



26 February 2018

Dear ,

**Request for Information**  
**ATISN 11982 – Ministerial Advice**

Thank you for your request which I received on 26 January 2018.

Further to my acknowledgment letter of 16 February 2018, and in considering the information contained within your constituent's letter, the request for information has been interpreted as:

'Copies of the advice (technical, legal or other) provided to Ministers and Cabinet Secretaries concerning the application of Part A (Structure) of the Building Regulations in replying to correspondence received from your constituent.'

At Annex A, I have attached the relevant extracts from briefings/advice to Ministers/Cabinet Secretaries that are caught by the above description. Some additional extracts have also been included for contextual reasons.

(Legal information, including advice, in respect of which a claim for legal professional privilege could be maintained, is exempt from disclosure. Nevertheless, there is no legal advice in this case which would but for the exemption have been caught by the request.)

Please note that a previous FoI request (ATISN 9804) covers the information held prior to 25 September 2015. The response to the earlier request (ATISN 9804) can be found on the following web link:

<http://gov.wales/about/foi/responses/2015/oct15/atisn9804/?lang=en>

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](mailto: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

**The information you requested is:**

**Ref: CS/01517/15**

**Briefing to:** Minister for Natural Resources

**Date:** 12 OCTOBER 2015

**Title: E-MAIL FROM REBECCA EVANS AM REGARDING A REQUEST FOR A COPY OF MINISTERIAL ADVICE AND HER CONSTITUENT'S CONCERNS ABOUT CARMARTHENSHIRE COUNTY COUNCIL**

Given the fact that the Welsh Government can not give legal advice on this matter, we have nothing more substantive to add to what you have already said in your previous letters. Your previous letters describe and highlight the policy areas and associated guidance which in our opinion relate to this matter. If X disagrees with the relevance of areas that we have identified then there is a difference in opinion to which we could not provide any further explanation, considering that we can not give legal advice.

Therefore as no information provided by X new letter would change the advice/position given in any of your previous letters, the draft letter clarifies the context in which your last letter referred to the courts (which X mentions in his letter) and re-highlights that it is the function of local authorities to enforce building regulations in their area.

**Ref: CS/01778/15**

**Briefing to:** Minister for Natural Resources

**Date:** 1 December 2015

**Title: E-MAIL FROM REBECCA EVANS AM REGARDING HER CONSTITUENT'S CONCERNS ABOUT CARMARTHENSHIRE COUNTY COUNCIL**

X document does not contain any information that would change your position or add to what you have said in previous letters.

**Ref: CS/00209/16**

**Briefing to:** Minister for Natural Resources

**Date:** 9 February 2016

**Title: E-MAIL FROM REBECCA EVANS AM REGARDING HER CONSTITUENT'S CONCERNS ABOUT CARMARTHENSHIRE COUNTY COUNCIL**

This correspondence does not contain any new information that would change your position to what you have said in previous letters.

**Ref: FM/00219/16**

**Briefing to:** First Minister of Wales

**Date:** 30 March 2016

**Title:** E mails from X re: Dangerous buildings

It has been explained to X that the responsibility of enforcing the building regulations rests with the local authority. There has also been no evidence provided by X

relating to any building within the Carmarthenshire area that has suffered the failures that X has referred to.

**Ref:** LG/00324/17

**Briefing to:** Cabinet Secretary for Environment and Rural Affairs

**Date:** 16 February 2017

**Title: Request for Welsh Ministers to consider exercising their powers under section 116 of the Building Act 1984.**

Under S.116 of the Building Act 1984 (“the Building Act”), the Welsh Ministers have default powers if they are satisfied that a local authority has failed to discharge its functions under the Building Act in a case in which it ought to have discharged them. In this situation the Welsh Ministers may make an order declaring the local authority to be in default and direct it for the purpose of removing the default to discharge such of its functions, in such manner and within such times, as may be specified in the order.

Having regard for the Welsh Ministers powers under S.116 of the Building Act, officials previously assessed (CS/01055/15) if there is evidence that CCC Building Control have failed to exercise their functions under the Building Act. Officials within the Building Regulations unit concluded that there is no evidence that CCC have failed to exercise their duty.

