



Gavin Bryce

Email: request-844742-5c0be22e@whatdotheyknow.com

11 May 2022

Dear Gavin Bryce

ATISN 16173 – GB – New Curriculum Programme Board

Thank you for your request which I received on 17 March 2022. You asked for:

- details of the risk register from the Welsh Government programme board that is responsible for overseeing the implementation of the new curriculum in Wales, minutes of the last three meetings and briefings sent to the Minister on progress.

A copy of the information I have decided to release is enclosed. This includes the minutes of the last three meetings and briefings sent to the Minister on progress:

- November Progress Report – Progress against Our National Mission commitments – October 2021
- December Progress Report – Education and Welsh Language Progress Report for November 2021
- January Progress Report – Education and Welsh Language Progress Report for December 2021
- February Progress Report – Education and Welsh Language Progress Report for January 2022
- Meeting Minutes – Joint Session of the Strategic Education Delivery Group and Our National Mission Change and Delivery Boards – 2nd November 2021
- Meeting Minutes – Education in Wales Our National Mission Programme Delivery Board – 27th January 2022
- Meeting minutes – Education in Wales Our National Mission Programme Delivery Board – 17th March 2022

I have decided that the information in relation to the details of the risk register from the Welsh Government programme board that is responsible for overseeing the implementation of the new curriculum in Wales is exempt from disclosure under section 36 of the Freedom of Information Act and is therefore withheld. The reasons for applying these exemptions are set out in full at Annex A to this letter.



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

Information Rights Unit,
Welsh Government,
Cathays Park,
Cardiff,
CF10 3NQ

or Email: Freedom.ofinformation@gov.wales

Please remember to quote the ATISN reference number above.

You also have the right to complain to the Information Commissioner. The Information Commissioner can be contacted at:

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

However, please note that the Commissioner will not normally investigate a complaint until it has been through our own internal review process.

Yours sincerely
Rebecca Rees



Annex A

The Freedom of information Act (FOIA) provides a right for anyone to ask a public authority to make requested information available to the wider public. As the release of requested information is to the world, not just the requester, public authorities need to consider the effects of making the information freely available to everybody. Any personal interest the requester has for accessing the information cannot override those wider considerations.

I have decided to withhold the following information:

Information being withheld	Section number and exemption name
Risk register from the Welsh Government programme board that is responsible for overseeing the implementation of the new curriculum in Wales	<ul style="list-style-type: none">• Section 36(2)(b)(i) – Free and frank provision of advice• Section 36(2)(b)(ii) – Free and frank exchange of views for the purposes of deliberation• Section 36(2)(c) – would otherwise prejudice the effective conduct of public affairs.

This Annex sets out the reasons for the engagement of sections 36(2)(b)(i), 36(2)(b)(ii) and 36(2)(c) of the Freedom of Information Act and our subsequent consideration of the Public Interest Test.

Engagement of sections 36(2)(b)(i), 36(2)(b)(ii) and 36(2)(c) of the Freedom of Information Act

The FOIA has introduced a two-stage process for considering and using the s36 exemption. Stage 1 is to ascertain whether the basic conditions for triggering the application of the exemption apply. This is the role of the 'qualified person' and in relation to the Welsh Government, the qualified person usually means the Counsel General. If the qualified person decides that the information would, or would be likely to, have the specified adverse effect(s), then the exemption is said to be engaged and Stage 2 can commence. Stage 2 considers the statutory public interest test before deciding whether to withhold or release the information

Stage 1 – Engagement of Exemption

The Welsh Government believes that the exemptions above are engaged relating to the risk register associated with the implementation of the new curriculum in Wales, and it should therefore be exempt from disclosure. The implementation of the new curriculum in Wales is part of a long-term Education reform agenda which is subject



to extensive considerable scrutiny and interest and is at a critical point in its implementation phase, with the curriculum being rolled out in schools over the next six months. The Welsh Government believes the information above should not be disclosed due to the harm it could cause if it were to be released, which is set out in detail within the public interest test below.

The Counsel General, as the 'qualified person', has agreed that s36(2)(b)(i), s36(2)(b)(ii) and s36(2)(c) are engaged for the above reasons.

Stage 2 - Public Interest Test

In order to satisfy the public interest test in relation to the exemptions, it is necessary to conclude that the public interest arguments in favour of withholding the information are sufficient to outweigh the public interest arguments in favour of release.

