

3 May 2023

Dear

ATISN 17362 – Health Protection Services

Thank you for your request to the Welsh Government for information under the Freedom of Information Act (2000) received on 03 April 2023. I interpreted your request as follows:

- *Request for any funding and service confirmation communication between the Welsh Government and Powys Teaching Health Board - Test, Trace and Protect and the new Health Protection Services for the financial year 2022/2023*

Response

Please find the requested information in the attached letters.

You will note that some information is exempt from disclosure and has been redacted under Section 40(2) (personal information) of the Freedom of Information Act. The reasons for applying this exemption are set out in Annex 1.

Next Steps

The request you sent me contains personal information about you - for example, your name and address. The Welsh Government will be the data processor for this information and, in accordance with the General Data Protection Regulation, it will be processed in order to fulfil our public task and meet our legal obligations under the Act to provide you with a response.

We will only use this personal information to deal with your request and any matters which arise as a result of it. We will keep your personal information and all other information relating to your request for three years from the date on which your request is finally closed. Your personal information will then be disposed of securely.

Under data protection legislation, you have the right:

- to be informed of the personal data we hold about you and to access it
- to require us to rectify inaccuracies in that data
- to (in certain circumstances) object to or restrict processing
- for (in certain circumstances) your data to be 'erased'
- to (in certain circumstances) data portability
- to lodge a complaint with the Information Commissioner's Office (ICO) who is our independent regulator for data protection

For further information about the information which the Welsh Government holds and its use, or if you wish to exercise your rights under the GDPR, please see contact details below:

Data Protection Officer
Welsh Government
Cathays Park
CARDIFF
CF10 3NQ
Email: DataProtectionOfficer@gov.wales

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

S.40 (2) – Personal information about others

‘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.

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

Whilst we can recognise that you may have a legitimate interest in accessing the papers, etc, relating to the work of the Powys teaching Health Board it is not clear whether you have a legitimate interest in accessing the personal data of officials and other group members.

2. Is disclosure necessary?

We do not believe that it is necessary that the disclosure of the personal data would allow you, or anyone else, to have a greater understanding of the work of the Powys teaching Health Board.

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

Welsh Government believes that the officials involved with Powys Teaching Health Board would not have any reasonable expectation that their names would be disclosed to the public and that to do so would not be fair and transparent within the meaning of the first data protection principle. In the absence of compelling legitimate interests in the publication of this information, we have decided it is exempt from release under section 40(2) of the Freedom of Information Act.

Section 40(2) is an absolute exemption and not subject to the public interest test.