

20 April 2023

Dear

## **ATISN 17335 – Burial and Cemeteries Advisory Group**

Thank you for your request which I received on 28 March 2023.

You asked for a full set of minutes of the last Burial and Cemeteries Advisory Group (BACG) meeting that was attended by the Welsh Government. If Welsh Government had not attended the last meeting, you then asked to receive a copy of the full set of minutes from the last BACG meeting that Welsh Government had received.

I have enclosed a copy of the last minutes that the Welsh Government had received from a meeting held in December 2018 (**Doc 1**). A Welsh Government official was not present at this meeting. Please note that the minutes are from the 'Burial and Cremations Advisory Group'. We do not hold any minutes for a group called the 'Burial and Cemeteries Advisory Group.' However, I have interpreted your request to mean reference to this group because you state that:

*'the BACG is a group within the UK Government whose role involves advising Government in all matters concerning Burial and Cremation.'*

I have decided that some of the information is exempt from disclosure under section 40 of the Freedom of Information Act and is therefore withheld. The reasons for applying these exemptions are set out in full at **Annex 1** to 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 1

### Application of exemptions/exceptions

#### 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 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.

We have concluded that, in this instance, some of the information held 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:

There is a legitimate interest in the release of the information requested. However, releasing the identification of officials of Welsh Government and other members of the Advisory Group, does not provide further understanding to the information sought. Therefore, I do not believe that there is a legitimate interest in the publication of such personal data.

I have therefore decided to withhold the following information:

- Reference to full names contained throughout the minutes.