

30 September 2022

Dear

ATISN 16622

Thank you for your request. You asked for information relating to the last inspection report for Beili Bedw, at Pencader.

Unfortunately, we do not hold this within our records. However, we recommend you contact your Local Authority, Carmarthenshire, who may be able to provide you with a copy.

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.of.information@gov.wales

Please remember to quote the ATISN reference number above.

You also have the right to complain to the Information Commissioner 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

This Annex sets out the reasons for the engagement of section 40(2) of the Freedom of Information Act (FOIA) and our subsequent consideration of the public interest test.

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 requester 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.

Engagement of 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 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 or other information which would allow individuals to be identified.

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 request seeks details of the vets who participated in the review of the dog breeding regulations. There is, we think, a legitimate interest in disclosing this personal data as this would show that those who participated are vets who practice in Wales and represent a good cross section of the vets practicing in Wales.

2. Is disclosure necessary?

We do not believe that disclosure of the identities of those who participated in this review will add to the understanding of the outcome or the actions that need to be taken as a result of the review. As such we do not believe that disclosure is necessary.

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

Whilst the requester may have a legitimate interest in knowing the identities of those who participated in this review, disclosure in response to an FoI request is to the World not just the party making the request.

Dog breeding engenders strong feelings. There are a small number of individuals who are prepared to take action against those they perceive to take a different view to themselves. Disclosure of the identities would allow those individuals, their families and colleagues to be targeted by those individuals who take umbrage with the views expressed. This endangers the fundamental rights and freedoms of these individuals.

We do not believe disclosure would add to the understanding of the outcomes of the review, and that legitimate interest in disclosure does not outweigh the fundamental rights of the data subjects, their families and colleagues. As such we believe disclosure would breach the rights of the data subject as provided by the DPA and GDPR.