

11/09/2026

Dear

ATISN 27474 – Building Safety Policy

Thank you for your request which I received on 8 September 2026. You asked for:

1. Any ministerial submissions, briefing papers, policy papers or decision records produced between 1 January 2022 and the present that discuss differences between:
 - the Building Safety Act 2022 regime in England; and
 - the Welsh Government's approach to remediation and leaseholder protections.
2. Any documents discussing the reasons for not adopting equivalent leaseholder protections to those introduced in England.
3. Any impact assessments, legal advice summaries, options appraisals or comparative analyses produced for ministers concerning alternative approaches available to Wales.

Our response

We have considered your request under the Environmental Information Regulations 2004 (EIRs).

I have concluded that your request is both voluminous and complex and would be very time-consuming to deal with. Under the EIRs, there is no prescribed costs limit above which public authorities are not required to comply with requests for information. However, regulation 12(4)(b), which applies to manifestly unreasonable requests, may be engaged where the cost or burden of dealing with a request would be disproportionate.

This position was confirmed in the Upper Tribunal case of *Craven v The Information Commissioner and the Department of Energy and Climate Change* [2012] UKUT 442 (AAC):

“Taking the position under the EIR first, it must be right that a public authority is entitled to refuse a single extremely burdensome request under regulation 12(4)(b) as ‘manifestly unreasonable’, purely on the basis that the cost of compliance would be too great (assuming, of course, it is also satisfied that the public interest test favours maintaining the exception). The absence of any provision in the EIR equivalent to section 12 of FOIA makes such a conclusion inescapable.”

The Information Commissioner’s Office guidance confirms that a request may be refused under regulation 12(4)(b) where compliance would cause a disproportionate cost or burden. The inclusion of the word “manifestly” means that the unreasonable nature of the request must be obvious or clear.

The request seeks ministerial submissions, briefing papers, policy papers, decision records, legal advice summaries, impact assessments, options appraisals and comparative analyses relating to:

- differences between the Building Safety Act 2022 regime in England and the Welsh Government's approach to remediation and leaseholder protections;
- the reasons for not adopting equivalent leaseholder protections to those introduced in England; and
- alternative approaches available to Wales.

To establish what information is held would require extensive searches across multiple electronic repositories and policy filing systems. The task would involve officials identifying, locating, retrieving and reviewing material relating to the development of building safety legislation, the Building Safety Act 2022, remediation policy, the Welsh Building Safety Fund, developer engagement, leaseholder protections, legal considerations and ministerial decision-making. Relevant email accounts and other communication systems may also need to be searched.

An initial scoping exercise has been undertaken for each of the three questions. The searches generated a significant volume of raw results across the period from 1 January 2022 onwards. For Question 1, the individual annual searches returned between 394,339 and 624,812 raw results. For Question 2, the annual searches returned between 599,906 and 1,381,551 raw results. For Question 3, the annual searches returned between 87,250 and 102,023 raw results.

These figures represent raw electronic search results. They should not be interpreted as the number of unique or relevant documents held. The searches may identify duplicate records, different versions of the same document and records in which a search term appears only incidentally. However, the results demonstrate the breadth of the subject matter and the scale of the initial material requiring further refinement and consideration.

It is not possible to determine from the search results alone whether a document falls within the scope of the request. Potentially relevant records would need to be retrieved and reviewed individually to establish:

- whether the document is of a type specified in the request;
- whether it was produced within the relevant period;
- whether it substantively discusses the matters identified in the request;
- whether it is a duplicate or earlier version of another record;
- whether any part of the information is already publicly available; and
- whether any EIR exceptions apply to all or part of the information.

This is a manual process and would require officials with suitable knowledge of the policy area to consider the content and context of each potentially relevant record.

The request is also likely to capture a significant volume of internal communications, including communications between officials and Ministers,

ministerial submissions, policy advice, options appraisals and records of internal decision-making. Regulation 12(4)(e) of the EIRs provides an exception for the disclosure of internal communications. Its purpose includes protecting the space needed by a public authority to discuss proposals, assess options and provide advice as part of its internal decision-making processes.

The exception does not mean that every internal communication would automatically be withheld. Regulation 12(4)(e) is subject to the public interest test, and the content and circumstances of each relevant communication would have to be considered. The potential application of this and any other relevant exceptions would therefore add to the manual review work required. The Information Commissioner's Office confirms that most EIR exceptions, including those relating to categories such as internal communications, are subject to the public interest test.

Given the breadth of the request, the volume of material identified, the range of repositories and officials potentially involved, and the need for individual review of potentially relevant documents, I consider that compliance would place a substantial and disproportionate burden on the Welsh Government. It would divert officials from their core policy responsibilities for an extended period. I therefore consider that the burden associated with complying with the request meets the threshold of being manifestly unreasonable under regulation 12(4)(b) of the EIRs.

Public interest test

Having considered the arguments both for and against disclosure and having applied the statutory presumption in favour of disclosure, I consider that the public interest in maintaining the exception outweighs the public interest in complying with the request as currently framed. In particular, the substantial and disproportionate burden on Welsh Government resources would adversely affect the delivery of the policy work that is itself in the public interest.

Your request is therefore refused under regulation 12(4)(b) of the EIRs on the grounds that it is manifestly unreasonable.

You may wish to refine your request by narrowing its scope. For example, you could limit it to:

- a shorter and clearly defined period;
- a named policy, programme or legislative provision;
- a specific ministerial submission or decision;
- final versions of specified document types;
- documents submitted to a named Minister; or
- a particular aspect of remediation or leaseholder protection.

Any refined request would be treated as a new request.

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