

9 August 2022

Dear,

ATISN 16485 – Building Safety Surveys

Information requested

Thank you for your request which I received on 19.07.2022. You asked for:

A named list of all the 248 applications submitted to the Welsh Government's Building Safety Fund be provided. You have also asked for the names of the 100 identified buildings where further intrusive surveys are needed.

Our response

I have decided that the **information requested** is exempt from disclosure under **regulations 12(5)(a) & 12(5)(e)** of the **Environmental Information Regulations 2004** and is therefore withheld. The reasons for applying these exemptions are set out in Annex A below.

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

Application of exceptions

The 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.

I have decided to withhold the following information:

A named list of all the 248 applications submitted to the Welsh Government's Building Safety Fund be provided. The names of the 100 identified buildings where further intrusive surveys are needed.

This Annex sets out the reasons for the engagement of regulation 12(5)(a) & 12(5)(e) of the Environmental Information Regulations and our subsequent consideration of the Public Interest Test.

Reg 12(5)(a)

A public authority may refuse to disclose information to the extent that its disclosure would adversely affect:

- *International relations,*
- *defence,*
- *national security or public safety.*

Note: we are employing the 'national security or public safety' arm of this exemption.

Our reasoning for employing this exemption is that disclosure of a list of specific residential properties that are potentially at higher risk of severe fire damage, would provide a target for individuals or groups unknown to commit arson. Any attacks on these premises would clearly put tenants at significant risk, emergency services staff involved in fighting any such fires, and any other individuals within the vicinity of these buildings.

Public Interest Test

We recognise that there is a general public interest in favour of disclosure, as the topic of building safety has a high public profile, and that residents of the properties that may have submitted an Expression of Interest wish to know whether their homes are at greater risk.

Whilst we are in the process of identifying those properties which require remedial work, we believe it is not in the wider public interest to put the residents at greater risk as a result of publicly identifying those buildings which will be subject to further investigation.

It should be noted that the Welsh Government have released information and are happy to continue releasing information to individual tenants in respect of whether their building has submitted an Expression of Interest, and if it requires an intrusive survey.

However, in this case it is felt that maintaining public safety outweighs the public interest of releasing the list publicly.

Reg 12(5)(e)

A public authority may refuse to disclose information to the extent that its disclosure would adversely affect:

The confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest.

We believe that disclosure of both lists would have a significant impact on the financial interests of their owners as disclosure could unnecessarily blight the buildings identified.

The Expressions of Interest received include a significant number of buildings that are out of scope for our programme. This list does not indicate that there is a significant fire risk to those buildings. Nor does their subsequent non-appearance in the list of those identified for more intrusive surveys indicate that there is not a fire risk to those properties.

Similarly, the list of buildings identified for intrusive survey are not necessarily buildings that have high risk of fire. Buildings were shortlisted for a variety of reasons alongside fire safety risk, including missing or out of date information. We will not know if there is a fire safety issue until surveys are carried out and the reports issued to Responsible Owners state this to be the case.

By releasing either list, there is significant risk that this would adversely affect the economic interests of the landlords, in that disclosure would affect their ability to let or sell the properties.

Public Interest Test

As set out in consideration of Reg 12(5)(a) we recognise both the specific interests of tenants and the wider public interest in building safety and knowing that work is

underway to identify which buildings require remedial work, particularly given the length of time that has passed since the Grenfell Tower fire.

We are of the opinion that it is not in the wider public interest to release information that would adversely affect the legitimate economic interests of landlords, particularly where we are working with them to identify and resolve any issues. Disclosure runs a very real risk of the list being shared without any contextualising information, increasing the risk of harm to the landlord's economic interests.

To that extent we believe the public interest favours the maintaining of the Reg 12(5)(e) exception.