

27 November 2023

Dear

## **ATISN 19225 – Morriston A&E**

Thank you for your email received on 30 October 2023 which will be dealt with under the Freedom of Information Act (2000). You have requested the following:

*In relation to the Welsh Ambulance Service declaration of an 'extraordinary incident' due to the collapse of performance by the A&E department at Morriston Hospital around 20<sup>th</sup> October and consequent discussions between Welsh Government and Swansea Bay University Health Board.*

- 1. Please provide a copy of the correspondence (letters, emails, messages, WhatsApp) etc between WG and SBUHB relating to this.*

## **Our Response**

There are daily National Risk Huddles chaired by the Operational Delivery Unit – a service hosted by the Welsh Ambulance Services NHS Trust.

On Sunday 22<sup>nd</sup> October, the Welsh Government executive officer-on-call attended the National Risk Huddle meeting at 11:00, at which a representative of the Swansea Bay University Health Board was also present.

Given the pressure on services reported by Swansea Bay University Health Board on the morning call, the Welsh Government officer sought further assurance on mitigating actions being taken to support safe delivery of services. The email from the Welsh Government officer, sent on 22<sup>nd</sup> October at 14:16, is attached.

Swansea Bay University Health Board responded at 14:28, acknowledging that the Morriston hospital site team would send across a mitigation plan later that day; the email is attached.

Swansea Bay University Health Board provided a verbal update on the position and mitigations in place at the additional National Risk Huddle that took place at 21:00 on 22<sup>nd</sup> October.

A Welsh Government officer joined the national risk huddle at 11:00 on 23<sup>rd</sup> October to seek a further verbal update on the position. No direct correspondence with Swansea Bay University Health Board followed this.

Assurance on the Health Board's plans to deliver safe and effective services are a key feature of ongoing and frequent meetings and dialogue with the Swansea Bay Health Board.

Please note that some information that is personal and that may not already be in the public domain has been redacted under Section 40 – Personal Information of the Freedom of Information Act.

An explanation of the use of these exemptions is provided at **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](mailto: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

### Freedom of Information Act 2000: 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 1998 ('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

Your request indicates you are interested in obtaining correspondence in relation to the performance by the A&E department at Morriston Hospital on 22 October and consequent discussions between Welsh Government and Swansea Bay University Health Board.

We have concluded that, in this instance, there is little to be gained from releasing the names of individuals included within the attached documentation. We believe we have provided sufficient information to satisfy the legitimate interest and we do not believe disclosure of the identities of those consultants would allow any greater understanding.

## **2. Is disclosure necessary?**

Following the above analysis, we do not believe that disclosure of the personal data is necessary.

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

As we do not believe disclosure of this personal data is necessary, there is no requirement on us to undertake a test to balance the legitimate interests against the right of individuals, as the fundamental rights and freedoms provided by the DPA are not being challenged.

### **Documents attached**

1. Email from the Welsh Government Executive sent 22<sup>nd</sup> October at 14:16
2. Swansea Bay University Health Board response at 14:28