

29 September 2026

Dear

ATISN 27512 FOI Request

Thank you for your request which I received on 1 September.

Information requested

- 1.a Under which specific section of the Equality Act 2010 does the Welsh Government rely on as authority for the scheme, and
- 1.b on what basis is a £5,000 ethnicity-restricted payment considered a proportionate means under that provision?
2. Has the scheme been the subject of a formal legal assessment of its compatibility with the Act, and if so, will you publish it?
3. If no such assessment exists, will you commission one before applications open in September?

Our Response

- 1.a The section of the Equality Act 2010 the scheme relies upon is stated in its Integrated Impact Assessment. The latest version of this document has been published on this page of the Welsh Government website: [FOI release 27251: Ethnic Minority Initial Teacher Education Incentive Scheme | GOV.WALES](#). The information you have requested can be found in Doc. 5, at section B: Equality Impact Assessment (p 32).

1.b and 2.

The Welsh Government will not supply you with this information. It 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) and it is not in the public interest to disclose it.

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

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 any 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);*

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.

In addition, as the scheme is ongoing (still live), release would unfairly prejudice the position of the Welsh Government in any potential future litigation or negotiation related to the scheme.

- 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. It will also help to ensure complete fairness in any future legal proceedings.

In addition, information about this scheme is already publicly available, including the power within the Equality Act 2010 that it relies upon, and the underlying rationale and evidence for its introduction.

3. The information you have requested is not held. The Welsh Government keeps this policy under review to ensure it remains evidence-based, proportionate and compliant with equality legislation.

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