

19 August 2026

Dear

ATISN 27521 FOI Request

Thank you for your request which I received on 23 July 2026.

Information requested

1. Legal advice and legal basis

Please provide copies of any legal advice, legal opinions, or legal assessments held by the Welsh Government concerning the legality of providing a financial incentive specifically to eligible ethnic minority trainee teachers.

This request includes, but is not limited to, advice concerning:

- The Equality Act 2010;
- The prohibition of direct discrimination on the grounds of race;
- The positive action provisions contained within the Equality Act 2010;
- The Public Sector Equality Duty;
- Any other relevant equality or human rights legislation.

If legal advice is exempt from disclosure, please provide the relevant exemption relied upon and release any non-exempt portions of the documents where possible.

2. Equality Impact Assessment

Please provide the Equality Impact Assessment, or equivalent equality assessment, undertaken in relation to the ethnic minority element of the Initial Teacher Education Incentive Scheme.

Please include any updated or revised versions of the assessment.

3. Evidence supporting the policy

Please provide the research, statistical evidence, reports, studies or other documentation relied upon by the Welsh Government when deciding to introduce the £5,000 incentive for eligible ethnic minority trainee teachers.

In particular, please provide evidence relating to:

- The representation of ethnic minority teachers within the Welsh teaching workforce;

- The representation of ethnic minority teachers compared with the ethnic composition of the Welsh population;
- The representation of ethnic minority teachers compared with the ethnic composition of pupils in Wales;
- Any identified recruitment or retention difficulties involving ethnic minority teachers.

4. Positive action assessment

Please provide any documents recording the Welsh Government's consideration of whether the scheme constitutes lawful "positive action" under the Equality Act 2010.

This should include any assessment of whether the policy was considered:

- Necessary;
- Proportionate;
- Based on evidence of disadvantage, different needs or disproportionately low participation;
- Appropriate in relation to the objectives it seeks to achieve.

5. Alternative approaches

Please provide information regarding any alternative approaches considered before the decision was made to provide an ethnicity-specific £5,000 incentive.

This includes consideration of whether the same financial resources could instead have been used for race-neutral criteria such as:

- Financial hardship;
- Household income;
- Recruitment to shortage subjects;
- Recruitment to areas experiencing teacher shortages;
- Retention incentives;
- Incentives based on socioeconomic disadvantage.

Please provide any documents, reports, meeting minutes, briefing papers or correspondence relating to such considerations.

6. Proportionality and effectiveness

Please provide any assessment undertaken by the Welsh Government regarding whether the £5,000 incentive is proportionate to achieving its intended objective.

Please also provide any monitoring or evaluation framework used, or intended to be used, to assess whether the scheme is achieving its objectives.

7. Scheme costs and beneficiaries

Please provide:

- (a) The total amount budgeted for the ethnic minority element of the ITE Incentive Scheme for each financial year since its introduction;
- (b) The number of applicants who have received or are expected to receive the £5,000 incentive for each relevant year;
- (c) The total amount actually paid under the scheme for each relevant year, where available.

Please provide this information in a format that distinguishes the ethnicity-specific incentive from any other ITE incentives or bursaries.

8. Decision-making and approval

Please provide copies of relevant Cabinet papers, Ministerial briefing papers, decision reports, submissions, meeting minutes or other documents recording the decision to introduce the £5,000 ethnic minority incentive.

9. Review of legality and effectiveness

Please provide information on whether the Welsh Government has conducted, or intends to conduct, any formal review of:

- The legality of the scheme;
- Its compliance with the Equality Act 2010;
- Its effectiveness in increasing ethnic diversity within the teaching profession;
- Whether the scheme should be continued, amended or discontinued.
- 10. Complaints or legal challenges

Please provide the number of formal complaints, legal challenges, pre-action protocol letters or other formal representations received by the Welsh Government specifically concerning the ethnicity-specific £5,000 ITE incentive.

For each year, please provide the number received and, where information can be disclosed, the general outcome or status of those matters.

I am seeking recorded information held by the Welsh Government and am not asking the Welsh Government to create new information or provide opinions that are not already recorded.

Where any information requested is considered exempt from disclosure, please provide the remainder of the requested information where reasonably practicable and specify the exemption being relied upon.

I would also ask that the Welsh Government consider whether any information withheld under a qualified exemption can nevertheless be disclosed in the public interest.

Our Response

1. The information requested (copies of any legal advice, legal opinions, or legal assessments) is exempt from disclosure under section 42(1) of the Freedom of Information Act 2000, because the information attracts legal professional privilege (namely advice privilege).

This exemption is a qualified exemption, that is, it is subject to the public interest tests.

