



18 June 2018

Dear ,

Request for Information – ATISN 12345

I wrote to you on 30 May regarding your request. Thank you for your response later that day. You asked for:

- Details of the funding agreement and the conditions attached to that agreement, in relation to the Welsh Government's grant to Eleven Film Limited for its Netflix commissioned series of Schooled, which is currently shooting in Caerleon.

You have stated that you do not wish to see any of the financial information which may be included within this information.

The information we hold which is caught by your request is the award of production funding letter which was sent to Eleven Film Limited on 10 April, 2018. A copy of this letter is enclosed. Any financial information has been redacted, as it is not caught by your request. I have also concluded that other information in the letter is withheld from disclosure under Section 40 of the Freedom of Information Act, personal data. My reasoning for withholding this information is given at Annex A.

You may also find the Welsh Government general guidance document regarding the awarding of funding under the Wales Screen Fund of interest. This can be found at <https://gov.wales/funding/state-aid/gber/schemes/screen-fund/?lang=en>.

If you are dissatisfied with the Welsh Government's handling of your request, you can ask for an internal review within 40 working days of the date of this response.



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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding .

Requests for an internal review should be addressed to the Welsh Government's Freedom of Information Officer at:

Information Rights Unit, Welsh Government, Cathays Park, Cardiff, CF10 3NQ
or Email: Freedom.ofinformation@gov.wales. Please remember to quote the ATISN reference number above.

You also have the right to complain to the Information Commissioner. The Information Commissioner can be contacted at:

Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. However, please note that the Commissioner will not normally investigate a complaint until it has been through our own internal review process.

Yours sincerely

Section 40(2) – Personal Data

Section 40(2) of the Freedom of Information Act (FOIA) sets out an exemption from the right to know if the information requested is personal information of someone other than the requester and is protected by the Data Protection Act 2018 (DPA).

Personal data is defined in Section 3(2) of the DPA as:

“Personal data” means any information relating to an identified or identifiable living individual

We have concluded that, in this instance, the personal information caught within the funding letter amounts to the personal data of others than the person submitting the request.

Under Section 40(2) of the FOIA, personal data is exempt from release if disclosure would breach one of the data protection principles set out in Article 5 of the General Data Protection Regulations (GDPR). We consider the principle being most relevant in this instance as being the first.

The First GPDR Principle

This states:

.....that personal data shall be:

a) processed lawfully, fairly and in a transparent manner in relation to individuals;

We consider that the information highlighted falls within the description of personal data as defined by the DPA and that its disclosure would breach the first data protection principle.

Guidance from the Information Commissioner’s Office (Personal information (section 40 and regulation 13) v 1.4) states:

If disclosure would not be fair, then the information is exempt from disclosure.

This approach was endorsed by the Court of Appeal in the case of Deborah Clark v the Information Commissioner and East Hertfordshire District Council where it was held:

“The first data protection principle entails a consideration of whether it would be fair to disclose the personal data in all the circumstances. The Commissioner determined that it would not be fair to disclose the requested information and thus the first data protection principle would be breached. (paragraph 63).

In this instance, we believe the data subjects have no expectation that their personal information would be made public.

The withheld information amounts to the personal data of civil servants and representatives of a business who would not expect their names, contact details and personal signatures to be released in this context. There are set procedures in place for members of the public to contact both the Welsh Government and the business in question using generic contact mechanisms. In this context, those involved were corresponding with each other as part of their normal course of business. In doing so, there would be no expectation that their personal details would at any time be placed in the public domain.

The Welsh Government does not believe there is any legitimate interest in the public or the requestor having access to this information. Because of that, it is believed release of this information would be unfair and so breach the first data protection principle. Despite withholding the personal information of the individual concerned, it remains clear which body is being represented in each case, which is the primary factor.

Thus, we believe release of this information would be unfair and so breach the first data protection principle. For that reason, the information is being withheld under section 40(2) of the Freedom of Information Act. This is an absolute exemption and not subject to the public interest tests .