



Welsh Language (Wales) Measure 2011

2011 nawm 1

PART 2

THE WELSH LANGUAGE COMMISSIONER

Disclosure of information

22 Power to disclose information

- (1) Information which has been obtained by the Commissioner in the exercise of any of the Commissioner's functions must not be disclosed unless the disclosure is authorised by subsection (2).
- (2) The Commissioner may disclose the information—
 - (a) for the purpose of the exercise of any of the Commissioner's functions;
 - (b) for the purpose of proceedings for an offence of perjury alleged to have been committed in the course of a standards enforcement investigation;
 - (c) for the purpose of an inquiry with a view to the taking of proceedings mentioned in paragraph (b);
 - (d) for the purpose of issuing a certificate under section 107 (obstruction and contempt);
 - (e) if the information is to the effect that a person is likely to constitute a threat to the health or safety of one or more persons, and the disclosure is to a person to whom the Commissioner thinks it should be disclosed in the public interest;
 - (f) if the information is of the kind mentioned in subsection (3), and the disclosure is to the Information Commissioner;
 - (g) if the disclosure is to a permitted person, and the Commissioner is satisfied that the public interest condition is met;
 - (h) if the information was obtained by the Commissioner more than 70 years before the date of disclosure, and the disclosure is to a person to whom the Commissioner thinks it should be disclosed in the public interest.

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- (3) The information referred to in subsection (2)(f) is information that appears to the Commissioner to relate to—
- (a) a matter in respect of which the Information Commissioner could exercise a power conferred by an enactment mentioned in subsection (4); or
 - (b) the commission of an offence mentioned in subsection (5).
- (4) The enactments referred to in subsection (3)(a) are—
- [^{F1}(a) sections 142 to 154, 160 to 164 or 174 to 176 of, or Schedule 15 to, the Data Protection Act 2018 (certain provisions relating to enforcement);]
 - (b) section 48 of the Freedom of Information Act 2000 (practice recommendations); and
 - (c) Part 4 of that Act (enforcement).
- [^{F2}(5) The offences referred to under subsection (3)(b) are those under—
- (a) a provision of the Data Protection Act 2018 other than paragraph 15 of Schedule 15 (obstruction of exercise of warrant etc); or
 - (b) section 77 of the Freedom of Information Act 2000 (offence of altering etc records with intent to prevent disclosure).]
- (6) For the purposes of subsection (2)(g), the public interest condition is met if the disclosure—
- (a) is appropriate for the purpose of the exercise by the permitted person of any of that person's functions, and
 - (b) is in the public interest.
- (7) In determining for the purpose of this section whether disclosure of information is in the public interest, the Commissioner must take into account the interests of—
- (a) any person to whom the information relates; and
 - (b) such other persons as the Commissioner thinks appropriate.
- (8) This section does not affect the application of [^{F3}the data protection legislation] to the Commissioner.
- (9) In this section—
- [^{F4}“the data protection legislation” (“*y ddeddfwriaeth diogelu data*”) has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);]
- “permitted person” (“*person a ganiatawyd*”) means—
- (a) the Welsh Ministers;
 - (b) the First Minister;
 - (c) the Counsel General to the Welsh Assembly Government;
 - (d) the Public Services Ombudsman for Wales;
 - (e) the Children's Commissioner for Wales;
 - (f) the Children's Commissioner;
 - (g) the Commission for Equality and Human Rights;
 - (h) the Commissioner for Children and Young People for Northern Ireland;
 - (i) the Commissioner for Older People in Wales;
 - (j) a housing ombudsman appointed in accordance with a scheme approved under section 51 of the Housing Act 1996;
 - (k) a council for a county or county borough in Wales;

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- (l) a council for a county or district in England;
 - (m) a council for a London borough;
 - (n) a chief of police of a police force for a police area;
 - (o) the chief constable of the British Transport Police Force;
- “standards enforcement investigation” (*“ymchwiliad i orfodi safonau”*) means an investigation undertaken by the Commissioner under section 71.
- (10) The Welsh Ministers may by order amend the definition of “permitted person” in subsection (9) by—
- (a) adding a person;
 - (b) omitting a person;
 - (c) changing a description of a person.
- (11) Before making an order under subsection (10), the Welsh Ministers must consult the person concerned and any other persons they think it appropriate to consult.

Textual Amendments

- F1** S. 22(4)(a) substituted (25.5.2018) by [Data Protection Act 2018 \(c. 12\)](#), s. 212(1), [Sch. 19 para. 168\(2\)\(a\)](#) (with [ss. 117, 209, 210](#), [Sch. 20 para. 47\(1\)](#)); S.I. 2018/625, reg. 2(1)(g)
- F2** S. 22(5) substituted (25.5.2018) by [Data Protection Act 2018 \(c. 12\)](#), s. 212(1), [Sch. 19 para. 168\(3\)\(a\)](#) (with [ss. 117, 209, 210](#), [Sch. 20 para. 47\(2\)](#)); S.I. 2018/625, reg. 2(1)(g)
- F3** Words in s. 22(8) substituted (25.5.2018) by [Data Protection Act 2018 \(c. 12\)](#), s. 212(1), [Sch. 19 para. 168\(4\)\(a\)](#) (with [ss. 117, 209, 210](#)); S.I. 2018/625, reg. 2(1)(g)
- F4** Words in s. 22(9) inserted (25.5.2018) by [Data Protection Act 2018 \(c. 12\)](#), s. 212(1), [Sch. 19 para. 168\(5\)\(a\)](#) (with [ss. 117, 209, 210](#)); S.I. 2018/625, reg. 2(1)(g)

Commencement Information

- I1** S. 22(1) (2)(a)(e)-(h) (3)-(8) (10)(11) in force at 17.4.2012 by [S.I. 2012/1096](#), [art. 2\(a\)](#)
- I2** S. 22(2)(b)-(d) in force at 7.7.2015 by [S.I. 2015/1413](#), [art. 3\(a\)](#)
- I3** S. 22(9) in force at 17.4.2012 for specified purposes by [S.I. 2012/1096](#), [art. 2\(a\)](#)
- I4** S. 22(9) in force at 7.7.2015 in so far as not already in force by [S.I. 2015/1413](#), [art. 3\(a\)](#)

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