

## **Freedom of Information Act 2000 (FOIA) Decision notice**

**Date:** 6 July 2023

**Public Authority:** UK Statistics Authority  
**Address:** Segensworth Road  
Titchfield  
Fareham  
Hants  
PO15 5RR

### **Decision (including any steps ordered)**

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1. The complainant has requested information relating to deaths by vaccinations.
2. The Commissioner's decision is that UK Statistics Authority (UKSA) does not hold the requested information.
3. No steps are required as a result of this decision notice.

### **Request and response**

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4. On 23 January 2023, the complainant wrote to UKSA and requested information in the following terms:

“ Re this data:

<http://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/deaths/datasets/deathsbyvaccinationstatusengland>

Please can I make a freedom of information request for the latest possible data, preferably up to 31/12/22?”

5. UKSA responded on 24 January 2023, stating:

"This publication was paused to allow us to use data from Census 2021. This was due to fact [sic] the previous publication data only covers 79% of the population, because the rates are derived from the cohort of people enumerated at 2011 Census who were registered with a GP at the beginning of the pandemic who were alive at the beginning of the month of interest.

If we use Census 2021 data we can be representative of a much larger percentage of the population including people who migrated since the 2011 Census and people too young to be included in the 2011 Census.

The new date for publication to include deaths registered in June to December 2022 will be released on 21 February 2023."

6. The Commissioner would like to highlight that UKSA should have cited section 22 FOIA at this point (information for future publication).

7. The complainant wrote to UKSA again on 3 February 2023 and asked:

"Please can you confirm whether the analysis for any deaths after May 2021 has been completed using 2011 data? If so please can you send that. **If not, can you please send any papers and emails that relate to the decision to stop using census 2011 data to inform deaths by vaccination status report?**"

8. UKSA responded on 3 March 2023 providing the following link:

<https://www.ons.gov.uk/aboutus/transparencyandgovernance/freedomofinformationfoi/deathsbycovid19vaccinationstatusandtheircalculation>

9. The complainant requested an internal review the same day stating:

"Please review this response. I do not believe it has adequately answered my query - in particular it fails to provide any documentation relating to the decision to switch from 2011 to 2021 census data. It explains the public rationale for making the change but this is not my request."

10. Following an internal review UKSA wrote to the complainant on 10 May 2023 and explained it had carried out a further search but no information was held. It further explained that the only information it held similar to that requested is its decision change log, which was published in response to another FOI request. The complainant has been provided with the decision change log above

## Scope of the case

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11. The complainant believes more information is held and that UKSA breached the time allowed for its responses (20 working days) and providing an internal reviews multiple times.
12. The scope of this case is to consider whether further information was held within the scope of the request. made on 3 February 2023.

## Reasons for decision

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13. Section 1(1) of FOIA states that:

Any person making a request for information to a public authority is entitled –

- (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and
  - (b) if that is the case, to have that information communicated to him.
14. In cases such as this the Commissioner follows the lead of a number of First-tier Tribunal (Information Rights) decisions in applying the civil standard of the balance of probabilities.
15. For clarity, the Commissioner is not expected to prove categorically whether the information is held, he is only required to make a judgement on whether the information is held on the civil standard of the balance of probabilities.
16. In cases where a dispute arises over the extent of the recorded information that was held by a public authority at the time of a request, the Commissioner considers any evidence and arguments provided by the complainant. He will also consider the actions taken by the authority to check that the information is not held and any other reasons offered by the public authority to explain why the information is not held. Finally, he will consider any reason why it is inherently likely or unlikely that information is not held.
17. The complainant has not offered any evidence to support their position, only that they believe more information is held.

## **The Commissioner's view**

18. Although UKSA has not explicitly described the searches undertaken for the requested information, the Commissioner has taken a pragmatic view and has no reason to doubt adequate searches were carried out. It is the Commissioner's opinion that the fact UKSA record its decisions on a decision log as indicated in paragraph 8 above provides sufficient rationale for its decision, and it is not mandatory for it to keep any correspondence relating to that decision. Therefore, it is the Commissioner's view that UKSA does not hold the requested information.

## **Procedural matters**

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### **Section 10 – time for compliance**

19. Section 10(1) of FOIA requires that a public authority complies with section 1(1) promptly and in any event not later than 20 working days following the date that a request was received. Section 1(1) states that a public authority should confirm whether it holds relevant recorded information and, if so, to communicate that information to the applicant.
20. In this case the original request was submitted on 23 January 2023 with UKSA responding the next day, 24 January 2023. Although it did not explicitly confirm that information was held, it can be inferred from the response advising that it was due to be published on 21 February 2023. As mentioned in paragraph 6 above, UKSA should have cited section 22, however, as it did not rely on that exemption at any stage in this case it would be churlish of the Commissioner to record a breach of section 17.
21. The second request was submitted on 3 February 2023 and a response provided on 3 March 2023, the twentieth working day. Therefore, no breach of section 10 has occurred.
22. There is no statutory time set out in FOIA within which public authorities must complete a review. The Commissioner considers that a reasonable time for completing an internal review is 20 working days from the date of the request for review. However, Section 45 Code of Practice recommends that an internal review should be completed within 20 working days but under no circumstance take more than 40 working days. In this case, the internal review was completed on the 40<sup>th</sup> working day.
23. Although UKSA has not breached the legislation, the Commissioner would like to remind the public authority that these are the maximum

time scales, and it is good practice to complete responses and internal reviews as soon as possible.

## 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: 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)

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 .....**

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