

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 21 February 2023

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

Decision (including any steps ordered)

1. The complainant requested various information from the Welsh Government in respect of the 2018 - 2019 Trawscymru Annual Report. The Welsh Government refused the request citing section 14(1) (vexatious request) FOIA. The Commissioner's decision is that the Welsh Government was entitled to rely on section 14(1) to refuse the request. The Commissioner does not require the Welsh Government to take any steps.

Request and response

2. On 8 May 2022, the complainant wrote to the Welsh Government and requested the following information regarding Trawscymru Annual Reports and Strategy Board minutes:

"Could you please provide copies of the following documents

- (1) The "incorrect" version of the 2018-2019 Trawscymru Annual Report (referred to by South Wales Police on 11/08/21, 12/08/21 and 07/03/22). The document was removed from the Welsh Government website in November 2021.
- (2) The "correct" version of the 2018-2019 Trawscymru Annual report. (referred to by South Wales Police on 07/03/2022)
- (3) The "documented evidence" , provided to South Wales Police by the Welsh Government Data Security Head), that [named

individual] had attempted to correct the incorrect data over the months before the Strategic Management Board Meeting (referred to by South Wales Police on 07/03/2022)

- (4) The minutes from the Strategic Management Board Meeting (referred to by South Wales Police on 07/03/2022)”
3. The Welsh Government responded on 7 June 2022, refusing the request by virtue of section 14(1) FOIA, upholding this position in its internal review issued on 6 July 2022.

Reasons for decision

Section 14(1) – vexatious requests

4. Section 14(1) of FOIA states that a public authority is not obliged to comply with a request for information if the request is vexatious.
5. The word “vexatious” is not defined in FOIA. However, as the Commissioner’s guidance on section 14(1)¹ states, it is established that section 14(1) is designed to protect public authorities by allowing them to refuse any requests which have the potential to cause a disproportionate or unjustified level of disruption, irritation or distress.
6. FOIA gives individuals a greater right of access to official information in order to make bodies more transparent and accountable. As such, it is an important constitutional right. Therefore, engaging section 14(1) is a high hurdle.
7. However, the ICO recognises that dealing with unreasonable requests can strain resources and get in the way of delivering mainstream services or answering legitimate requests. These requests can also damage the reputation of the legislation itself.
8. The emphasis on protecting public authorities’ resources from unreasonable requests was acknowledged by the Upper Tribunal (UT) in the leading case on section 14(1), *Information Commissioner vs Devon County Council & Dransfield* [2012] UKUT 440 (AAC), (28 January 2013) (“Dransfield”)². Although the case was subsequently appealed to the

¹ <https://ico.org.uk/for-organisations/dealing-with-vexatious-requests-section-14/>

² <https://administrativeappeals.decisions.tribunals.gov.uk/Aspx/view.aspx?id=3680>

Court of Appeal, the UT's general guidance was supported, and established the Commissioner's approach.

9. The Welsh Government informed the Commissioner that this request for information does not sit in isolation, and that there is a long history of the complainant using FOIA to seek information about TrawsCymru bus routes dating back before 2018.
10. In respect of the complainant's comments that they have not made any previous requests for this information, whilst the Welsh Government accepts that this is true on a narrow reading of the request for the report and police evidence, it has argued that it is part of an ongoing thread of the complainant seeking information about TrawsCymru buses to further a personal agenda where they are seeking evidence to confirm wrongdoing.
11. The Welsh Government referred to a number of past decision notices issued by the Commissioner, which upheld its reliance on section 14(1) FOIA, in respect of previous requests for information from the complainant, each around the subject of TrawsCymru bus routes.
12. The Commissioner recalls these previous complaints and as an example would highlight that case reference FS50734061³ dealt with four separate requests for information relating to the TrawsCymru bus service, each containing multi-part requests for information. Whilst case reference FS50807259⁴ dealt with three separate multi-part requests for information in respect of the TrawsCymru bus service. He does not intend to repeat the arguments in detail here as they are thoroughly explored in these previous two decision notices, however, suffice it to say that he concluded that the Welsh Government was entitled to rely on section 14(1) in respect of all requests for information covered by both decision notices.
13. It is the Welsh Government's view that this request represents a continuation of the behaviour outlined in the above decision notices in many respects, including the targeting of the same Welsh Government official who was subject to the previous requests.
14. Additionally, the Welsh Government considers that the complainant's contention that they are not targeting the individual named in their

³ <https://ico.org.uk/media/action-weve-taken/decision-notices/2018/2614065/fs50734061.pdf>

⁴ <https://ico.org.uk/media/action-weve-taken/decision-notices/2019/2614556/fs50807259.pdf>

request, on the basis that it is from a quote by South Wales Police, is disingenuous, as it was the complainant who reported the Welsh Government official to the police, having alleged criminal activity around the doctoring of official information.

15. The Commissioner was further informed that ultimately, the police investigation found that there was no case to answer, but the actions of the complainant has caused the Welsh Government official considerable distress.
16. In response to the complainant's comments that the matter has not been fully dealt with by the police as it "made a number of failed attempts to halt the investigation", the Welsh Government sees this as further evidence in support of the vexatiousness of the request, arguing that they made a baseless accusation against the Welsh Government official to the police, who undertook a full criminal investigation which ultimately concluded there was no case to answer.
17. The Welsh Government has argued that the complainant's level of 'obsession' with the official in question, has now led them to believe the police themselves are at fault for not finding the Welsh Government official culpable, and is seeking to 'investigate' the allegation themselves by procuring information under FOIA.
18. Further, the Welsh Government considers that specifically naming them in an FOI request, even after an independent police investigation concluded there was no case to answer, is prima facie evidence of their persistence and intransigence in pursuing a narrow issue.
19. The Welsh Government further informed the Commissioner that it is under no obligation to publish the report referred to in the request on its website. It explained that the governance arrangements for TrawsCymru have changed since the report in question, and an annual report is no longer required to be published.
20. The Commissioner has considered the request subject to this complaint, and whilst he accepts that in isolation, the complainant has not requested this information previously, it is clear that it is a continuation of their previous requests for information in respect of the TrawsCymru bus service. As with the previous requests submitted by the complainant, this request also appears to be rooted in an ill-founded conviction that there must be wrongdoing at the heart of the management of the TrawsCymru bus service, and by one Welsh Government official in particular.
21. Based on the arguments put forward by the Welsh Government, and the background to the requests, as referred to in his previous two decision

notices referenced in paragraph 12 of this notice, the Commissioner has no hesitation in concluding that this request is indeed vexatious, and that the Welsh Government was therefore entitled to refuse it on the basis of section 14(1) FOIA.

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: 0203 936 8963
Fax: 0870 739 5836
Email: grc@justice.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

**Catherine Dickenson
Senior Case Officer
Information Commissioner's Office
Wycliffe House
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