

11 November 2024

Dear

### **Complaint in respect of ATISN 21937 – International Relations Budget**

I have now completed an internal review following your complaint about the response to your Freedom of Information request to us regarding the International Relations Budget.

In undertaking this review, I believe that the application of section 14(2) of the Freedom of Information Act was incorrect. The wording of your requests changed sufficiently for it to not amount to a repeat request. The information being sought was refined over the requests although all related to the International Relations Budget.

I also agree that majority of the information requested can be shared with you relating to the detailed spend against the budget. As has previously been set out, the only achievable way of presenting this information would be to present transactional spend and it had been highlighted in previous responses that this would include 9,664 transactions.

I am attaching a spreadsheet containing the information. However, two columns have been redacted.

One column has been redacted under section 40/personal data of the Freedom of Information Act (FOIA) as it contains personal information. A full analysis of my reasoning is set out in Annex 1 to this letter.

Further, a column containing the names of organisations and others involved in the financial transaction has been redacted. The information therein is likely to amount to commercially sensitive information. However, as this amounts to 9664 separate transactions sifting them for commercial sensitivity would represent a grossly oppressive burden on the organisation. I have therefore concluded that this element of the information should be withheld as vexatious under section 14(1) of the FIA. A full analysis of my reasoning is also at Annex 1.

I have considered your complaint 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 at: [Requesting information from the Welsh Government \[HTML\] | GOV.WALES](#)

If you remain dissatisfied with this response you 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

Yours sincerely

Director – International Relations & Trade  
Welsh Government

## **Annex 1**

### **Engagement of S40(2) – Personal Data**

The Welsh Government believes the personal data contained in the information being released with this request should be exempt from disclosure.

Section 40(2) of the Freedom of Information Act 2000 (FoIA), together with the conditions in section 40(3)(a)(i) or 40(3)(b), provides an absolute exemption if disclosure of the personal data would breach any of the data protection principles.

‘Personal data’ is defined in sections 3(2) and (3) of the Data Protection Act 2018 (‘the DPA 2018’) and means any information relating to an identified or identifiable living individual. An identifiable living individual is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of the individual.

I have concluded that, in this instance, some of the information contained within the information caught by your request contains third party personal data. Specifically, this relates to the personal names of individuals.

Under Section 40(2) of the FoIA, personal data is exempt from release if disclosure would breach one of the data protection principles set out in Article 5 of the UK GDPR. We consider the principle being most relevant in this instance as being the first. This states that personal data must be: “processed lawfully, fairly and in a transparent manner in relation to the data subject” The lawful basis that is most relevant in relation to a request for information under the FoIA is Article 6(1)(f) of the UK GDPR. This states:

*“processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child”.*

In considering the application of Article 6(1)(f) in the context of a request for information under FoIA it is necessary to consider the following three-part test:

1. The Legitimate Interest Test: Whether a legitimate interest is being pursued in the request for information.
2. The Necessity Test: Whether disclosure of the information/confirmation or denial that it is held is necessary to meet the legitimate interest in question.
3. The Balancing Test: Whether the above interests override the interests, fundamental rights and freedoms of the data subject.

Our consideration of these tests is set out below:

#### **1. Legitimate Interest Test**

The Welsh Government acknowledged the inherent legitimate interest in openness and transparency that release would engender. We also recognise there may be a legitimate interest in being able to identify the parties involved in any communication in order to follow the flow of that communication and to understand the views and positions expressed by each party.

## **2. Is Disclosure Necessary?**

We do not believe disclosure is necessary in this context. The views expressed in the communications are those of the respective organisations rather than those of the individuals concerned. As such it is irrelevant as to who made those comments and so there is no legitimate interest in releasing those names.

## **3. The Balancing Test**

As it has been concluded that there is no necessity to disclose the personal data of another individual, the fundamental rights and freedoms of the affected third party prevail in this instance and releasing the information cannot be justified under Article 6(1)(f).

## **Conclusion**

To conclude, as release of the information would not be legitimate under Article 6(1)(f), and as no other condition of Article 6 is deemed to apply, release of the information would not be lawful within the meaning of the first data protection principle. It has therefore been withheld under section 40 of the Freedom of Information Act. Section 40 is an absolute exemption and not subject to the public interest test.

## **Section 14(1) Vexatious.**

This states:

*(1) Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious.*

Guidance from the Information Commissioner confers that this may be applied where a public authority can make a case that the amount of time required to review and prepare the information for disclosure would impose a grossly oppressive burden on that organisation. They set out a three stage test:

- the requester has asked for a substantial volume of information; and
- you have real concerns about potentially exempt information; and
- you cannot easily isolate any potentially exempt information because it is scattered throughout the requested material.

As has been set out, the information in question concerns 9664 separate financial transactions. We have concerns over the release of this information as it is not known what the commercial or financial implications or impact would be on the third parties should this information be placed into the public domain. The only way to

ascertain this would be to interrogate each line individually, and potentially seek the views of each of the third parties. Given the number of transactions, we believe this would constitute a grossly oppressive burden. Because of that, the column has been withheld under section 14(1)