

| | |
|-------------------------|---------------------|
| Reference: | FOI.16024.24 |
| Subject: | Asbestos management |
| Date of Request: | 25 November 2024 |

Requested:

1. A copy of the board's asbestos management plan
2. A copy of the board's asbestos register. If the register is not centralised, then the register for the largest facility which requires an asbestos register would suffice
3. Has the board conducted an asbestos audit across its properties, or for specific properties since 1/1/2015? If so please provide a copy
4. How many claims of people exposed to asbestos in the have been recorded? And if any were settled, how many and for how much in total? (If a date is needed, the claims would be received from 1/1/2000, or when your records begin)
5. How much was spent on asbestos removal and management in the last full financial year?

Clarified

An asbestos audit would have been conducted by an outsider, and it would assess how the asbestos is being managed, identify what's done well/areas for improvement etc.

Response:

Hywel Dda University Health Board (UHB) operates in accordance with the Freedom of Information Act 2000 (FoIA) and reserves the right to apply appropriate exemptions to the information being disclosed; the following exemptions have been applied to part of your request for information:

The UHB is unable to provide you with all of the information requested, as it is estimated that the cost of answering your request would exceed the "appropriate limit" as stated in the Freedom of Information Act 2000 and the Data Protection (Appropriate Limit and Fees) Regulations 2004. The "appropriate limit" represents the estimated cost of one person spending 18 hours (or 2½ working days) in determining whether the UHB holds the information, and locating, retrieving and extracting the information.

As the information requested for question 5 is not recorded with a unique financial code, the UHB would be required to undertake a manual search of its financial ledgers, for the 2023/24 financial year requested, to identify information that would fulfil this part of your request, as not all asbestos related spend is recorded centrally and easily accessible.

The UHB is therefore applying an exemption under Section 12 of the Freedom of Information Act 2000 (FoIA), which provides an exemption from a public authority's obligation to comply with a request for information where the cost of compliance is estimated to exceed the appropriate limit.

However, under section 16 of the FoIA, the UHB has a duty to provide advice and assistance. Therefore, the UHB provides the accessible information it holds below.

Section 31– Law enforcement

The UHB considered that some of the information requested is exempt from disclosure under Section 31(1)(a)(g) subsection (2)(i)(j), which provides that:

“Information which is not exempt by virtue of Section 30 (criminal investigations and proceedings) is exempt if its disclosure would, or would be likely to, prejudice –

(a) the prevention or detection of crime and

(g) the exercise by any public authority of its functions for any of the purposes specified in subsection (2):

(2)(i) the purpose of securing the health, safety and welfare of persons at work, and

(j) the purpose of protecting persons other than persons at work against risk to health or safety arising out of or in connection with actions of persons at work.”

This exemption can be claimed by any public authority; the UHB is relying upon this exemption as it considers that the disclosure of Appendix 3 within Attachment 1, in response to question 2 of your request would impact on the UHB’s ability to maintain safety standards and could make the UHB’s facilities vulnerable to crime.

The Section 31 exemption is qualified and is subject to the public interest test. Information can only be withheld if the public interest in maintaining this exemption outweighs the public interest in disclosure. The UHB has considered the following as part of the public interest test:

In favour of disclosure: There is a legitimate public interest in transparency and accountability of the ways in which public bodies operate and manage their services and operational functions. This includes enhancing the public’s understanding of the UHB’s plans and challenges, thus building trust between the public and the UHB.

Against disclosure: Appendix 3 provides a detailed floorplan of the hospital site; disclosure of this information would be likely to cause substantial harm to the UHB’s ability to effectively manage and mitigate risks. By releasing the information, the UHB would be vulnerable to this being used for crime, which could potentially compromise the security of both UHB property and its staff. There is a clear public interest in protecting the UHB and its staff from the impact of crime.

Decision: The UHB considers that the public interest in withholding the information is greater than the interest in disclosing it. It believes that there is wider established public interest in the Board’s ability to protect its staff and service users from criminal behaviour and maintain their security whilst at work or under the care of the UHB.

Therefore, the UHB is withholding Appendix 3 within Attachment 1 of our response to question 2 under Section 31(1)(a)(g) subsection (2)(i)(j). Disclosing the detailed floorplan within Appendix 3 could provide individuals with the information needed to cause significant harm, thus making the UHB vulnerable to potential criminal activity, which could compromise the security of both patients and staff. There is a clear public interest in protecting society and the UHB from the impact of crime.

