



Llywodraeth Cymru
Welsh Government

Ein Cyf/ Our ref ATISN 13427

October 2019

Dear

ATISN 13427 – The Parliamentary Review of Health and Social Services in Wales

Thank you for your request to the Welsh Government for information under the Freedom of Information Act (2000) received on 06 September.

You asked for information in relation to The Parliamentary Review of Health and Social Services in Wales, specifically:

- *Copies of written evidence submitted by multiple organisations to inform the interim and final reports of the Parliamentary Review of Health and Social Care in Wales*

It may be helpful if we clarify the process undertaken to gather evidence for the Parliamentary Review of Health and Social Care in Wales. A call for written evidence was issued in advance of the interim report, and Annex C to the interim report lists the individuals and organisations that submitted written evidence. In relation to your request, that includes the Association of Directors of Social Services; the Older People's Commissioner for Wales; the Public Services Ombudsman for Wales; Social Care Wales and Cardiff Third Sector Council. We are able to confirm that Welsh Government holds this information and it is attached as Document 1.

For the final report, the review panel held a number of sessions where various organisations and individuals were invited to give oral evidence to inform the final report. Additionally, outside of these oral evidence sessions, other less formal meetings took place between organisations or individuals and review panel members individually, and between organisations or individuals and the officials providing secretariat support to the review. Those who provided information, either oral or written, either in relation to the interim report or later, and to either the review panel members or officials were all listed in Annex A to the final report.

The organisations listed in the second part of your request that are not already listed in the first part, are Care & Social Services Inspectorate for Wales; Healthcare Inspectorate Wales; Linc Cymru; and the Welsh Government. These organisations did not submit written evidence. Their contribution was either via an oral evidence session or a meeting with a panel member or the secretariat. We therefore do not hold written submissions from these



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organisations. We have, however, included the notes made at the time of oral evidence sessions as follows: Care & Social Services Inspectorate for Wales and Healthcare Inspectorate Wales attended a joint session and the note of that is enclosed; the Welsh Government contribution came from a number of different officials and five separate notes are enclosed; Linc Cymru met the review on an informal basis and no note is held.

For the sake of completeness, we have also enclosed the notes of the oral evidence sessions attended by the Older People's Commissioner for Wales and Social Care Wales. No oral evidence session was held with the Public Services Ombudsman for Wales.

These notes are attached as Document 2.

We have decided that some of the recorded information captured by your request is exempt from disclosure under Section 40 of the Freedom of Information Act. As a result you will see that this information is redacted in the attached Document 2. The reasons for applying this exemption are set out in annex A to this letter.

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:

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,



Annex A

Freedom of Information Act 2000: Section 40(2)

Section 40(2) together with the conditions in section 40(3)(a)(i) or 40(3)(b) provides an absolute exemption if disclosure of the personal data would breach any of the data protection principles.

'Personal data' is defined in sections 3(2) and (3) of the Data Protection Act 1998 ('the DPA 2018') and means any information relating to an identified or identifiable living individual. An identifiable living individual is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of the individual.

We have concluded that, in this instance, the information requested contains third party personal data.

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 GDPR. We consider the principle being most relevant in this instance as being the first. This states that personal data must be:

"processed lawfully, fairly and in a transparent manner in relation to the data subject"

The lawful basis that is most relevant in relation to a request for information under the FOIA is Article 6(1)(f). This states:

"processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child".

In considering the application of Article 6(1)(f) in the context of a request for information under FOIA it is necessary to consider the following three-part test:-

- **The Legitimate interest test:** Whether a legitimate interest is being pursued in the request for information;
- **The Necessity test:** Whether disclosure of the information/confirmation or denial that it is held is necessary to meet the legitimate interest in question;
- **The Balancing test:** Whether the above interests override the interests, fundamental rights and freedoms of the data subject.

Our consideration of these tests is set out below:

1. Legitimate interests

Your request indicates you are interested in obtaining copies of written evidence submitted by multiple organisations to inform the interim and final reports of the Parliamentary Review of Health and Social Care in Wales. We have concluded that, in this instance, there is little to be gained from releasing the names of the officials named within these documents. We believe we have provided sufficient information to satisfy the legitimate interest and we do not believe disclosure of the identities of those involved would allow any greater understanding.



2. Is disclosure necessary?

Following the above analysis, we do not believe that disclosure of the personal data is necessary.

3. The balance between legitimate interests and the data subject's interests or fundamental rights and freedoms

As we do not believe disclosure of this personal data is necessary, there is no requirement on us to undertake a test to balance the legitimate interests against the right of individuals, as the fundamental rights and freedoms provided by the DPA are not being challenged.

