

14 January 2025

Dear

ATISN 26503 – Delegation of Authority Regarding Compliance with Farmed Animal Welfare Law

Information requested

Thank you for your request which we received on 12 December. You asked for information regarding the delegated authorities under Article 28 of the Official Controls Regulation (EU) 2017/625 ('the OCR'), which we have interpreted to specifically relate to the Welsh Ministers' responsibility for verifying compliance with farmed animal welfare legislation.

Contained within the request you have asked if a Service Level Agreement (SLA) exists between Welsh Ministers and the Animal and Plant Health Agency (APHA) for the delivery of farmed animal welfare functions.

Additionally, you asked for information on the following:

- Have the Welsh Ministers delegated authority for the verification of compliance with the animal welfare requirements of *The Welfare of Farmed Animals (Wales) Regulations 2007*?
- If yes:
 - To which body or bodies have the Welsh Ministers delegated authority under Article 28 OCR for verification of compliance with the animal welfare requirements in The Welfare of Farmed Animals (Wales) Regulations 2007?
 - The date on which the formal delegation occurred?
 - The delegation agreement, if one exists. If a written delegation agreement does not exist, the precise description of the tasks that the delegated body may perform, and the conditions under which it may perform those tasks.
 - Information on how the Welsh Ministers have satisfied themselves that the delegated body has the expertise, equipment, and infrastructure required to perform the official control tasks, as per the requirements of Article 29 of the OCR.
 - Information on how the Welsh Ministers have satisfied themselves that the delegated body has a sufficient number of suitably qualified and experienced staff to conduct the official controls in accordance with Article 29 of the OCR.
 - Information on how the Welsh Ministers have satisfied themselves that the delegated body works and is accredited in accordance with standards relevant to the delegated tasks in question, including standard EN ISO/IEC 17020 'Requirements for the operation of various types of bodies performing inspection'.
 - Information on how the Welsh Ministers have satisfied themselves that the delegated body has sufficient powers to perform the official control tasks.

- Information on how the Welsh Ministers have satisfied themselves that there are arrangements in place ensuring efficient and effective coordination between the delegating Competent Authority and the delegated body.
- Information on how the Welsh Ministers have organised audits or inspections of the bodies or persons authority was delegated to, pursuant to Article 33 of the OCR.
- Information on whether the Welsh Ministers have fully or partly withdrawn the delegation.
- Information on how the Welsh Ministers have satisfied themselves that the delegated body has adequate resources as per Article 78 of the OCR.

- **On Delegated Authorities for The Welfare of Animals at the Time of Killing**, have the Welsh Ministers delegated authority under Article 28 OCR for verification with the animal welfare requirements of The Welfare of Animals at the Time of Killing (Wales) Regulations 2014?
- If yes:
 - To which body or bodies have the Welsh Ministers delegated authority under Article 28 OCR for verification of compliance with the animal welfare requirements of The Welfare of Animals at the Time of Killing (Wales) Regulations 2014?
 - The date on which the formal delegation occurred?
 - The delegation agreement, if one exists. If a written delegation agreement does not exist, the precise description of the tasks that the delegated body may perform, and the conditions under which it may perform those tasks.
 - Information on how the Welsh Ministers have satisfied themselves that the delegated body has the expertise, equipment, and infrastructure required to perform the official control tasks, as per the requirements of Article 29 of the OCR.
 - Information on how the Welsh Ministers have satisfied themselves that the delegated body has a sufficient number of suitably qualified and experienced staff to conduct the official controls in accordance with Article 29 of the OCR.
 - Information on how the Welsh Ministers have satisfied themselves that the delegated body works and is accredited in accordance with standards relevant to the delegated tasks in question, including standard EN ISO/IEC 17020 'Requirements for the operation of various types of bodies performing inspection'.
 - Information on how the Welsh Ministers have satisfied themselves that the delegated body has sufficient powers to perform the official control tasks.
 - Information on how the Welsh Ministers have satisfied themselves that there are arrangements in place ensuring efficient and effective coordination between the delegating Competent Authority and the delegated body.
 - Information on how the Welsh Ministers have organised audits or inspections of the bodies or persons authority was delegated to, pursuant to Article 33 of the OCR.
 - Information on whether the Welsh Ministers have fully or partly withdrawn the delegation.
 - Information on how the Welsh Ministers have satisfied themselves that the delegated body has adequate resources as per Article 78 of the OCR.
- **On Delegated Authorities for The Welfare of Animals (Transport) (Wales) Order 2007**, Have the Welsh Ministers delegated authority under Article 28 OCR for verification of compliance with the animal welfare requirements of The Welfare of Animals (Transport) (Wales) Order 2007?
- If yes:

- To which body or bodies have the Welsh Ministers delegated authority under Article 28 OCR for verification of compliance with the animal welfare requirements of The Welfare of Animals (Transport) (Wales) Order 2007?
- The date on which the formal delegation occurred?
- The delegation agreement, if one exists. If a written delegation agreement does not exist, please could you provide the precise description of the tasks that the delegated body may perform, and the conditions under which it may perform those tasks.
- Information on how the Welsh Ministers have satisfied themselves that the delegated body has the expertise, equipment, and infrastructure required to perform the official control tasks, as per the requirements of Article 29 of the OCR.
- Information on how the Welsh Ministers have satisfied themselves that the delegated body has a sufficient number of suitably qualified and experienced staff to conduct the official controls in accordance with Article 29 of the OCR.
- Information on how the Welsh Ministers have satisfied themselves that the delegated body works and is accredited in accordance with standards relevant to the delegated tasks in question, including standard EN ISO/IEC 17020 'Requirements for the operation of various types of bodies performing inspection'.
- Information on how the Welsh Ministers have satisfied themselves that the delegated body has sufficient powers to perform the official control tasks.
- Information on how the Welsh Ministers have satisfied themselves that there are arrangements in place ensuring efficient and effective coordination between the delegating Competent Authority and the delegated body.
- Information on how the Welsh Ministers have organised audits or inspections of the bodies or persons authority was delegated to, pursuant to Article 33 of the OCR.
- Information on whether the Welsh Ministers have fully or partly withdrawn the delegation.
- Information on how the Welsh Ministers have satisfied themselves that the delegated body has adequate resources as per Article 78 of the OCR.

