

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

**Decision notice**

**Date:** 16 August 2023

**Public Authority:** Health and Safety Executive  
**Address:** Redgrave Court  
Merton Road  
Bootle L20 7HS

**Decision (including any steps ordered)**

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1. The complainant has requested information from the Health and Safety Executive (HSE) about safety incidents at CL4 laboratories. At the date of this notice HSE hasn't provided a response to the request.
2. The Commissioner's decision is as follows:
  - HSE has breached regulation 5 of the EIR as it hasn't provided a valid response to the request within the statutory timeframe of 20 working days.
3. The Commissioner requires HSE to take the following step to ensure compliance with the legislation:
  - Provide a response to the complainant's clarified request of 8 October 2021 that complies with the EIR.
4. HSE must take this step within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

## Request and response

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5. On 20 September 2021, the complainant had written to HSE and requested information in the following terms:

"Please could you supply details of all safety breaches or near misses, including all incidents that were notified to the Health and Safety Executive, during the past 8 years at these facilities, which are listed publicly by the UK government as having CL4 laboratories:

Public Health England – Porton  
Defence Science and Technology Laboratory (Dstl), Porton Down  
Public Health England - Colindale  
The Pirbright Institute  
Animal and Plant Health Agency (APHA)  
The Francis Crick Institute Containment 4 facility  
Boehringer Ingelheim Animal Health UK Limited (formerly Merial  
Animal Health, Biological Laboratory)  
National Institute for Biological Standards and Control  
BSU (Biobest Secure Unit)

Please include:

- All details included in Riddor reports to the HSE
- The date of the incident
- The matter that was investigated
- Name of duty holder
- A detailed summary of the incident including any executive summary that was prepared
- The biological agents or substances that were involved
- The outcome, including any enforcement action

If this information is held in a structured database format, please provide a copy of the structured data that covers these cases. If also held in paper or PDF form, please also provide a copy of these forms, preferably in searchable PDF form if possible.

... I'd note that the UK has disclosed the locations of its CL4 laboratories under the terms of the Biological Weapons Convention.

<https://bwc-ecbm.unog.ch/united-kingdom-great-britain-and-northern-ireland/bwccbm2021united-kingdom.>"

6. On 8 October 2021 HSE asked the complainant to clarify their request which they did the same day. The complainant confirmed that they were interested in incidents [at CL4 laboratories] involving biological agents

and substances, and the equipment used to handle and deal with biological agents and substances.

7. On 18 September 2022, the complainant wrote to HSE because they hadn't received a response to their request of 8 October 2021. On 23 September 2022 HSE advised them that it had no record of having received the clarification and so had closed the request on its system.
8. HSE asked the complainant if they still wanted to proceed with the clarified request. On the same day, the complainant confirmed that they did want to proceed with this request and two other, similar requests.
9. However, the matter of the clarified request of 8 October 2021 was then overlooked as HSE continued to deal with the complainant's other requests.

### **Reasons for decision**

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10. Once its non-response had emerged in July 2023, HSE advised the Commissioner on 19 July 2023 that it would provide the complainant with a response to their request of 8 October 2021 informally. However, it didn't go on to do so, making this formal decision notice necessary.
11. Under regulation 5(1) of the EIR a public authority that holds environmental information shall make it available on request (if it isn't entitled to withhold the information under an exception).
12. Under regulation 5(2), information shall be made available under paragraph (1) as soon as possible and no later than 20 working days after the date of receipt of the request.
13. The complainant submitted their new, clarified request to HSE on 8 October 2021 and to date hasn't received a response to it. HSE has therefore clearly breached regulation 5 with regards to this request.

## **Right of appeal**

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14. 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@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)

15. 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.
16. 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**