



Llywodraeth Cymru
Welsh Government

ATISN 13969

5 5 June 2020

Dear,

ATISN 13969 – Exercise Cygnus

Thank you for your request to the Welsh Government for information under the Freedom of Information Act (2000) received on 07 May. You have requested the following information in regard to 2016 Exercise Cygnus Report:

- *Who participated in the Cygnus exercise*
- *Who the experts & what their qualifications are*
- *The contents of the Cygnus report*
- *What reference has been made to the report in the decisions taken to manage the current pandemic*

We understand that the Devolved Administrations, Department of Health and 12 other UK Government departments, NHS Wales, NHS England, Public Health England, 8 local Resilience Forums and 6 prisons took part in the exercise.

Welsh Government does hold a copy of the UK Exercise Cygnus Report, but should be noted that the report belongs to UK Government's Department of Health and Social Care. The release of the Exercise Cygnus report is currently subject to ongoing legal proceedings, and therefore it would be inappropriate to comment at this point.

We are withholding information relating to your request under the following FOIA exemptions and our consideration of the identified exemptions is set out in the accompanying annex:

- Section 28(1) sets out an exemption from the right to know, if the disclosure of the information in question would, or would be likely to prejudice relations between two or more United Kingdom administrations.
- Section 35(1)(a) of the FOIA covers any information relating to the formulation and development of government policy.
- Section 38(1)(a) sets out an exemption in circumstances in which an individual's Health and Safety could potentially be compromised by the release of information.

We have concluded that, in this instance, information related to this request, is held for the purpose of formulation and development of government policy and disclosure of the information in question would, or would be likely to prejudice relations with the UK

Government and is therefore exempt under Section 28(1), Section 35(1)(a) and Section 38(1)(a) of the FOIA at this time.

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
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.

Any information released under the Freedom of Information Act 2000 or Environmental Information Regulations 2004 will be listed in the Welsh Government's Disclosure Log (at <https://gov.wales/about/open-government/freedom-of-information/responses/?lang=en>).

Yours sincerely

Engagement of Exemptions

When considering the release of information captured by a request we are required to consider the potential effects of disclosure of the information to the wider World. This is because information released in response to a FoI request is released to the World, not just to the person submitting the request. As such we need to take into account how any other individual may use, or misuse, the information if it is placed into the wider public domain. So whilst the request may have a legitimate, and benign, interest in accessing the requested information, we could conclude that the risk that the information could be misused by others is more compelling and thus the information should be withheld.

Section 28(1)

Section 28(1) sets out an exemption from the right to know, if the disclosure of the information in question would, or would be likely to, prejudice relations between two or more United Kingdom administrations.

We believe at this point in time that should we disclose our copy of the report into Exercise Cygnus that our day to day working relationship with the other administrations within the UK would be significantly prejudiced. As would be expected, there is a significant flow of information between the administrations as each look to manage, control and overcome the current Covid-19 pandemic. Whilst much of that information is freely available there does remain some information which is sensitive or needs to be shared within a restrictive audience. The fact that the UK Government is currently involved in legal proceedings relating to the potential release of this report indicates clearly the sensitivity the UK Government believes surrounds the report. If we were to disclose the report in response to this request, this, we believe, would be very likely to see the UK Government become more reticent about sharing what it believes is sensitive information with us in the future for fear of that information being released to the World at a time when the UK Government does not believe it should be made freely available. Any disruption to the free flow of information is likely to result in ministers here in Wales being less fully informed of ongoing developments and thus putting at risk our response and ultimately the lives of more people of Wales.

Public interest arguments in favour of release

Pandemic influenza is one of the most severe natural phenomena to affect the UK and the most severe civil emergency risk and as such, remains top of the UK Government National Risk Register. There have been exercises regularly undertaken both among devolved administrations and nationally in order that plans and strategies for response and capacity can be developed so they are able to prepare for worst case scenarios, in relation to pandemic influenza.

In light of the response to the current Covid-19 pandemic, there is a strong public interest in knowing the outcome of the most recent exercise to test our readiness to face such a major health emergency.

