



Date: 17 November 2017

Dear ,

ATISN 11684: Freedom of Information Requests.

Thank you for your request which I received on 2 November. You asked for:

- 1. The average time the Welsh Government has taken to release Fol request answers in each of the last 5 available years*
- 2. The number of Fols received and rejected in each of the last 5 available years*
- 3. The percentage of Fols rejected in each of the last 5 available years.*
- 4. The number and percentage of those rejected Fols that did not go further due to the task taking too much staff time or costing too much.*

To clarify – when a valid request for information is received, the Freedom of Information Act obliges a public authority to confirm or deny whether it holds that information and, where it does, to either release it or else withhold it under one or more of the exemptions. To that end, we are not entitled to ‘reject’ any request and so I have interpreted ‘reject’ to mean ‘refuse’ in terms of information having been requested and then withheld from release.

Regarding questions 2, 3 and 4, whilst I can confirm that the Welsh Government holds certain information of this description I believe that it is exempt from release under section 21(1) of the Freedom of Information Act. This states:

(1) Information which is reasonably accessible to the applicant otherwise than under section 1 is exempt information.

I can confirm that information about the Welsh Government’s compliance with the Freedom of Information Act over the past five years is set out in our Annual Reports on the implementation of open government legislation and policies. These Reports (dating back to 2005) can be found here:

<http://gov.wales/about/foi/foireports/?lang=en>

Whilst it's not clear from your request whether 'the last 5 available years' captures information about the current year, I can confirm that Information regarding the Welsh Government's performance in 2017 will be published alongside the existing reports in due course and is not yet available. To that end, this information is considered exempt under section 22 of the Freedom of Information Act. This states (inter alia):

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)

I can confirm that the conditions under (a) and (b) are satisfied. For (c), the Welsh Government believes that as there are less than two months of 2017 remaining, to publish the information regarding our 2017 performance to date would in fact be almost publishing information about the entire year. Due to the volume of requests still in the course of completion for the months of September and October, information we publish now would not reflect the information that will be published in the final report and so would be misleading and not present an accurate picture of our compliance with the legislation. To that end, we believe it is reasonable in all the circumstances to withhold the information until such time as it is officially published.

Section 22 is also a public interest tested exemption. This means that in order to withhold information under it, it has to be shown that the public interest in withholding the information outweighs that in releasing it. Whilst Welsh Government acknowledges the general public interest in openness and transparency that release would engender, we believe the inaccuracy of the information at this stage would be confusing and present a contrary set of figures to that which will be published in the official report. In the absence of any identifiable overriding public interest in the release of the information at this point in time, we believe the information regarding the Welsh Government's 2017 compliance to date should be withheld under section 22 of the Act.

Regarding question 1, I 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 this request. 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.

Statutory timescales and deadlines inherent within the Freedom of Information Act are set out in terms of working days. The Welsh Government's Request for Information (RFI) Tracking System has been designed to capture and produce information in relation to whether a request has been responded to on time or is late. There is no requirement under the Act to record the average time taken to respond to requests over the course of a year

and such figures cannot be calculated from the RFI Tracking System. Whilst the system does capture the number of calendar days taken to respond to a request, such figures, however, would not be accurate in a freedom of information context as they would also include bank holidays and weekends – statutory timescales under the Freedom of Information Act relate to working days. The only way to produce such calculations would be to isolate and recalculate the calendar days taken for each request manually. In the last five available years, the Welsh Government has completed 4781 requests for information. On a conservative estimation of each request taking 30 seconds to interrogate, I estimate it would take around 40 hours to extract the information. Consequently, I have decided not to provide you with the information you have requested.

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.

Please note that the Commissioner will not normally investigate a complaint until it has been through our own internal review process.

Yours sincerely