

3 September 2024

Dear

ATISN 20836: Hybu Cig Cymru (HCC)

Information requested

Thank you for your request which Welsh Government received on 8 August. You asked for:

1. Directors Remuneration claims submitted directly to Welsh Government

Remuneration claims submitted directly to Welsh Government by individual HCC Directors for the following:

- 1 April 2022 to 31 March 2023
- 1 April 2023 to 31 March 2024
- 1 April 2024 to 31 July 2024

2. Please include details of individual Director remuneration claim forms submitted directly to Welsh Government which will include dates, details of meetings and descriptions to justify the public money claimed.

3. Directors Expenses claims submitted directly to Welsh Government

Expenses claimed by individual HCC Directors and submitted directly to Welsh Government for the following:

- 1 April 2022 to 31 March 2023
- 1 April 2023 to 31 March 2024
- 3 1 April 2024 to 31 July 2024

4. Please include individual detail of expense forms submitted to Welsh Government to include dates, purpose and descriptions of activities of all expenses claimed.

5. Please also provide confirmation, supported with the detailed evidence of how the Welsh Government administered and settled the Remuneration and Expenses claims.

Our response

Following a search of our paper and electronic records, we have established that:

- Request 1 and 3 - the Welsh Government holds some of the information you have requested and this information is attached.

- Request 2 and 4 – we have concluded that the personal information included in this part of the request is exempt from disclosure under section 40(2) of the Freedom of Information Act and is therefore withheld. The reasons for applying this exemption are set out in full at Annex A to this letter.
- Request 5 - Welsh Government does not administer or settle HCC Directors' remuneration and expense claims, which is a matter for HCC. Welsh Government holds some details of some claims by HCC directors. These are being released under requests 1 and 3 above.

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

Annex A

Application of exemptions/exceptions

The Freedom of information Act/Environmental Information Regulations provide a right for anyone to ask a public authority to make requested information available to the wider public. As the release of requested information is to the world, not just the requester, public authorities need to consider the effects of making the information freely available to everybody. Any personal interest the requester has for accessing the information cannot override those wider considerations.

I have decided to withhold the following information:

Individual detail of expense forms submitted to Welsh Government by HCC directors, to include dates, purpose and descriptions of activities of all expenses claimed.

This Annex sets out the reasons for the engagement of section 40(2) of the Freedom of Information Act and our subsequent consideration of the Public Interest Test.

Section 40(2) – Personal Data

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 2018 (‘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. The detail held of claims contains financial and personal details of living individuals.

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

The personal data is detail held for individual expense claims, including purpose and description as well as the amount claimed. There is a legitimate interest in releasing this information, because the money claimed is paid from the public purse and understanding what expenses have been claimed increases public accountability, transparency and openness.

2. Is disclosure necessary?

Public accountability could be met with a summary of the information, with the expenses grouped under broad headings and aggregated. Summary information would not involve releasing individual details. However summarised information may not provide sufficient detail in all cases and for all purposes, so disclosure may be necessary for some legitimate interests.

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

Although a specific legitimate interest has not been specified that requires the detailed release of the requested data, it is possible that release of summary data would not, in all cases, provide sufficient detail to analyse expenditure. However, this legitimate interest must be considered against the data subject’s information rights and freedoms. Financial data, in particular, is data that may be sensitive, and the information held by us is likely to contain financial details of the data subjects that we would have a duty to protect. A strong countervailing public interest in the information would need to be identified to over-ride this presumption in favour of those fundamental rights. In the absence of a clear legitimate interest, it is not possible to assess whether data that is held meets this level of interest, and so the information is withheld.