

28 March 2025

Dear

FOI/REQ/ECWL/Ministerial Meetings about Tertiary Education (23323)

Information requested

Thank you for your request which I received on 31 January 2025. You have asked for the following minutes of meetings with the Minister for Further and Higher Education:

1. All Chairs of Universities Wales on 10/12/2024 and on 26/09/2024
2. Joint trade unions in Further & Higher Education on 09/12/2024
3. The Quality Assurance Agency for Higher Education on 26/11/2024
4. Universities Wales on 25/11/2024 and on 12/11/2024
5. Commission for Tertiary Education and Research on 05/11/2024 and on 17/10/2024
6. UCU Cymru on 17/10/2024

You have also asked for the minutes for the meeting between the Cabinet Secretary for Education and Cardiff University on 05/08/2024 and between the Minister for Culture, Skills and Social Partnership and Cardiff University on 16/10/2024

Our response

I wrote to you on 28 February 2025 to advise that the Welsh Government had not yet reached a decision on whether this information could be exempt from disclosure, on the balance of public interest.

I also advised you that the Welsh Government believed that some of the information should be exempt from disclosure under **Section 29(1)(b) Financial interests** and **section 43 Commercial interests**. I have now completed consideration of the balance of the public interest and consider that, due to the nature of the request and information contained within it, it is not appropriate to apply these exemptions.

Following a search of our paper and electronic records, I have established that the information you requested in parts 5 (17/10/2024), and meeting minutes for the Minister for Culture, Skills and Social Partnership and Cardiff University on 16/10/2024, as outlined above, is not held by the Welsh Government.

For the remainder of your request, I have decided that some of the information is exempt from disclosure **under section 41(1)(b) information provided in confidence and section 35(1)(a) Government policy** of the Freedom of Information Act and is therefore withheld. The reasons for applying these exemptions are set out in full at Annex A to this letter.

I have also withheld some of the names of the attendees at the meetings under **section 40(2) Personal data** of the Freedom of Information Act.

A copy of the information I have decided to release is enclosed in redacted form.

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

Application of exemptions/exceptions

The Freedom of information Act provides a right for anyone to ask a public authority to make requested information available to the wider public. As the release of requested information is to the world, not just the requester, public authorities need to consider the effects of making the information freely available to everybody. Any personal interest the requester has for accessing the information cannot override those wider considerations

I have decided to release the following information, in redacted form:

1. All Chairs of Universities Wales on 10/12/2024 and on 26/09/2024
2. Joint trade unions in Further & Higher Education on 09/12/2024
3. The Quality Assurance Agency for Higher Education on 26/11/2024
4. Universities Wales on 25/11/2024 and on 12/11/2024
5. Commission for Tertiary Education and Research on 05/11/2024
6. UCU Cymru on 17/10/2024
7. Minutes for the meeting between the Cabinet Secretary for Education and Cardiff University on 05/08/2024.

This Annex sets out the reasons for the engagement of **41(1)(b) information provided in confidence, section 35(1)(a) Formulation of government policy and section 40(2) Personal data** of the Freedom of Information Act and our subsequent consideration of the Public Interest Test.

Engagement of **section 41(1)(b) Information is exempt information if the disclosure of the information to the public by the public authority holding it would constitute a breach of confidence actionable by that or any other person.**

The minutes of the meetings contain information that was shared in confidence by the institutions to the Ministers and officials in order to support them during these discussions. This information was not shared publicly. Institutions provide and discuss this information, often of a sensitive nature, with the Welsh Government to assist in discussions and create an open dialogue of the ongoing financial difficulties. This information also includes discussion of the ongoing consultations taking place within institutions involving staff and financial forecasting. Release of this redacted information would constitute a breach of confidence between the Welsh Government the sector institutions. This would, in turn, be likely to lead to a lack of trust across the sector and ultimately lead to a breakdown of relationships between the sector and Welsh Government going forward.

Engagement of **section 35(1)(a) Information held by a government department or by the Welsh Government is exempt information if it relates to the formulation or development of government policy**

The minutes contain discussions and decisions related to the formulation of both current and ongoing government policy which should be exempt from disclosure. This information has been redacted in the enclosed documents.

Engagement of **Section 40(2) Freedom of Information Act 2000**

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, 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

I can find no legitimate personal interest in the requester accessing this information for those individuals of more junior grades.

2. Is disclosure necessary?

I consider it is not necessary to disclose the personal information as the redaction of this does not hinder the understanding of the information contained in the minutes.

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

As I have not identified any legitimate personal interest there is no compelling argument that would support disclosure

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.

Public Interest Test

Public interest arguments in favour of disclosure

The Welsh Government acknowledges the general public interest in openness and transparency that releases of the information would engender. It is widely known that the higher education sector in Wales, and in the rest of the UK, is experiencing financial challenges and there are high levels of concern, particularly among staff and students. The Welsh Government recognises that there is interest to the public on the financial situations on the higher education institutions and that there are concerns that the Welsh Government is not acting to address these.

Public interest arguments in favour of withholding

Section 41(1)(b) Information is exempt information if the disclosure of the information to the public by the public authority holding it would constitute a breach of confidence actionable by that or any other person.

The withheld information contains reference to the financial position and ongoing consultations by Higher Education Institutions. Release of this information would lead to a lack of trust within the sector towards both Medr and the Welsh Government and would lead to a breakdown of relationships, essential for effective collaboration to enable issues to be discussed and potential resolutions considered.

The higher education institutions could act on this breach of confidence either on a legal basis or by withholding information in the future which would result in the Welsh Government being unable to have oversight of the situation within the sector. This would cause harm to the sector by inhibiting free and frank discussion between Medr, the Welsh Government, and institutions. This lack of open discussion could adversely affect the higher education sector in that the loss of frankness would be detrimental to the quality of advice and lead to poorer decision making.

Section 35(1)(a) Formulation of government policy

Some of the information withheld relates to the development of both current and ongoing government policy development. Release of this information could hinder the decision-making process and negatively affect future decisions and considerations of policy. Where information has been shared by parties outside of the Welsh Government i.e. Medr and/or higher education institutions, to enable policy making decisions, release of this information could inhibit free and frank discussion around policy development in the future.

Balance of public interest test

The public interest arguments in favour of withholding the information outweigh the public interest arguments in favour of release. The argument in favour of disclosure is based on openness and transparency but this is outweighed by the risk of misinformation being disclosed in the sector. While the Welsh Government recognises the current interest of the financial situation in the higher education sector, it is vital that information continues to be shared between the higher education institutions, Medr, and Welsh Government to allow effective communications and enable appropriate decision making. Release of this information would mean a breach of the confidence the sector has with Medr and the Welsh Government. The Welsh Government has therefore decided to withhold the information in relation to the request