Public interest arguments in favour of disclosure

Section 36(2)(b)(i) – Free and frank provision of advice

Section 36(2)(b)(ii) – Free and frank exchange of views for the purposes of deliberation

Section 36(2)(c) – would otherwise prejudice the effective conduct of public affairs.

The Welsh Government acknowledges the inherent public interest in openness and transparency that release of this information would engender. Officials recognise there is a public interest in disclosing information on the views expressed between officials regarding the risk management in connection to the implementation of the new Curriculum in Wales. This could allow for a greater public understanding of how the risk management process develops and how this has a direct relation to and impact on the policy work undertaken within Welsh Government, promoting open government. To release the requested information could also increase the level of transparency around the development of the new Curriculum and might promote a deeper understanding amongst the general public of the new Curriculum in Wales. In this sense, the public could be able to understand how officials are providing a service to them by making their work more transparent and allowing the public to form an opinion on the quality of that service.



Public interest arguments in favour of withholding

Section 36(2)(b)(i) – the free and frank provision of advice

It is important that officials both within and outside of Welsh Government are able to fully engage with each other and Ministers and provide advice away from the public gaze and that there should be no disincentive in doing so. If officials believed their advice and input into risk management processes would be made public, it is likely they would, both in the context of the Curriculum for Wales implementation agenda, and future Welsh Government programmes, be more inhibited in what they say and be less willing to provide free and frank advice, leading to an undermining of the effectiveness of the risk management processes in managing Welsh Government work programmes. This would not be in the public interest.

Section 36(2)(b)(ii) – Free and frank exchange of views for the purposes of deliberation

If views cannot be exchanged freely and frankly in both formulating and managing the Curriculum for Wales programme risk register, then the same prejudice as that described above in relation to Section 36(2)(b)(i) would be likely to occur. Any risk management process depends on an environment that allows the free and frank exchange of views from a range of officials and other stakeholders in order for it to be effective and contribute to the overall successful delivery of a programme. For the purposes of the programme risk register associated with the implementation of the curriculum for Wales, this includes the free and frank exchange of views that ensure risks are correctly considered and mitigated by all partners in order to support successful implementation of the programme without the fear that they would be subject to public criticism. Releasing this information into the public domain would be likely to inhibit further free and frank discussion and information by education delivery partners to inform the risk register, which would impact successful programme implementation. Releasing it could also undermine the process of co-production with education delivery partners and in return reduce the quality of advice and information provided to Welsh Government. To that end, officials do not believe it would be in the public interest to potentially compromise such discussions.

Section 36(2)(c) – would otherwise prejudice the effective conduct of public affairs.

Guidance from the Information Commissioner on s36(2)(c) states:

Prejudice to the effective conduct of public affairs could refer to ... the disruptive effects of disclosure, for example the diversion of resources in managing the effect of disclosure.



The implementation of the new curriculum in Wales is at a critical point in its implementation phase, with the curriculum continuing to be developed and rolled out in schools over the next six months. Officials working on the new curriculum are totally focused on communicating with stakeholders and to supporting and engaging with our education partners so as to inform the process, and ensure we are promoting the right messages and stakeholder confidence in relation to the implementation.

The programme risk register is informed by dialogue and discussion with our delivery partners and provides essential open and honest discussion of the risks to delivery. By the very nature of its content, release of the risk register at this stage of the process could prejudice the delivery of the new curriculum in that it could lead to queries, correspondence and interpretations from outside Welsh Government which would need to be addressed and so distract from the work we are doing and our wider purposes.

To that end, we believe that release of the risk register at this stage would be likely to prejudice the effective conduct of public affairs. We believe the public interest is satisfied by our actions, and the release of the register could damage these efforts.

Balance of public interest test

On balance, officials consider that the public interest in favour of withholding the information outweighs the public interest in disclosure in each case for the reasons set out above. Because of this, the information has been withheld under sections 36(2)(b)(i), 36(2)(b)(ii) and 36 (2)(c) of the Freedom of Information Act 2000.

Y Grŵp Addysg, Cyfiawnder Cymdeithasol a'r Gymraeg
Education, Social Justice and Welsh Language Group



Llywodraeth Cymru
Welsh Government