

2 May 2023

Dear

**ATISN 17347 – Welsh Government input to the UK Government Carbon Budget Delivery Plan**

Thank you for your request which I received on 30 March 2023. You asked for:

1. A Copy of the response provided by Welsh Government to UK Government to inform the revised UK Net Zero Strategy. Consultation with Welsh Government is required pursuant to S.14 [5] Climate Change Act 2008.
2. Planned date for presentation by Welsh Government of the revised Net Zero Strategy to Welsh Parliament for their consideration.

**Our response**

The UK Government published a series of publications in March, including their revised [Carbon Budget Delivery Plan \(publishing.service.gov.uk\)](https://publishing.service.gov.uk) pursuant to details of the Climate Change Act (2008) Section 14. A copy of the information is enclosed in the Annex B; this information relates to your first point. I have decided that some of the information is exempt under Regulation 13 of the Environmental Information Regulations (Personal Data) and is withheld. My reasons for applying this exemption can be found at Annex A.

With regards to your second point, under the Climate Change Act (2008), the Welsh Government is not required to lay the UK Governments Carbon Budget Delivery plan before the Senedd. Consequently, I have established that the information you require is not held by the Welsh Government.

**Next steps**

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](mailto: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 A: Application of Exceptions

### Regulation 13– Personal data

Regulation 13 of the EIRs sets out an exception from the right to know if the information requested is personal information protected by the Data Protection Act 1998 (“DPA”). Personal data is defined in Section 1(1) of the DPA as:

*““personal data” means data which relates to a living individual who can be identified from those data; or from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller”.*

We have concluded that, in this instance, the information requested contains personal data relating to the correspondents. Under Regulation 13(1) of the EIRs, personal data is exempt from release if disclosure would breach one of the data protection principles. We consider the principle being most relevant in this instance as being the first.

The first data protection principle states:

*“Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless—  
(a) at least one of the conditions in Schedule 2 is met, and (b) in the case of sensitive personal data, at least one of the conditions in Schedule 3 is also met”.*

We consider that the identity of correspondents, where they are not senior officials and are working in an administrative capacity, as well as their email addresses clearly falls within the description of personal data as defined by the DPA and that its disclosure would breach the first data protection principle. The first data protection principle has two components:

- 1 Personal data shall be processed fairly and lawfully and
2. Personal data shall not be processed unless at least one of the conditions in DPA schedule 2 is met.

Guidance from the Information Commissioner’s Office (Personal information (section 40 and regulation 13) v 1.3) states (at p11):

- *The starting point is to consider whether it would be fair to the data subject to disclose their personal data. The key considerations in assessing this are set out in the section on Fairness below.*
- *If disclosure would not be fair, then the information is exempt from disclosure.*

This approach was endorsed by the Court of Appeal in the case of Deborah Clark v the Information Commissioner and East Hertfordshire District Council where it was held:

*“The first data protection principle entails a consideration of whether it would be fair to disclose the personal data in all the circumstances. The Commissioner determined that it would not be fair to disclose the requested information and thus the first data protection principle would be breached. There was no need in the present case therefore to consider whether any other Schedule 2 condition or conditions could be met because even if such conditions could be established, it would still not be possible to disclose the personal data without breaching the DPA” (paragraph 63).*

In this instance, we believe the individuals would have no expectation that this information would be made public, and they are not in public facing roles. Thus, we believe release of

this information would be unfair and so breach the first data protection principle. For that reason, the information is being withheld under Regulation 13 of the EIRs. This is an absolute exemption and not subject to the public interest tests.