

29/02/2024

Dear

### **ATISN 20041 – Request for Information**

I have carried out an internal review following your complaint and have decided that your complaint is partially upheld. The information you originally requested was withheld in full under section 12(4)(e) of the Environmental Information Regulations as they were considered as internal communications with officials.

I disagree in part with this decision as the information sought was an exchange of correspondence between officials of the Welsh Government and officers in Wrexham County Borough Council. It is clearly in the public interest that information sought, in regards, to planning matters should be provided whenever possible.

To this end I have enclosed with this letter some of the information you requested, as identified on the disclosure list. Information is being withheld under Regulation 13, as it constitutes the personal data of officials. The information being withheld are names and e-mail addresses.

The information caught by your request constitutes environmental information and has been considered for disclosure under the Environmental Information Regulations (“EIRs”). I have decided some of the information described in the enclosed list is exempt from disclosure under Regulation 13 of the EIRs. The reasons for applying this exemption is set out in full at Annex 1 to this letter.

### **Next steps**

I have considered your complaint in accordance with the procedure outlined in the [Welsh Government's Practical Guide for Making Requests for Information](#) which is available by post on request or via the internet.

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

## Regulation 13– Personal data

Regulation 13(1) together with the conditions in Regulation 13(2)(a)(i) and 13(2)(a)(ii) 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.

Under Regulation 13(1) of the EIRs, 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.

### 1. Legitimate interests

We have been unable to identify a legitimate interest the requester may have in accessing the personal data of the officials who carried out the exchange of correspondence.

### 2. Necessity test

We do not believe it is necessary to release the personal data for the information to be understood.

### **3. Balancing test**

As we don't believe there is neither a legitimate interest nor is it necessary to release the personal data, we are of the view that disclosure would breach the GDPRs and, as such, should be withheld under Reg 13.