

## Communication Budget Expenditure

15 June 2020

### Request for Information.

Thank you for your request received on 26 March in which you asked:

- 1. I request to see details of all Communication Budget Expenditure by Mark Drakeford AM, including any copies of reports sent out or material published since he was elected in 2011.*
- 2. I also request to see any exchange of emails between Mr Drakeford or his staff and the Assembly Commission in relation to the communication budgets.*

We can confirm that we hold the information requested, which is attached to this letter as two PDF documents and two media files. (Available on request)

Some redactions have been made to the information provided on the basis that the information constitutes personal data and is exempt from disclosure under section 40(2) and (3A)(a) of the Freedom of Information Act 2000. Further reasoning for the conclusion reached in relation to this information is set out in annex A to this letter.

Some of the information provided is exempt from disclosure under section 43(2) of the Freedom of Information Act 2000. Further reasoning for the conclusion reached in relation to this information is set out in annex B to this letter.

Finally, from 2013-14 to date, information relating to a Member of the Senedd's communication budget expenditure is published as part of the Remuneration Board's Annual Reports, available on the Welsh Parliament's website:

<https://business.senedd.wales/mglIssueHistoryHome.aspx?IId=10075&AIID=44624>

Senedd Cymru  
Bae Caerdydd  
Caerdydd, CF99 1SN

Welsh Parliament  
Cardiff Bay  
Cardiff, CF99 1SN  
Ffôn/Tel: 0300 200 6224

E-bost/Email: [Ceisiadau-gwybodaeth@senedd.cymru](mailto:Ceisiadau-gwybodaeth@senedd.cymru)  
[Information-request@senedd.wales](mailto:Information-request@senedd.wales)

As some of the requested information is already published on the Welsh Parliament's website, it is subject to section 21 of the Freedom of Information Act 2000 (FOIA) which exempts information that is already reasonably accessible by other means.

Yours sincerely

**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  
Governance and Assurance  
Cardiff Bay  
Cardiff  
CF99 1SN

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

## **Annex A**

Some of the information sought falls within the definition of personal data as set out in Article 4 of the General Data Protection Regulation ("GDPR"), being:

"any information relating to an identified or identifiable natural 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, psychological, genetic, mental, economic, cultural or social identity of that natural person".

Personal information is exempt from disclosure under section 40(2) and 40(3A)(a) of Freedom of Information Act 2000 where disclosure would contravene one or more of the data protection principles within the 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 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 the disclosure of this information 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 disclosure of the personal data of some individuals would not be reasonably expected by them, nor substantively assist in providing a full response to the crux of your request. Those individuals for whom there is a greater interest in the disclosure of their personal data, including Members of the Senedd and senior Commission staff, have not been redacted.

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

"Processing is necessary for the purposes of legitimate interests pursued by the controller or by the 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 subject.

There is a public interest in transparency in general. However, in our view the public interest is met in this instance by the disclosure of much of the content of the documents within scope of the request. The arguments in favour of disclosing the withheld information does not, in our view, outweigh the interests, fundamental rights or freedoms of the data subjects.

In the circumstances, the disclosure of the withheld information is not necessary to meet the public interest.

## **Annex B**

Section 43(2) of the Freedom of Information Act exempts from disclosure any information which 'would, or would be likely, to prejudice the commercial interests of any person (including the public authority holding it).'

In this context, 'any person' means the Senedd Commission (as the public authority holding the information), the Member in question, Mark Drakeford MS, and the companies who provided quotation and pricing information for work. The intention behind the exemption is to prevent the disclosure of information that could cause harm to the commercial interest of any individual or organisation, such as their ability to participate competitively in a commercial activity.

It is our view that the commercial interests of the Member and the Senedd Commission are not prejudiced by the disclosure of the information. However, having sought the views of the companies whose information is caught by the scope of your request, we are satisfied that if the information were released, it is likely that it would cause substantial harm to the commercial interests of some of those companies.

In particular, the release of the details of pricing and quotation information relating to printing and distribution work, which is not already publicly available, would place into the public domain information which some of the companies believe would prejudice their position in the market place. The information would provide its competitors with knowledge which might give them an unfair advantage in bidding against those companies for similar contracts. We have only withheld information where that company has identified that disclosure would harm their commercial interests.

Section 43(2) is subject to consideration of the 'public interest test'. In other words, in order to withhold the information requested, we must be satisfied that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

We are mindful of the need, wherever possible, to be transparent as regards the allocation of public funds. However, we also believe there is a public interest in maintaining the ability of private suppliers to contract effectively. It would be unfortunate if the willingness of such operators to engage with Members of the Senedd were hampered by a concern that the Senedd Commission will lightly disclose their commercially-sensitive information.

In conclusion, we do not consider that the public interest in the disclosure of the information requested outweighs the likely harm which would follow from disclosure.