

23 December 2022

Dear ,

**Re: Complaint in respect of ATISN 16827 - Workbooks Outputs for Completed Inspections - Morriston and UHW**

Further to your email of 28 November 2022, I have now concluded an internal review into the handing of your information request, which was considered in accordance with the procedure outlined in the [Welsh Government's Practical Guide for Making Requests for Information](#).

I have concluded that it was not overtly clear in your original request that you were asking Healthcare Inspectorate Wales (HIW) to provide completed workbooks for onsite inspections of Morriston Hospital and the University Hospital of Wales. Given the use of the term 'template' in your request, a term which is generally used to describe a format or model for doing something, I believe it was reasonable for HIW staff to conclude that your request related to blank documentation/files.

However, following clarification of your request, I have now enclosed the completed inspection workbooks for the following on-site inspections:

- 1) Morriston Hospital Emergency Department and Assessment Areas, Swansea Bay University Health Board (UHB), which took place on 5 - 7 September 2022.  
Attachments 1 to 6.
- 2) University of Wales Emergency Unit and Assessment Unit, Cardiff and Vale University Health Board (UHB), which took place on 20 - 22 June 2022.  
Attachments 1 to 18.

Please be aware that some information contained in the inspection workbooks has been redacted because it relates to personal data of patients, Swansea Bay UHB staff, Cardiff and Vale UHB staff, and HIW staff, which does not fall within the scope of the request.

Information being withheld	Section number and exemption name
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<p>Third party personal relating to patients, Swansea Bay UHB staff, Cardiff and Vale UHB staff and HIW staff.</p>	<p>Section 40(2) of the Freedom of Information Act. Personal data protected by the General Data Protection Regulation and Data Protection Act 2018.</p>
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Further information can be found at Annex A.

If you remain dissatisfied with this response you 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.

Yours sincerely

[Alun Jones](#)  
 Chief Executive  
[Healthcare Inspectorate Wales](#)

Enclosures:

Attachment 1 - Morryston ED - Inspector workbook  
 Attachment 2 - Morryston ED - Workbook SAU and RAU  
 Attachment 3 - Morryston ED - Patient Experience Reviewer workbook  
 Attachment 4 - Morryston ED - Peer Reviewer workbook  
 Attachment 5 - Morryston ED - Peer Reviewer workbook  
 Attachment 6 - Morryston ED - Peer Reviewer workbook

Attachment 1 - UHW ED Inspection - Workbook AU  
 Attachment 2 - UHW ED Inspection - Workbook AU Peer  
 Attachment 3 - UHW ED Inspection - Workbook ED and EU Additional Notes  
 Attachment 4 - UHW ED Inspection - Infection Control Workbook  
 Attachment 5 - UHW ED Inspection - Additional Notes-Observations Workbook  
 Attachment 6 - UHW ED Inspection - Peer Reviewer  
 Attachment 7 - UHW ED Inspection - Medicines Management Workbook  
 Attachment 8 - UHW ED Inspection - Case tracking Workbook

- Attachment 9 - UHW ED Inspection - Staff Discussions - Ward staff Workbook
- Attachment 10 - UHW ED Inspection - Workbook ED
- Attachment 11 - UHW ED Inspection- Workbook ED
- Attachment 12 - UHW ED Inspection - Workbook ED Lay
- Attachment 13 - UHW ED Inspection - Workbook ED Lay Additional Notes
- Attachment 14 - UHW ED Inspection - Workbook ED Peer
- Attachment 15 - UHW ED Inspection - Workbook ED Peer
- Attachment 16 - UHW ED Inspection - Workbook ED Peer Additional Notes
- Attachment 17 - UHW ED Inspection - Workbook Support Inspector
- Attachment 18 - UHW ED Inspection - Workbook Support Inspector

## Annex A

This Annex sets out the reasons for the use of Sections 40(2) of the Freedom of Information Act (FOIA).

### Section 40(2) - Personal Information

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 (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, by reference to an identifier such as a name, an identification number, location data, an online identifier or 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.

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 General Data Protection Regulation (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