

29 August 2024

Dear

Complaint in respect of ATISN 19693 – Joint Executive Team Meetings

I am responding to your email which was received on 13 August 2024, in which you asked us to review the response issued to your request for information under the Freedom of Information Act 2000 (FOIA). This letter is to inform you of the outcome.

On 1 July, you were able to clarify that you were seeking the following information:

- Specific documents pertaining to the four Joint Executive Team meetings conducted by the Health and Social Services Division of NHS Wales in December 2023. The documents of interest include the papers presented during the meeting, the subsequent minutes, and importantly, the Terms of Reference.

We provided our response to you on 8 August. We released a copy of the Terms of Reference, but withheld documents relating to the four Joint Executive Team (JET) meetings that took place in December 2023 under Section 36 of the Freedom of Information Act.

You have asked us to validate the reasons we gave in our response letter for each meeting's minutes. In respect of the three exemptions engaged, you suggested that the assessment of these reasons and the level to which they apply may be considered for any NHS decision making process. Also, where the Welsh Government is providing advice to Boards/Trusts, and vice versa, your view is that the provision of the advice should be transparent to the public.

The explanation of the public interest test (annex 1 of the response letter) stated that the public interest arguments in favour of disclosure would be the same for all three exemptions and set them out once. The response also acknowledged that there is significant public and media interest in disclosing the information contained in each of the minutes. There is also interest in how the Welsh Government oversees local health boards and other health organisations.

However, as explained in our consideration of the public interest test, there are wider consequences of releasing the minutes relating to these meetings, not least because the meetings are conducted in a 'safe space' where participants feel confident to openly discuss issues. Should the minutes (or notes) from those meetings be released into the public domain, that trust would be breached. The public interest test suggested that this would be likely to inhibit free and frank provision of advice and exchange of views at future JET meetings. I agree that this is a very likely consequence of releasing the minutes of the meetings. I believe this is the case in respect of each of the Welsh Ambulance Services

University NHS Trust (WAST), Betsi Cadwaladr University Health Board (BCUHB), Public Health Wales (PHW) and Health Education and Improvement Wales (HEIW). I have no reason to believe that it would be less likely in respect of one of these meetings.

Our response also indicated that releasing the information you have requested in respect of the JET meetings would make it impossible for the Welsh Government to maintain the blame-free environment of the JET meetings, and would be likely to prejudice the effective conduct of public affairs – specifically the use of JET meetings as part of the Welsh Government’s effective governance and oversight of NHS Wales. I have reviewed this ground also, and I am satisfied that the harm envisaged is real. As above, I believe this is true in respect of each of the WAST, BCUHB, PHW and HEIW JET meetings.

In summary, I am satisfied that the minutes (or notes) from each of the JET meetings have been properly considered in relation to each of the three exemptions of Section 36(2) of the Freedom of Information Act, and also when undertaking the public interest test.

As you have recognised, the exemptions engaged in this case (and corresponding public interest arguments) have to be considered whenever information about the NHS is requested under the FOIA. For example, we have recently refused an FOI request for minutes of the tripartite meetings¹. In that case, the exemptions engaged, and the outcome of the public interest test, were very similar to this case.

On the other hand, there are occasions when the Welsh Government provides advice to NHS boards and trusts, when it is appropriate for that advice to be ‘transparent to the public’. One example would be the Welsh Health Circulars. These cover a wide range of subjects. Welsh Health Circulars are generally made available to the public on the Welsh Government website – eg, [Health circulars: 2024 to 2027 | GOV.WALES](#)

I have reviewed our response to your FOI request in accordance with the procedure outlined in the [Welsh Government's Practical Guide for Making Requests for Information](#) which is available by post on request or via the internet. In my view this was a reasonable response, and therefore I do not uphold your complaint.

If you remain dissatisfied with this response you also have the right to complain to the Information Commissioner at:

Information Commissioner’s Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Tel: 01625 545 745

¹ A ‘tripartite’ meeting is a meeting of Welsh Government officials and officials of Healthcare Inspectorate Wales and Audit Wales. Such meetings are arranged to discuss inter alia the appropriate escalation status of a specific health board.

Fax: 01625 524 510

[FOI and EIR complaints | ICO](#)

Also, if you think that there has been maladministration in dealing with your request, you have the option to make a complaint to the Public Services Ombudsman for Wales who can be contacted at:

Public Services Ombudsman for Wales
1 Ffordd yr Hen Gae
Pencoed
Bridgend
CF35 5LJ

Telephone: 0845 6010987 (local rate)
Email: ask@ombudsman-wales.org.uk

Yours sincerely