Public interest arguments in favour of withholding

There is a general public interest in ensuring a close and effective working relationship between the Welsh Government and the UK Government particularly at times of a national emergency. Good relations and engagement are essential at this time as we seek to work with, and influence, the UK Government and its agencies to ensure that the interests of Wales are protected in their discussions.

Discussions with the UK Government about arrangements relating to the pandemic influenza exercise recommendations and how they influence strategies for dealing with

Covid-19 are continuing and constantly updated. As agreement in this area have not been concluded and negotiations are ongoing, it is our view that the disclosure of information related to this request could effect the relationships and have a prejudicial impact on and undermine our position.

We are also of the view that it is not in the wider public interest that we undermine another administrations ongoing legal disputes. The wider public interest, in such cases, is best served by allowing the Courts to come to a considered decision that then can be more widely applied.

In conclusion we believe that the wider public interest favours maintaining the good working relationship with other administrations and that disclosure would be likely to negatively impact the free flow of information with the potential to undermine the decision making process here in Wales. As such we believe that the s28 exemption is properly applied.

Section 35(1)(a)

Section 35(1)(a) covers any information relating to the formulation or development of government policy.

The policies dealing with the management of the Covid-19 pandemic are constantly under review as the scientific and medical community learn more about this particular virus over time.

Covid-19 and influenza (the “cause” of the pandemic in Exercise Cygnus) are very different viruses, meaning that the responses to one will not be the same as the response to the other, but there may be some cross over in how the different pandemics can be managed. As such the report into Exercise Cygnus is part of the information being used to inform the development of policies to manage the current pandemic.

Public interest arguments in favour of release

There is a very strong public interest in the public understanding the ongoing development of our policies to manage and control the current Covid-19 pandemic and the information underpinning those policies, particularly as there is much conflicting and sometimes completely wrong information being circulated on social media, etc.

Public interest arguments in favour of withholding

The Welsh Government has endeavoured to ensure they are as transparent as possible, in particular through the media, publication of documents, Ministerial Written Statements and public statements in the Senedd along with ministerial press conferences and interviews. We recognise that transparency and openness in the Welsh Government’s policy-making process improves public trust, leading to greater compliance with the measures introduced to bring the outbreak under control and thus reducing the overall impact of the virus on the people of Wales.

We consider that it is important for ministers and officials from all devolved administrations to be able to have a safe space to undertake discussions regarding lessons identified from Exercise Cygnus with candour. Both UK Government and the devolved administrations need to be able to discuss recommendations and formulate new proposals with regards to dealing with the Covid-19 as well as considering future policies and plans as a result. At present, this is a fast paced environment and changes almost daily.

Covid-19 and influenza are very different viruses, comparing them would be like comparing elephants with, say, frogs. Disclosure of the report carries the risk that the content might be

misinterpreted due to a misconception that the viruses are similar and as such disclosure would not provide the clarity that the public require.

It is important to note that Public Health England and Public Health Wales lead discussions on all public health matters consulting with Ministers and Welsh Government officials. This report was written by Public Health England for the Department of Health and recommendations from this report was share with devolved administrations. It is important, these recommendations and any proposals are worked through fully.

In conclusion it is within the wider publics' interest to withhold the information related to this request in order to provide the government with a safe space to consider and form policy and plans to manage the current pandemic.

Section 38

Section 38 sets out an exemption in circumstances in which an individual's Health and Safety could potentially be compromised by the release of information.

The report identifies a number of individuals who partook in the exercise and informed the conclusions and recommendations.

We believe disclosure of this information would put those individuals, or their families, at risk of harm. Recent threats directed to staff employed by Roche Diagnostics Ltd can be used as a powerful illustration of the potential harm that would be likely to arise from releasing this information. We believe those risks are very real and not just hypothetical.

Public interest arguments in favour of release

There is a strong public interest in knowing that exercises such as Exercise Cygnus are properly undertaken and that those involved in the planning, execution, and the reporting on the exercise are suitably qualified.

Public interest arguments in favour of withholding

We believe that the Welsh Government has a duty to protect all members of the public and that it does not serve the wider public interest to disclose information that carries the very real risk that some individuals would be put in harms way.

In conclusion, we believe that the risk of harm outweighs the public interest in disclosure.