

26 March 2026

Dear

**Complaint in respect of ATISN 26518**

Thank you for your email which was received on 22 January. Your complaint was referred for an internal review which was conducted in accordance with the procedure outlined in the [Requesting information from the Welsh Government](#) which is available by post on request or via the internet. I apologise for the delay in replying to your request.

I have partially upheld your complaint. In the original response you should have been informed that some of the information (to which you were signposted) was therefore exempt under Section 21 of the Freedom of Information Act (2000) (the Act) – information accessible to the applicant by other means.

As part of my review, I have also decided to release additional information in respect of diary entries of the Counsel General. However, I am withholding more detailed diary information, including specific timings, precise locations, and entries relating to lower-security or informal engagements. This information is exempt from disclosure under Section 38(1)(a) and (b) of the Act. I am also withholding information which would be considered personal data. The reasons for this are set out at annex 1.

If you remain dissatisfied, 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

Website: [www.ico.org.uk](http://www.ico.org.uk)

Yours sincerely

**Deputy Director, Welsh Government**

## Annex 1

### Section 40(2) – Personal Data

Section 40(2) of the Freedom of Information Act 2000 (FOIA), 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. **I have concluded that this relates to the names (and other associated personal information) of those referenced in the diary entry.**

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:

1. The Legitimate interest test: Whether a legitimate interest is being pursued in the request for information;
2. The Necessity test: Whether disclosure of the information/confirmation or denial that it is held is necessary to meet the legitimate interest in question;
3. 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 Interest Test

The Welsh Government recognises there is a legitimate interest in being able to identify individuals (to help understand the reason for their involvement).

We do not believe, however, there is any legitimate reason why the personal data would need to be released in order to understand the nature of the diary entry.

## **2. Is disclosure necessary?**

The Welsh Government is of the view that it is not necessary to disclose the personal information caught by your request - we do not believe it is necessary to disclose the personal data to understand the information within the diary entry.

## **3. The Balancing Test**

As it has been concluded it is not necessary to disclose the personal information caught by the request, there is no requirement to balance the rights and interests of those individuals against the rights, under FOIA, of the requester.

### **Section 38 (1) – Health and safety**

Section 38(1) applies where disclosure would, or would be likely to, endanger the physical or mental health or safety of an individual.

Ministerial diaries often include information that could reveal:

- identifiable patterns of movement or routine,
- venue details where security is limited,
- the Minister's presence at locations not publicly announced, and
- logistical arrangements that would typically remain confidential for security purposes.

Disclosure of this level of detail would be likely to increase the risk of harm to the Counsel General. It could facilitate targeted harassment, stalking, or attempts to confront the Counsel General at locations where they do not have dedicated security support. Public office holders have previously experienced such risks, and protective arrangements rely in part on restricting the availability of granular scheduling information.

Releasing detailed diary entries could also adversely affect the Counsel General's sense of personal safety, leading to increased anxiety or stress. For these reasons, we consider that both Section 38(1)(a) (physical safety) and Section 38(1)(b) (mental wellbeing) are engaged.

### **Public Interest Test**

As Section 38 is a qualified exemption, we have considered whether the public interest in disclosure outweighs the public interest in withholding the information.

#### **Public interest in favour of disclosure**

- Transparency around ministerial activities and use of public resources.
- Supporting accountability in government decision-making.
- Enhancing public understanding of ministerial roles.

#### **Public interest in favour of withholding**

- Protecting the physical safety and mental wellbeing of Ministers and others who may be present at engagements.
- Preventing disclosure of information that could enable targeted harassment or physical attacks.
- Maintaining the integrity of security arrangements, which rely on restricting detailed scheduling information.
- Avoiding increased levels of anxiety or perceived vulnerability associated with the release of sensitive movements data.

After careful consideration, I have concluded that the public interest in protecting personal safety clearly outweighs the arguments in favour of disclosing the detailed diary entries. For this reason, the information remains withheld under Section 38. High-level information, which does not present these risks, has been disclosed to you in an attachment to this letter.