**Ref:** LG/00608/17

**Briefing to:** Cabinet Secretary for Environment and Rural Affairs

**Date:** 30 March 2017

**Title: LETTER FROM ADAM PRICE AM REGARDING HIS CONSITUENT’S CONCERNS ABOUT CARMARTHENSHIRE COUNTY COUNCIL**

Part 2 of the Building Regulations sets out requirements for the ‘control of building work’. The meaning of ‘building work’ is set out in regulation 3(1) and includes at regulation 3(1)(d) “work required by regulation 6 (requirements relating to material change of use)”. Regulation 4 makes provision regarding ‘Requirements relating to building work’ and regulation 6 makes provision regarding the “Requirements in relation to material change of use”. In general, regulations 4 and 6 require building work (including on a material change of use) to be carried out so it complies with the applicable requirements contained in Schedule 1 to the Building Regulations (regulations 4(1)(a) and 6(1)).

Part A of Schedule 1 to the Building Regulations contains the requirements for ‘structure’. Building work is to be carried out so that it complies with Part A of Schedule 1. A Local Authority’s duty (under section 91 of the Building Act 1984) is to consider whether the building work complies with the requirements contained in Part A. Part A does not state how to achieve compliance nor how compliance is to be demonstrated.

The Welsh Ministers have powers under section 6 of the Building Act 1984 to issue and approve documents to provide practical guidance with respect to the requirements of any provision of building regulations ( these are “Approved Documents”).

X has made reference to Approved Document A (Structure). Within Approved Document A, pages 5 and 39 contains the legal requirements to be satisfied identified with a green background i.e. the requirements contained in Part A of Schedule 1 to the Building Regulations. Approved Document A also contains practical guidance on how to meet the particular standard. In this regard Approved Document A states *“Approved Documents are intended to provide guidance for some of the more common building situations. However, there may well be alternative ways of achieving compliance with the requirements. **Thus there is no obligation to adopt any particular solution contained in an Approved Document if you prefer to meet the relevant requirement in some other way.**”* The requirements referred to are the requirements in Part A of Schedule 1 and Regulation 7 of the Building Regulations.

X provides a hypothetical example for your consideration in his letter. However, as advised to X previously, it is the function of local authorities (subject to certain excepted sections, none of which is relevant here) to enforce building regulations in their areas. Therefore, we see little to be gained from engaging in debate on how that duty might be discharged in hypothetical situations.

Under S.116 of the Building Act 1984 (“the Building Act”), the Welsh Ministers have default powers if they are satisfied that a local authority has failed to discharge its functions under the Building Act in a case in which it ought to have discharged them. The previous letter of the 26 March states 2014 *“the Welsh Government has no powers in relation to your complaint that the Local Authority has not properly exercised its functions under section 91(2) of the Building Act.”*

Therefore, we still consider that there are no appropriate powers to intervene in relation to X complaint as we are not satisfied CCC have failed to exercise their functions under the Building Act.

**Ref:** LG/00898/17

**Briefing to:** Cabinet Secretary for Environment and Rural Affairs

**Date:** 12 May 2017

**Title:** **LETTER FROM ADAM PRICE AM REGARDING HIS CONSITUENT’S CONCERNS ABOUT CARMARTHENSHIRE COUNTY COUNCIL**

X letter contains no new information which would change any previously stated views. Given this and the fact that the Welsh Government cannot give legal advice, the letter suggests (as your previous letter did) that you consider the matter closed.

**Ref:** LG/01376/17

**Briefing to:** Cabinet Secretary for Environment and Rural Affairs

**Date:** 26 June 2017

**Title:** **LETTER FROM ADAM PRICE AM REGARDING HIS CONSITUENT’S CONCERNS ABOUT CARMARTHENSHIRE COUNTY COUNCIL**

Under S.116 of the Building Act 1984 (“the Building Act”), the Welsh Ministers have default powers if they are satisfied that a local authority has failed to discharge its functions under the Building Act in a case in which it ought to have discharged them.

Therefore, with regard to X comments in relation to looking at the Council files, officials have previously assessed (in correspondence: CS/01055/15) if there is evidence that CCC Building Control have failed to exercise their functions under the Building Act, and officials within the Building Regulations unit concluded that there is no evidence that CCC have failed to exercise their duty, which was explained in that reply.

X letter contains no new information which would change any previously stated views. Given this and the fact that the Welsh Government cannot give legal advice, the letter suggests (as your previous letter did) that you consider the matter closed.

**Ref:** LG/01867/17

**Briefing to:** Cabinet Secretary for Environment and Rural Affairs

**Date:** 11 August 2017

**Title:** **Letter from Mark Isherwood AM regarding Building Regulations safety concerns**

The content of X e-mail contains no new information which would change any previously stated views.

