

Swyddfa'r Prif Weinidog a Swyddfa'r Cabinet

Office of the First Minister and Cabinet Office



Llywodraeth Cymru  
Welsh Government

Our ref: ATISN 11940

Date: 1 March 2018

Dear \_\_\_\_\_,

Request for Information – ATISN reference 11940

Thank you for your request which was received by the Welsh Government on 23 January 2018. You asked for the following information:

*Will the Welsh Government release the minutes/notes taken in relation to the meetings involving the First Minister on the 16<sup>th</sup> October 2014, 19<sup>th</sup> November 2014 and 4<sup>th</sup> February 2015?*

In relation to the first two dates in your request, the information held is attached at Annex 1. I have removed personal data from this information in accordance with Section 40 of the Freedom of Information Act 2000 and an explanation of my reasons for doing so is at Annex 2.

In addition, the meeting note from 19<sup>th</sup> November 2014 has been withheld under Section 27 – relations between the United Kingdom and any other State and an explanation of my reasons for doing so is at Annex 3.

There is no information held in relation to the third meeting date.

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](mailto: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

MPS/ FM meeting to discuss MPS responsibilities.

MPS is concerned that the Welsh Government's Public Service Reform agenda should be coherent, consistent and reflect a Government-wide approach; at present some significant initiatives (like Pay Commission for Health) are moving forward without seeming reference to the wider public reform agenda. The issue, MPS noted, is not which Minister holds portfolio responsibility but that all our reform initiatives should be cross-referenced and transparent so that the WG agenda remains - and is seen to be - coherent.

MPS questioned whether the current Task & Finish Group is completely fit-for-purpose in terms of its agenda and membership. He felt that, given the Government-wide nature of the agenda, it might be useful to use Cabinet as a regular vehicle for colleagues keeping updated.

In terms of his portfolio, MPS wondered whether some detailed allocations of responsibilities might usefully be tidied up. This might involve some transfers of responsibilities to/ from MPS (better regulation, open spaces, for example).

Actions:

FM noted the comments about the Task and Finish Group and said it should **switch to monthly meetings** rather than every 6 weeks at present; this would help colleagues to disperse information and to keep up with the curve more easily. He would consider adding another service-delivery Minister to the standing membership - **FM will give further thought.**

FM agreed to look at proposals for tidying up/clarifying the ministerial responsibilities raised by MPS. Action: **to consult with and and prepare a note for FM's consideration.**

Hope this covers the ground..?

Thanks

**Tel/Ffon: ( )**  
**E-mail/E-bost:**

*Dylai'r datganiadau neu'r sylwadau uchod gael eu trin fel rhai personol ac nid o reidrwydd fel datganiadau neu sylwadau gan Llywodraeth Cynulliad Cymru, unrhyw ran ohono neu unrhyw gorff sy'n gysylltiedig ag ef.*

*Any of the statements or comments made above should be regarded as personal and not necessarily those of the Welsh Assembly Government, any constituent part or connected body.*

Hi

As you are aware, Mrs Hart met the Hungarian Ambassador earlier today with the First Minister. A quick note of that meeting is attached and there are several points of action/information for ES&T colleagues. Do you want me to pass the note on or would you prefer that your office does so please?

**[Attachment redacted under Section 27 - relations between the UK and any other State]**

Regards

Ymweliadau, Cysylltiadau a Phrotocol Rhyngwladol/International Visits, Links & Protocols

Materion Ewropeaidd ac Allanol/European & External Affairs

Llywodraeth Cymru/Welsh Government

Parc Cathays, Caerdydd / Cathays Park, Cardiff

Ffon / Tel:

E-Bost / E-mail: [@wales.gsi.gov.uk](mailto:@wales.gsi.gov.uk)

Ffon Symudol / Mobile:

**[www.wales.com](http://www.wales.com)**

**[www.wales.cn](http://www.wales.cn)**

## Section 40 – Personal Data

Section 40 of the Freedom of Information Act sets out an exemption from the right to know if the information requested is personal information protected by the Data Protection Act 1998 (DPA). Personal data is defined in Section 1(1) of the DPA as:

*“personal data” means data which relates to a living individual who can be identified from those data; or from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller”.*

I have concluded that, in this instance, the withheld information amounts to officials and third parties personal data.

