

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 3 March 2015

**Public Authority:** Cardiff and Vale University Health Board

**Address:** Monmouth House  
University Hospital of Wales  
Health Park, Cardiff  
CF14 4XW

#### Decision (including any steps ordered)

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1. The complainant has requested information relating to the number of deaths that occurred on a specific ward for a period of four years.
2. The Commissioner's decision is Cardiff and Vale University Health Board (UHB) has correctly applied section 12(1) of the FOIA to the withheld information.
3. The Commissioner does not require the public authority to take any steps as a result of this decision notice.

#### Request and response

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4. On 13 August 2013, the complainant wrote to UHB and requested information in the following terms:
  1. *The number of how many people died after being put on end of life (palliative care) in the heath hospital during Jan 1<sup>st</sup> to Dec 31<sup>st</sup> 2009, Jan 1<sup>st</sup> to Dec 31<sup>st</sup> 2010, Jan 1<sup>st</sup> to Dec 31<sup>st</sup> 2011 and Jan 1<sup>st</sup> to Dec 31<sup>st</sup> 2012 as an individual figure for each of the 4 years.*
  2. *The number of how many people died after being put on end of life (palliative care) on ward A1 South at the heath hospital during Jan 1<sup>st</sup> to Dec 31<sup>st</sup> 2009, Jan 1<sup>st</sup> to Dec 31<sup>st</sup> 2010, Jan 1<sup>st</sup> to Dec 31<sup>st</sup> 2011 and Jan 1<sup>st</sup> to Dec 31<sup>st</sup> 2012 as an individual figure for each of the 4 years.*

5. UHB responded on 26 February 2014. It refused to provide the requested information and cited section 12(1) of the FOIA as its basis for doing so.
6. Following an internal review UHB wrote to the complainant on 7 May 2014. It considered that section 12 still applied to part 2 of the request and provided a revised estimate of the cost involved. It did however provide the information to answer part 1 of the request.
7. UHB provided the Commissioner with further details of on-going correspondence to and from the complainant regarding this matter.

### **Scope of the case**

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8. The complainant contacted the Commissioner on 17 October 2014 to complain about the way his request for information had been handled.
9. The Commissioner considers the scope of this case to be to determine if UHB has correctly applied section 12(1) of the FOIA to part 2 of the request.

### **Reasons for decision**

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10. Section 12(1) of FOIA provides that a public authority may refuse a request if it estimates that the cost of complying with the request would exceed the appropriate limit. Section 12(2) of FOIA provides that a public authority must still comply with the duty to confirm or deny if requested information is held unless the estimated cost of complying with this alone would exceed the appropriate limit.
11. The appropriate limit for public authorities outside of central government is set at £450. In estimating the costs it expects to incur a public authority is allowed to charge the following activities at a flat rate of £25 per hour of staff time:
  - determining whether the information is held;
  - locating the information, or a document which may contain the information;
  - retrieving the information, or a document which may contain the information; and
  - extracting the information from a document containing it.

12. UHB confirmed to the Commissioner that the information requested is held. It further explained that information is "pulled" as a single area, i.e. the data is not segregated between A1 South and A1 North and therefore they cannot be identified through electronic means.
13. UHB explained that the only way it could compile the requested data would be to identify all the patients who died on A1 within the date time identified. It would then need to locate and retrieve their individual records for manual perusal to identify which area of A1 they were on when they died and then compile a manual list of numbers.
14. UHB stated that to provide the information requested all the 1174 records referenced in response to part 1 of the request would need to be identified, retrieved and perused to provide the level of detail sought. It considered that, allowing approximately 20 minutes per record, this would require a total of 391 hours of work to extract the requested information. This figure has been calculated as follows:

1174 X 20 minutes per record = 33,480 minutes (391 hours)

therefore in this instance the cost of compliance would be 391x £25 = £9,783.

15. Following internal review it was identified that UHB was able to narrow the numbers of records that would need to be considered for the purposes of the response. This fact was communicated to the requestor and an apology extended to him along with a revised calculation.
16. The new figures were as follows:-

Total admissions to Ward A1 during period	5,916
Total patients who died – End of Life Pathway	102
Total patients who died – Palliative Care	102
Total patients who died – End of Life Pathway and Palliative Care	204

17. However, whilst this number is much smaller UHB stated that it was still unable to give a further breakdown to provide information specific to Ward A1 South as this would also exceed the time limit under the Act. The UHB therefore again relied on section 12 of the Act in respect of this particular element of the request.
18. UHB estimated that to identify, locate, retrieve and peruse one individual record would take 20 minutes. Therefore conducting the exercise for 204 records has been calculated as follows:

204 records x 20 minutes per record = 4,080 minutes in total

4,080 minutes ÷ 60 = 68 hours

68 hours x £25 per hour = £1,700"

19. UHB also explained that in its previous response there was a typing error. It provided the correct calculation as below:-

1,174 records x 20 minutes per record = 23,480 minutes in total

23,480 minutes ÷ 60 = 391.33 hours

391.33 hours x £25 = £9,783.33

20. UHB explained that although the information is held the level of detail required is not available in an electronic format or extractable from within any databases or electronic recording systems. The only source of the information is from the actual paper health records of all the patients who were identified as died whilst on the ward indicated. Once identification of the patients had been made the records would need to be located, retrieved and manually perused to identify the pertinent information.
21. UHB explained that it had completed other similar exercises as had other health organisations and identified the minimum time that would need to be allowed for locating retrieving, reviewing medical records for structuring a response to a request under the Freedom of information Act is 20 minutes. This was the basis for the calculations provided.
22. The Commissioner has considered UHB's explanation of the costs it considers it would incur in complying with the request. The Commissioner considers that the time estimate of 20 minutes per record may be excessive, however even if this was halved, it would still amount to £850 and consequently still be well in excess of the appropriate limit of £450.
23. UHB has explained that it has been able to identify 204 records but purely based on the way the information is held i.e. not in an electronic format, it would mean that a manual review of each record would be required. The Commissioner is satisfied that it would exceed the appropriate limit to provide the information requested at part 2 of the request.

## Right of appeal

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24. 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: 0300 1234504

Fax: 0870 739 5836

Email: [GRC@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

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

25. 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.
26. 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 .....**

**Anne Jones**  
**Assistant Commissioner**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**