

20 August 2026

Dear

Complaint in respect of ATISN 27172 – Written questions

Thank you for your emails of 23 July 2026 requesting a review of the above request for information on behalf of Dan Thomas MS. 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.

You asked for a review of your request for recorded information because you did not consider that the public interest test had been properly applied in relation to the consideration under section 35(1)(a) of the Freedom of Information Act 2000 (FOIA). You set out your reasons in two emails of 23 July 2026, attached at Annex A.

Having reviewed the information and your representations, I am satisfied that section 35(1)(a) is engaged and that the public interest in maintaining the exemption outweighs the public interest in disclosure at this time. I therefore uphold the original decision.

My consideration of the points raised in your emails is set out below, taking in turn the points set out in your second email of 23 July 2026.

Blanket withholding

I have considered the information in detail on its own merits, and specifically considered whether any information could be disclosed, in full or in part. I am satisfied that the information relates throughout to the formulation and development of Government policy on how best to support the constitutional conversation in Wales, including the establishment and operation of a potential National Commission. The discussions were undertaken to inform Ministerial consideration of matters that were under live consideration at the point of the request, and which remain under active consideration.

I agree that Section 35(1)(a) does not create a presumption that all information connected with a live policy process must automatically be withheld. I have specifically considered whether any part of the information could be disclosed without undermining the interests that the exemption is intended to protect.

I am satisfied that no meaningful information can be separated for disclosure without revealing aspects of the ongoing policy development process. The decision to withhold the information in full is not based upon a blanket application of the exemption, but upon consideration of the content and extent to which the information is bound up with live policy formulation.

Representations made by external advisers

I recognise there is a public interest in transparency about the views put forward by external stakeholders and experts, particularly on matters of public importance.

The information requested is not, however, for standalone submissions, consultation responses, or evidence papers provided independently to Government. It comprises notes of discussions held with a Cabinet Minister as part of a live policy development process, recoding an exchange for the purpose of informing Ministerial thinking on future policy.

Disclosure in this context would reveal both the views expressed and also the areas of policy being explored. I consider that such information falls squarely within the purpose of section 35(1)(a) which exists to protect the integrity of policy formulation and development.

Whilst the external nature of contributions adds weight to the public interest in transparency, I do not consider it outweighs the public interest in maintaining the exemption in this case.

Exceptional public interest

I have considered your argument that the constitutional significance of the issue creates an exceptional public interest in disclosure.

Constitutional reform and the future governance of Wales are matters of substantial public interest. There is a legitimate public interest in understanding how Government develops policy and how external expertise contributes to that process.

There is, however, also a strong public interest in preserving a protected space for the formulation and development of Government policy while that work remains ongoing. The meetings took place shortly before the request was received and cover issues that remain under active consideration. At the time of the request, those issues were not settled and discussions were, and remain, formative in nature.

The purpose of section 35(1)(a) is to protect good government by allowing policy options to be considered and developed before decisions are reached. The Information Commissioner's Office guidance recognises that civil servants, Ministers and subject experts must be able to engage in free and frank discussion of policy options including consideration of their merits, risks and implications to support effective policymaking. Premature disclosure could expose partial and evolving policy thinking before that process has concluded, creating a risk of misunderstanding.

Having weighed the public interest carefully, I conclude that the live and formative nature of the matters under discussion and consideration means the public interest in maintaining the exemption carries greater weight.

Unsupported chilling effect claims

I have considered your points carefully. Section 35(1)(a) does not require evidence that an individual would refuse to participate in future discussions were information to be disclosed, nor evidence of a promise of confidentiality.

The relevant issue is whether disclosure would be likely to inhibit the candour with which future discussions are conducted. In this case, I believe the principal consideration remains the strong public interest in preserving a safe space for ongoing policy formulation and development. Any potential chilling effect reinforces that conclusion.

Preliminary discussion

The information forms part of an ongoing policy development process at an exploratory and formative stage. Such discussions may include consideration of issues that may later be refined, modified or rejected. An explanatory note might clarify that policy decisions had not been taken, but it would not remove the fact that disclosure would reveal live policy development whilst that work remains ongoing and under active consideration. I therefore do not consider contextual wording would adequately protect the public interest served by section 35(1)(a).

Factual information

I have had regard to section 35(4) when carrying out this review. I am satisfied that the information does not include relevant factual information within the meaning of that section.

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

Victoria Jones

Principal Private Secretary to the First Minister

Annex A

From: Davies, Huw (Staff Cymorth Aelod y'r Senedd - Senedd Member Support Staff)

Sent: 23 July 2026 12:36

To: Freedom of Information Officer

Subject: RE: Internal Review - ATISN 27172

Dear Freedom of Information Officer,

Further to the below, I have expanded my reasoning:

— REQUEST FOR INTERNAL REVIEW: ATISN 27172 —

I request an internal review of the Welsh Government's decision of 22 July 2026 to withhold in full the minutes of the meetings held with Laura McAllister and Rowan Williams on 15 and 18 June 2026.

The Welsh Government accepts that it holds the minutes and relies on section 35(1)(a) of the Freedom of Information Act 2000 to withhold both documents in their entirety.

The decision should be reversed.

— BLANKET WITHHOLDING —

Section 35 does not create a presumption that live policy discussions should remain secret. The public-interest test must be applied to the actual contents of the information and to the circumstances existing at the date of the request.

The response treats both meetings and every part of both minutes as a single category. It provides no indication that separate consideration was given to:

- the representations made by Laura McAllister and Rowan Williams;
- statements made by Ministers or officials;
- factual information;
- discussion of the previous Commission;
- proposals concerning the new Commission's remit, membership, structure or operation;
- actions and agreed next steps;
- information already in the public domain; or

- any passages said to reveal sensitive internal consideration of policy options.

