



Llywodraeth Cymru
Welsh Government

Date: 1 July 2024

Our ref: ATISN 19645

Thank you for your request which I received on 3 June 2024.

You asked for: Information about the membership of the LGBTQ+ Action Plan Advisory Group.

Our response

From the Action Plan (p.19): “The LGBTQ+ Expert Panel, which provided invaluable help in the formation of this plan, will be refreshed and formalised into an ongoing **Advisory Group** that will continue to provide advice and insight to help the implementation of the plan, focusing on the needs of LGBTQ+ communities in Wales”.

<https://www.gov.wales/lgbtq-action-plan-wales>

The LGBTQ+ Advisory Group is designed to enable a range of new voices, experiences and backgrounds to inform work on LGBTQ+ policy, in addition to retaining expertise previously provided to Welsh Government. A phased approach to setting up the Advisory Group is being taken:

- **Phase 1 (January 2024):** New individuals, advocates and representatives from LGBTQ+ organisations in Wales have been invited to join this introductory meeting to familiarise themselves with the structure and mechanisms of Welsh Government.
- **Phase 2 (Spring 2024):** Following this, to retain existing expertise, members of the former Expert Panel who have registered an interest in serving on the new group will be consideration for membership, taking account of any changes to priorities, roles, or capacity of individuals.

Purpose

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving 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.

- The non-statutory group is time-limited (until the end of Senedd term of March 2026), meeting every four months, for a total of 7 meetings.
- The group will consist of volunteers who have been invited for their expertise and/or experience regarding LGBTQ+ policy.
- The main output of the Advisory Group will be recommendations that focus on the needs of LGBTQ+ communities in Wales to Welsh Government Ministers and policy officials to inform the Welsh Government approach to the implementation of the LGBTQ+ Action Plan.
- Meetings will be chaired by a senior Welsh Government official, and secretariat provided by LGBTQ+ policy officials. Meeting notes, summarising key points and actions, will be published for transparency on the Welsh Government website. Points raised will not be attributed to specific individuals.
- The LGBTQ+ Policy Team will retain the remit of overseeing and operating the implementation of the LGBTQ+ Action Plan for the duration of this Senedd Term.

Membership

- The Panel will consist **of individuals** rather than organisations, which will be invited for their expertise and/or experience concerning LGBTQ+ Policy.
- Members of the former Expert Panel will be able to register an interest in serving on the new Panel, and new and emerging voices will also have a chance to be considered to join the new Panel.
- Selection of new panel members will reflect the varied groups within LGBTQ+ communities, a range of ages, ethnicities, sexual orientations, and genders.
- The term limit for this Panel and Membership is the same as the end of the current Senedd term or from August 2023 until March 2026 (c.32 months).
- The Advisory Panel will be chaired by a senior Welsh Government official. Secretariat will be provided by LGBTQ+ policy officials.

Working environment

- Discussing LGBTQ+ Policy and advice in this area can be traumatic, especially for survivors of abuse and victims of harassment or hate crime. Safeguarding measures will be required from all members if engaging directly with survivors. A disclaimer will be read as appropriate concerning sensitivity, trigger warnings and respect. Flexibility of time for the meeting will be ensured to allow conversations and sharing to flow when needed, with agendas designed and agreed accordingly.

You also asked for a list of the names and qualifications of the members of the Advisory Group. I have decided that this information is exempted from disclosure by virtue of s40(2) 'personal data' exemption of the Freedom of Information Act 2000. Full details of our consideration of the application of this exemption is set out in Annex A.

Next steps

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

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 are unaware of any specific personal interest that you have in being provided with the information you have requested.

2. Is disclosure necessary?

We do not believe that it is necessary to release the details of the membership of the Advisory Group in order to understand its function, it's working, the breadth of views being considered, etc.

The LGBTQ+ Action Plan Advisory Group is only one of our mechanisms for stakeholder engagement to inform implementation of the LGBTQ+ Action Plan for Wales. Membership of the group reflects a variety of views on the full range of LGBTQ+ issues that the Action Plan is designed to meet and includes representatives with protected characteristics other than sexual orientation and gender reassignment.

We aim to be as transparent as possible, and the Terms of Reference for the group and minutes of the meetings will be published at [LGBTQ+ Action Plan Advisory Group | GOV.WALES](https://www.gov.wales/lgbtq-action-plan-advisory-group),

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

An individual's sexuality and sexual orientation is a protected characteristic under the GDPRs. Whilst disclosure of the identities of the members of the Group does not explicitly provide details on the individuals sexuality, disclosure of their identity would be likely to lead to public speculation, etc. as to their sexuality.

We have been unable to identify any legitimate interest the requester may have in accessing the requested information, and we believe that disclosure is not necessary for the aims and workings of the Group to be understood. As we believe disclosure would be likely to generate public speculation as to the individual's sexuality, we are of the view that disclosure would breach the rights and freedoms of those individuals as provided by the GDPRs.

As release of the information would not be legitimate under Article 6(1)(f), and as no other condition of Article 6 is deemed to apply, release of the information would not be lawful within the meaning of the first data protection principle. It has therefore been withheld under section 40(2) of the Freedom of Information Act. Section 40(2) is an absolute exemption and not subject to the public interest test.