9 November 2026

Dear

ATISN 27508 Abertridwr Library

Further to your letter which I received on 14 September and the earlier response, we noted 2 matters would be dealt with separately. You asked:

1. Have the Welsh Ministers undertaken a formal assessment of Caerphilly's adopted strategy for compliance with section 7 of the 1964 Act, including its real-world effects on rural communities and digitally excluded residents? If so, please provide the assessment, the criteria applied and any conclusion reached.
2. What oversight and monitoring Welsh Ministers are currently undertaking in relation to Caerphilly's strategy and implementation, and the timetable of any further review.

Our response

The information you requested is enclosed – see Annex 1 for a schedule of documents.

We note in relation to question 1 that Caerphilly is not considered a rural authority. Data Map Wales uses Rural Urban Classification which has flagged Caerphilly as Urban as the majority are nearer to a major town or city.

In response to question 2, the relevant timescale is considered to be from the date of the judicial review judgment, 21 August, up to and including 14 September (the date of your letter).

I have decided that information described in the enclosed table is exempt from disclosure under section 42 and 40(2) of the Freedom of Information Act and is therefore withheld. The reasons for applying these exemptions are set out in full at Annex 2 to this letter.

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 1 – Schedule of Documents

Doc No	Date	Description	Exemptions for withheld information
1a	24/4/24	Email to Caerphilly on QI7 Location data (Relates to formal assessment part of FOI)	Names and contact details of officials removed and replaced under S40 (2) of FOIA
1b	24/4/24	Acknowledgement from Caerphilly to email to Caerphilly on QI7 Location data (Relates to formal assessment part of FOI)	Names and contact details of officials removed and replaced under S40 (2) of FOIA
2	21/8/26	Notification from Caerphilly on Judicial Review Judgement, with attachments of Judgement paperwork in English and Welsh (Relates to monitoring part of FOI) The judgements in English and Welsh have not been included on the assumption that you will have copies of these.	Names and contact details of officials removed and replaced under S40 (2) of FOIA
3	28/8/26	Email on local government settlement for Caerphilly (Relates to monitoring part of FOI)	Names and contact details of officials removed and replaced under S40 (2) of FOIA
4	28/8/26	Briefing to Minister on Judicial Review Judgement(Relates to monitoring part of FOI)	Some content removed pursuant to exemption in S42 of FOIA and the public interest test
5	1/9/26	Email with Caerphilly WPLS Impact Projection (Relates to monitoring part of FOI)	Names and contact details of officials removed and replaced under S40 (2) of FOIA
6	4/9/26	Email with one paragraph on Caerphilly. Rest of email not related to FOI (Relates to monitoring part of FOI)	Names and contact details of officials removed and replaced under S40 (2) of FOIA. Some content removed pursuant to the exemption in S42 of FOIA and the public interest test

Annex 2

Application of exemptions

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.

Freedom of Information Act 2000: Section 40(2)

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**

Information requested contains advice given to Caerphilly County Borough Council (CCBC) by Welsh Government (WG) in relation to location data, notification from CCBC regarding judicial review process and email communication between WG officials in relation to the judicial review or performance.

2. **Is disclosure necessary?**

   Disclosure of personal information is not necessary to be able to provide the information requested. The names of WG officials or CCBC officials are not relevant to the information.

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

   Given the above, we have assessed that the information provided in the released documents can be followed and understood without the disclosure of personal information such as the names and email address of the individual officials or officers involved.

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.

Section 42 – Legal Professional Privilege.

We have reviewed the information captured by your request we are content that the information withheld falls within the scope of s42 (Legal Professional Privilege (LPP)) exemption where identified in the table.

This exemption states (inter alia):
(1) Information in respect of which a claim to legal professional privilege or, in Scotland, to confidentiality of communications could be maintained in legal proceedings is exempt information.

Legal professional privilege (LPP) covers communications between lawyers and their clients for the purpose of obtaining legal advice, or documents created by or for lawyers for the "dominant" (main) purpose of litigation. The information in question concerns confidential communications made for the purpose of providing or obtaining legal advice.

The section 42 exemption is qualified, which means that it is subject to a public interest test. The fact that there is a public interest served in public authorities being able to access advice which benefited from professional legal privilege was noted in Bellamy v the Information Commission and DTI [EA/2005/0023] in which the tribunal, on the subject of LPP, said:

"there is a strong element of public interest inbuilt into the privilege itself. At least equally strong countervailing considerations would need to be adduced to override that inbuilt interest….it is important that public authorities be allowed to conduct a free exchange of views as to their legal rights and obligations with those advising them without fear of intrusion, save in the most clear case…'.

The Welsh Government is of the firm view that it is highly important to maintain legal professional privilege and that, in the absence of at least equally strong countervailing considerations, any attempt to undermine the principle of legal professional privilege would result in substantial harm.

Legal advisers need to be able to present the full picture to their clients, in this case all UK Government and devolved administrations, which includes arguments in support of final conclusions and any relevant counter-arguments. This is the purpose behind the long-established principle of legal professional privilege.

It is in the nature of legal advice that it often sets out the possible arguments both for and against a particular view. If recipients or providers of legal advice believe that it is likely that the legal advice would be published, especially so soon after being sought and in a complex political environment, then it is unlikely that comprehensive advice would be commissioned or provided. This would be likely to result in substantial harm to the quality of decision-making since it would not be fully informed. It would also undermine the ability of legal advisers and their clients to rely confidently on the protection afforded by the principle of legal professional privilege.

Moreover, disclosure of legal advice has a significant potential to prejudice the governments' ability to defend its legal interests - both directly by unfairly exposing its legal position to challenge, and indirectly by diminishing the reliance it can place on the advice having been fully considered and presented without fear or favour.

It has therefore been decided that the public interest in maintaining the exemption outweighs that in favour of disclosure of the legal advice sought.