

**Freedom of Information Act 2000 (FOIA)  
Environmental Information Regulations 2004 (EIR)**

**Decision notice**

**Date:** 23 November 2021

**Public Authority:** University Hospitals Plymouth NHS Trust  
**Address:** Derriford Road  
Crownhill  
Plymouth  
Devon PL6 8DH

**Decision (including any steps ordered)**

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1. The complainant has requested information on deaths associated with air pollution. University Hospitals Plymouth NHS Trust ('the Trust') has advised that it does not hold the requested information.
2. The Commissioner's decision is as follows:
  - The Trust does not hold the information the complainant has requested and therefore regulation (12)(4)(a) of the EIR is engaged.
3. The Commissioner does not require the Trust to take any remedial steps.

**Request and response**

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4. On 10 March 2021 the complainant wrote to the Trust and requested information in the following terms:

"Can you Please provide :

  - 1.The full UHP annual statistics - neighbourhood specific for Deaths linked to air pollution in Plymouth from Jan 2014 to March 2021.

- 2.The number of medical autopsies for the same period of time conducted for deaths linked to air pollution.”
5. The Trust responded on 18 March 2021. It advised it does not hold the requested information and directed the complainant to the relevant Coroner’s office.
  6. Following an internal review the Trust wrote to the complainant on 12 April 2021. The Trust provided more detail on why it does not hold the requested information and explained the sort of information it does hold.
  7. Regarding question 1 of the request, the Trust explained that it uses an electronic patient administration system (‘iPM’) to record details of patients’ health care. It said that there are set data items that the Trust must record in order treat patients and in particular there are national Information Standards that set out particular data that the Trust must record.
  8. The Trust advised that, as an acute hospital, it records the condition that a patient presents with (the diagnosis) and the treatment received (the intervention or procedure) on iPM. These are recorded using the following coding systems;
    - International statistical classification of disease and related health problems (ICD-10)
    - The classification of interventions and procedures (OPCS-4)
  9. NHS Digital is responsible for publishing and maintaining these coding systems, the Information Standards referred to above. The Trust provided the complainant with a link to the relevant area of NHS Digital’s website.
  10. The Trust went on to explain that it does not record a code for the cause of death on iPM. Nor does it record environmental factors and link this to contributing to a death on iPM. Therefore, the Trust said, its original response that the Trust does not hold this information is accurate.
  11. The Trust said that while there are ICD-10 codes that relate to air pollution (and it provided those codes to the complainant), these are not linked to cause of death on the Trust’s records. The ICD-10 reference book issued by the Terminology and Classifications Delivery Service, which is part of NHS Digital, contains all of the national standards the Trust must follow and refers to the correct use of the above codes. The Trust explained that these codes must not be used for the primary diagnosis. They must only be used in a secondary position when the circumstance influences the patient’s current condition and adds relevant information.

12. The Trust reiterated that these codes would not be linked to a patient's cause of death on the Trust's electronic system, iPM.
13. With regard to the second part of the request, the Trust advised that its Pathology department carries out autopsies at the request of HM Coroner. It said that the Trust is therefore processing data on behalf of the Coroner's Office. It noted, however, that the Coroner's Office is not a public authority for the purposes of the FOIA, which meant that the Coroner's Office is not obliged to respond to FOI or EIR requests. The Trust advised the complainant that the local Coroner's office had advised it that the local Council may be the correct organisation for him to approach.
14. The Trust confirmed its position again in further correspondence to the complainant dated 5 May 2021. In this correspondence the Trust also advised that its Pathology department, which is responsible for conducting autopsies, had confirmed that death due to air pollution is not a cause of death that it records.

### **Scope of the case**

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15. The complainant contacted the Commissioner on 6 May 2021 to complain about the way his request for information had been handled.
16. The Commissioner has first considered whether the request can be categorised as a request for environmental information that should be handled under the EIR rather than the FOIA.
17. Her investigation has then focussed on whether the Trust holds the information the complainant has requested.

