

From: ECWL - Equality & Human Rights Division

Sent: 21 July 2025 09:37

To:

Subject: ATISN 24861 Compliance of Strategic Equality Plan with UK Supreme Court Ruling on Definition of Sex

ATISN 24861 Compliance of Strategic Equality Plan with UK Supreme Court Ruling on Definition of Sex

Good morning,

Thank you for your request which I received on 23 June 2025. You asked for:

1. Legal Compliance and Advice:

Please provide all legal advice, internal memos, or briefings received by the Welsh Government on the implications of the Supreme Court ruling in relation to the Strategic Equality Plan, the Equality Act 2010, and the interpretation of “sex” in your equality policies and communications.

2. Consultation Response and Handling:

Please provide any internal correspondence, meeting notes, or summaries discussing how public responses to the Strategic Equality Plan consultation were reviewed — particularly those that raised concerns about the conflation of sex and gender identity, and the legal consequences of doing so post-ruling.

3. Policy Amendments or Intentions:

Please confirm whether the Welsh Government has amended or intends to amend the Strategic Equality Plan or associated materials to ensure legal compliance with the Supreme Court ruling.

If no changes have been made, please provide documentation explaining that decision, including whether legal advice was sought to justify continued use of terminology or frameworks that treat sex and gender identity as interchangeable.

4. Future Guidance and Review:

Please provide any planned reviews, internal discussions, or scheduled revisions relating to equality policy language, public sector equality duty guidance, or training materials in light of the legal definition of sex.

I promised to respond by 27 July.

To take your questions in turn.

Q1. I can confirm Welsh Government holds recorded information of this description. However, the information has been withheld under s42/legal professional privilege of the Freedom of Information Act 2000. A full analysis of our reasoning is at Annex 1.

Q2. Welsh Government does not hold recorded information of this description.

Q3 and Q4. The Freedom of Information Act gives individuals a right of access to recorded information held by a public authority at the time the request was received. It does not require an authority such as the Welsh Government to provide views or opinions where those views are not already recorded. This is confirmed by the Information Commissioner's guidance 'The Guide to Freedom of Information':
"The Act does not cover information that is in someone's head. If a member of the public asks for information, you only have to provide information you already have in recorded form. You do not have to create new information or find the answer to a question from staff who may happen to know it."

<https://ico.org.uk/for-organisations/foi/what-is-the-foi-act-and-are-we-covered/>

I can confirm that where Welsh Government *does* hold recorded information of this description, it is considered exempt under s42 for the reasons set out in Annex 1.

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