



Ein cyf/Our ref ATISN 11893

2 February 2018

Dear _____,

Request for Information – ATISN 11893

I wrote to you on 16 January regarding your request for information. You asked for:

1. A copy or summary of a letter that asks Twin Rivers Caravan Park to remove a sign from the A458.
2. A statement of the Highways Verge policy i.e. are signs allowed and insured by NMWTRA to be situated on the verge.

I note that the North and Mid Wales Trunk Road Agent wrote to you on 12 January regarding question 1 of your request. I confirm that the information we hold for this part of your request is exempt from disclosure under Regulation 13 of the Environmental Information Regulations. Full reasoning for applying this exception is given at Annex 1 to this letter.

For your second question, I confirm that the Welsh Government is the Highway Authority for Welsh motorways and trunk roads (this includes the A458). Section 132 of the Highways Act 1980 https://www.legislation.gov.uk/ukpga/1980/66/pdfs/ukpga_19800066_en.pdf covers the matter of unauthorised signs erected on highway land.

In very general terms the approach relating to unauthorised signs would likely be:

1. If the signs do not pose a risk (e.g. affecting visibility for road users) it is likely the owner would be asked to remove them within a certain timeframe.
2. If they were not removed within that timeframe or did pose immediate risk our agents would remove them and likely seek reimbursement of any costs associated with that operation.
3. There is also the potential for prosecution (most likely in the event of repeat offending).



E&T FOI Team
Welsh Government
Treforest - QED Centre
Main Avenue
Treforest Industrial Estate
Ponty pridd
CF37 5YR

FOI.EconomyandTransport@gov.wales
www.gov.wales

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

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 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

This Annex sets out the reasons for the engagement of regulation 13(2)(a)(i) – Personal Information, of the Environmental Information Regulations and the public interest test.

Regulation 13 states:

(1) To the extent that the information requested includes personal data of which the applicant is not the data subject and as respects which either the first or second condition below is satisfied, a public authority shall not disclose the personal data.

(2) The first condition is -

(a) in a case where the information falls within any of paragraphs (a) to (d) of the definition of "data" in section 1(1) of the Data Protection Act 1998, that the disclosure of the information to a member of the public otherwise than under these Regulations would contravene -

(i) any of the data protection principles; or

(ii) section 10 of that Act (right to prevent processing likely to cause damage or distress) and in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing it; and

(b) in any other case, that the disclosure of the information to a member of the public otherwise than under these Regulations would contravene any of the data protection principles if the exemptions in section 33A(1) of the Data Protection Act 1998 (which relate to manual data held by public authorities) were disregarded.

(3) The second condition is that by virtue of any provision of Part IV of the Data Protection Act 1998 the information is exempt from section 7(1) of that Act and, in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing it.

The information being withheld consists of correspondence between NWMTRA and an individual.

The condition in Regulation 13(2)(a)(i) is satisfied where disclosure of the information requested would result in breaches of any of the 'data protection principles' set out in Schedule 1 Part I of the Data Protection Act 1998 (the "DPA").

The first data protection principle requires that personal data shall be processed fairly and lawfully, and in particular, shall not be processed unless at least one of the conditions in Schedule 2 of the DPA is met.

When considering compliance with the first data protection principle it is necessary to consider the reasonable expectations of any individuals. Where NWMTRA corresponds with an individual regarding an enforcement matter, there is a clear expectation that this information will be treated in confidence and will not be made public.

Consequently, to release personal data about the individual would contravene the first data protection principle on the basis that it would be unfair.

Schedule 2 of the Data Protection Act (DPA) sets out the conditions under which personal data could be released. There are six conditions in Schedule 2 of the DPA but only condition 1 (consent) or condition 6 (legitimate interests) are relevant to disclosure under the Act. In this case, consent has not been given.

Condition 6 establishes a three part test which is concerned with balancing the legitimate interests of the public in disclosure against the interests of the individual whose data it is. In this case, there is no legitimate public interest in disclosing the information. Even where the disclosure is necessary for a legitimate interest of the public, it nevertheless must not cause unwarranted interference (or prejudice) to the rights, freedoms and legitimate interests of the data subject. It is our view is that disclosure of the correspondence would constitute an unwarranted interference in the individual's private life.