The public interest tests:

a. Public interests in favour of disclosure

This scheme is a positive action measure to address evidenced under-representation of ethnic minority groups in the teaching profession. Release of this information would provide transparency around some of the legal considerations taken into account during the decision-making process in relation to the introduction the scheme.

b. Public interests in favour of maintaining the exemption (as a ‘class based’ exemption, this should include details of the harm you believe would arise from disclosure); and,

Public authorities must be able to seek and receive full, frank and candid legal advice in confidence to ensure that decisions are taken on a fully informed basis. The release of the information would undermine this principle and could inhibit the willingness of officials to seek, and lawyers to provide, comprehensive legal advice in future.

a. The balancing of the two tests

We have considered the public interest in disclosure and recognise the general public interest in openness and transparency. However, we consider that the stronger public interest lies in protecting the wider principle of legal professional privilege and so the confidentiality of legal advice. This will safeguard the ability of public authorities to obtain full and frank legal advice, which is we believe necessary for good decision-making.

2. Enclosed are the Integrated Impact Assessments, which include the Equality Impact Assessments, for the Ethnic Minority Initial Teacher Education Incentive Scheme. We have included any updated or revised versions of these assessments held.
3. The information requested is contained within the Integrated Impact Assessments, including the Equality Impact Assessments, released in response to Question 2. These documents contain the evidence and analysis considered by the Welsh Government in developing the policy.

Further information, including relevant reports and evidence relating to the recruitment of Black, Asian and Minority Ethnic initial teacher education (ITE) students, can be found in:

[Initial teacher education Black, Asian and Minority Ethnic recruitment plan](#)

[Recruitment and support update for Black, Asian and Minority Ethnic ITE students 2026](#)

Additional statistical information relating to the Welsh teaching workforce is available from the Welsh Government's [School Workforce Census results](#).

4. The scheme has been developed as a positive action measure to address evidenced under-representation of ethnic minority groups in the teaching profession. The Equality Act 2010 permits proportionate positive action in such circumstances. The information you have asked for is contained within the Integrated Impact Assessments section 2.3 Equality, released in response to Question 2.
5. In delivering its commitments under the Anti-racist Wales Action Plan, the Welsh Government considers that general measures available to all applicants, while potentially beneficial in addressing wider issues such as financial disadvantage, would not directly address this specific representation gap. The incentive forms part of a broader package of positive actions (described [here](#)) aimed at encouraging participation from under-represented groups within the teaching profession.
6. The scheme has been developed as a positive action measure to address evidenced under-representation of ethnic minority groups in the teaching profession. The Equality Act 2010 permits proportionate positive action in such circumstances. The policy does not alter the academic or professional standards required to become a teacher; rather, it seeks to encourage entry into the profession by groups whose representation does not currently reflect the diversity in Wales, and is in line with other ITE incentives available.
- 7.a This is a demand-led scheme. Initial, indicative allocations for each registration year of the scheme are arrived at in advance of the start of each scheme year, by modelling estimated potential uptake. Where eventual uptake is lower than the indicative allocation, funding is re-distributed. Due to the structure of the scheme indicative allocations will fall over more than one financial year. At the indicative allocation stage the allocations are split over two financial years, as this is when the majority of payments against the scheme are expected, but it is possible and likely for some claims for the induction instalment to be made in later financial years. See the answer to the question 7.b, for more information on this point.

The initial indicative allocations for the Ethnic Minority ITE incentive scheme, by scheme year and financial year are:

Initial indicative allocations for the Ethnic Minority ITE incentive scheme, by scheme year and financial year		Financial Year				
		2023/24	2024/25	2025/26	2026/27	2027/28
Scheme year	2022-23	187,500	187,500			
	2023-24		125,000	125,000		
	2024-25			125,000	125,000	
	2025-26				187,500	187,500

7.b Individuals registered on the scheme may receive up to two instalments. The first instalment is £2,500 and is paid upon achieving Qualified Teacher Status (QTS) at the end of their Initial Teacher Education programme. The second instalment is £2,500 and is paid upon successful completion of their induction period in a maintained school in Wales.

The figures below are provided by scheme registration year. They show the number of individuals who have received both instalments, and the number who have only received the first instalment and may potentially claim the second. Only students who have claimed the QTS instalment can go on to claim the induction instalment.

2022–2023: 18 individuals have received both instalments (£5,000). 18 individuals have received the QTS instalment only (£2,500).

2023–2024: 21 individuals have received both instalments (£5,000). 31 individuals have received the QTS instalment only (£2,500).

2024–2025: No individuals have received both instalments, as claims for the induction instalment are not expected until later in the year. 33 individuals from this cohort received the QTS instalment (£2,500).

2025–2026: No individuals have received both instalments. 48 individuals from this cohort have so far received the QTS instalment (£2,500). Due to the current stage of the academic year, not all claims for the first QTS instalment have yet been made. Only students who have claimed the QTS instalment can go on to claim the induction instalment.

Scheme registrants are eligible for the second instalment of the incentive if they complete induction within three years of award of QTS, and can claim that instalment up to a year after completing induction. This means that second instalment claims are still being received, for potentially, all scheme years.

7.c Individuals registered on the scheme may receive up to two instalments: a first instalment upon achieving QTS and a second instalment upon successful completion of their induction period in a maintained school in Wales.

