



GIG  
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WALES

Bwrdd Iechyd Prifysgol  
Bae Abertawe  
Swansea Bay University  
Health Board

Cadeirydd/Chairman: **Andrew Davies**  
Prif Weithredwr/Chief Executive: **Tracy Myhill**

**gofalu am ein gilydd, cydweithio, gwella bob amser**  
**caring for each other, working together, always improving**

Rydym yn croesawu gohebiaeth yn y Gymraeg ac yn y Saesneg. We welcome correspondence in Welsh or English.

Dyddiad/Date: 24<sup>th</sup> June 2019  
Ein Cyf / Our Ref: 19-F-005

☎ 01639 683312

☎ 01639 648363

🖱 FOIA.Requests@wales.nhs.uk

Corporate Administration  
Headquarters  
1 Talbot Gateway  
Baglan  
Port Talbot, SA12 7BR

[REDACTED]

[REDACTED]

I refer to your Freedom of Information Act Request acknowledged by ourselves on 6<sup>th</sup> June 2019. Your request sought information relating to serious incidents.

**Please provide a copy of serious incident forms submitted to the Welsh Government in 2018-19 and to date in 2019-20.**

I can confirm that the Health Board is withholding the details of these incident reports under section 31 (1)(g) of the Freedom of Information Act.

### **Section 31 FOIA**

Section 31(1)(g) FOIA provides that information is exempt if its disclosure would, or would be likely to, prejudice functions exercised for a number of specified purposes including :

- the purpose of ascertaining the cause of an accident
- the purpose of protecting persons other than persons at work against risk to health or safety arising out of or in connection with the actions of persons at work.

I am satisfied that the disclosure under FOIA of serious incident reports would be likely to prejudice functions exercised by the Health Board for these purposes under the Health and Social Care (Community Health and Standards Act) 2003.<sup>1</sup>

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<sup>1</sup> Section 45 of the Health and Social Care (Community Health and Standards) Act 2003 imposes a duty on the Health Board to monitor and improve the quality of healthcare.



**Pencadlys BIP Bae Abertawe, Un Porthfa Talbot, Port Talbot, SA12 7BR / Swansea Bay UHB Headquarters, One Talbot Gateway, Port Talbot, SA12 7BR**

Bwrdd Iechyd Prifysgol Bae Abertawe yw enw gweithredu Bwrdd Iechyd Lleol Prifysgol Bae Abertawe  
Swansea Bay University Health Board is the operational name of Swansea Bay University Local Health Board

The reason for my view that disclosure would have such an adverse effect is as follows: The effectiveness of serious incident reporting depends heavily on the willingness of Health Board staff, when reporting incidents, to provide full and open accounts of events. They do so with a reasonable expectation of confidentiality.

Certainly they have an expectation that any information they supply when reporting a serious incident will be used only for the purpose of investigating and managing the incident and ensuring that necessary lessons are learnt.

There is a real concern that the disclosure of serious incident reports under FOIA will deter prompt and candid reporting which is essential for the effectiveness of the Health Board's management of specific incidents and of clinical risks generally. If staff are not confident that information they supply for the purpose of serious incident reports will be managed on a confidential basis and for the sole purpose of ensuring lessons are learnt and appropriate action taken to minimize the likelihood of recurrence, the risk is that staff will become defensive in their reporting and will reduce the level of detail they supply to the bare minimum.

This in turn would have a detrimental effect on the quality of information supplied for the purpose of serious incident reports which in turn would affect the Health Board's ability to identify and address risks and to monitor and improve the quality of its services.

The Health Board's conclusion therefore is that there is a real and significant risk that the disclosure of serious incident reports in response to FOIA requests will have an adverse impact on the quality of information supplied by staff in the event of a serious incident serious incident reports and that this will prejudice functions relating to the monitoring and improvement of healthcare which are exercised by the Health Board for the purposes set out above and provided for by Section 31(1)(g) FOIA

### **The public interest test**

Section 31 FOIA is a conditional or qualified exemption. This means that, even where it is considered to apply, it may be relied on only if the public interest in applying the exemption outweighs the public interest in disclosure.

The Health Board recognises that there is a significant public interest in knowing about adverse incidents involving patients in its care. We also appreciate that there is a public interest in openness and transparency generally.

However, insofar as the detail of serious incident reports are concerned we consider that the public interest in disclosure does not outweigh the public interest in applying the s31(1)(g) exemption. This is because it is overwhelmingly in the public interest that systems in place within NHS bodies such as this Health Board for the investigation and management of specific incidents and of clinical risk more generally should be as effective as possible. There is an obvious and very considerable public interest in avoiding adverse impact on the quality of serious incident reporting where this will prejudice the ability of the Health Board to ensure lessons are learnt, to take corrective action to address risks and improve patient outcomes.


I hope this information is helpful. If you require anything further please contact us at [FOIA.Requests@wales.nhs.uk](mailto:FOIA.Requests@wales.nhs.uk).



Under the terms of the Health Board's Freedom of Information policy, individuals seeking access to recorded information held by the Health Board are entitled to request internal review of the handling of their requests. If you would like to complain about the Health Board's handling of your request please contact me directly at the address below or register your complaint via [FOIA.Requests@wales.nhs.uk](mailto:FOIA.Requests@wales.nhs.uk).

If after Internal Review you remain dissatisfied you are also entitled to refer the matter to the information commissioner at the Information Commissioner's Office (Wales), 2<sup>nd</sup> Floor, Churchill House, Churchill Way, Cardiff, CF10 2HH. Telephone Number: 029 2067 8400.

Yours sincerely



On behalf of

Pam Wenger

**Director of Corporate Governance**

