



Dear ,

ATISN 10741 – Cymdeithas Tai Cantref Cyf

I wrote to you on 7 September 2016 regarding your request for information ATISN 10741. I undertook to provide a response by 4 October 2016.

In your request, you asked for:

- A copy of the Report by Messrs Campbell Tickell into Cymdeithas Tai Cantref
- Copies of all correspondence between Welsh Government and Campbell Tickell for a period of one month after or following the date of the report from Campbell Tickell
- Copies of all correspondence between Welsh Government and Cymdeithas Tai Cantref for a period of one month after or following the date of the report from Campbell Tickell

Your request for a copy of the Report by Messrs Campbell Tickell into Cymdeithas Tao Cantref is refused under Section 14(2) of the Freedom of Information Act. We responded on 30 August 2016 to your previous request (Ref ATISN 10651) and have decided that this is substantially asking for the same information.

Regarding your request for copies of all correspondence between Welsh Government and Campbell Tickell for a period of one month after or following the date of the report from Campbell Tickell, I can confirm that Welsh Government does hold 3 such documents in the form of emails.

One email (2 November 2015) refers to a Document on Grievances Capability. Whilst the document has been anonymised, upon review, it has been decided that in its redacted form, it would still be possible for someone familiar with Cymdeithas Tai Cantref to deduce the identity of the individuals involved. I have therefore decided not to release this particular document under Section 40 (2) of the Freedom of Information Act.

One email (3 November 2015) is provided in a redacted form. Having reviewed the information I have decided that to release some of the information would damage the commercial interest of Campbell Tickell Limited, and could also affect future procurement exercises of Welsh Government. I have also decided that psrt of the information would identify an individual involved with the investigation. Therefore I have decided to redact some parts of that email under Sections 43 and 40 (2) of the Freedom of Information Act. This, and the remaining emails are enclosed in Annex 2 of this letter.

Regarding your request for a copy of all correspondence between Welsh Government and Cymdeithas Tai Cantref for a period of one month after or following the date of the report from Campbell Tickell, after due consideration I have decided that the information is exempt from disclosure under sections 40 and 43 (2) of the Freedom of Information Act.

The reasons for applying these exemptions are set out in full at Annex 1 to this letter.

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: FreedomOfInformationOfficer@wales.gsi.gov.uk

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 1:

I have decided to withhold the following information:

Information being withheld	Section number and exemption name
Document on Grievances Capability provided by Campbell Tickell to Welsh Government	Section 40 (2) Personal information
Redactions to email dated 3 November 2015	Section 40 (2) Personal information Section 43 Commercial Interests
All correspondence between Tai Cantref and Welsh Government	Section 40 (2) Personal information Section 43 Commercial Interests

This Annex sets out our application of sections 40, and 43 of the Freedom of Information Act.

Section 40: Personal Information

The Welsh Government believes that the Grievance and Capability document contains sufficient detail to identify individuals within Cymdeithas Tai Cantref. We believe that if this personal data disclosed, it may have harmful consequences to those concerned.

Section 40 of the Freedom of Information Act sets out an exemption from the right to know if the information requested is personal information protected by the Data Protection Act 1998 (DPA). Personal data is defined in Section 1(1) of the DPA as:

“personal data” means data which relates to a living individual who can be identified from those data; or from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller.

We have concluded that, in this instance, the information requested contains third party personal data relating to various members of staff. Under Section 40(2), personal data is exempt from release if disclosure would breach one of the data protection principles. We consider the principle being most relevant in this instance as being the first. This states:

Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless—

(a) at least one of the conditions in Schedule 2 is met, and (b) in the case of sensitive personal data, at least one of the conditions in Schedule 3 is also met.

We consider that name of members of staff within the Inquiry Report clearly falls within the description of personal data as defined by the DPA and that its disclosure would breach the first data protection principle. The first data protection principle has two components:

1. Personal data shall be processed fairly and lawfully and
2. Personal data shall not be processed unless at least one of the conditions in DPA schedule 2 is met

Guidance from the Information Commissioner's Office (Personal information (section 40 and regulation 13) v 1.3) states (at p11):

- *The starting point is to consider whether it would be fair to the data subject to disclose their personal data. The key considerations in assessing this are set out in the section on Fairness below.*
- *If disclosure would not be fair, then the information is exempt from disclosure.*

This approach was endorsed by the Court of Appeal in the case of *Deborah Clark v the Information Commissioner and East Hertfordshire District Council* where it was held:

“The first data protection principle entails a consideration of whether it would be fair to disclose the personal data in all the circumstances. The Commissioner determined that it would not be fair to disclose the requested information and thus the first data protection principle would be breached. There was no need in the present case therefore to consider whether any other Schedule 2 condition or conditions could be met because even if such conditions could be established, it would still not be possible to disclose the personal data without breaching the DPA” (paragraph 63).

In this instance, we believe that staff involved in the Inquiry would have no expectation that this information would be made public. Thus, we believe release of this information would be unfair and so breach the first data protection principle. For that reason, the information is being withheld under section 40(2) of the Freedom of Information Act. This is an absolute exemption and not subject to the public interest tests.

Section 43: Commercial interests

This exemption is engaged in relation to an email dated 3 November 2015 from Campbell Tickell and Welsh Government regarding costs incurred for the enquiry. Section 43 is a public interest tested exemption. This means that, in order to withhold information under it, it has to be shown that the public interest in releasing the information is outweighed by the public interest in withholding it.

Section 43 (2) states: “Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).”

In releasing the individual rates for the consultants, the commercial interests of Campbell Tickell could be prejudiced, which could have the effect of damaging future procurement exercises by Welsh Government. .

However it is acknowledged that the total cost of the enquiry is a matter of public interest. Therefore it has been decided that the total paid to each consultant, and the total of the invoice would be released.

This exemption is also engaged in relation to correspondence between Welsh Government and Tai Cantref regarding the Inquiry.

The Welsh Government acknowledges the inherent public interest in the openness and transparency that release of this information would engender. Release of the information could allow individuals to understand the rationale behind why decisions have been made and, in some cases, assist them in challenging these decisions

However, the correspondence discusses in detail the Inquiry Report and the Associations response, details of which may destabilise the Association. Such a destabilisation would likely prejudice the commercial interests of the Association.

On balance, I believe the public interest in withholding the information is greater than disclosing the information. To that end, this information has been withheld under s43 (2).