

20 September 2023

Dear

### **ATISN 18871 – Sheep Movements**

Thank you for your email of 21 August. You asked for:

Sheep movements to and from a specified holding for the last two years

### **Our response**

I have decided that **the information listed above described** is exempt from disclosure under Regulation 13(1) together with the conditions in Regulation 13(2)(a)(i) and 13(2)(a)(ii) of the **Environmental Information Regulations** and is therefore withheld. The reason for applying this exemption is set out in full at Annex A to this letter.

### **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

The Environmental Information Regulations provide a right for anyone to ask a public authority to make requested information available to the wider public. As the release of requested information is to the World, not just the requester, public authorities need to consider the effects of making the information freely available to everybody. Any personal interest the requester has for accessing the information cannot override those wider considerations.

### Regulation 13– Personal data

Regulation 13(1) together with the conditions in Regulation 13(2)(a)(i) and 13(2)(a)(ii) provides an absolute exemption if disclosure of the personal data would breach any of the data protection principles.

‘Personal data’ is defined in sections 3(2) and (3) of the Data Protection Act 2018 (‘the DPA 2018’) and means any information relating to an identified or identifiable living individual. An identifiable living individual 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 the individual.

We have concluded that, in this instance, the information requested is third party personal data, as it pertains to movement data relating to an individual holding. We believe that releasing this information to the World would allow individuals to be identified, and as such does constitute personal data.

Under Regulation 13(1) of the EIRs, personal data is exempt from release if disclosure would breach one of the data protection principles set out in Article 5 of the GDPR. We consider the principle being most relevant in this instance as being the first. This states that personal data must be:

*“processed lawfully, fairly and in a transparent manner in relation to the data subject”*

The lawful basis that is most relevant in relation to a request for information under the FOIA is Article 6(1)(f). This states:

*“processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child”.*

In considering the application of Article 6(1)(f) in the context of a request for information under FOIA it is necessary to consider the following three-part test:-

- **The Legitimate interest test:** Whether a legitimate interest is being pursued in the request for information;
- **The Necessity test:** Whether disclosure of the information/confirmation or denial that it is held is necessary to meet the legitimate interest in question;
- **The Balancing test:** Whether the above interests override the interests, fundamental rights and freedoms of the data subject.

Our consideration of these tests is set out below:

## **1. Legitimate interests**

The purpose of recording sheep movements on EID Cymru is to ensure traceability of livestock movements across and beyond Wales in the event of a disease outbreak. Sheep movement records do not indicate the total number of animals held on a holding, or their exact location within the holding.

We understand from your letter that your client's interest in obtaining sheep movement records from this holding over the last two years is in connection with court proceedings, although no further details are provided.

We have also considered whether there may be any wider legitimate public interest in accessing the requested sheep movement data for research purposes, such as research into sheep movements in general, or into the processes by which EID Cymru record such movements.

## **2. Is disclosure necessary?**

In considering whether disclosure is necessary in this case, we have taken into account ICO guidance which states:

*'Necessary' means more than desirable but less than indispensable or absolute necessity. Accordingly, the test is one of reasonable necessity which involves the consideration of alternative measures, and therefore disclosure would not be necessary if the legitimate aim could be achieved by something less. Disclosure under FOIA must therefore be the least intrusive means of achieving the legitimate aim in question.*

As this request is in connection with court proceedings, we consider that there are other methods by which this information could be requested, that would be less intrusive to the interests of the data subject than releasing the information to the world via the Freedom of Information Act.

Having considered potential wider legitimate public interest in accessing the requested sheep movement data, we do not consider that the disclosure of sheep movement records from this single holding would contribute in any meaningful way to any research into either sheep movements in general, or the processes by which they are recorded.

Therefore, we have concluded that disclosure of this information is not necessary in both cases.

## **3. The balance between legitimate interests and the data subject's interests or fundamental rights and freedoms**

As we are of the view that it is not necessary to release this information to the world the balance of the tests falls in favour of maintaining the rights and freedoms of the data subject as provided by the GDPRs and, as such, disclosure to the world of the information would constitute a breach of the GDPRs. Consequentially the information is withheld from disclosure.