



Ref: ATISN 19753

5 August 2024

Dear ,

ATISN 19753 - Proposed health care centre in Abertridwr

Thank you for your request to the Welsh Government for information under the Freedom of Information Act (2000) which was received on 11 July 2024. You refer to the proposed healthcare in Abertridwr and we interpreted your request as follows:

- 1. Why was a green site in Brynhafod Road been selected given the amount of 'brown' sites and derelict buildings available in Abertridwr. Who made this decision and why?*
- 2. I would like copies of any correspondence, meeting notes, memos, between yourself or any other Senedd staff/members in relation to ABUHB proposed plans.*

Our Response

1. Welsh Government understand that the health board are considering a number of sites in Abertridwr and not aware of a decision made.
2. See attached documents as requested

We have determined that some information contained within the documents is exempt from disclosure under the following section of the Freedom of Information Act (2000):

- Section 40(2) - Personal Information – See Annex A of this letter.

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,

Tîm Busnes y Llywodraeth | Government Business Team
Grŵp Iechyd, Gofal Cymdeithasol a'r Blynyddoedd Cynnar | Health, Social Care and Early Years Group
Llywodraeth Cymru | Welsh Government

Annex A

Section 40 (2) – Personal information about others

Section 40 sets out an exemption from the right to know if the information requested is personal information protected by the Data Protection Act 1998 (DPA). Personal data is defined in Section 1(1) of the DPA as:

“personal data” means data which relates to a living individual who can be identified from those data; or from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller.

The documents provided contain the names of living individuals. Under Section 40(2) of the Freedom of Information Act (FOI Act), personal data is exempt from release if disclosure would breach one of the data protection principles. We consider the first principle to be of most relevance in this instance.

The first data protection principle states:

Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless—

(a) at least one of the conditions in Schedule 2 is met, and (b) in the case of sensitive personal data, at least one of the conditions in Schedule 3 is also met.

We consider that the information in this case clearly falls within the description of personal data as defined by the DPA and that disclosure would breach the first data protection principle. The first data protection principle has two components:

- 1 Personal data shall be processed fairly and lawfully and
2. Personal data shall not be processed unless at least one of the conditions in DPA schedule 2 is met

Guidance from the Information Commissioner’s Office (Personal information (section 40 and regulation 13) v 1.3) states (at p11):

- The starting point is to consider whether it would be fair to the data subject to disclose their personal data. The key considerations in assessing this are set out in the section on Fairness below.
- If disclosure would not be fair, then the information is exempt from disclosure.

This approach was endorsed by the Court of Appeal in the case of Deborah Clark v the Information Commissioner and East Hertfordshire District Council where it was held:

“The first data protection principle entails a consideration of whether it would be fair to disclose the personal data in all the circumstances. The Commissioner determined that it would not be fair to disclose the requested information and thus the first data protection

principle would be breached. There was no need in the present case therefore to consider whether any other Schedule 2 condition or conditions could be met because even if such conditions could be established, it would still not be possible to disclose the personal data without breaching the DPA” (paragraph 63).

I have concluded that there is a reasonable expectation that the identity of the living individuals would not be made public. It is my view, therefore, that disclosure of the redacted information would breach the first data protection principle, and thus is exempt from release under section 40 of the FOI Act.