



Llywodraeth Cymru
Welsh Government

E-mail request

Our ref: ATISN 14791
Date: 19 February 2021

Dear

ATISN 14791

Thank you for your request which I received on 22 January 2021. You asked for:

Any correspondence with the European Commission regarding participation in the Conference on the Future of Europe

Any correspondence with the European Commission or Wales Higher Education Brussels regarding participation in Erasmus.

Our response

I have concluded that one item of information relating to your request is exempt from disclosure under Section 21 of the Freedom of Information Act (2000) – information readily accessible to the applicant by other means. The information – correspondence with the European Commission, with reference to participation in Erasmus+ - can be found [here](#).

Other information relating to your request is withheld under the following FOIA exemptions and our consideration of the identified exemptions is set out in the accompanying annex:

- Section 28(1) sets out an exemption from the right to know, if the disclosure of the information in question would, or would be likely to prejudice relations between two or more administrations in the United Kingdom.
- Section 35(1)(a) of the FOIA covers any information relating to the formulation and development of government policy.

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

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 28(1)

Section 28(1) sets out an exemption from the right to know, if the disclosure of the information in question would, or would be likely to, prejudice relations between two or more administrations in the United Kingdom. We believe that should we disclose the information in scope of your request, our day to day working relationship with the other administrations within the UK would be significantly prejudiced.

The UK's potential participation in the future Erasmus+ programme, and UK Government's subsequent decision not to do so, has been a matter of significant interest for the Welsh Government and other Devolved Administrations, and our stakeholders. We have sought to understand the detail behind the EU-UK negotiations and UK Government's decision not to participate in Erasmus+, and to explore ways in which Welsh learners, young people and institutions could continue to participate in the programme. In doing so we have exchanged information – sometimes of a sensitive nature - with other UK Administrations and with key stakeholders to help better understand the situation and possibilities.

If we were to disclose the information in response to this request, we believe that other UK administrations may be less willing to share sensitive information with us in future, for fear of that information being released to the World. Any disruption to the free flow of information is likely to result in ministers here in Wales being less fully informed of ongoing developments.

Public interest arguments in favour of release

Erasmus+ is one of the best-known EU programmes among the general public and the UK Government's decision not to participate in the future programme has been controversial. There is a public interest in making available information which enables stakeholders to better understand decision making which affects them and the range of future policy choices.

Public interest arguments in favour of withholding

There is a general public interest in ensuring a close and effective working relationship between the Welsh Government and the other administrations in the UK on issues related to international agreements (UK reserved power) and devolved matters such as education – here, both are in consideration. Information exchanged between the administrations and selected stakeholders has been done on the understanding of treatment in confidence.

We believe that the wider public interest favours maintaining the good working relationship with other administrations and that disclosure would be likely to negatively impact the free flow of information with the potential to undermine the decision making process here in Wales. As such we believe that the s28 exemption is properly applied.

Section 35(1)(a)

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

Following the UK Government's decision not to participate in the Erasmus+ programme and subsequent announcement of the UK-wide Turing Scheme, the Welsh Government has stated that

it will explore how Wales can continue to enjoy the benefits offered by Erasmus+, and is therefore exploring policy options in line with this goal.

Public interest arguments in favour of release

The Welsh Government's consistent position to advocate for UK participation in Erasmus+ and to explore possibilities for future participation, means that there is public interest in knowing how the Welsh Government will respond, in policy-making terms, to the current circumstances.

To release information now regarding on-going discussions would promote awareness of the issues that Government is currently considering, as well as enhancing transparency in policy-making decisions.

Public interest arguments in favour of withholding

The Welsh Government is formulating its policy and advice to Ministers. Good government depends on being able to produce the best advice available and to discuss all the options and information without fear of premature disclosure. Future policy-making would become more difficult and of lower quality if preliminary ideas and information were to be made public before options were fully assessed.

We believe, therefore, that the balance of the public interest falls in favour of withholding information as it relates to policy that is still in development, and that the s35(1)(a) exemption is properly applied.