

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

**Decision notice**

**Date:** 10 March 2025

**Public Authority:** Bedfordshire Hospitals NHS Foundation Trust  
**Address:** Luton and Dunstable Hospital  
Lewsey Road  
Luton LU4 0DZ

**Decision (including any steps ordered)**

---

1. The Commissioner's decision is that the information the complainant has requested about East West Rail's car park proposal is environmental information. Bedfordshire Hospitals NHS Foundation Trust ('the Trust') should therefore have handled the request under the EIR and it breached regulation 14(3) of the EIR by incorrectly issuing its refusal notice under FOIA.
2. The Commissioner requires the Trust to take the following step to ensure compliance with the legislation:
  - Issue the complainant with a fresh response to their request under the EIR, in accordance with its obligations under that legislation.
3. The Trust must take this step within 30 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**

---

4. The complainant made the following information request to the Trust on 5 September 2024

"Please share all communication with East West Rail Co (EWR) since 2019.

Please share all information held with regards to EWR use Bedford hospital car park."

5. The Trust responded on 2 December 2024, refusing the request under section 36 of FOIA, which concerns prejudice to the effective conduct of public affairs.
6. The complainant requested an internal review on the same day. In correspondence dated 3 December 2024, the Trust confirmed it was relying on sections 36(2)(b)(i) and (ii) and section 36(2)(c) of FOIA and provided a public interest test. It subsequently confirmed that that was its internal review.

## Reasons for decision

---

7. This reasoning considers whether the Trust handled the request under the correct legislation, and any associated procedural breaches.
8. From his own research, the Commissioner understands that East West Rail is proposing to build a multi-storey car park at the Trust and that a temporary parking solution is planned while that car park is being built.
9. [Regulation 2\(1\) of the EIR](#) provides a definition of 'environmental information'. Amongst other things, it defines environmental information as being information "on" the state of the elements of the environment, including soil, land and landscape, and measures including plans and activities affecting or likely to affect the above elements.
10. The complainant's request is for information that's associated with the construction of a car park. As such, the Commissioner is satisfied that this information meets the definition of environmental information under regulation 2(1) of the EIR because it would be information on a measure likely to affect the elements of the environment.
11. Because the Trust issued its refusal under FOIA and not the EIR it breached regulation 14(3) of the EIR. Regulation 14(3) concerns the EIR exception a public authority is relying on to withhold information and why the exception is engaged.
12. The Trust should issue the complainant with a fresh response to their request - one that has taken account of the fact that, unlike FOIA, the EIR contain a presumption in favour of disclosure at regulation 12(2).

## Right of appeal

---

13. 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)

14. 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.
15. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

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