



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref:
Ein cyf/Our ref: ATISN 13254

22 July 2019

Dear ,

ATISN 13254 Wales Remembers Programme Board

Thank you for your request which I received on 24 June 2019 about meeting minutes of the *Cymru'n Cofio* Wales Remembers 1914-1918 Programme Board up to the end of 2016.

A copy of the information I have decided to release is enclosed.

I have decided that some of the information is exempt from disclosure under section 40 of the Freedom of Information Act and is therefore withheld. The reasons for applying this exemption is set out in full at Annex 1 to this letter.

To note, the minutes of the first two meetings held on 29 May 2012 and 11 October 2012 were written by Amgueddfa Cymru – National Museum Wales (AC-NMW). These were for the initial group that became the Programme Board.

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

Is-Adran Amgueddfeydd Archifau a Llyfrgelloedd, Llywodraeth Cymru
Museums Archives and Libraries Division, Welsh Government

Rhodfa Padarn, Aberystwyth, Ceredigion, SY23 3UR

Ffôn / Tel:

E-bost / E-mail: MALD@llyw.cymru / MALD@gov.wales

<http://gov.wales/topics/cultureandsport/museums-archives-libraries/>



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INVESTOR IN PEOPLE

Rydym yn croesawu gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn yr un iaith, ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome 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.

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



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Annex 1.

I have decided to withhold the following information:

Information being withheld	Section number and exemption name
Persons named within the Programme Board Minutes who have not given consent for their names to be included.	Section 40(2) of the Freedom of Information Act (FOIA)

This Annex sets out the reasons for the engagement of section(s) **40(2)** of the **Freedom of Information Act**.

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 names and email addresses of individuals on the programme board 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 GDPR 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.



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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 members of the programme board were representing organisations or individual expertise so as to deliver a very specific programme objective. Although the programme was designed to be in the public eye, those who took part in the programme board saw their role as behind the scenes, and administrative of the programme as a whole. The Welsh Government did not intend to publish the programme board minutes, and so the members did not go into the meetings under the expectation of having their names released.

We have consulted with named members of the programme board, and where they have indicated that they are content for their names to be released, we have left the names in. Individuals with a public facing profile have been left in.

We have redacted names where permissions were not received. 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.

To maintain context in the released information, we have replaced the redacted names with identifiers for organisations they represented, enclosed in square brackets.

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