



Llywodraeth Cymru
Welsh Government

E-mail request

Our ref: ATISN 13978

Date: 14 July 2020

Dear

Thank you for your request to the Welsh Government for information under the Freedom of Information Act (2000) received on 14 May. You requested the following:

all text messages and emails sent by the health minister, Vaughan Gething, to Welsh Government officials and special advisers between Saturday 8th May and Wednesday 13th May.

Please accept our apologies for the delay in responding.

Welsh Government does hold some correspondence that falls into scope of your request. Correspondence which is not exempt from release is attached at Annex B.

We have concluded that, in this instance, information related to this request is held for the purpose of the formulation and development of government policy and is therefore exempt under Section 35(1)(a) of the FOIA at this time.

An explanation of how the exemption has been applied is set out at Annex A.

As set out in the acknowledgement letter, if you could be more specific about the particular subject of information you are seeking then we may be able to revisit the request.

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



BUDDSODDWYR | INVESTORS
MEWN POBL | IN PEOPLE

Parc Cathays • Cathays Park
Caerdydd • Cardiff
CF10 3NQ

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

Engagement of Exemptions when considering the release of information captured by a request

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.

Whilst the requestor 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 35(1)(a) covers any information relating to the formulation and development of government policy.

Officials have carefully considered all of the information captured by this request and consider that the information in question should be exempt under Section 35(1)(a) of the Freedom of Information Act. Section 35(1)(a) are public interest exemptions. This means that in order to withhold information under the provisions, it has to be shown that the public interest in withholding the information outweighs that in releasing it.

Public interest arguments in favour of release

The Covid-19 pandemic is the greatest public health threat to the world in a hundred years and has resulted in major changes to everybody's lifestyle as governments around the world try to control the outbreak and keep their citizens safe and healthy.

We recognise that there is a very strong public interest in the public understanding the decisions and actions taken by the Welsh Government to protect the people of Wales.

The Welsh Government has endeavoured to ensure we 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.

Public interest arguments in favour of withholding

Section 35 (1)(a)

In relation to the formulation of policy, there is a counter argument in favour of the Welsh Government being able to consider all options in a balanced way. 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.

We consider that it is important for Ministers and Welsh Government officials to be able to have a safe space to undertake internal and discussions with 3rd parties freely and be able to formulate proposals with regard to Covid-19 and other future policies and plans as a result.

Government is a fast paced environment and changes almost daily. Disclosure of any early discussions etc. will not provide the clarity that the public require and could prejudice the formulation of future government policy going forward.

PHE and PHW lead discussions on all public health matters consulting with Ministers and Welsh Government officials. It is important that such plans and proposals are worked through before being made public.

Whilst we recognise that there is public interest in understanding discussions that take place with regards to Covid-19, we believe that it is within the public's 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 protect the Government's continued ability to respond to the crisis.

Conclusion

We believe that the wider public interest favours maintaining the good working relationship with the UK Government, maintaining free and frank exchanges of views internally and externally with 3rd parties. Disclosure in this instance would be likely to negatively impact discussions, with the potential to undermine the decision making process here in Wales. Whilst recognising that there are public interest arguments for disclosure of the requested information related to this request, we conclude that the public interest in withholding the information outweighs that in releasing it in this instance.