that NHS Tayside fell short of the requirements of Scotland's freedom of information (FOI) law when responding to requests for information about a report into its investigation of Professor Sam Eljamel, the former head of Neurosurgery at Ninewells Hospital in Dundee whose conduct is currently the subject of a public inquiry.

The Commissioner's decision relates to a March 2023 FOI request which contained several requests for information about the report. This included requests for documents that informed the preparation of the report, and internal communications about the report.

While some information was disclosed, other requests were refused, with the authority stating that information was either not held or was exempt under the FOI exemption that protects personal information from disclosure.

The Commissioner's ruling finds that NHS Tayside's response to those requests failed to comply with the requirements of FOI law in a number of ways. He found, for example, that NHS Tayside:



- carried out inappropriate or inadequate searches for some of the requested information
- incorrectly informed the requester that it did not hold some information
- failed to provide appropriate advice and assistance to the requester
- incorrectly withheld some information.

The Commissioner's decision requires that some additional information be disclosed. This includes details of staff job titles referenced in documentation, along with some information relating to senior members of staff and Professor Eljamel himself. The Commissioner also finds, however, that other information had been correctly withheld by NHS Tayside, including information about junior staff and references to sensitive health information.

The decision also addresses NHS Tayside's handling of the request, requiring that NHS Tayside carry out further searches to locate information and issue a revised response.

Commenting on the case, Scottish Information Commissioner David Hamilton said:

"While this was not a straightforward request, it is nevertheless the case that NHS Tayside's approach fell significantly short of the requirements of FOI.

"It is essential that public bodies carry out full appropriate searches for all the information covered by a request – only then can they be sure that the request is considered in its full and proper context.

"NHS Tayside also took a 'one-size-fits-all' approach when withholding information, failing to carefully consider the case for and against disclosure. While most personal information is rightly protected from disclosure under FOI, there will be some cases where



release may be appropriate – particularly if it relates to the public and professional activities of senior staff. It is essential that authorities consider each case on its own merits, to ensure that the public's FOI rights are fully respected and upheld."

[The full decision is published on the Commissioner's website.](#)

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