The total amount paid to scheme recipients, by scheme registration year, is**:

2022–2023: £135,000
2023–2024: £182,500
2024–2025: £82,500
2025–2026*: £120,000

*Due to the current stage of the academic year, not all claims for the first QTS instalment for the 2025-2026 registration year have been made.

**Scheme registrants are eligible for the second instalment of the incentive if they complete induction within three years of award of QTS, and can claim that instalment up to a year after completing induction. This means that second instalment claims are still being received, for potentially, all scheme years.

8. On 20 October 2021, the Private Office of the then Minister for Education and Welsh Language emailed officials with a record of his decision in relation to Ministerial Advice (MA) provided to him by officials which detailed proposals for the Initial Teacher Education Incentive Package for recruitment into AY22/23 including the Priority Subject Incentive Scheme for AY22/23, the Iaith Athrawon Yfory Incentive Scheme for AY22/23 and a potential BAME Incentive (Name TBC) for recruitment into AY22/23. The then Minister's decision was:

"The Minister has noted the updated MA and agreed the recommendations subject to (notwithstanding paras 20-22) the BAME scheme coming into effect for 2022/3 and being announced this year, he proposes we set it at 100 places. The Minister has commented that If there is a demand for that level of take up (which would be greater than equivalent schemes in the past) then we should try to meet it."

On the 25 January 2023, the Private Office of the then Minister for Education and Welsh Language emailed officials with a record of his decision in relation to Ministerial Advice (MA) provided to him by officials which provided the legal scheme and supporting information for the Ethnic Minority Initial Teacher Education (ITE) incentive for the Minister's clearance. The then Minister's decision was:

"The Minister has cleared this MA and would like it to proceed as soon as possible. To note: He has expressed his disappointment that the scheme was not properly advertised in advance."

9. The scheme was introduced in 2022 and has therefore been in operation for a relatively short period of time. As a result, it is currently too early to undertake a meaningful assessment of its longer-term effectiveness in its aim of increasing the number of ethnic minority teachers entering the teaching workforce in Wales.

A review of the scheme to support its implementation is undertaken annually and we attach the review for academic year 2026/27. Part of this review looks at the latest data available on the school workforce. It does not however attempt to draw any conclusions about the scheme's impact in this respect.

Note that, part of this review is being withheld because it contains details about applicants to the scheme. It has therefore been withheld under section 40 of the Freedom of Information Act. Section 40 is an absolute exemption and not subject to

the public interest test. Full details of our application of this exemption is set out in Annex A.

10. The information you request is contained within the Integrated Impact Assessments section 2.3 Equality, released in response to Question 2. Since July 2025, we have received an additional complaint and three (including this one) Freedom of Information requests. All complaints are resolved.

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 A

Freedom of Information Act 2000: Section 40(2)

The Freedom of information Act/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.

Section 40(2) Personal data

Section 40(2) together with the conditions in section 40(3)(a)(i) or 40(3)(b) 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 1998 (‘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 contains third party personal data.

Under Section 40(2) of the FOIA, 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

Is a legitimate interest is being pursued in the request for information?

Yes, in the sense there is a legitimate interest in understanding how public money is being spent, and whether schemes are value for money, by knowing whether registrants to the scheme end up achieving QTS and enter the teaching workforce.

2. Is disclosure necessary?

Is disclosure necessary to meet the legitimate interest in question?

The main part of the report that is being released provides information requested. The part withheld (about student ethnicities and course) does not provide the information requested (which is about the teaching workforce).

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

Does the above interests override the interests, fundamental rights and freedoms of the data subject?

We consider that the legitimate interest of the correspondent does not outweigh that of the data subject. This is because:

a. **Legitimate interest of correspondent:** The main part of the report that is being released provides information requested. The part withheld (about student ethnicities and course) does not provide the information requested (which is about the teaching workforce).

b. **Data subject's interests/ rights:** How likely is it that these individuals can be identified?

- If you were party to information about where a student studied, their course and ethnicity, you might be able to identify them.

If they were be identified, how would that breach their rights?

- GPPR requires more protection around special category data.
- Under Section 40(2) of the FOIA, personal data is exempt from release if disclosure would breach one of the data protection principles set out in Article 5 of the GDPR. In this case *"processed lawfully, fairly and in a transparent manner in relation to the data subject"*.
- We also have a duty to protect people from harm (Section 38, 1.a/b of FOIA and the DPA principles). These individuals may feel exposed to risk from some individuals in society who are opposed to the use of positive discrimination in the form of an Ethnic Minority ITE incentive. Black, Asian and ethnic minority individuals can already feel generally more unsafe, or at risk of being targeted because of their ethnicity, because

of some attitudes and discourse in society, particularly in the current climate. A perceived sense of risk alone could damage mental health.

- Our privacy notice states that we share personal information with the Education Workforce Council and potentially fraud prevention agencies. It doesn't list anyone else.

As release of the information would not be legitimate under Article 6(1)(f), and as no other condition of Article 6 is deemed to apply, release of the information would not be lawful within the meaning of the first data protection principle. It has therefore been withheld under section 40 of the Freedom of Information Act. Section 40 is an absolute exemption and not subject to the public interest test.