

20 June 2023

Dear

ATISN 17435 – Betsi Cadwaladr UHB

Thank you for your request to the Welsh Government for information under the Freedom of Information Act (2000) received on 26 April 2023. Please accept our apologies for the delay in responding to you.

You have requested as follows:

- 1. A full list and copies of all reports both formal and informal that the then Health Minister used to make his decision to remove Betsi Cadwaladr University Health Board from Special Measures in November 2020*
- 2. A list of the dates when each report was presented to the Minister*
- 3. Copies of any briefing documents or correspondence from officials to Ministers accompanying or related to the reports and to the decision*
- 4. Copies of any correspondence between Healthcare Inspectorate Wales and the Welsh Government relating to the decision to remove BCUHB from Special Measures in November 2020*

Our Response

Question 1, 2 and 3

The Welsh Government holds information that is within the scope of your request. However, the information you have requested is already in the public domain and is therefore exempt from disclosure under Section 21 of the Freedom of Information Act 2000. (We are not required to provide information which is already reasonably accessible to you.)

This information was previously requested under the Freedom of Information Act, and is available on the following link:

[FOI release 14585: Betsi Cadwaladr University Health Board | GOV.WALES](#)

4. Having searched our records, we have found some correspondence that matches your fourth request, and it is attached to this response as 'Doc 1'.

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

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,

Doc 1

From: Fitzgerald, Stuart (CCRA - Housing and Regeneration - Homes & Places)

Sent: 30 November 2020 10:03

To: WG Officer 1 (HSS - NHS Wales Performance) <redaction s40(2)>; Atherton, Frank (HSS - Chief Medical Officer); WG Officer 2 (HSS - Health & Social Services) <redaction s40(2)>; Brace, Alan (HSS - Finance, Capital, Estates and Facilities); Dave Thomas (Audit Wales); WG Officer 4 (HSS-DPH-Population Healthcare) <redaction s40(2)>; Dean, Simon (HSS - Office of the DG - NHS Wales Chief Executive); DS to DG for Health and Social Services Chief Executive NHS Wales; ArchiveGoodall, Andrew (HSS - DG - NHS Wales Chief Executive); AW Officer 1 (Audit Wales) <redaction s40(2)>; HIW Officer 2 (Healthcare Inspectorate Wales) <redaction s40(2)>; HIW Officer 1 (Healthcare Inspectorate Wales) <redaction s40(2)>; WG Officer 3 (HSS - Health & Social Services) <redaction s40(2)>; AW Officer 2 (Audit Wales) <redaction s40(2)>; WG Officer 5 (HSS - Mental Health Vulnerable Groups & Offenders) <redaction s40(2)>; Rees, Sioned (HSS - Health Protection); Sallows, Andrew (HSS - Delivery & Performance)

Subject: RE: Note of BCU meeting

WG Officer 1 <redaction s40(2)>

No changes from HIW.

Thanks,

Stuart

Stuart Fitzgerald

Interim Deputy Chief Executive / Dirprwy Brif Weithredwr

Director of Strategy and Engagement / Cyfarwyddwr Strategaeth ac Ymgysylltu

<redaction s40(2)>



From: WG Officer 1 (HSS - Delivery & Performance)

Sent: 25 November 2020 15:41

To: Atherton, Frank (HSS - Chief Medical Officer); WG Officer 2 (HSS - Office of the DG NHS Wales Chief Executive) <redaction s40(2)>; Brace, Alan (HSS - Finance, Capital, Estates and Facilities) Dave Thomas (Audit Wales); WG Officer 4 (HSS-DPH-Population Healthcare); Dean, Simon (HSS - Office of the DG - NHS Wales Chief Executive); DS to DG for Health and Social Services Chief Executive NHS Wales; Fitzgerald, Stuart (HIW); Goodall, Andrew (HSS - DG - NHS Wales Chief Executive); AW Officer 1 (Audit Wales) <redaction s40(2)>; HIW Officer 2 (Healthcare Inspectorate Wales) <redaction s40(2)>; HIW Officer 1 (Healthcare Inspectorate Wales) <redaction s40(2)>; WG Officer 3 (HSS - Office of the DG - NHS Wales Chief Executive) <redaction s40(2)>; AW Officer 2 (Audit Wales) <redaction s40(2)>; WG Officer 5 (HSS - Mental Health, NHS Governance & Corp Services) <redaction s40(2)>; Rees, Sioned (HSS - Mental Health, NHS Governance & Corporate Se; Sallows, Andrew (HSS - Delivery & Performance)

Subject: Note of BCU meeting

All

Please see the attached link to the note of the BCU tripartite meeting.

For Audit Wales colleagues, this has been uploaded to Objective Connect to the same folder that the other docs for the meeting were placed in.

Cofion / Regards

WG Officer 1 <redaction s40(2)>

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 correspondence *between Healthcare Inspectorate Wales and the Welsh Government relating to the decision to remove BCUHB from Special Measures in November 2020* it is not clear whether you have a legitimate interest in accessing the personal data of officials.

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 decision to move BCUHB from Special Measures.

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 the decision making 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.