

15 July 2026

Dear

Complaint in respect of ATISN 27071

Thank you for your e-mail dated 7 July 2026.

As requested, I have undertaken an independent review into the response from William Whiteley dated 6 July 2026.

I have considered your complaint in accordance with the procedure outlined in the [Welsh Government's Practical Guide for Making Requests for Information](#) which is available by post on request or via the internet.

I have limited my review to Request 3 from your original requests on 8 and 9 June as your complaint refers only to the information that has been withheld under the section 35 (1)(a) Freedom of Information Act 2000 exemption.

I note that the original response confirmed that Welsh Government does hold information that meets the description in your request. I have therefore looked at this information again to consider both the application of section 35(1)(a) and the balance of the public interest.

I have carefully considered the points raised in your request for internal review, including your arguments regarding the constitutional significance of the subject matter and the public interest in transparency. I recognise that proposals relating to the electoral system are matters of considerable public interest and that there is a legitimate interest in understanding how government develops policy in this area.

Having looked at all of the relevant information, I have concluded that the original decision was correct and that the withheld information remains exempt from disclosure under section 35 (1)(a) of the Freedom of Information Act 2000. My reasoning is set out below.

You state in your email of 7 July 2026 that the potential reform of the Senedd electoral system is a matter of exceptional constitutional significance and that this creates a particularly strong public interest in transparency. I accept that constitutional matters can attract a heightened public interest. However, the significance of the policy area does not in itself remove the need for Ministers and officials to have a protected space within which policy can be developed and options explored freely. Indeed, where policy issues are particularly sensitive, complex or constitutionally important, the need for candid advice and rigorous testing of options may be even greater.

The purpose of section 35(1)(a) is to protect the process of policy formulation itself. In this case, the information relates to the ongoing development of policy and records discussions, analysis and options being considered before any final

decisions have been reached. Disclosure at this stage would undermine the ability of Ministers and officials to undertake that work effectively.

Your second point is that voters have a legitimate interest in understanding how electoral reform is being developed and that public scrutiny is best achieved during policy development. I do acknowledge the strong public interest in the development of any electoral system. However, the Freedom of Information Act is not intended to require disclosure of every aspect of internal policy development as it occurs. Welsh Government must be able to consider a range of options, including options which may not ultimately be pursued, without concern that preliminary views, incomplete analysis or exploratory discussions will be taken as settled policy positions. There are established mechanisms through which policy proposals can be scrutinised once they have been sufficiently developed, including consultation processes, publication of legislation and explanatory material, scrutiny by the Senedd and wider public debate. Disclosure of internal policy development material at an earlier stage is not necessary to ensure accountability and could inhibit the quality of decision-making.

Having reviewed the withheld information, I am satisfied that section 35(1)(a) is engaged because the information relates directly to the formulation and development of government policy concerning possible reform of the Senedd electoral system. The material consists of advice and consideration of options prepared to inform Ministers' thinking on a potential future policy position. At the time the request was received, no final decisions had been reached and the issues under consideration remained subject to evaluation and discussion. In my opinion, the information therefore forms part of the process by which policy options were being developed and assessed so there is a clear and direct relationship between this information and the formulation of government policy, bringing it within the scope of section 35(1)(a) of the Act.

In relation to your third point that there is a public interest in understanding whether constitutional reform is being progressed with an appropriate mandate and through an accountable process, I accept that there is a general public interest in transparency surrounding the use of public resources and governmental decision-making. However, the fact that work is being undertaken using public funds does not, of itself, outweigh the public interest in maintaining the exemption. The question under section 35 is not whether the subject matter is important, but whether disclosure of the specific information requested would, on balance, better serve the public interest than preserving the confidential space required for policy development. Having reviewed the material, I am satisfied that disclosure would be likely to inhibit frank discussion and the free exchange of views between Ministers and officials, thereby prejudicing the effectiveness and quality of the policy-making process.

You have suggested that, because the issue concerns the democratic process itself, the public interest in openness outweighs what you describe as the routine considerations supporting section 35. I do not agree that the considerations in favour of maintaining the exemption are merely routine in this case. In my opinion, the information falls within the core area of policy formulation which section 35 is intended to protect. The public interest in preserving a safe space for the development of government policy carries particular weight where policy remains

under active consideration and where disclosure would reveal internal thinking, advice, options and deliberations before Ministers have reached conclusions. Premature disclosure could prevent officials and Ministers from fully exploring all available options. This would definitely not be in the public interest, particularly on matters of significant constitutional importance where robust and comprehensive policy development is essential.

In conclusion, I have carefully reconsidered the balance of the public interest in light of the points raised in your request for a review. While I accept that there is a significant public interest in transparency regarding potential reform of the Senedd electoral system, I consider that, at this stage of policy development, that interest is outweighed by the public interest in protecting the effective formulation and development of government policy. I therefore conclude that section 35(1)(a) has been correctly applied and that the information should continue to be withheld.

Accordingly, I uphold the original decision.

Next steps

If you remain dissatisfied with this response you 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

Website: www.ico.org.uk

Yours sincerely

Emma Spear
Grŵp y Prif Weinidog a Swyddfa'r Cabinet
First Minister and Cabinet Office Group