

28 September 2026

Dear

ATISN 27241

Thank you for your request which I received on 21 July 2026.

Information requested and our response:

Request 1

Information requested: Information relied upon by the reviewer to conclude that the January statement “HMO licensing only comes into consideration once planning permission, where required, has been granted” issued in a response to an item of correspondence between yourself and Welsh Government was accurate.

Clarification: All internal emails, notes, drafts, assessments, or briefing material used to reach that conclusion.

Information held: Yes. The Welsh Government holds information within the scope of this part of your request.



ATISN 27241 -
Internal Complaint Err

Exemption applied: Information is being withheld under section 42(1) of the Freedom of Information Act 2000 as it contains confidential legal advice and legal comments protected by legal professional privilege. Details of the exemption are set out in Annex A.

Request 2

Information requested: Internal guidance defining "factually inaccurate" versus "may have caused confusion".

Information held: No.

Request 3

Information requested: Records evidencing interpretation of "where required" and "most".

Information held: Yes.

Exemption applied: Information has been withheld under section 42(1) of the Freedom of Information Act as it contains confidential legal advice and legal comments. Details are provided in Annex A

Request 4

Information requested: Information relating to alignment with other licensing regimes.

Information held: Yes.

Exemption applied: Information has been withheld under section 42(1) of the Freedom of Information Act because it contains legal advice provided during consideration of the issues raised. Details are provided in Annex A.

Request 5

Information requested: Guidance issued to local authorities regarding consultation in additional licensing schemes.

Information held: Yes.

Information released: This information is publicly available and may be accessed using the following link:

[Houses in Multiple Occupation \(HMO\) guidance for local authorities](#)

Request 6

Information requested: Information on whether consultation should be encouraged, discouraged or left to local authority discretion.

Information held: Yes.

Exemption applied: Information is being withheld under section 35(1)(a) of the Freedom of Information Act as it relates to the formulation and development of government policy. Details are provided in Annex A

Request 7

Information requested: Information explaining why the reviewer treated the question as "new".

Information held: Yes.

Information released: This information was provided in page 3 of the response to your stage 2 complaint. This reads: 'The question you have asked in your most recent email requesting a stage 2 consideration of your complaint is quite different, asking whether Welsh Government issues guidance, rather than whether it will strengthen said guidance in future. I therefore consider that this is a new question,..'

Request 8

Information requested: Assessments or discussions relating to the absence of public participation in HMO licensing.

Information held: Yes.

Exemption applied: Information has been withheld under section 35(1)(a) of the Freedom of Information Act because it relates to policy formulation and development. Details are provided in Annex A.

Request 9

Information requested: Information concerning democratic deficit issues.

Information held: Yes.

Exemption applied: Information has been withheld under section 35(1)(a) of the Freedom of Information Act because it relates to policy formulation and development. Details are provided in Annex A

Request 10

Information requested: Further assessments or discussions relating to the absence of public participation in HMO licensing.

Information held: Yes.

Exemption applied: Information has been withheld under section 35(1)(a) of the Freedom of Information Act because it relates to policy formulation and development. Details are provided in Annex A

Request 11

Information requested: Records explaining why "there are no immediate plans to review this" was considered sufficient.

Information held: No.

The Welsh Government does not hold recorded information within the scope of this part of your request.

The statement reflected the position at that time. The correspondence was issued during the period immediately before the end of the Senedd term and prior to the formation of a new Government. There was therefore no clarity regarding future Ministerial priorities or programme commitments beyond those already publicly stated

Request 12

Information requested: All internal correspondence relating to handling of my complaint.

Information held: Yes.

Information released: Relevant correspondence has been identified and is enclosed.

Exemptions applied: Personal information has been redacted under section 40(2) of the Freedom of Information Act. Some information within the disclosed correspondence reveals the substance of confidential legal advice provided by Welsh Government Legal Services. That information has been withheld under section 42(1) of the Freedom of Information Act 2000 (legal advice privilege). Details are provided in Annex A

Request 13

Information requested: Internal quality assurance checks on January and February responses.

Information held: Yes.

Exemption applied: Information has been withheld under section 42(1) of the Freedom of Information Act because it contains legal advice and legal comments protected by legal professional privilege. Details are provided in Annex A

Request 14

Information requested: Records relating to the decision to issue unsigned responses.

Information held: No.

The Welsh Government does not hold recorded information within the scope of this part of your request.

However, for context, the decision to use a shared approach to handling correspondence was taken within the newly formed branch to support efficient administration and business continuity. This was an operational arrangement rather than a formal policy and no recorded policy document was identified.

Request 15

Information requested: Records relating to the conclusion that no procedural evasion occurred.

Information held: Yes

Information released: Relevant records supporting this conclusion are enclosed.



Stage 2 Response to Stage 1 Response
CG - HR-1109419-Y5 Issued to CG - HR-110

Request 16

Information requested: Internal discussions or assessments relating to whether corrective action was considered.

Information held: Yes.

Exemption applied: Information has been withheld under section 42(1) of the Freedom of Information Act because it contains legal advice and legal comments protected by legal professional privilege. Details are provided in Annex A.

Request 17

Information requested: Records evidencing the conclusion that no inaccuracies existed.

Information held: Yes.

Exemption applied: Information has been withheld under section 42(1) of the Freedom of Information Act because it contains legal advice and legal comments protected by legal professional privilege. Details are provided in Annex A.

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

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

Application of exemptions/exceptions

The Freedom of information Act provides 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.

Requests 1, 3, 4, 13, 16 and 17 information withheld under Section 42(1) Freedom of Information Act 2000 - Legal Professional Privilege (Advice Privilege)

The Welsh Government holds information within the scope of requests 1, 3, 4, 13, 16 and 17

The information comprises communications between Welsh Government officials and Welsh Government Legal Services, and records which reveal the substance of confidential legal advice obtained during consideration of the matters raised in correspondence and complaints relating to HMO licensing.

The exemption relied upon is section 42(1) of the Freedom of Information Act 2000.

The information attracts legal advice privilege, a recognised branch of legal professional privilege. Legal advice privilege protects confidential communications between a legal adviser and client made for the dominant purpose of giving or receiving legal advice.

Public interest test - Requests 1, 3, 4, 13, 16 and 17

In considering each of these requests individually, we have carefully balanced the public interest in disclosure against the public interest in maintaining the exemption.

Public interest arguments in favour of disclosure

There is a public interest in promoting openness, transparency and accountability in relation to the Welsh Government's consideration of complaints and decision-making processes.

Disclosure would assist public understanding of the evidence and considerations relied upon when responding to complaints and correspondence concerning HMO licensing.

Public interest arguments in favour of maintaining the exemption

There is a strong public interest in preserving the confidentiality of communications between legal advisers and their clients.

Public authorities must be able to obtain comprehensive and candid legal advice in confidence. Disclosure would undermine the principle of legal professional privilege and could discourage full and frank legal discussions in future.

There is a well-established and substantial public interest in protecting legally privileged communications unless there are exceptionally strong factors favouring disclosure.

Balance of public interest

Having considered the circumstances relating to each of requests 1, 3, 4, 13, 16 and 17 separately, we have concluded that the substantial public interest in preserving legal professional privilege outweighs the public interest in disclosure.

The information is therefore withheld under section 42(1) of the Freedom of Information Act 2000.

Request 6: Information withheld under Section 35(1)(a) FOIA (Formulation or Development of Government Policy)

The Welsh Government holds information within the scope of request 6 concerning whether consultation should be encouraged, discouraged or left to local authority discretion in relation to HMO licensing matters.

The information comprises internal policy discussion, analysis and consideration of potential future approaches to consultation and regulatory arrangements. The information relates directly to the formulation and development of government policy

Public interest test - Request 6

Public interest arguments in favour of disclosure

There is a public interest in promoting transparency regarding how policy options relating to HMO licensing and consultation arrangements are considered.

Disclosure would assist public understanding of the factors that officials considered when evaluating potential policy approaches.

Public interest arguments in favour of withholding under s35(1)(a)

The information forms part of an ongoing policy discussion.

Officials require a safe space in which to explore options, test proposals and provide candid advice before policy positions are settled.

Disclosure of preliminary thinking could inhibit frank discussion and reduce the quality of advice available to Ministers

Balance of public interest test

Having considered the specific information falling within request 6, we conclude that the public interest favours maintaining the exemption.

Requests 8, 9 and 10

Information withheld under Section 35(1)(a) FOIA (Formulation or Development of Government Policy)

The Welsh Government holds information within the scope of requests 8, 9 and 10 relating to public participation, democratic accountability and possible future approaches to HMO licensing arrangements.

The information consists of internal policy analysis, discussion and consideration of possible future policy options. The exemption is engaged because the material directly concerns the formulation and development of government policy.

Public interest test - Requests 8, 9 and 10

Public interest in favour disclosure

There is a public interest in understanding how government considers issues concerning public participation, consultation and housing regulation.

Disclosure would support informed debate on matters affecting housing policy and local authority regulatory powers.

Public interest in favour of withholding under s35(1)(a)

The information relates to policy development that has not resulted in a settled policy position.

Officials must be able to discuss options, identify risks and challenge assumptions freely.

Disclosure of internal discussions could discourage frank policy development and create a misleading impression of tentative or incomplete policy thinking.

The Information Commissioner's guidance recognises a greater public interest in maintaining a protected policy-making space while issues remain under active consideration.

Balance of public interest

Having considered requests 8, 9 and 10 individually, we conclude that the public interest in protecting the integrity of the policy-making process outweighs the public interest in disclosure.

The information is therefore withheld under section 35(1)(a) of the Freedom of Information Act 2000.

Section 40(2) Personal Information

Some information has been redacted from the disclosed documents because it comprises personal data relating to third parties, including the names, and contact details of Welsh Government officials below Senior Civil Service level.

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:

Legitimate interest test

There is a legitimate public interest in transparency regarding the handling of complaints and the operation of government.

Necessity test

We do not consider disclosure of the personal data of junior officials necessary to satisfy that legitimate interest. Transparency regarding the matters under consideration can be achieved through disclosure of the substantive content of the correspondence without identifying individual officials.

Balancing test

The officials concerned would not reasonably expect their personal details to be disclosed into the public domain under the Freedom of Information Act. Disclosure would add little to public understanding of the matters under consideration whilst potentially impacting the privacy rights and expectations of the individuals concerned.

As release of the information would not be lawful under Article 6(1)(f) of the UK GDPR, and no alternative lawful basis has been identified, the information has been withheld under section 40(2) of the Freedom of Information Act. Section 40(2) is an absolute exemption and is not subject to the public interest test.