

11 September 2026

Dear

Outcome of an Internal Review - ATISN 27201 – Shadow broadcasting and communications authority

Further to correspondence received on 11 August from Louise Emery MS, Member of the Senedd for Clwyd I have now completed a review of FOI ATISN 27201 in accordance with the Freedom of Information Act 2000 (FOIA).

It may be helpful to clarify at the outset that the FOIA provides a right of access to recorded information held by a public authority. It does not require public authorities to:

- Provide explanations or justifications;
- Answer questions, where the answer is not already held as recorded information;
- create new information, or
- Offer opinions on policy matters.

Your request

The correspondence raised concerns that, while the Welsh Government may need to keep certain legal advice confidential in cases involving national security or ongoing court proceedings, the decision related to FOI 27201 did not meet that threshold.

Our response

I have reviewed the information captured by your request and the response issued. I am content that the information withheld falls within the scope of s42 (Legal Professional Privilege (LPP)) exemption, as set out in the response letter. However, the letter does not make it clear which arm of LPP it is believed is engaged. I can confirm that the information caught by the request and withheld is communications between officials and their legal advisors made for the dominant purpose of seeking or giving legal advice, thus engaging the Advice Privilege arm of LPP.

In considering the public interest tests as it applies to the information caught by this request, I note the guidance provided by the Information Commissioners Office (ICO) that:

The general public interest inherent in this exemption will always be strong due to the importance of the principle behind LPP: safeguarding openness in all communications between client and lawyer to ensure access to full and frank legal advice.

You have suggested that you do not think that the information contained within the communications meet a 'threshold' to keep legal advice confidential. There is no such 'threshold'.

The legal doctrine of LPP to protect the confidentiality of communications between a lawyer and client is a fundamental concept of the British legal systems. The general public interest inherent in this exemption will always be strong due to the importance of the principle behind LPP. The matters discussed in these communications remain a 'live' issue. This further strengthens the argument in favour of maintaining the exemption.

The Courts are clear in that there must be a clear, compelling and specific justification that at least equals the public interest in protecting the information in question for the balance of public interest to favour disclosure. No such justification has been identified in this case.

I am satisfied that the public interest in maintaining the exemption outweighs the public interest in disclosure at this time. I therefore uphold the original decision.

Next steps

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 at: [Requesting information from the Welsh Government \[HTML\] | GOV.WALES](#)

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.

Yours sincerely

Chief Regional Officer Mid and West Wales and Innovation