Section 36 - Prejudice to the effective conduct of public affairs

The UHB has also considered applying an exemption under Section 36(2)(c) of the FoIA, to the disclosure of Appendix 3 within Attachment 1 in response to question 2 of your request. This states that:

*“(2) Information to which this section applies is exempt information if, in the reasonable opinion of a qualified person, disclosure of the information under this Act—
(c) would otherwise prejudice, or would be likely otherwise to prejudice, the effective conduct of public affairs.”*

In the case of the UHB, the qualified person is the Chief Executive.

Due to the level of detail contained in Appendix 3 within Attachment 1, the UHB considers that disclosure would or would be likely to inhibit the UHB’s ability to manage the asbestos risk effectively and may cause unnecessary distress to the public and its staff.

The Section 36 exemption is qualified and is subject to the public interest test. Information can only be withheld if the public interest in maintaining this exemption outweighs the public interest in disclosure. The UHB has considered the following as part of the public interest test:

In favour of disclosure: There is a legitimate public interest in transparency and accountability of the ways in which public bodies operate and manage their services and operational functions. This includes enhancing the public’s understanding of the UHB’s plans and challenges, thus building trust between the public and the UHB.

Against disclosure: Disclosure of this information would be likely to cause substantial harm to the UHB’s ability to effectively manage and mitigate risks. A significant amount of worry could be caused, thus impeding the UHB’s ability to safely treat its patients, due to the focus being drawn to the prevalence of asbestos. The UHB must be able to protect and preserve its operational compliance, security and patient and staff safety.

Decision: The UHB considers that the public interest in withholding the information is greater than the interest in disclosing it. It believes that there is wider established public interest in the Board’s ability to make decisions, to plan and implement any required works as these are deemed necessary. It has therefore been decided that releasing the information under the FoIA, to which the UHB is subject, would be likely to impair the UHB’s operational planning and its effectiveness to manage the asbestos risk.

The UHB is also withholding Appendix 3 within Attachment 1 of our response to question 2 under Section 36(2)(c) of the FoIA. This will enable the UHB to maintain the protection of its services and the welfare of its patients through their confidence in its service delivery, whilst providing assurance that the risk posed is under regular review, with necessary works being prioritised to maintain health and safety.

The UHB is fully aware of its duty to manage asbestos and is committed to ensuring that asbestos is effectively managed in full compliance with current and future statutory obligations. As a public authority, the UHB has an effective management process in place and requires the discretion to assess any risk posed and thereafter prioritise them, according to the balance of risk.

Whilst operating in accordance with the Code of Practice under Section 45 of the FoIA, the UHB has a duty to provide advice and assistance and therefore provides responses to the remaining aspects of your request below.

1. & 2. The UHB provides a copy of its Asbestos Management Plan at Attachment 1 and a copy of its Asbestos register (Appendix 2) at Attachment 2, for its largest site, Glangwili General

Hospital (GGH). Section 31 and 36 exemptions have been applied to Appendix 3 of Attachment 1.

Additionally, the UHB's Policy 202 - Asbestos Policy is available on the UHB's website. As this policy is in the public domain and accessible by another means, a Section 21 of the FoIA has been applied.

For ease of reference, please click on the link provided overleaf, which will take you directly to the Policies and Written Control Documents webpage:

[Policies and written control documents - Hywel Dda University Health Board](#)

3. The UHB confirms that no asbestos audits by an external individual/entity have been conducted since 1 January 2015. However, an inspector on behalf of the Health and Safety Executive did visit two (2) UHB sites on 26 and 27 March 2024 to assess the UHB's management of the Reinforced Autoclaved Aerated Concrete (RAAC), and to undertake an assessment of the effectiveness of its compliance with the duty to manage asbestos across the UHB.
4. The UHB is unable to provide the data for the 2000 to 2009 calendar years, as the system that may hold records relating to your request is inaccessible. However, the UHB can confirm that it has six (6) cases of asbestos claims recorded across the UHB's two (2) Datix Incident Reporting systems, covering the period from 1 January 2010 to the date of your request. Two (2) cases have been settled, with damages totalling £69,100.80 and costs of £12,560.52.
5. A Section 12 exemption has been applied. However, under Section 16 the UHB provides within the table below, the spend identified on asbestos removal and management, during the 2023/2024 financial year.

| Department | Spend |
|----------------------------|-------------------|
| Operations Compliance team | £52,551.29 |
| Finance ledger | £3,231.00 |
| Total | £55,782.29 |