

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 7 October 2021

**Public Authority:** Welsh Government

**Address:** [freedom.ofinformation@gov.wales](mailto:freedom.ofinformation@gov.wales)

### Decision (including any steps ordered)

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1. The complainant submitted a request for information to the Welsh Government in respect of a decision not to let Welsh patients have a postal service for prescriptions, and whether any discussions had taken place, or were planned to take place in relation to ensuring that the clinically extremely vulnerable could obtain their medication during the COVID-19 pandemic. The Welsh Government stated that it did not hold any recorded information falling within the scope of part one of the complainant's request and provided details in respect of part two. The complainant was not satisfied with this response. The Commissioner's decision is that the Welsh Government stated correctly that it did not hold any recorded information falling within the scope of part one of the complainant's information request and that it has provided a full response to part two of her request. She is therefore satisfied that it has complied with its obligations under section 1(1) of the FOIA. The Commissioner does not require the Welsh Government to take any steps.

### Request and response

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2. On 4 January 2021, the complainant wrote to the Welsh Government and requested the following information:

*"England has several pharmacies - which deliver by post. Which is especially useful during COVID-19. Why can't vulnerable Welsh patients have the same service? As prescriptions can only be collected one month. Which means vulnerable patients visiting the chemist and putting themselves at risk, from infection, when chemists won't deliver. Therefore, are there any plans to stop this danger during COVID-19"*

3. The Welsh Government contacted the complainant on the same date to acknowledge receipt of her request, which it summarised as follows:

*"To understand why vulnerable Welsh patients cannot have a similar service as prescriptions in Wales can only be collected once a month?"*

4. On the same date, the complainant clarified her request as follows:

*"1. I'd like to know when (and how) the decision not to let Welsh patients have a postal service for prescriptions was made..."*

*Who made it – and for what reason, is this service not allowed in Wales, unlike England.*

*i.e. Committee papers, etc backed up by any internal held correspondence, leading to this decision.*

*2. If there has been, or if any discussion is due, to assist the vulnerable during COVID-19, on the collection of their prescriptions from chemists."*

5. The Welsh Government responded on 14 January 2021. In response to the first part the request, it confirmed:

*"The posting of prescriptions and/or medicines that have been dispensed from a prescription is permitted in Wales. However, there are some legal restrictions and safe storage requirements that must be complied with which means not all prescription medicines can be posted..."*

6. In response to item two, the WG provided details of the measures put in place to ensure that the extremely clinically vulnerable and those self-isolating due to COVID-19 could continue to receive their prescription medicine.

7. The complainant contacted the Welsh Government on 15 January 2021 stating that the response appeared to be an explanation in the form of a letter, newly written for the request. She added that it was also an argument, rather than file data and confirmed she wanted committee decisions, internal emails and documents.

8. Following an internal review the Welsh Government wrote to the complainant on 8 February 2021 confirming:

*"As Welsh patients are able to have prescriptions by post and no decision has been made to stop this, we hold no information which falls within the scope of your request."*

## Scope of the case

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9. The complainant contacted the Commissioner on 11 February 2021 to complain about the way her request for information had been handled. The complainant stated that Welsh citizens are barred from receiving filled prescriptions by post, with a Welsh Health Board, (Aneurin Bevan) having stated that it is abiding by a Welsh Government instruction and also in accordance with the Repeat Dispensing guidance.
10. She further stated that although the Welsh Government responded that it has nothing on record making this decision, that she checked on chemist sites and people living in Wales are barred from joining schemes such as those run by Boots. She added that she was told by a chemist that due to a Welsh Government decision, they were unable to send prescriptions by post.
11. The scope of the Commissioner's investigation is to determine whether the Welsh Government stated correctly that it did not hold any information falling within the scope of part one of the complainant's request and whether it has provided a compliant response to part two of the request, and hence has complied with its obligations under section 1(1) of the FOIA.

## Reasons for decision

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### Section 1 – General right of access to information held

12. Under section 1(1) of the FOIA, in response to a request for information a public authority is only required to provide recorded information it holds and is not therefore required to create new information in order to respond to a request.
13. In scenarios where there is some dispute regarding whether relevant information is held, the Commissioner, following the lead of a number of Information Tribunal decisions, applies the civil standard of the balance of probabilities.
14. The Commissioner's judgement in such cases is based on the complainant's arguments and the public authority's submissions and where relevant, details of any searches undertaken. The Commissioner expects the public authority to conduct a reasonable and proportionate search in all cases.

*Part one – the decision not to let Welsh patients have a postal service for prescriptions*

15. In this particular case the Welsh Government informed the complainant that posting medicines that have been dispensed from a prescription is permitted in Wales, although confirmed that there are some legal restrictions and safe storage requirements which means that not all prescription medicines can be posted. It added that community pharmacies are independent businesses and arrangements made between patients and pharmacies for the delivery of prescriptions are not part of NHS contractual arrangements.
16. The Commissioner notes that it explicitly confirmed in its internal review that as Welsh patients are able to have their prescriptions by post, it holds no information which falls within the scope of this part of the complainant's request.
17. The Commissioner has considered this response, in respect of the first part of the request, and whilst she is mindful that the complainant had requested committee papers and internal correspondence, she considers it reasonable that if the Welsh Government does not have such a policy, that it could not be expected to hold relevant information.

*Part two – if there has been, or if any discussion is due, to assist the vulnerable during COVID-19, on the collection of their prescriptions from chemists.*

18. In response to the above, the Welsh Government provided details of the various measures that had been put in place during the course of the pandemic (up to the time of the request in January 2021), to assist the medically clinically vulnerable obtain their prescription medicines, and in so doing has effectively confirmed that discussions had taken place.
19. The Commissioner considers that a 'yes' or 'no' answer would have provided a compliant response to this part of the complainant's request, and that the Welsh Government provided the details to the complainant in an attempt to be helpful.
20. Based on the above, the Commissioner is satisfied that the Welsh Government has provided a compliant response to this part of the complainant's request.

*The Commissioner's decision*

21. As she is satisfied that the Welsh Government does not hold information relevant to the first part of the complainant's request, and that it has provided a full response to part two the request, she has therefore concluded that the Welsh Government has complied with its obligations under section 1(1) of the FOIA.

## Right of appeal

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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: 0203 936 8963

Fax: 0870 739 5836

Email: [grc@justice.gov.uk](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://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 .....**

**Catherine Dickenson  
Senior Case Officer  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF**