



Llywodraeth Cymru
Welsh Government

Our ref: ATISN 24357

Date: 31 March 2025

Dear ,

Complaint in respect of ATISN 24357

Further to your email of 17 March and your request for an internal review into our response to ATISN 24357, I have now undertaken this review and have set out my findings below.

In ATISN 24357, which we received on 10 February, you asked for:

1. *How many Diversity, Equality and Inclusion roles have been advertised by the Welsh Government in the past 36 months;*
2. *The salary bands on which each respective position was advertised;*
3. *Details of all contracts for Diversity, Equality and Inclusion work entered into with third party providers over the past 36 months, specifying the amount awarded within the contract and the nature of the work involved.*

In our response dated 10 March, we provided information for questions 1 and 2 but refused question 3 under s12 of the Freedom of Information Act 2000 (FOIA) on the lawful basis that providing the information would exceed the appropriate limit. In your complaint, you have challenged this on several grounds.

Public Interest in Transparency

The requested information pertains to public funds allocated to Diversity, Equality, and Inclusion work, as well as grants awarded to specific organisations. This information is crucial for transparency, accountability, and public scrutiny, particularly regarding how taxpayers' money is spent. The Welsh Government has a duty to ensure that such allocations are open to examination.

S12 of the FOIA is based on a factual analysis of whether locating, providing or extracting the information requested would take over 24 hours of working time. Our response confirmed that it did, and it set out our rationale for this. You have not challenged this. Section 12 of the FOIA is not subject to the public interest test.

Proportionality and Reasonable Effort



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The requested data should be readily available in contract or grant records held by the Welsh Government. If retrieving specific details is deemed excessive, I would appreciate partial disclosure of key summary information instead of a blanket refusal.

Our response set out the rationale why providing the information would exceed the appropriate limit. Proportionality and reasonable effort are not relevant legal factors; the work involved in responding to the request will either exceed 24 hours or it will not. We have estimated that it will.

Narrowing the Scope to Reduce Cost

The response did not offer me an opportunity to refine or narrow the scope of my request to bring it within the appropriate cost limit. Under FOIA guidance, authorities should advise requesters on how to adjust their requests rather than simply refusing them outright. I am willing to discuss modifications to my request, such as limiting the timeframe, specifying particular contracts, or focusing on key organisations.

In applying s12, the Welsh Government is guided by the Code of Practice issued under s45 of the FOIA. Para 6.9 of the Code states:

6.9 Where a request is refused under section 12, public authorities should consider what advice and assistance can be provided to help the applicant reframe or refocus their request with a view to bringing it within the cost limit. This may include suggesting that the subject or timespan of the request is narrowed. Any refined request should be treated as a new request for the purposes of the Act.

You will note para 6.9 is worded in the past tense – “Where a request is refused” rather than (e.g.) ‘prior to a request being refused’. I am aware of Welsh Government’s legal obligation to provide advice and assistance under s16 of the FOIA; however, I note the response to ATISN 24357 fulfilled this obligation by stating:

You may wish to refine your request by narrowing its scope by being more specific about what information you particularly wish to obtain, including any dates or period of time relevant to the information required.

Guidance from the Information Commissioner on s12 states:

If you have satisfied the requirements of the section 45 code of practice, then you will have complied with section 16.



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For the reasons set out above, I believe the Welsh Government's use of s12 in this instance was correct and lawful. To that end, I do not uphold your complaint.

You have also requested an internal review into our aggregation of your requests under the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004. In your email of 17 March, you say:

The decision to aggregate multiple FOI requests under Regulation 5 of the FOI and Data Protection (Appropriate Limit and Fees) Regulations 2004 appears to be based solely on the fact that the requests were submitted by the same individual within a 60-day window. However, it is not clear how these requests meet the test of being "similar" in nature. While all relate to public funding, they concern distinct projects and recipients. I request a reassessment of whether these should have been aggregated.

Following our further response of 17 March, you emailed on 18 March to say:

I am writing to formally request an internal review of the decision to refuse my Freedom of Information (FOI) requests on the basis that they have been aggregated under the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004.

The decision to aggregate my requests is, in my view, incorrect and unjustified. The requests I have submitted relate to distinct areas of Welsh Government policy, funding, and expenditure. While some requests may touch on similar broad themes (such as public spending), each request seeks specific, separate pieces of information. They are not repeated or overlapping requests but rather a set of discrete inquiries into different aspects of government activities.

