

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 28 November 2013

Public Authority: Welsh Assembly Government
Address: Cathays Park
Cardiff
CF10 3NQ

Decision (including any steps ordered)

1. The complainant requested the names and addresses used to send letters of appointment to members of the Task and Finish Group, established to inform the development of the proposed Bill on Ending Violence against Women and Domestic Abuse. The Welsh Government confirmed it held the information requested but it was considered exempt under section 21 of the FOIA. The Commissioner's decision is that section 21(1) is not engaged.
2. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Disclose the requested information.
3. The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

4. On 6 May 2013 the complainant contacted the Welsh Government in connection with the Task and Finish Group ('T&F Group') which was established to inform the development of the proposed Bill on Ending Violence against Women and Domestic Abuse and requested information in the following terms:

"Please may I also have the complete name and address used to send the letters of appointment to the following members of the Task and Finish Group –

Dr Amanda Robinson, Cardiff University (lead author)
Jim Brisbane, Crown Prosecution Service
Jeff Farrar, Gwent Police
Paula Hardy, Welsh Women's Aid
Jan Pickles, OBE, NSPCC
Prof Jonathan Shepherd, Cardiff University".

5. The Welsh Government responded on 21 May 2013 and stated that the information requested was exempt under section 21 of the FOIA as the business email addresses to which the appointment letters had been sent were available by containing the organisations concerned direct.
6. On or around 26 June 2013, Mr Stott contacted the Welsh Government and asked for an internal review of its handling of the request.
7. The Welsh Government provided the outcome of its internal review on 24 July 2013 and upheld its decision that the information requested was exempt under section 21 of the FOIA.

Scope of the case

8. The complainant initially contacted the Commissioner on 21 May 2013 to complain about the Welsh Government's refusal to disclose the information requested. The Commissioner advised the complainant that before accepting complaints, he generally expected complainants to have exhausted a public authority's complaint's procedure. He advised the complainant to contact the Welsh Government and request an internal review of the handling of his request for information and to contact him again if he was dissatisfied with the outcome of the review.
9. Following receipt of the Welsh Government's internal review response, the complainant contacted the Commissioner on 24 July 2013 to complain about its refusal to disclose the information requested.
10. The scope of the Commissioner's investigation into this complaint is to consider whether the Welsh Government correctly applied section 21 to the request.

Reasons for decision

Section 21 - Information accessible to the applicant by other means

11. Section 21(1) provides that information which is reasonably accessible to the applicant otherwise than under section 1 is exempt information.
12. The Commissioner accepts that information is reasonably accessible if the public authority:
 - Knows that the applicant has already found the information; or
 - Is able to precisely direct the applicant to the information. In this case the public authority has to be reasonably specific to ensure it is found without difficulty and not hidden within a mass of other information.
13. In its refusal notice, the Welsh Government confirmed that the appointment letters had been sent to the business email addresses of the members of the T&F Group. It stated that the email addresses "can be obtained directly from the relevant organisations without recourse to the Freedom of Information Act 2000". In its internal review, the Welsh Government upheld its position that the information was exempt under section 21, adding that the individuals were "well known public figures employed in public service organisations with freely available individual contact details that the Welsh Government used to send the information".
14. During the Commissioner's investigation the Welsh Government said that the complainant had been advised that the information requested "could be obtained from online sources". It added that the complainant frequently corresponds with the Welsh Government by email and his email signature links to his website. As such, the Welsh Government considered it reasonable to assume that the complainant had access to the internet in order to search for the information online. In addition, the Welsh Government advised that it was aware, through informal means, that the complainant had been in touch with two of the individuals in question via e-mail so he already had their contact details. The Welsh Government further clarified that one of the individuals had informed that they had been contacted by the complainant on 5 February 2013. However the Welsh Government did not provide the Commissioner with sufficient documentary evidence that the complainant had corresponded with the individuals in question. In the absence of such evidence the Commissioner has been unable to conclude that the Welsh Government "knows" the complainant has located the email addresses in question.
15. The Welsh Government provided the Commissioner with various website links to demonstrate that the business email addresses of the individuals

in question were available from "the official websites of the organisations themselves via a simple internet search".

16. The Commissioner notes that none of the website links were provided to the complainant either in the refusal notice or the internal review. The complainant was simply advised that the information was available directly from the organisation for whom they worked. In addition, having accessed the website links which the Welsh Government provided, the Commissioner notes that:
 - a) One of the website links is not connected directly to the organisation for whom the individual works.
 - b) Two of the website links refer to documents saved on the official websites of the organisations that the individual concerned works for. However, the email address is provided towards the end of the document in question ie the email address is contained within a volume of other information.
17. In relation to (a) above, the Commissioner conducted his own simple internet searches using the search terms "full name" "organisation" and "email". He discovered that the link provided by the Welsh Government was not among the top twenty or so results. The Commissioner identified one website where the email address was provided – www.ceoemail.com . However, this site appears to be an independently run website providing email addresses for CEOs of major companies and other organisations. As such, there was no way of knowing whether the email address provided was the correct one. He pointed this out to the Welsh Government and asked it to provide further representations to support its position that the information was reasonably accessible to the complainant.
18. The Welsh Government stated that there were two ways that the link it provided for the individual in question could be accessed. The first method would be to search using the individual's name combined with the general email suffix for the organisation (available on its website) eg name@ico.org.uk . The second method would be use the result from the www.ceoemail.com website and re-paste it into google search, which would then bring up the website link in question.
19. The Commissioner accepts that the information requested is publicly available on a number of internet sites. However, as stated above, he considers that information can only be said to be reasonably accessible to the applicant if a public authority either knows that the applicant has already found the information, or is able to provide the applicant with precise directions to the information so that it can be found without

difficulty. The key point is that the authority must be able to provide directions to the information.

20. In this case, the Welsh Government explained that the information requested was available direct from the organisations concerned. However, it did not provide the complainant with any relevant website links or specific instructions on how to access the information online. This is particularly relevant in light of the fact that some of the requested information appears to be contained within a much larger body of information (as explained in paragraph 16(b)), the fairly circuitous search method required to obtain other information (as explained in paragraph 18), and the fact that one of the email addresses does not appear to be available on the organisation's own website, albeit it is available on other websites.
21. Taking into account all the circumstances of the case and the representations provided, the Commissioner has determined that section 21(1) is not engaged as the information cannot be considered to be reasonably accessible to the applicant, as the Welsh Government has not precisely directed the applicant to the information requested or provided sufficient evidence to suggest that the complainant has already found some of the information requested.

Right of appeal

22. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0300 1234504

Fax: 0116 249 4253

Email: GRC@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

23. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
24. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Anne Jones
Assistant Commissioner
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF