



Llywodraeth Cymru
Welsh Government

ATISN 14295

27 November 2020

Dear

ATISN 14295 – Covid-19 Caerphilly Lockdown

Thank you for your request to the Welsh Government for information under the Freedom of Information Act (2000) received on 08 September. You requested the following information regarding the localised lockdown of Caerphilly County Borough, specifically:

Vaughan Gething recently tweeted on 08/09/20 at 07:15 that it was important to act where transmission was taking place; which was via socialising in people's homes, and not pubs.

Could I please request the data that led to this decision for Caerphilly County Borough to be placed in lockdown and likewise the above comment being made.

Our Response

The majority of information you have requested in relation to the data that led to the decisions taken for Caerphilly County Borough is readily available and has therefore been exempted under Section 21 of the Freedom of Information Act 2000.

The data is published on the public-facing Public Health Wales COVID-19 surveillance dashboard daily. This data includes Covid-19 case numbers, deaths, and hospital admissions over time and broken down by area. Notes on the interpretation of the data are also included on this dashboard. Specific queries about this data should be directed to Public Health Wales. This dashboard can be accessed through the following link: <https://public.tableau.com/profile/public.health.wales.health.protection#!/vizhome/RapidCOVID-19virology-Public/Headlinesummary>.

The Welsh Government also publishes daily management information from health boards on the number of COVID-19 related hospitalisations and admission: <https://gov.wales/nhs-activity-and-capacity-during-coronavirus-covid-19-pandemic>

Additional information that provides the underlying evidence for intervention is also published wherever possible by TAC (<https://gov.wales/technical-advisory-cell>) and SAGE (<https://www.gov.uk/government/organisations/scientific-advisory-group-for-emergencies>).

Further specific targeted interventions, like the settings in which high levels of transmission are taking place in local communities, are informed by local intelligence the Welsh Government receives from the local Incidence Management Teams and health protection professionals on the ground in that area. This approach is set out in the Coronavirus Control Plan: <https://gov.wales/coronavirus-control-plan-wales>

This local intelligence is not publically available and we have concluded that it is withheld for the purpose of formulation and development of government policy and is therefore exempt under Section 35(1) of the FOIA at this time. The consideration of exemptions and our reasoning for engaging Section 35(1)(a) is set out in the accompanying annex.

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,

Annex 1

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 35(1)(a)

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

This exemption is only engaged by information being used in the formulation of government policy. Once that policy is finalised, the exemption is unlikely to be engaged. In most cases it is usually straight forward to identify when the formulation stage is concluded by the publishing of the policy document, or legislation has been made. It is, however, recognised, that where existing policy is under review, the s35(1)(a) exemption can apply to the information informing that review.

The Information Commissioner's Guidance on the application of the s35 exemptions states in paragraph 48:

For complicated policies, it is possible that formulation may continue even after this point. In some cases the government announces a high-level policy, or passes a 'framework' bill into law, but leaves the finer details of a policy still to be worked out. The high-level policy objective has been finalised, but detailed policy options are still being assessed and debated. Later information relating to the formulation of the detailed policy will still engage the exemption.

The information you have requested has caught some supporting documents which is information generated to inform and develop policies with regards to Covid-19 and lockdowns during this current pandemic.

The supporting documents are also summaries from health professionals and publishing them again could adversely affect policy making. It would likely lead to IMTs and others censoring their advice to us and be less useful. IMTs have their own communication plans for publishing relevant information and they are carefully calibrated about what is made public to inform behavioural and other responses. We risk undermining that by publishing their input into the policy making process.

As with most of the policies and legislation relating to the Covid-19 pandemic, these supporting documents are under constant review. These supporting papers are also summaries from health professionals and publishing them could adversely affect policy making in the future with advice being censored and consequently, be less useful. Also, our partners have their own communication plans for publishing relevant information and there is a risk that we would undermine that by publishing their input into the policy making process.

As this is very much a “live” issue, I am of the view that the s35(1)(a) exemption is engaged by the information captured by this request

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. We also recognise the general public interest in making this information available for the sake of greater transparency and openness.

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, their officials and advisors to be able to have a safe space to undertake discussions.

We take the view that the section 35 exemption is intended to ensure that the possibility of public exposure does not deter from full, candid and proper deliberation of policy formulation and development, including the exploration of all options.

There is a need to be able to discuss recommendations and formulate new proposals with regards to dealing with the control of Covid-19 as well as considering future policies and plans as a result. This is a fast paced environment and changes almost daily.

Civil servants and subject experts need to be able to engage in the free and frank discussion of all the policy options internally, to expose their merits and demerits and their possible implications as appropriate. Their candour in doing so will be affected by their assessment of whether the content of such discussion will be disclosed in the near future. Premature disclosure of information protected under section 35 could prejudice good working relationships, the neutrality of civil servants.

Also, disclosure of the supporting documents used in formulating a Welsh Government response is considered as being a qualitative assessment exchanged between civil servants and subject experts for the purpose of the formulation and development of policy. Therefore, carries the risk that the content might be misinterpreted and as such disclosure would not provide the clarity that the public require.

In conclusion it is within the wider 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 manage the current pandemic.