Under Section 40(2) of the FOI Act, personal data is exempt from release if disclosure would breach one of the data protection principles. I consider the principle being most relevant in this instance as being the first.

The first data protection principle states:

*Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless -*

*(a) at least one of the conditions in Schedule 2 is met, and (b) in the case of sensitive personal data, at least one of the conditions in Schedule 3 is also met.*

I consider that the withheld information in relation to names and contact details falls within the description of personal data as defined by the DPA and that its disclosure would breach the first data protection principle. The first data protection principle has two components:

1. Personal data shall be processed fairly and lawfully and
2. Personal data shall not be processed unless at least one of the conditions in DPA schedule 2 is met

Guidance from the Information Commissioner’s Office (Personal information (section 40 and regulation 13) v 1.4) states:

*If disclosure would not be fair, then the information is exempt from disclosure.*

This approach was endorsed by the Court of Appeal in the case of Deborah Clark v the Information Commissioner and East Hertfordshire District Council where it was held:

*“The first data protection principle entails a consideration of whether it would be fair to disclose the personal data in all the circumstances. The Commissioner determined that it would not be fair to disclose the requested information and thus the first data protection principle would be breached. There was no need in the present case therefore to consider whether any other Schedule 2 condition or conditions could be met because even if such conditions could be established, it would still not be possible to disclose the personal data without breaching the DPA” (paragraph 63).*

Our analysis of the ICO’s key considerations in assessing ‘fairness’, as set out in the Guidance, are presented below.

Some of the withheld information includes the names and personal contact details of officials and third parties, who would not expect their contact details to be released in this context.

There are set procedures in place for members of the public to contact the Welsh Government in relation to any matters, using generic contact mechanisms.

Having such systems in place means members of the public do not make direct contact with third parties or officials and avoids those officials dealing with potentially unnecessary and disruptive correspondence.

In this context, the civil servants and third parties were liaising with each other as part of the normal course of business. In doing so, there would be no expectation that their names or contact details would at any time be placed in the public domain.

The Welsh Government does not believe there is any legitimate interest in the public or the requestor having access to this information, and we do not see any legitimate reason why the named officials or third parties need to be contacted directly. Because of that, it is believed release of this information would be unfair and so breach the first data protection principle.

For that reason, I believe the information should be withheld under section 40(2) of the Freedom of Information Act.

## **ATISN 11940 - Consideration for and against disclosure of information**

Decisions relating to non-disclosure have been taken with due consideration of the following exemptions identified under section 27 of the Freedom of Information Act 2000.

### **Section 27 – International Relations**

- (1) Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice
  - (a) relations between the United Kingdom and any other State.

### **Public Interest Test**

The Welsh Government recognises that there is a general public interest in understanding the Welsh Government's consideration of issues related to this area. It is also recognised that disclosure would be likely to enhance transparency and openness in the Government's interaction with other States, thus improving public trust.

#### Section 27

There is also a public interest in ensuring a close and effective working relationship between the Welsh Government and other States. Good relations and engagement are essential as the Welsh Government works with and influences other States to ensure that the interests of Wales are furthered on a global scale.

Discussions with other States about future collaboration and frameworks are underway and these relate to sensitive and commercial information. The release of this information could have a negative impact on the relationships that the Welsh Government seeks to build with other States and would have a prejudicial impact on and undermine the Welsh Government's negotiating position for any future meetings.

It is in the public interest that we maintain a climate of mutual trust and confidence with other States. If the information were disclosed, there is the potential for this trust and confidence to be eroded which would likely inhibit future close working.

### **Balance of Interests**

On balance, I consider that the public interest in favour of withholding the information outweighs the public interest in its release, according to the reasons outlined above.