



Llywodraeth Cymru  
Welsh Government

ATISN 13907

12 May 2020

Dear,

### **ATISN 13907 - Correspondence with Roche**

Thank you for your request to the Welsh Government for information under the Freedom of Information Act (2000) received on 8 April. You have requested the following:

- *A copy of the contract between Welsh Government and Roche to provide coronavirus testing in Wales.*

There is no contract between Welsh Government and Roche Diagnostic Ltd to provide testing.

- *Correspondence in the months of February, March and April 2020 between Vaughan Gething AM and Roche in relation to coronavirus testing.*

See Attachment 1

You will note that some information has been redacted under FOIA exemption s40 (2). For more information regarding this, please see Attachment 2

- *Correspondence between the Welsh Government and the UK Government concerning the Roche contract for coronavirus testing with regards the provision for Wales.*

As above, there is no contract between Welsh Government and Roche Diagnostic Ltd to provide testing.

- *The number of holidays/annual leave (broken down into days per month, for January, February, March and April 2020) taken by Vaughan Gething AM.*

Minister has taken leave over the 14-23 Feb 20 (Spring Recess) but remained contactable and available to make decisions throughout. Ministers planned leave has been cancelled until further notice.

You can find more information on All Ministerial diaries by using the following link:

<https://gov.wales/ministerial-meetings-and-engagements>

If you have any queries about this request, please do not hesitate to contact me at the address below. Please remember to quote the reference number above in any future correspondence.

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](mailto: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,

## 2020-04-02 - Email 1 - Covid-19 Testing

**From:** Twist, Geoff <Redacted - Section 40(2)>  
**Sent:** 02 April 2020 16:06  
**To:** DS Minister Health & Social Services <DSMHSS@gov.wales>  
**Cc:** PS Minister Health & Social Services <PSMHSS@gov.wales>; PS FirstMinister <PS.FirstMinister@gov.wales>  
**Subject:** Re: Covid-19 Testing

Dear Redacted - Section 40(2),

I would welcome the discussion and will make myself available.

Please call me on Redacted - Section 40(2).

Best regards

Geoff

**Geoff Twist**

Managing Director UK & Ireland and  
Head of Management Centre European Agents  
Roche Diagnostics Ltd | Charles Avenue | Burgess Hill | West Sussex | RH15 9RY | Registration Number: 571546  
Phone: Redacted - Section 40(2) | Mobile: Redacted - Section 40(2) | mail to: <Redacted - Section 40(2)>

On Thu, Apr 2, 2020 at 3:51 PM <[DSMHSS@gov.wales](mailto:DSMHSS@gov.wales)> wrote:

Dear Geoff,

Thank you for your email below to Vaughan Gething, Minister for Health and Social Services.

The Minister would like to call you this afternoon, at 16:30. I would be most grateful if you could confirm whether this is possible, and if so, the best number to contact you on.

Yours sincerely,

Redacted - Section 40(2)  
Diary Secretary to Vaughan Gething AC/AM

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**From:** Twist, Geoff <Redacted - Section 40(2)>  
**Sent:** 02 April 2020 12:50  
**To:** Vaughan Gething (Ministerial) <[Vaughan.Gething@gov.wales](mailto:Vaughan.Gething@gov.wales)>  
**Subject:** Covid-19 Testing

Dear Minister

**Further to the statement made in the Welsh Assembly on 1st April** making reference to a deal the Welsh Government had with Roche in relation to testing for Covid-19 that Roche have allegedly not honoured.

We maintain that Roche never had a contract or agreement directly with Wales to supply testing for COVID-19.

Our absolute priority and focus at this time is to support the UK Government and NHS to scale up testing across the whole of the UK, including in Wales.

To this end, we can confirm that the Public Health Wales laboratory at Pontyclun, which we have enabled to use the Roche **cobas®SARS-CoV-2 Test**, aims to go-live with testing in Wales this coming Monday 6th April.

I would like to request a call with you to confirm directly our support to Wales in relation to testing and look forward to hearing from you in this regard.

Best regards

Geoff

**Geoff Twist**

Managing Director UK & Ireland and

Head of Management Centre European Agents

Roche Diagnostics Ltd | Charles Avenue | Burgess Hill | West Sussex | RH15 9RY | Registration Number: 571546

Phone: **Redacted - Section 40(2)** | Mobile: **Redacted - Section 40(2)** | mail to: <**Redacted - Section 40(2)**>

## 2020-04-03 – Email 2 – Covid-19 testing - Wales

**From:** Twist, Geoff <Redacted - Section 40(2)>

**Sent:** 03 April 2020 15:29

**To:** Correspondence mail - VG <[Correspondence.Vaughan.Gething@gov.wales](mailto:Correspondence.Vaughan.Gething@gov.wales)>

**Subject:** Covid-19 testing - Wales

Dear Minister Gething

Thank you for your time yesterday to discuss Roche Diagnostics support to Wales in relation to Covid-19 testing.

Roche has been and will continue to work tirelessly to bring Covid-19 testing to the people of the United Kingdom, including Wales and confirmation of your support in this respect is highly appreciated.

When this pandemic is over, we very much look forward to meeting you and your team to explore further opportunities for our innovative diagnostics to benefit the people of Wales. We will be in contact in due course.

Kind regards

Geoff

**Geoff Twist**

Managing Director UK & Ireland and

Head of Management Centre European Agents

Roche Diagnostics Ltd | Charles Avenue | Burgess Hill | West Sussex | RH15 9RY | Registration Number: 571546

Phone: Redacted - Section 40(2) | Mobile: Redacted - Section 40(2) | mail to: Redacted - Section 40(2)

### 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

We recognise that you will have a legitimate interest in reviewing the correspondence between the Minister for Health and Social Services and Roche Diagnostic Limited during February, March and April 2020 in relation to coronavirus testing.

Unfortunately we find it hard to identify a legitimate interest in disclosing the name of a Welsh Government official who provides administrative support to the Minister. This individual has a basic administrative official role in managing the Minister's diary.

We also find it hard to identify a legitimate interest in disclosing the email and telephone numbers of the Roche employee as this does not provide any additional value to the correspondence.

## **2. Is disclosure necessary?**

As indicated above, we believe there is a reasonable expectation of more junior members of staff not to be identified and therefore withholding the identity of the Minister's Diary Secretary. We believe that withholding this information does not deter from understanding of the correspondence.

We believe that the email and telephone numbers of the Roche employee is not necessary as this information does not add value to the correspondence. Roche Diagnostics has experienced various acts of harassment at affiliates in other countries, and given the heightened interest around testing during the COVID-19 pandemic, we feel that the risk of such information being made public outweighs any benefit the public would derive from having access to such personal information.

## **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.