As the correspondence has been written by Mark Isherwood AM a fuller response is provided that provides views already stated but reconfirming that as new as no new information has been provided you consider the matter closed.

**Ref:** LG/01874/17

**Briefing to:** Cabinet Secretary for Environment and Rural Affairs

**Date:** 15 August 2017

**Title:** **Letter from David Melding AM regarding Building Regulations safety concerns**

The content of X e-mail contains no new information which would change any previously stated views.

As the correspondence has been written by David Melding AM a fuller response is provided that provides views already stated but reconfirming that as new as no new information has been provided you consider the matter closed.

**Ref:** LG/01900/17

**Briefing to:** Cabinet Secretary for Environment and Rural Affairs

**Date:** 11 August 2017

**Title:** **Correspondence from Neil Hamilton AM regarding Building Regulations safety concerns**

The content of X e-mail to Neil Hamilton AM contains no new information which would change any previously stated views.

As the correspondence has been written by Neil Hamilton AM a fuller response is provided that provides views already stated but reconfirming that as new as no new information has been provided you consider the matter closed.

**Ref:** LG/01954/17

**Briefing to:** Cabinet Secretary for Environment and Rural Affairs

**Date:** 24 August 2017

**Title:** **Correspondence from Adam Price AM regarding Building Regulations safety concerns of constituent X.**

X letter contains no new information which would change any previously stated views. Given this and the fact that the Welsh Government cannot give legal advice, the letter suggests (as your previous letters have) that you consider the matter closed.

**Ref:** LG/02131/17

**Briefing to:** Cabinet Secretary for Environment and Rural Affairs

**Date:** 18 September 2017

**Title:** **Correspondence from Steffan Lewis AM regarding Building Regulations safety concerns**

In earlier correspondence with Adam Price AM (LG/00608/17) you provided detailed information regarding the application of Building Regulations and Approved Document A which has been replicated in this response. Therefore, this response to Steffan Lewis AM provides the same views and reconfirming that as new as no new information has been provided you consider the matter closed.

**Ref:** LG/02617/17

**Briefing to:** Cabinet Secretary for Energy, Planning and Rural Affairs

**Date:** 30 October 2017

**Title:** **Correspondence from Adam Price AM regarding Building Regulations safety concerns of constituent X.**

X letter contains no new information which would change any previously stated views. Given this and the fact that the Welsh Government cannot give legal advice, the letter suggests (as your previous letters have) that you consider the matter closed.

**Ref:** LG/05109/17

**Briefing to:** Cabinet Secretary for Energy, Planning and Rural Affairs

**Date:** 27 November 2017

**Title:** **Correspondence from Adam Price AM regarding Building Regulations safety concerns of constituent X.**

X letter contains no new information which would change any previously stated views. Given this and the fact that the Welsh Government cannot give legal advice, the letter suggests (as your previous letters have) that you consider the matter closed.

**Ref:** LG/05194/17

**Briefing to:** Cabinet Secretary for Energy, Planning and Rural Affairs

**Date:** 30 November 2017

Title: **Correspondence from Eluned Morgan AM regarding Building Regulations safety concerns of constituent X.**

X email contains no new information which would change any previously stated views, therefore the draft reply explains that your letter dated 21 August (LG/01867/17) is the current position, and given that the fact that the Welsh Government cannot give legal advice, consider the matter closed.

**Ref:** LG/05313/17

**Briefing to:** Cabinet Secretary for Energy, Planning and Rural Affairs

**Date:** 11 December 2017

Title: **Correspondence from Joyce Watson AM regarding Building Regulations safety concerns of constituent X.**

The draft reply clarifies this last line within the context of the paragraph which is that Part A of schedule 1 does not state how to achieve compliance with the requirements nor how compliance with the requirements is to be demonstrated.

The letter explains that there has been extensive correspondence regarding this subject over the last four years, and over this period, no new information has been provided which would change any previously stated views. Given this and the fact the Welsh Government cannot give legal advice, the letter ends by explaining you consider the matter closed.

**Ref:** LG/05512/17

**Briefing to:** Cabinet Secretary for Energy, Planning and Rural Affairs

**Date:** 8 January 2018

Title: **Correspondence from Adam Price AM regarding Building Regulations safety concerns of constituent X.**

Although X letter refers to the Independent review, it contains no new information which would change any previously stated views. Given this and the fact that the Welsh Government cannot give legal advice, the letter suggests (as your previous letters have) that you consider the matter closed.