

**ATISN 16722 The future of the UK**

1 November 2022

Dear

Thank you for your request which was received by the Welsh Government on 5<sup>th</sup> of October. You asked for the following information

- all the email correspondence between First Minister and the Independent Commission on the Constitutional Future of Wales on the 'The Future of the UK: In conversation' Senedd talks
- all email correspondence between Elin Jones MS and the Independent Commission on the Constitutional Future of Wales on the 'The Future of the UK: In conversation' Senedd talks

### **Our response**

The information you requested (in regard to email correspondence between First Minister and the Independent Commission on the Constitutional Future of Wales on the 'The Future of the UK: In conversation' Senedd talks) is enclosed at **Annex A**. We do not hold any email correspondence between Elin Jones MS and the Independent Commission on the Constitutional Future of Wales on the 'The Future of the UK: In conversation' Senedd talks.

I have redacted the email addresses of the recipients of the email under Section 40(2) of the Freedom of Information Act. My reasoning for doing so is set out at **Annex B** of this letter.

### **Next steps**

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: [Freedom.ofinformation@gov.wales](mailto:Freedom.ofinformation@gov.wales)

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

## Annex A

- all the email correspondence between First Minister and the Independent Commission on the Constitutional Future of Wales on the 'The Future of the UK: In conversation' Senedd talks

**From:** PS FirstMinister (Ministerial)  
**Sent:** 14 January 2022 16:00  
**To:** [redacted - personal information]  
**Cc:** PS FirstMinister (Ministerial)  
**Subject:** A letter from the First Minister

Prynhawn da/ Good afternoon,

Please find a letter attached from the First Minister of Wales.

Kind regards,

## Annex B

### Freedom of Information Act 2000: Section 40(2)

Section 40(2) 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.

We have concluded that, in this instance, the information requested contains third party personal data. Specifically the email addresses of the correspondents in question.

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 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). 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:-

- **The Legitimate interest test:** Whether a legitimate interest is being pursued in the request for information;
- **The Necessity test:** Whether disclosure of the information/confirmation or denial that it is held is necessary to meet the legitimate interest in question;
- **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 interests

Your request is for the correspondence, which is provided. There is a legitimate interest in understanding who the correspondence is with. This information has not been withheld. The contact emails of correspondents may be legitimately required in some circumstances, and as release under FOI is release to the world, there is a legitimate interest in seeing these addresses.

## **2. Is disclosure necessary?**

The FOI entitles the requestor freedom of information, which in this case is the correspondence we hold. Although that correspondence captures the email addresses of the correspondents, I do not find that disclosure of these addresses is necessary to understand the correspondence itself in context. For that reason I do not find that disclosure of the email addresses is necessary

## **3. The balance between legitimate interests and the data subject's interests or fundamental rights and freedoms**

As disclosure is not necessary to understand the information you have requested in context, I do not need to balance the data subject's rights with legitimate interests and the information is withheld.