**Date issued:** 8th of January 2023

**Freedom of Information Request** 265/23

We are writing in response to your Freedom of Information request. Your request has been considered in accordance with the requirements of the Freedom of Information Act and our Data and Information Management Policy.

**YOU ASKED US…**

**The information I would like to know:**

 **All reports in your possession relating to the structural integrity and safety of the bridge crossing the Rhymney railway line on Cardiff Road, Caerphilly. For the avoidance of doubt, this includes the structure which has the former station ticket office on top.**

**RESPONSE**

Please see the attached documents.

Section 17(1) of the Freedom of Information Act 2000 requires Transport for Wales, when refusing to provide information (because the information is exempt) to provide the applicant with a note which,

1. States the fact,
2. Specifies the exemption in question and
3. States (if that would not otherwise be apparent) why the exemption applies

The information redacted within the requested document is exempt by virtue of the following exemptions –

**Section 38 – Health and Safety**

**Section 40 – Personal Information**

**Section 38(1)** is a qualified, prejudice based exemption and the legislators accept that there may be harm if released. The authority is therefore required to articulate the harm that may be caused and consider the public interest arguments for and against disclosure.

**Factors favouring disclosure**

Disclosure of the requested information would provide the public with greater knowledge and understanding of these types of reports and would support Transport for Wales agenda for transparency.

**Factors favouring non-disclosure**

Any disclosure under the Freedom of Information Act is a disclosure to the world at large and not just the applicant.

**Balancing Test**

On balance, Transport for Wales believe, in this case, that the safety of staff and members of the public outweighs full transparency.

**Section 40(2)** - Under this exemption, personal data should not be disclosed if this would contravene the data protection principles.

Personal data is defined by the General Data Protection Regulations (GDPR) as follows -

 **“‘personal data’ means 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, physiological, genetic, mental, economic, cultural or social identity of that natural person”.**

**ICO guidance states the following –**

**When a public authority receives a request for information that constitutes personal data about its employees, it must decide whether disclosure would breach Principle 1 of the Data Protection Act (the DPA), ie whether it would be fair and lawful to disclose the information. Whether the disclosure is fair will depend on a number of factors including:**

 **• whether it is sensitive personal data;**

 **• the consequences of disclosure;**

 **• the reasonable expectations of the employees; and**

**• whether there is a legitimate interest in the public or requester having access to the information and the balance between this and the rights and freedoms of the data subjects.**

**In this case, we have identified that the name of this individual is personal data AND the release of this individuals name WOULD contravene the first principle of the DPA.**

TfW need to consider the likely impacts or consequences that disclosure personal information will have on the staff themselves. Data should not be disclosed if disclosure will cause unjustified adverse effects on the staff concerned.

It is important to remember that disclosure of personal information under the FOI is to “the world at large”.

The key question when it comes to disclosing personal information, is what is the harm that will arise from disclosure.

The individuals in question would not have any expectation that their name would be released into the public domain.

The potential negative impact which could arise from disclosure far outweighs any public interest. Release of the individuals name could lead to frequent communications amounting to harassment.

The negative impact on the individual and on TfW cannot be ignored.

We hope this information is of use to you.

Yours sincerely,

**Transport for Wales**

**Appeal Rights**

If you are unhappy with the way your request has been handled and wish to make a complaint or request a review of our decision, please write to the Head of Freedom of Information at either Transport for Wales, 3 Llys Cadwyn, Pontypridd, CF37 4TH or freedomofinformation@tfw.wales. Your request must be submitted within 40 working days of receipt of this letter. 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 (ICO) can be contacted at Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF or you can contact the ICO through the 'Make a Complaint' section of their website on this link: <https://ico.org.uk/make-a-complaint/>

The relevant section to select will be "Official or Public Information".