

6 May 2026

Dear

ATISN 26870 – Neonatal Herpes

Thank you for your request to Welsh Government for information under the Freedom of Information Act (2000) received on 07 April 2026 relating to neonatal herpes and the Health Protection (Notification)(Wales) Regulations 2010.

You requested the following information to be provided:

- 1. Whether Welsh Government has considered, discussed, or reviewed adding neonatal herpes to Schedule 1 of the Health Protection (Notification) (Wales) Regulations 2010, at any time since 1 January 2024.*
- 2. Copies of any submissions, briefing papers, internal correspondence, emails, or advice to Ministers that discuss neonatal herpes in the context of notifiable diseases, surveillance, or amendment of the 2010 Regulations (or confirmation if none exist).*
- 3. Whether Welsh Government has received advice, formal or informal, from Public Health Wales or the Chief Medical Officer for Wales on whether neonatal herpes should be made notifiable (and if so, the date of such advice).*
- 4. If neonatal herpes has not been considered for inclusion, please state whether any decision has been taken not to mirror the 2025 England amendments, and the reasons for that decision, if recorded.*

Our Response

1. A four nations working group of government officials and public health agencies from across the UK was established under the [Public Health Protection and Health Security Provisional Common Framework](#) to review the list of notifiable diseases in each of the UK nations and develop a list of agreed diseases that each government could consider adding to its own notifiable disease regulations (where not already notifiable).

In parallel, the Government of the United Kingdom consulted on, and later amended, the notification regulations that apply in England. To inform the Welsh Government's response to that consultation, Public Health Wales was commissioned to provide advice. This was provided in September 2023 (see Question 2, Document 1 below).

Both Welsh Government (see Question 2, Document 2 below) and Public Health Wales (see Question 2, Document 3) responded to the consultation. Neonatal herpes was not included in the agreed list developed by the four nations working group, but it was included in the consultation on the English regulations. At that time, the advice from Public Health Wales did not support adding neonatal herpes as a notifiable disease, based on the rationale that diseases should not be

notifiable where the benefit to statutory reporting is unclear or there are alternative surveillance systems in place. Welsh Government accepted that advice.

With effect from 6 April 2025, the regulations that apply in England were amended to include neonatal herpes as a notifiable disease. The four-nations working group considered the diseases made notifiable in England however, neonatal herpes was not identified for inclusion to the agreed four-nations list.

A decision on whether to amend the Health Protection (Notification) (Wales) Regulations 2010, including whether to mirror the amendments made in England, will be a matter for incoming Welsh Ministers following the Senedd elections on 7 May.

2. Copies of the documents requested have been included to the extent they relate specifically and explicitly to the inclusion of neonatal herpes as a notifiable disease and discuss or provide accompanying rationale. These documents have been redacted to include only the relevant sections and comprise:

- Document 1: Public Health Wales advice to the Chief Medical Officer for Wales No. 37: Advice on the need to add diseases / conditions to Schedule 1 or 2 of the Health Protection (Notification) (Wales) Regulations 2010 (as amended): 7 September 2023
- Document 2: Welsh Government Response to DHSC led consultation: 14/11/2023.
Please note, where multiple choice questions are presented, the responses selected by the Welsh Government are highlighted yellow. Responses that were not selected are not highlighted.
- Document 3: Copy of Public Health Wales Response to DHSC led consultation.

The Welsh Government holds additional information which fits the description of your request. We have concluded that some of the information requested is exempt from disclosure under the following section of the Freedom of Information Act:

- section 35 1(a) Information held by a government department or by the Welsh Government is exempt information if it relates to - (a) the formulation or development of government policy.

An explanation of our application of this exemption is set out at Annex 1 of this letter.

3. This is addressed in the response to Questions 1 and 2, above.
4. This is addressed in the response to Question 1, above.

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

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

Engagement of Exemptions

When considering the release of information captured by a request we are required to consider the potential effects of disclosure of the information to the wider world. This is because information released in response to a Fol request is released to the world, not just to the person submitting the request. As such we need to consider how any other individual may use, or misuse, the information if it is placed into the wider public domain. So, whilst the requestor may have a legitimate, and benign, interest in accessing the requested information, we could conclude that the risk that the information could be misunderstood or misused by others is more compelling and thus the information should be withheld .

This Annex sets out the information you have requested and the corresponding reasons for the engagement of: Section 35, Information held by a government department or by the Welsh Government is exempt information if it relates to - (a) the formulation or development of government policy and our subsequent consideration of the Public Interest Test.

Engagement of Section 35(1)(a) (Government policy) of the Freedom of Information Act

Section 35(1)(a) covers any information relating to the formulation or development of government policy. This exemption is only engaged by information being used in the formulation of government policy.

The information requested has been generated to inform the formulation of government policies with regards to public health policy and amendments to regulations, specifically making neonatal herpes notifiable in Wales.

No decision has been made by Welsh Government officials or Ministers in respect of whether to add neonatal herpes to Schedule 1 of the Health Protection (Notification) (Wales) Regulations 2010, to assess its feasibility and the operational implications in Wales, or whether to engage in public consultation on this matter.

The relevant policy is under consideration by officials, is still in the process of being formulated, a Ministerial decision has not been made and would be a matter for the incoming Welsh Ministers following the Senedd elections of 7 May Therefore s35(1)(a) exemption is engaged by the information captured by this request.

Public interest arguments in favour of release

There is a public interest in the public understanding the ongoing development of our policies in relation to neonatal herpes and the information underpinning this policy. We also recognise the public interest in making this information available for the sake of greater transparency and openness. For these reasons, information related to the response to the DHSC consultation, including PHW advice, the Welsh Government response, and the PHW

response has been released. A narrative response to the questions asked has also been included.

Public interest arguments in favour of withholding

We take the view that section 35(1)(a) is intended to ensure that the possibility of public exposure does not deter from full, candid, and proper deliberation of policy formulation and development, including the exploration of all options.

The withheld information relates to the formulation of Ministerial advice and policy related whether to support making neonatal herpes a notifiable disease in Wales.

The Welsh Government needs to be able to openly discuss recommendations and assess its feasibility, affordability, and the operational implications in Wales with its partners before advice is drafted and a final decision is made by the Minister on the way forward.

The disclosure of the information requested would have a prejudicial effect on engagement between Ministers, officials, and the NHS as it would remove the secure environment which allows Welsh Government to gather information from partners. Releasing information would inhibit free and frank discussion among officials, which in turn undermines the quality of the policy being formulated. Early disclosure may damage trust between departments or with external stakeholders involved in policy development.

Removing the secure environment in which officials and partners can express views openly could result in advice being less robust. It would be likely to result in a reduction in the frankness and candour of those involved in the process if they believed discussions and other information would be made public.

This could have a detrimental effect on any potential change to public health policies and, in turn, the Welsh Government's implementation of these policies in the future.

In conclusion, it is within the wider public interest to withhold information related to this request to provide the government with a safe space to consider and form policy and plans to manage public health policies. The Welsh Government has endeavoured to ensure the organisation is as transparent as possible, through the media, publication of documents, Ministerial Written Statements, and public statements in the Senedd. In so doing, we believe this public interest has been satisfied. Accordingly, the information requested has been withheld under section 35(1)(a) of the Act for the reasons set out above.