



6 May 2016

Dear

Request for Information – reference ATISN 10359

Thank you for your request under the Freedom of Information Act 2000 (FOIA) which I received on 8 April about the Welsh Government's response to the Coroner, concerning the death of Jasmine Lapsley.

The information you have requested consists of a letter from the Minister for Health and Social Services which will be published by the Coroner's Office at a future date. Due to the sensitivity of the matter and taking into account the family of Jasmine Lapsley, after careful consideration officials believe it should be exempt from disclosure under Section 22(1) of the Freedom of Information Act 2000, "Information intended for future publication". Reasons for using this exemption are set out in the attached **annex** to this letter.

Once the Minister for Health and Social Services response to the Coroner is published, we will be able to send you the link to the information on the Coroner's website.

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,



Grŵp Iechyd a Gwasanaethau Cymdeithasol
• Health and Social Services Group
Parc Cathays • Cathays Park
Caerdydd • Cardiff • CF10 3NQ

E-bost • E-mail:
health.enquiries@wales.gsi.gov.uk
Ffôn • Tel: 029 2037 0011
Ffacs • Fax: 029 2082 3403

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

CF10 3NQ

or email: FreedomOfInformationOfficer@wales.gsi.gov.uk

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

Section 22: Information intended for future publication

Section 22(1) allows a public authority to withhold information if it intends publishing that information at a future date in a way that will make it publicly available. It states:

22.-(1) Information is exempt information if -

- (a) The information is held by the public authority with a view to its publication, by the authority or any other person, at some future date (whether determined or not)
- (b) The information was already held with a view to such publication at the time when the request for information was made, and
- (c) It is reasonable in all the circumstances that the information should be withheld from disclosure until the date referred to in paragraph (a).

Engagement of the Section 22 exemption

The Welsh Government holds the information requested. Our communications with the Coroner's office lead us to understand that the information will be published on their website in May 2016

Public Interest Test

Section 22 is a public interest tested exemption. This means that, in order to withhold information under its provisions, it has to be shown that the public interest in withholding the information outweighs that of releasing it.

Public Interest Arguments in Favour of Release

There is a very strong public interest in promoting accountability and transparency by public authorities. This is especially true in relation to the NHS and patient safety. Patient safety incidents are classified as any unintended or unexpected incident which could have, or did lead to harm for one or more patients receiving NHS-funded care. It is important that the public are apprised of the data arising from responses to coroner's reports in relation to serious incidents, in order for the public to see how NHS bodies will respond to the recommendations of coroners.

Public Interest Arguments in Favour of Withholding

Information should only be disclosed if it is sensible to do so, in line with accepted practices and fair to all concerned. A public authority may also wish to give thought as to whether it is the right decision to manage the availability of the information by planning and controlling its publication. It is necessary to avoid the possibility of the requester gaining any advantage in obtaining the information prior to general publication.

Disclosure now would mean publishing data without due consideration for the processes of the office of the Coroner and undermine its role. It is only proper that information held by the Coroner's office should not be released by another body, prior to official release by them. It is right and proper that the Coroner has the opportunity to consider our letter and, if required, prepare a statement to accompany their publication of it. Whilst it is very much in the public interest to publish our letter to the Coroner, that public interest is better served if any response or comment from the Coroner is published at the same time.

The Coroner's office has confirmed that the information will be published on their website in the near future. The release of information prior to official publication would allow an advantage to be gained by anyone seeking to sell the story to newspapers or any other media vehicle, through earlier publication. It is not considered that this development would be in the public interest, nor would it be in the public interest to have the family of the deceased unnecessarily exposed to distress as a result of the media exposure .

Whilst we recognise that a health bodies performance should be open to public scrutiny it is not in the public interest for such bodies to be subject to such scrutiny simply because data was prematurely released in response to an FOI request. The public interest is better served through the release of data through official processes.

Assessment of Public Interest

We have weighed the competing public interest arguments and have concluded that the public interest in withholding this information outweighs the public interest in its release. For that reason, we believe this information should be exempt under S 22(1) of the Freedom of Information Act 2000.

