



Our Ref: ATISN 10432
Date: 9th June 2016

Dear ,

ATISN 10432 – North Wales Child Abuse Tribunal Transcripts

Thank you for your request to the Welsh Government for information under the Freedom of Information Act 2000, received on 11th May. You asked for:

- An electronic set of transcripts of the public hearings of the North Wales Child Abuse Tribunal 1996-99

I have decided that the information requested is exempt from disclosure under section 14(1) of the Freedom of Information Act and is therefore withheld. The reasons for applying the exemption are set out in full at annex A.

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: 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,



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MEWN Pobl | IN PEOPLE

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
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Annex A

Application of Section 14(1) – Vexatious Requests

The Information Commissioner (ICO) in its guidance titled “Dealing with vexatious requests” has stated that a request may be considered vexatious in circumstances where it would “impose a grossly oppressive burden” to the public authority. The ICO has cited three conditions which must be met to show that responding to the request would impose such a burden:

- The requestor has asked for a substantial volume of information
- The public authority has real concerns about potentially exempt information
- Potentially exempt information cannot easily be isolated because it is scattered throughout the requested material.

The Welsh Government believes that all three of these criteria are met in this instance.

1. Volume of Information

The Welsh Government holds the record of 181 days of transcripts from public hearings of the North Wales Child Abuse Tribunal between 21st January 1997 and 7th May 1998 which amounts to 29,763 pages of transcript.

2. Concerns about Potentially Exempt Information

The Welsh Government has serious concerns about the release of some of the information contained within the transcripts. This is for a number of reasons:

Data Protection

A large part of the information in question clearly falls within the description of personal data as defined by the Data Protection Act 1998 (DPA). The transcripts include names, dates of birth, information about where people were living and the dates they were residing there. Section 40(2) of the Freedom of Information Act 2000 provides that third party personal data is exempt if its disclosure would breach any of the data protection principles set out in the DPA.

Due to the nature of the Inquiry’s proceedings, witnesses referred to fellow victims and to their abusers, directly by name in their statements and evidence. These details have been included in written transcripts and even judicious redaction of names would not guarantee complete protection of anonymity. The Welsh Government has serious concerns that it may be possible to piece together who is being referred to from the evidence and the context of the account of events given under certain circumstances.

We consider that disclosure of some of the requested information would be likely to breach the first data protection principle which requires the Welsh Government as a data controller to process personal data “*fairly and lawfully*.”



Many of the individuals documented within the transcripts will have given personal statements as part of a formal legal review and would have had no reason to believe that their personal data in the form of their names and their evidence would be made public at a later date. It is the Welsh Government's contention that disclosure of this material would be unfair to the individuals concerned.

We also consider that disclosure could be unlawful when having regard to the ruling made by Sir Ronald Waterhouse at the Inquiry.

Ruling of Sir Ronald Waterhouse

During his inquiry, Sir Ronald Waterhouse made an order which prohibited the public disclosure of certain names mentioned during testimony in the Tribunal and the events that those names are associated with. The full text of that order is set out below:

"bearing in mind (amongst other things) the wide terms of sections 1 and 2 of the Sexual Offences (Amendment) Act 1992, which prohibit identification, in any written publication or broadcast programme to be published in England and Wales, of a complainant who alleges that a sexual offence has been committed against him or her, we decided to issue the following information for the assistance of the press and media:

"The Tribunal wishes to indicate that it will regard the following as *prima facie* evidence of a contempt of court: publication of any material in a written publication (as defined in section 6(1) of the 1992 Act) available to the public (whether on paper or in electronic form), or in a television or radio programme for reception in England and Wales, which is likely to identify any living person as a person by whom or against whom an allegation of physical or sexual abuse has been or is likely to be made in proceedings before the Tribunal, with the exception of those who have been convicted of criminal offences of physical or sexual abuse of children in care."

It is considered that this ruling remains valid for much of the information captured by the request, and so the Welsh Government has serious concerns that releasing information captured by the request would place it in contempt of court. We believe this would take considerable government time and resource to fully investigate and verify the status of the information in this context.

Ongoing nature of Operation Pallial

Operation Pallial, the National Crime Agency's investigation into allegations of historical child abuse at children's homes in North Wales is still ongoing. Phase 2 of Operation Pallial commenced in April 2013 and this criminal police investigation could still potentially result in prosecutions being brought in the future.

The Operation Pallial team has made strenuous representations to the Welsh Government to the effect that disclosure of the transcripts would seriously prejudice the ongoing criminal investigation. Consequently the Welsh Government has serious concerns that the



publication of this information would be likely to damage the criminal justice process, e.g. reveal information relating to an offence prior to a defendant standing trial could cause a situation of “trial by media” and result in the collapse of the judicial proceedings.

3. Exempt information is scattered throughout the transcripts

The DPA applies to information that identifies living individuals. Given the amount and complexity of the information and also the historic nature of the allegations, some of those identified may no longer be living and it would not be an easy task to identify information that could be released from the witness statements without breaching the DPA. For example, simply redacting the names of witnesses would not provide complete protection of anonymity given the detail exists throughout their statements concerning events, dates, addresses etc. which could lead some witnesses to be identified by information known to others.

Likewise, it would be a lengthy process to identify what information is already in the public domain concerning some witnesses and those who have been accused in order to establish whether some of the information can be released. It is clear that identifying the potentially exempt information throughout the transcripts would be an extremely lengthy and complicated process. As a result of this exercise, it is also likely that a lot of the information would need to be redacted and therefore there would be little value in the content of any residual information.

None of the information contained in the transcripts has been specifically marked/flagged as personal data, nor are we aware of the specific parts that form part of ongoing, or future, investigations. Consequentially to prepare the transcripts for public consumption, it is estimated that it would take at least 992 hours to find and redact any exempt information:

*Based on 30 seconds per page to read each page – 30secs x 29763 pages =
892,890secs, 892,890secs / 60 = 14881.5mins, 14881.5mins / 60 = 248.025 hours:*

*And 3 mins per page to redact an estimated half of the pages – 3mins x 14881pages
= 44,643mins, 44643 / 60 = 744.05hours*

248.025hours + 744.05hours = 992.075hours

This represents considerable volume of information, and a burdensome number of staff hours to the Welsh Government

In conclusion, the Welsh Government believes that the burden imposed in complying with this request would be disproportionately high for minimal public benefit. As such, the Welsh Government believes that information requested is exempt from disclosure under section 14(1) of the Freedom of Information Act and is therefore withheld.

