

19 April 2023

Dear

**ATISN 17308**

Thank you for your request which was received on 8 March 2023. You asked for the following information, in relation to 2023/24:

1. 2023/24 IT Department documents, to include: ICT Strategy/Plan, ICT Department Plan, ICT Financial Plan

The IT Department does not have a published IT Strategy. I have provided the most recent working version of the IT Services Strategy which has fed into team action plans and organisation programmes such as the WG2025 Programme. The other documents you have requested do not exist in "live and valid" form as you requested. While the IT Services Division maintains a financial forecast plan against budget, this has not yet been completed for this financial year. This will likely be available from May 2023 onwards.

2. ICT Organisation Chart with names and job titles

The IT Services structure chart is attached. However, I have concluded that some of the information that you requested is exempt from disclosure under Section 40(2) of the Freedom of Information Act 2000 – personal data. Section 40 provides an exemption from the right to information if it is personal data as defined in the Data Protection Act. Further detail on this exemption is provided at Annex 1.

3. Corporate Procurement Strategy that covers 2023/24 and more.

A restructure and review of our procurement function is currently underway and as a result our Corporate Procurement Strategy 2023/24 is not available. Please do see the link to our procurement policy statement which sets the strategic direction for all our procurement activity: <https://www.gov.wales/wales-procurement-policy-statement>

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 e-mail: [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

Telephone: 0303 123 1113

Website: [www.ico.org.uk](http://www.ico.org.uk)

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 1

### **Section 40(2) – Personal Data**

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 1998 (‘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 this relates to the names (and other associated personal information) on the organisational chart.

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:

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 recognises there is a legitimate interest in being able to identify individuals on the organisational structure chart. We do not believe, however, there is any legitimate reason why the personal data would need to be released in order to follow and understand the organisational chart. The Welsh Government cannot identify any other

legitimate interest in you or the public receiving the personal data captured by your request.

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

The Welsh Government is of the view that it is not necessary to disclose the personal information caught by your request - we do not believe it is necessary to disclose the personal data to understand the information.

## **3. The Balancing Test**

As it has been concluded it is not necessary to disclose the personal information caught by the request, there is no requirement to balance the rights and interests of those individuals against the rights, under FOIA, of the requester.

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.