

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

**Decision notice**

**Date:** 13 January 2023

**Public Authority:** The Governing Body of the University of Central Lancashire (UCLAN)

**Address:** Harris Building  
Preston  
PR1 2HE

**Decision (including any steps ordered)**

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1. The Commissioner's decision is that UCLAN is entitled to withhold information about the location of stored chemicals under regulation 12(5)(a) of the EIR which concerns public safety and regulation 13 which concerns personal data. UCLAN breached regulation 14(2) however, as it did not issue a refusal under the EIR within 20 working days of the request.

**Request and response**

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2. On 8 February 2022, the complainant requested the following information from UCLAN:  
  
"The three pieces of information I need is: [1] Laboratory report for Darwin building (syngen) [sic] last three years Air ventilation reports for last 3 years Darwin building. Home office report about laboratory closure and animal licence."
3. On 10 February 2022 the complainant clarified that by "laboratory reports" they were seeking "HSE audit reports for the Darwin building laboratories" for the last three years.
4. Correspondence followed and UCLAN provided a response 22 July 2022. This response addressed the following requests:

- “1. Copies of Health and Safety reports produced by the SHE team for the Darwin building laboratory for the last 3 years, including any reports produced [redacted].
2. Follow up emails from the Home Office about the animal license received after the letter dated 29th July 2020.
3. Copy of the report completed around the time of the laboratory closure by Syngene International.”
5. UCLAN withheld information contained in a report within scope of part 1 under section 31(1) of FOIA, which concerns law enforcement. It disclosed information within scope of part 2 with personal data redacted and advised it does not hold information within scope of part 3.
6. With regard to section 31, UCLAN advised it was withholding information from the report because it includes detailed information about the location of specific dangerous chemicals. UCLAN considered that this information would be likely to assist anyone seeking to steal quantities of these chemicals for criminal purposes.
7. UCLAN went on to explain that it holds supplies of various chemicals for use in teaching and research, including chemicals that are highly dangerous and/or have the potential to be used for malicious purposes. It said that the audit report specifically relates to the location and storage of these chemicals, including exact details of where and how individual chemicals are stored. This information could be used by anyone planning to steal chemicals from UCLAN for use in criminal activity, including (but not limited to) organised crime and terrorist activity.
8. UCLAN considered that there was a real and significant risk that disclosure of this report into the public domain would result in the information falling into the hands of criminals intending to use it for these purposes, as the types of crime concerned are likely to be carried out by organised groups and with prior planning. As such, disclosing the report into the public domain would be likely to prejudice the prevention of crime in the form of both theft from UCLAN and consequent crimes committed using stolen chemicals.
9. The complainant requested an internal review on 26 July 2022 and UCLAN provided one on 16 September 2022. It maintained its reliance on section 31 (and section 40(2) in respect of personal data).

## Reasons for decision

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10. The Commissioner has noted that some initials have been redacted from the document being considered. He is satisfied that these initials can be categorised as personal data which should be withheld under regulation 13 of the EIR.
11. The following analysis sets out first why the Commissioner considers that UCLAN should have handled part 1 of the request under the EIR and not FOIA. The analysis then focusses on why he has concluded that UCLAN was entitled to rely on regulation 12(5)(a) of the EIR in this case.
12. The requested information is an internal report on the location and storage of hazardous chemicals. As such the Commissioner is satisfied that it can be categorised as environmental information under regulations 2(1)(a), 2(1)(b) and 2(1)(c) of the EIR<sup>1</sup>.
13. Under regulation 12(5)(a) of the EIR, which is broadly equivalent to section 31 of FOIA, a public authority may refuse to disclose information to the extent that its disclosure would adversely affect international relations, defence, national security or public safety.
14. The Commissioner has considered UCLAN's response to the request. He has also reviewed the information being withheld, which UCLAN provided to him.
15. First, the Commissioner accepts that the potential prejudice UCLAN described clearly relates to the interests which the exception under regulation 12(5)(a) is designed to protect.
16. The Commissioner is also satisfied that the envisioned affect being claimed is "real, actual or of substance", and that there is a causal link between disclosure and the affect claimed. It is logical to argue that disclosing the location of hazardous chemicals and how they are stored would provide those intent on committing crimes associated with such chemicals an easy way to find and access them. The Commissioner therefore considers that the exception is engaged.
17. Regulation 12(5)(a) is a qualified exception. Therefore the Commissioner must consider whether, in all the circumstances of the

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<sup>1</sup> <https://www.legislation.gov.uk/ukxi/2004/3391/regulation/2/made>

case, the public interest in maintaining the exception at regulation 12(5)(a) outweighs the public interest in disclosing the information.

18. UCLAN presented the following arguments in favour of disclosure:

- There is an inherent public interest in disclosing information held by public authorities to increase openness, transparency, and accountability.
- There is a specific public interest in the contents of a Health and Safety report, as this encourages public accountability in relation to the way UCLAN protects the health and safety of staff, students, and visitors to its premises.
- There is a wider public interest in the contents of a report relating to the storage of dangerous chemicals, as this encourages public accountability in relation to the way UCLAN ensures these chemicals are kept secure and do not fall into the wrong hands (e.g. criminals looking to use them for malicious purposes). However, this public interest is lessened by the fact that the use of the exemption specifically relates to reducing the risk of this happening.

19. UCLAN presented the following arguments in favour of maintaining the exception:

- There is an inherent public interest in the prevention of crime.
- There is a specific public interest in preventing dangerous chemicals from falling into the hands of criminals because it is likely that they would be intended to be used in serious, violent crimes, including acts of terrorism. The public interest in preventing these types of crime is particularly strong.

20. The complainant has argued that the document has been so heavily redacted that it is "useless" but that solicitors have suggested that there is no reason the report cannot be released. They also say that as UCLAN does not hold a licence for a particular chemical there would be no danger knowing the location where it was discovered because, in the complainant's view, the chemical would no longer be in that location.

21. The Commissioner disagrees about the extent of the redaction in the document in question but understands that this matter is of interest to the complainant for their own person reasons. However, disclosure under the EIR is disclosure to the world at large. The Commissioner is not able to take into account the private interests of the complainant in his decision. He must therefore consider whether the information is suitable for disclosure to everyone.

22. The Commissioner agrees with UCLAN that the public interest in securing dangerous chemicals is particularly strong and outweighs any public interest that could be served by disclosing the document in question. There is a clear public interest in protecting society from the impact of criminal acts which adversely impact on the public's wellbeing and on the public purse.
23. The Commissioner considers that in this case the public interest in maintaining the exception outweighs the public interest in disclosure.
24. Consequently the Commissioner has determined that UCLAN is entitled to withhold the disputed information under regulation 12(5)(a) of the EIR.
25. Under regulation 14(2) of a public authority must issue a refusal notice in respect of any excepted information within 20 working days of a request.
26. In this case, the complainant submitted their clarified request to UCLAN on 10 February 2022 but did not receive a refusal of part 1 until 22 July 2022 which was an incorrect refusal under FOIA. UCLAN therefore did not comply with regulation 14(2) of the EIR in respect of part 1.

## Right of appeal

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27. 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)

28. 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.
29. 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**