



Llywodraeth Cymru
Welsh Government

E-mail request

Our ref: ATISN 15049
Date: 15 October 2021

Dear

ATISN 15049

Thank you for your request which I received on 5 April 2021. Please accept my apologies for the delay in responding.

You asked for the following information:

The list of political parties invited to 'access talks' with civil servants ahead of the 2021 Senedd elections; and

The number of 'access talk' meetings held with each political party, giving the date of each meeting and the attendees.

I have concluded the information you have requested is exempt under Section 36(2)(c) of the Freedom of Information Act (2000) - would or would be likely to otherwise prejudice the effective conduct of public affairs. I have set out the reasons for withholding information at Annex 1.

A list of parties who submitted a manifesto to the civil service under the framework of pre-election 'access talks' and any correspondence with parties regarding their manifestos.

Political parties are neither required nor invited to submit their manifestoes under the access talks, nor has there been any correspondence which was specifically about their manifestoes.

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

Annex 1

The scope of the Section 36 exemption is potentially wide ranging and, in order to safeguard against possible abuse of its use by a public authority, the Freedom of Information Act (FOIA) introduces a two-stage process when its use is being considered. 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 section 36 of the FOIA states that in relation to the Welsh Government, the qualified person means the Welsh Ministers or the Counsel General. If, after considering the information, the qualified person forms the reasonable opinion that the specified adverse effects will not (or will not be likely to) arise from disclosure, then the information cannot be withheld under Section 36.

If the qualified person decides that the information would, or would be likely to, have the specified adverse effect(s), then Stage 2 can commence.

In this case, on consideration, the Counsel General has agreed that the following limb of section 36 of the FOIA are engaged:

- 36 (2)(c); would otherwise prejudice the effective conduct of public affairs.

Section 36 is a qualified exemption, subject to the public interest test.

Public interest for disclosure

The Welsh Government acknowledges the general public interest in openness and transparency that release would engender. Further, we recognise that there is public interest in understanding the process in relation to 'access talks' and that the release of the information could lead to greater transparency and openness in the way the civil service carry out discussions with other Political parties.

Public interest against disclosure

The UK Cabinet Office handbook for Ministers states:

"At an appropriate time towards the end of any Parliament, as the next general election approaches, the Prime Minister writes to the leaders of the main opposition parties to authorise pre-election contacts with the Civil Service. The meetings take place on a confidential basis, without ministers being present or receiving a report of discussions. The Cabinet Secretary has overall responsibility for co-ordinating this process once a request has been made and authorised by the Prime Minister. These discussions are designed to allow the Opposition's shadow ministers to ask questions about departmental organisation and to inform civil servants of any organisational changes likely to take place in the event of a change of government. Senior civil servants may ask questions about the implications of opposition parties' policy statements, although they would not normally comment on or give advice about policies".

The Permanent Secretary and Senior offices followed this guidance in advance of the recent Senedd elections. Officials are mindful of the extremely sensitive nature of the meetings and that any information were it to be disclosed, would act as a possible disincentive to parties seeking to take advantage of this provision in the future since they would be less confident that discussions would be protected.

There is a public interest in withholding information to the extent that disclosure would be likely to inhibit the process and ability of the civil service and political parties to prepare properly for the possibility of their taking office which would be likely to be prejudicial to the effective conduct of public affairs.

Whilst there is a public interest in favour of openness and transparency about the actions and decisions taken by the civil service, I believe the balance of the public interest falls in favour of withholding the withheld information for the reasons outlined above.