

Welsh Language Regulations

4 April 2018

Request for Information.

Thank you for your request received on 6 March in which you asked:

I would like to receive the following information under the provisions of the Freedom of Information Act:

- *a copy of all e-mail messages and other correspondence, together with a copy of any attachments to those e-mails or correspondence that you received from the Welsh Government since 1st November 2017 regarding (a) The Welsh Language Standards Regulations (No. 7) and/or (b) The Welsh Language Standards for the health sector;*
- *the subject of, the date and time sent, and the name of each attachment to all e-mail messages and other correspondence you received from the Welsh Government since 1st November 2017 regarding (a) The Welsh Language Standards Regulations (No. 7) and/or (b) The Welsh Language Standards for the health sector.*

I can confirm that we hold the information requested. However, a disclosure will not be made because the information held is exempt from disclosure under the Freedom of Information Act 2000 (FOIA). Two exemptions apply which, in brief, are as follows:

- section 21 - information accessible by other means; and
- section 41 - the information includes confidential information.

Fuller details of the exemptions which have been applied, and the reasons for their application, are set out in the [annex](#) to this letter.

Your request has been considered according to the principles set out in the Code of Practice on Public Access to Information. The code is published on our website at http://www.assemblywales.org/abthome/about_us-commission_assembly_administration/abt-foi/abt-foi-cop-pub.htm

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If you have any questions regarding this response please contact me. If you feel you have cause for complaint, please follow the guidance at the end of this letter.

Yours sincerely

**Freedom of Information Manager
National Assembly for Wales**

Cause for concern or complaint with your FOI response?

If you believe that I have not applied the Code correctly or have not followed the relevant laws, you may make a formal complaint to the Chief Executive and Clerk at the National Assembly for Wales, Cardiff Bay. Details of the Assembly's complaints principles are set out in the Code of Practice on Complaints available on the Internet at <http://www.assembly.wales/en/help/contact-the-assembly/con-complaint/Pages/con-complaint-procedure.aspx>. Please advise me if you wish to receive a printed copy.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

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

Section 21 FOIA

Section 21 exempts information from disclosure where Information is accessible to applicant by other means, e.g. when it is published on the internet.

Written Statements by Eluned Morgan AM, Minister for the Welsh Language and Lifelong Learning, were sent to National Assembly Commission staff, but these are all published on the [Cabinet Statements](#) pages of the Welsh Government website.

As this information is already published, your request is subject to section 21 of FOIA which exempts information that is already reasonably accessible by other means.

Section 41 FOIA

Section 41 exempts information from disclosure where release would be an actionable breach of confidence. It says:

“[i]nformation is exempt information if—

- (a) it was obtained by the public authority from any other person (including another public authority), and
- (b) the disclosure of the information to the public (otherwise than under this Act) by the public authority holding it would constitute a breach of confidence actionable by that or any other person...”

This exemption qualifies the right of access under FOIA by reference to the common law action for ‘breach of confidence’. According to that action, if a person who holds information is under a duty to keep that information confidential (a ‘duty of confidence’), there will be a breach of confidence if that person makes an unauthorised disclosure of the information, which includes a disclosure under FOIA.

A duty of confidence can arise due to the confidential nature of the information itself or the circumstances in which it was obtained. Some of the information held was provided in confidence by external third parties.

The terms of this exemption are such that it is necessary to determine whether there would be a public interest defence to a breach of confidence. I have done so and consider that the public interest in maintaining confidentiality should prevail. My consideration included the following points:

- there is a general public interest in ensuring that public authorities are transparent, accountable and open to scrutiny; and

- however, disclosure would undermine the trust between the Assembly Commission and those third parties who provided information to it. Maintaining trust and preserving the free flow of information is necessary to enable the Assembly Commission to perform its statutory duty of providing the property, staff and services required for the Assembly's purposes.