



Local Government and Elections Wales Act 2021

28 January 2022

Request for Information.

Thank you for your request received on 10 January in which you asked:

Can I please request the following information:

- 1. All correspondence sent to community councils in relation to the Local Government and Elections Wales act 2021. Specifically I would like to know if community council were sent details of the consultation that began in Nov 2019. Online I have found the consultation, and the responses, and the consultation letter dated Nov 22 2019, but I can't find confirmation that it was sent to community councils and if this was by email to clerks or a hard copy.*
- 2. Can I also find out if the consultation relating to the qualification of clerks in June 2021 was sent to community councils and if this was by email or hard copy.*

1. The Equality, Local Government and Communities Committee of the Fifth Senedd undertook a public consultation as part of its scrutiny of the Local Government and Elections (Wales) Bill. Notification emails were sent to One Voice Wales, the Society of Local Council Clerks and the North and Mid Wales Association of Local Councils. The consultation was also publicised via the Committee's and the Senedd's social media platforms. We were unable to notify individual town and community councils across Wales as we do not have access to a comprehensive list of contact details for each council.

We do hold some correspondence relating to your request and we have attached those emails to this letter. (Please request these by emailing Information-request@senedd.wales) However, some of the information included in the document has been redacted. This is where it contains personal data that is exempt from disclosure under the 'personal information' exemption in section 40(2) of the Freedom of Information Act 2000 (FOIA). This exemption applies where the requested

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information constitutes personal data and disclosure would contravene one or more of the data protection principles set out in the United Kingdom General Data Protection Regulation (UK GDPR). Please see the **Annex** to this letter for further information.

2. This question has been transferred back to the Welsh Government who will respond separately.

Yours sincerely

Buddug Saer
Freedom of Information Manager
Welsh Parliament

Your request has been considered according to the principles set out in the **Code of Practice on Public Access to Information**. If you have any questions regarding this response please contact me. If you feel you have cause for complaint, please follow the guidance below.

Cause for concern or complaint with your FOI response?

If you are dissatisfied with the Welsh Parliament's handling of your request, you can request an internal review within 40 working days of the date of this response. Requests for an internal review should be addressed to the Freedom of Information Manager at:

Information-request@senedd.wales or in writing to

Welsh Parliament
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Annex

Section 40 FOIA: disclosure of personal data would be in breach of the UK GDPR

The definition of personal data is set out in Article 4 of the UK GDPR, being:

“any information relating to an identified or identifiable person ('data subject'); an identifiable natural person 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 that natural person”.

The emails captured by your request contain the names, job titles, email addresses and telephone numbers of a Senedd Commission employee, support staff employed by a Member of the Senedd and personnel within Beaumaris Town Council.

Personal information is exempt from disclosure under section 40(2) and section 40(3A)(a) of the FOIA where disclosure would contravene one or more of the data protection principles set out in the UK GDPR. The principle relevant on this occasion is the first data protection principle.

The first data protection principle, as set out in Article 5 of the UK GDPR, states that:

“Personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject ('lawfulness, fairness and transparency')”.

In addressing whether disclosure would be fair, we have considered the consequences of disclosure, the reasonable expectations of the persons concerned and the balance between their rights and any legitimate interest in disclosure. Our conclusion is that disclosure would be unfair.

The individuals whose names have been redacted from the information captured by this request do not carry an expectation of disclosure of their personal information. Unlike elected representatives, they do not undertake a public facing role and to disclose their personal information would create a disproportionate infringement on their individual interests, fundamental rights and freedoms and it would not add to the substance of our response.

Notwithstanding my view as to fairness, I went on to consider Article 6 of the UK GDPR. None of the legal bases in Article 6 is relevant other than Article 6(1)(f), which allows the processing of personal data if:

“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.”

This condition involves a three-part test:

- there must be a legitimate public interest in disclosing the information;
- the disclosure must be necessary to meet that public interest; and
- the disclosure must not override the interests, fundamental rights or freedoms of the data subjects.

We have given careful consideration to the relevant interests which include: the Commission’s obligations under the UK GDPR and the Data Protection Act 2018; your right to access this information; the individuals’ concerned and their right to privacy; and the public interest in this information being disclosed.

In our view, providing you with the personal information of other individuals (i.e. Commission staff, support staff and personnel within Beaumaris Town Council) would not add to the substance of our response to your request. This, coupled with the fact that these individuals do not hold public facing positions, nor are they of a sufficient level of seniority that weighs more heavily in favour of the disclosure of their personal information, leads us to conclude that there does not appear to be a legitimate interest in disclosing the personal information of those Commission staff to you. The information provided in its redacted form is a balanced way of meeting the public interest, whilst ensuring the interests, fundamental rights or freedoms of individuals are not jeopardised.