The Upper Tribunal has made clear that disclosure under section 35 is not an “all or nothing” exercise. Sensitive passages cannot be used to justify withholding separate information which can properly be disclosed.

The internal review must therefore assess each minute and each category of information on its own merits.

— REPRESENTATIONS MADE BY EXTERNAL ADVISERS —

These minutes record meetings with external advisers who were invited to influence the development of government policy.

In *Corderoy v Information Commissioner and Department for Exiting the European Union*, the Tribunal ordered disclosure of representations made to government by an external organisation and material summarising the position it had advanced. It distinguished those representations from officials’ subsequent internal analysis.

That distinction applies directly here.

The Welsh Government has identified no proper basis for withholding the advice, proposals and recommendations advanced by Laura McAllister and Rowan Williams. Their contributions should not be treated as though they were confidential internal deliberations between Ministers and civil servants.

— EXCEPTIONAL PUBLIC INTEREST —

The new National Commission is intended to shape the constitutional future of Wales. The Welsh Government has said that it will support a national constitutional conversation, oversee progress on further devolution and strengthen the case for further constitutional reform, while also claiming that it will be broad based.

Laura McAllister and Rowan Williams co-chaired the previous Commission and were then given private access at the formative stage of its successor. I have serious concerns about their determination to push Wales in a particular constitutional direction, especially Professor McAllister, a committed separatist bent on ending the United Kingdom.

The previous Commission was itself plainly unbalanced. It considered enhanced devolution, federalism and independence while excluding abolition of the Senedd, despite around a third of the Welsh public regularly polling for abolition—more than support independence.

The Senedd and the public are entitled to know:

- what constitutional direction they advocated;
- what proposals they made;

- whether they advised on the Commission's remit, membership or structure;
- what objectives they believed it should pursue; and
- how their advice may shape the Government's approach.

Their selection raises a serious concern that the new Commission is being designed to continue the same predetermined programme of constitutional change.

Disclosure would allow scrutiny while the Commission is still being formed. Delay until the process has concluded would deprive disclosure of much of its democratic value.

— UNSUPPORTED CHILLING-EFFECT CLAIMS —

The response says disclosure could make participants less willing to contribute candidly in future.

No evidence is given.

It does not state that either participant was promised confidentiality, has objected to disclosure or has indicated that publication would affect future engagement. It does not identify the passages said to be particularly sensitive or explain why every part of both minutes would produce the claimed effect.

Laura McAllister and Rowan Williams are experienced public figures who chaired a public constitutional commission. The Welsh Government published minutes of that Commission and records of evidence presented to it.

The prospect of public scrutiny is not a credible reason to conceal the recommendations of prominent external figures seeking to influence government policy.

— PRELIMINARY DISCUSSION —

The response claims that publication could cause exploratory views to be misunderstood as settled government policy.

The status of the discussions can be stated clearly when the minutes are released. A brief explanatory note would remove any genuine risk of confusion.

The possibility of criticism, controversy or political scrutiny is not a public-interest argument for withholding accurate information.

— FACTUAL INFORMATION —

Section 35(4) requires particular regard to be given to the public interest in disclosing factual information used, or intended to be used, to provide an informed background to decision-making.

The response does not address this requirement.

Any factual material concerning the previous Commission, public opinion, constitutional arrangements, possible structures for the new Commission or its proposed operation must be identified and assessed separately.

— OUTCOME REQUIRED —

The fullest versions of the minutes held within the scope of the request should be disclosed.

The request is for the records themselves, not a summary prepared after the event.

Any information that remains withheld must be confined to particular passages for which the Welsh Government can demonstrate a specific and sufficiently weighty public-interest justification. The remainder of each minute must be released.

Disclosure should include:

- the advice, representations and recommendations made by Laura McAllister and Rowan Williams;
- factual information;
- the subjects discussed;
- attendees;
- proposals concerning the Commission's remit, membership, structure or operation;
- actions and agreed next steps; and
- information already in the public domain.

If the Welsh Government maintains its refusal, the review must explain why every substantive part of both minutes requires protection and why the external participants' own representations cannot be disclosed consistently with Corderoy, the Upper Tribunal authorities and the Information Commissioner's published guidance.

A continued blanket refusal would be vulnerable to challenge before the Information Commissioner.

I expect the internal-review outcome within 20 working days.

Yours sincerely,



**Senedd Cymru
Welsh Parliament**

Senior Investigative Researcher &
Press Officer

Reform UK Senedd Group

The Senedd, Cardiff Bay, Cardiff, CF99
1SN

Senedd Cymru, Bae Caerdydd,
Caerdydd, CF99 1SN

From: Davies, Huw (Staff Cymorth Aelod y'r Senedd - Senedd Member Support
Staff)

Sent: 23 July 2026 12:04

To: 'Freedomofinformation@gov.wales'

Subject: RE: Internal Review - ATISN 27172

Hello,

I request an internal review of ATISN 27172.

Whilst I accept that section 35(1)(a) may be engaged, I do not believe the public interest test has been properly applied.

In particular:

1. The response relies on general assertions regarding ongoing policy development and does not explain why disclosure of these particular minutes would cause prejudice.
2. The public interest in transparency is especially strong given the constitutional significance of the proposed National Commission and the involvement of Laura McAllister and Rowan Williams.
3. The claimed chilling effect is speculative and unsupported by evidence.
4. The response does not explain whether partial disclosure, redaction, or disclosure of factual material was considered.
5. Greater weight should be given to the public interest in understanding the representations made by external stakeholders to Ministers.

I therefore ask that the public interest balance be reconsidered and that the minutes be disclosed.

Thanks,



Huw Davies

Senior Investigative Researcher &
Press Officer

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