

1 December 2022

Dear

ATISN 16896 – Expert Advisor

Thank you for your recent correspondence to the Welsh Government, received on 24 October 2022, relating to the Task and Finish Group on gambling related harm. As you have requested recorded information, we have handled this as a request for information under the Freedom of Information Act (2000). You requested the following:

- 1. In considering education and the adoption of a public health approach to gambling related harm, the task and finish group heard from an expert in Australia. Please can you tell me the name of this expert?*
- 2. Please could you provide me with a list of its membership?*

Response

- I am able to confirm that Welsh Government does hold the information that you are requesting. However, we have decided that this is to be exempted from disclosure under Section 40(2) – Personal Information of the Freedom of Information Act. The reasons for applying this exemption are set out in full in Annex 1.
- Membership of Task and Finish Group on gambling related harm;
Chief Medical Officer, Welsh Government
Director of Public Health, Betsi Cadwaladr University Health Board
Lead for the GREAT network (The Gambling Research, Education and Treatment Network Wales), Swansea University
Director, National Centre for Behavioural Addictions, UK
Consultant Psychiatrist, University Hospital of Wales
Professor, Psychology, University of South Wales
Professor, Psychology, University of South Wales
Representative from GambleAware
Representative from GamCare
Representative from Addiction Recovery Agency (ARA)
Specialist Counselling Consultant, Adferiad Recovery
Deputy Director, Public Health, Welsh Government
Head of Risk Behaviours, Public Health Division, Welsh Government
Head of Mental Health & Vulnerable Groups, Welsh Government
Health Improvement Manager, Public Health Division, Welsh Government
Representative with lived experience
Representative with lived experience

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

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

S.40 (2) – Personal information about others

'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.

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

Welsh Government recognises your legitimate interest in this information in the context of your research. However, releases under the Act are made to the world at large and published on the Welsh Government's disclosure log.

2. Is disclosure necessary?

As stated above, in considering the release of this information we have to bear in mind that the information will not just be provided to the requester. Whilst release may be necessary in the context of your research, we have to consider the release in the wider context of public disclosure and the necessity for that. In that context, we do not believe it is necessary to release the name of the expert speaker to legitimise the work of the task and finish group.

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

Welsh government believes that those that provided information to formulate Welsh Government policy would not have any reasonable expectation that their names would be disclosed to the public and that to do so would not be fair and transparent within the meaning of the first data protection principle. In the absence of compelling legitimate interests in the publication of this information, we have decided it is exempt from release under section 40 of the Freedom of Information Act.

Section 40 is an absolute exemption and not subject to the public interest test.