### **Reasons for decision**

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#### **Is the request a request for environmental information?**

18. Information is 'environmental information' and must be considered for disclosure, if held, under the terms of the EIR rather than the FOIA if it meets the definition set out in regulation 2(1)(a) to 2(1)(f) of the EIR.
19. Regulation 2(1)(a) defines environmental information as information that concerns the state of the elements of the environment, including air and atmosphere.

20. Regulation 2(1)(f) gives a definition of environmental information as information that concerns the state of human health and safety.
21. The requested information in this case concerns deaths caused by air pollution. As such, the Commissioner is satisfied that the information can be categorised as environmental information under regulation 2(1) of the EIR. This is because the information is associated with the air and atmosphere and human health and safety.

**Regulation 12(4)(a) – information not held**

22. Regulation 12(4)(a) of the EIR states that a public authority may refuse to disclose information to the extent that it does not hold that information when an applicant's request is received.
23. In its submission to the Commissioner, the Trust has noted the detail and explanation it gave to the complainant in its internal review response(s).
24. The Trust has gone on to say that its FOI team has already established through previous FOIA requests that 'cause of death' information is not information that the Trust holds and that it does not hold death certificates. As the relevant part of the Trust explained in relation to a previous request [not one submitted by the complainant, the Commissioner understands]:

"The Medical Certificate of Cause of Death (MCCD) is issued by the Doctor to the registrar and is not the hospitals data to share. I clarified this with the Registry office."

25. The Trust has noted that in its internal review it had explained to the complainant that, as an acute Trust, it records diagnosis and procedure codes in line with NHS Digital's coding, and reports on those codes. The Trust's submission also noted that following its enquiries about any organisation that might be able to help the complainant, it had directed the complainant to the local Council as the correct organisation to assist him.
26. Finally, in relation to autopsy information, the Trust says that relevant areas of the organisation have confirmed that "the Trust cannot release information about autopsies which are requested by HM Coroner". The Commissioner understands this to be associated with what the Trust had advised the complainant about autopsy information in its internal review response.

The Commissioner's conclusion

27. Regarding part 1 of the request – the number of deaths due to air pollution - while it may be surprising, the Trust has confirmed that [like other Trusts] it does not hold information about causes of death, does not hold death certificates and does not record a code for cause of death on its electronic administration system. Moreover, while the Trust's system uses codes for certain kinds of air pollution and associates these with patients where relevant, it does not record environmental factors and link these as contributing to a death, on that system.
28. The Commissioner is aware that, for the first time in the UK and possibly the world, Southwark Coroner's Court found in December 2020 that air pollution had contributed to the death of a girl in 2013. She notes that it was a Coroner who had made this finding, not a Trust.
29. Having considered the Trust's submission and its correspondence to the complainant, the Commissioner accepts the Trust's explanation and finds that, at the time of the request and currently, it does not hold information about causes of deaths, does not record 'air pollution' as a cause of death and therefore does not hold the information the complainant has requested.
30. Regarding part 2 of the request – the number of autopsies carried out associated with deaths by air pollution - irrespective of whether or not the Trust can be said to hold information if it holds the information on behalf of the Coroner's office, in this case, the requested information is associated with deaths by air pollution and the Trust has confirmed that 'by air pollution' is not a cause of death that would be recorded. The Trust therefore cannot hold any information relevant to part 2; it cannot hold this information itself and it cannot hold this information on behalf of any other body.
31. The Commissioner's decision then, is that the Trust does not hold any information relevant to either part of the request and that, as a result, regulation 12(4)(a) of the EIR is engaged.

## **Right of appeal**

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32. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)  
GRC & GRP Tribunals  
PO Box 9300  
LEICESTER  
LE1 8DJ

Tel: 0203 936 8963

Fax: 0870 739 5836

Email: [grc@justice.gov.uk](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

33. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
34. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

## **Signed**

**Cressida Woodall**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**