As stated in our response, the legal requirements to legitimately aggregate information requests require the requests to:

- *be made by one person, or by different persons who appear to the public authority to be acting in concert or in pursuance of a campaign;*
- *relate, to any extent, to the same or similar information; and*
- *be received by the public authority within any period of 60 consecutive working days.*

The first and third bullet points are factual and are clearly satisfied. For the second, the wording is (my emphasis): '**to any extent, to the same or similar information**'



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Determining whether the information captured by different requests is to any extent the same or similar is a matter of judgement. In *John Slater v IC and Department for Work and Pensions* EA/2019/0118, 9 April 2020, the First Tier Information Tribunal commented:

“Whether, however, the information to which the requests related was to any extent the same or similar is, in our view, a simple matter of examining the terms, and the context of, the requests themselves. It is, in essence, a question of recognition. It is easier to say if something is the same, or similar, when one can see it all, in context, rather than trying to prescribe what will or will not be the same or similar.”

Further, in the ICO’s Decision Notice FS50681722, they state (in the context of aggregating requests):

The Commissioner acknowledges that two of the requests specify separate suppliers, however, the Fees Regulations’ wording of “relate, to any extent, to the same or similar information” makes clear that the requested information does not need to be closely linked to be aggregated, only that the requests can be linked.

Our response stated that, since February 2025, you have made 47 requests under the FOIA, all related to Welsh Government’s financing and spend on internal and external Welsh Government policy areas, particularly those related to diversity issues. Your own email of March 17 confirms this where you say (in relation to ATISN 23457):

The requested information pertains to public funds allocated to Diversity, Equality, and Inclusion work, as well as grants awarded to specific organisations.

We believe this descriptor can be applied to all of the requests that have been aggregated. Whilst the requests have related to various areas of Welsh Government policy, we believe they are united by the common contextual thread of targeting areas and grants to organisations with a diversity, equality and inclusion theme where you believe public money is being wasted.

Linked to this, and following our response to ATISN 24369 and 24389 on 14 March, we note the response was published on the X feed titled ‘Doge Wales’ which specifically lists its intention in:

Exposing the millions of pounds wasted by the Senedd and Welsh Government every year.



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This is along with numerous references to the expressed wish to 'scrap' the Anti-Racist Wales Action Plan and other diversity, equality and inclusion policies.

Guidance from the Information Commissioner states:

The Commissioner considers that requests are likely to relate to the same or similar information where, for example, the applicant has expressly linked the requests. An overarching theme or common thread running between the requests may alert you to the possibility of aggregation. However, an overarching theme may not be sufficient on its own. You need to be careful not to take a superficial approach when looking for similarities between requests.

Consequently, we believe that taking the full context of your requests into account, the 'to any extent...similar information' criteria is far more than 'superficial' and has been satisfied. I believe our aggregation of your requests under the Fees Regulations was correct and lawful. To that end, I do not uphold your complaint.

Finally, I note your comments:

Furthermore, the blanket refusal of future requests on "a similar theme" is overly broad and appears to be an attempt to deter legitimate scrutiny. Each FOI request should be assessed on its individual merits, and a refusal must be based on valid statutory grounds—not a subjective determination that topics are too closely related.

And

The regulation allowing aggregation of requests is intended to prevent circumvention of cost limits through artificially breaking down one large request into multiple parts. However, that is not the case here. The refusal of my requests on this basis represents a misapplication of the FOI Act and an attempt to avoid transparency over the use of public funds.

I can confirm that the application of the Fees Regulations does not require a direct intention on the part of the requester to circumvent the cost limits, and we are not alleging this was your intention. Rather, its application is a question of fact. Neither are we attempting to avoid transparency; it is a matter of record that out of the 47 requests you have submitted, we have responded to 15 of them and provided information where it was held.



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You may wish to note that information on Welsh Government's Annual Accounts, budgets and outturn, spend and expenditure is already published, here:

Welsh Government Consolidated Annual Accounts

<https://www.gov.wales/welsh-government-consolidated-annual-accounts>

Welsh Government budgets

<https://www.gov.wales/welsh-government-budgets>

Report on outturn 2023 to 2024

<https://www.gov.wales/report-outturn-2023-2024>

Welsh Government Procurement Card spend

<https://www.gov.wales/welsh-government-procurement-card-spend-data>

Welsh Government Expenditure over £25,000

<https://www.gov.wales/welsh-government-expenditure-over-25000>

I can also confirm that we have not implemented any '*blanket refusal of future requests*', as that would be unlawful. However, our position remains that we will lawfully refuse requests that have exceeded the appropriate limit where that is factually the case and also aggregate any that meet the stated legal criteria.

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:

<https://www.gov.wales/requesting-information-welsh-government-html>

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.



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Yours sincerely

A J John
Director, Communities and Social Justice



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