- **On Delegated Authorities for The Mutilations (Permitted Procedures) (Wales) Regulations 2007**, have the Welsh Ministers delegated authority under Article 28 OCR for verification of compliance with the animal welfare requirements of The Mutilations (Permitted Procedures) (Wales) Regulations 2007?
- If yes:
 - To which body or bodies have the Welsh Ministers delegated authority under Article 28 OCR for verification of compliance with the animal welfare requirements of The Mutilations (Permitted Procedures) (Wales) Regulations 2007?
 - The date on which the formal delegation occurred?
 - The delegation agreement, if one exists. If a written delegation agreement does not exist, the precise description of the tasks that the delegated body may perform, and the conditions under which it may perform those tasks.
 - Information on how the Welsh Ministers have satisfied themselves that the delegated body has the expertise, equipment, and infrastructure required to perform the official control tasks, as per the requirements of Article 29 of the OCR.
 - Information on how the Welsh Ministers have satisfied themselves that the delegated body has a sufficient number of suitably qualified and experienced staff to conduct the official controls in accordance with Article 29 of the OCR.

- Information on how the Welsh Ministers have satisfied themselves that the delegated body works and is accredited in accordance with standards relevant to the delegated tasks in question, including standard EN ISO/IEC 17020 'Requirements for the operation of various types of bodies performing inspection'.
- Information on how the Welsh Ministers have satisfied themselves that the delegated body has sufficient powers to perform the official control tasks.
- Information on how the Welsh Ministers have satisfied themselves that there are arrangements in place ensuring efficient and effective coordination between the delegating Competent Authority and the delegated body.
- Information on how the Welsh Ministers have organised audits or inspections of the bodies or persons authority was delegated to, pursuant to Article 33 of the OCR.
- Information on whether the Welsh Ministers have fully or partly withdrawn the delegation.
- Information on how the Welsh Ministers have satisfied themselves that the delegated body has adequate resources as per Article 78 of the OCR.

Our response

From our preliminary assessment we estimate that it will cost more than the appropriate limit set out in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 to answer your request in full. The appropriate limit specified for central government is £600. This represents the estimated cost of it taking over 24 hours of time to determine whether we hold the information and to thereafter locate, retrieve and extract it.

To provide you with the information you have requested would require us to look for information in many files spanning multiple years. You have asked for information that describes how Welsh Ministers have satisfied themselves on multiple points, and the process of locating, collating and extracting the information that answers your request will require us to search in a minimum of 8 files for each SLA and for each year since 2017/2018. In our review of the current year, we found at least 10 sub folders in each file, each containing, on average, 5 documents that would need to be reviewed to establish if they have information in scope. There are additional folders for each item of relevant legislation that would contain further files for review.

Review of the documents is a manual process, that requires extracting and reading each document. Based on an exercise, this took no less than three minutes for each document.

Based on our estimate of reviewing and scoping 5 documents x 10 sub folders x 8 files x 8 years (circa 3200 documents), the time required to undertake this request is likely to be in excess of 9,600 minutes, or 160 hours. This is considerably over the 24 hour limit.

Consequently, we have decided not to provide you with all the information you have requested.

You may wish to refine your request by narrowing its scope by being more specific about what information you particularly wish to obtain, including any dates or period of time relevant to the information required. If you do refine your request in this way, this will be treated as a new request.

As the request is over the appropriate limit for FOI, the whole request is refused. Nevertheless, we have decided to release the first item you requested, the 2024/25 SLA between Welsh Government and APHA (Annex 1) and the animal welfare key performance indicators agreed between Welsh Government and APHA (Annex 2).

We have decided that some of the information contained in Annex 2 is exempt from disclosure under section 40 (Personal Information) of the Freedom of Information Act and is therefore withheld. Consequently, an individual's name contained in the Annex 2 has been redacted. The reasons for applying this exemption are set out in full at Annex A to this letter.

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

ANNEX A

Application of exemptions/exceptions

The Freedom of information Act/Environmental Information Regulations provide a right for anyone to ask a public authority to make requested information available to the wider public. As the release of requested information is to the world, not just the requester, public authorities need to consider the effects of making the information freely available to everybody. Any personal interest the requester has for accessing the information cannot override those wider considerations.

We have decided to withhold the following information:

- Individual name of an official from the Service Level Agreement has been redacted – Section 40(2) – Personal information

This Annex sets out the reasons for the engagement of section 40(2) of the Freedom of Information Act and our subsequent consideration of the Public Interest Test.

Section 40(2) – Personal Data

Section 40(2) 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 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

The personal data includes individual names, email addresses, job titles and signatures from the grant offer letters, captured by this request. The legitimate interest lies in the information held, and in understanding the context of that information.

2. Is disclosure necessary?

Disclosure of the personal data is not necessary for the legitimate interest where those names, contact details and signatures included in the grant offer letters are not senior or public facing, and were acting in an administrative capacity on behalf of their organisations and would not expect their personal data to be made public.

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

Because the disclosure meets the legitimate interest with the personal information redacted, disclosure of the personal data is not necessary. There is no need to further consider the balance of interests, and the information is withheld.