



Llywodraeth Cymru
Welsh Government

1 December 2017

Dear _____,

**Complaint in respect of Request for Information – reference ATISN 11492
Valley Works at Rhydymwyn**

Thank you for your email dated 4 November which was received on 6 November. Your complaint has been subject to an internal review which has been conducted in accordance with the procedure outlined in the Welsh Government's Practical Guide for Making Requests for Information, which is available by post on request or via the internet.

You made a request for information on 23/8/17 in which you said:

“I wish to make a Freedom of Information request for all information including documentation held by Welsh Government concerning the above site covering the period June 2014 to the present date. This information should include all relevant minutes, memos, emails, reports, etc.

I wish to make another Freedom of Information request for all information including documentation relating to the Bat Protocol currently in force for Building 45 (P6) at the Rhydymwyn Valley site This information should include all relevant minutes, memos, emails, reports, etc.

I wish to make a final Freedom of Information request for all information including documentation relating to the Bat Protocol currently in force for Building 45 (P6) at the Rhydymwyn Valley site to the Nature Conservation Policy Unit and this information should include all relevant minutes, memos, emails, reports, etc.”

Officials interpreted this request to have two parts:

1. All information held by Welsh Government concerning the former Valley Works at Rhydymwyn covering the period June 2014 to the present date.
2. All information relating to the Bat Protocol currently in force for Building 45 (P6) at the Rhydymwyn Valley site.

This interpretation was presented to you in the Welsh Government’s acknowledgement letter of 24 August.

1. You complain that the summary of your request provided by Chris Worker in his letter to you dated 24 August 2017 *“is not the same as my request”*. I note that Mr Worker’s letter to you of 24 August gave you plenty of time to object to the interpretation if you believed it was wrong, prior to the substantive response being issued on 15 September. I have reviewed Chris Worker’s summary and I find it to be an accurate summary of your request. The reason for this is that the “Nature Conservation Policy Unit” is part of a policy division of Welsh Government and so the third part of your request is already captured within the first and second parts of your request. Chris Worker’s summary therefore covers your request in full.
2. In our initial response to you the Welsh Government withheld information under point 1 under the appropriate limit established in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004. In the calculation of the time needed to find all relevant information across all divisions, we stated that we believe we must consult with some 22 policy divisions that may hold information captured, and we expect at least 5 of these will hold substantial amounts of information. In your complaint you say, *“It would be helpful to be given a list of which divisions of WG could be involved”*.

The 22 policy divisions, at a minimum, it would be necessary to consult are:

1. Agriculture, Sustainability and Development
2. CADW
3. Climate Change and Natural Resource Management
4. Construction
5. Creative Industries
6. Economy, Science and Natural Resources Finance and Operations

7. Energy and Environment
8. Energy, Water and Flood
9. Housing and Regeneration
10. Land Nature and Forestry
11. Local Government
12. Major Events and Sports Policy
13. Museums, Archives and Libraries
14. Office of the Chief Scientific Adviser
15. Office of the Chief Veterinary Officer
16. People and Environment
17. Planning
18. Rural Payments Wales
19. The Radioactivity and Pollution Policy Branch that existed at that time
20. Tourism Development
21. Waste and Resource Efficiency
22. WG Property Services Division

We would expect that the majority of these would hold no information on the subject but it would be necessary to ask them to check the situation so as to be certain. All these divisions could potentially hold information on the site for reasons of their individual policy responsibilities. Of these divisions, we would expect that at least five could hold some information, and those most likely to hold information are:

1. Land Nature and Forestry (Nature Policy Branch)
 2. CADW
 3. WG Property Services Division
 4. Radioactivity and Pollution Policy Branch
 5. Planning
3. Your complaint states that the information provided had *removed "all names and timing linkages from the items which are provided"*. I have reviewed the information provided and I have concluded that it was unnecessary to redact the names and replace with them "****". The original information contained in response to your request is reattached in a new version with WG official 1, WG official 2 etc. to provide context.
 4. Your complaint stated "*full disclosure has not been given from the period between June 2014 and April 7th 2017*". Part 1 of the request was found to be exempt under the appropriate limit established in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004. Welsh Government has therefore not supplied any information under part 1 of the request, and in your complaint you state that "*We readily accept this.*"

Information we have supplied therefore falls only under part two of your request. That is:

All information relating to the Bat Protocol currently in force for Building 45 (P6) at the Rhydymwyn Valley site

I have reviewed the information held by WG in relation to your original request. Two additional documents held by CADW that were not included in the original response to your first point appear relevant. These two documents contain information that refers to the existence of bats at the site and thus the need to consider the Bat Protocol. It is my view that these should have been included in the initial response to you, as information relating to the Bat Protocol currently in force.

The additional information identified is attached. I am satisfied that the provision of this additional information represents full disclosure of the information held by WG in relation to part two of your original request.

5. Your complaint states that *"Some of the documentation you have provided is just factually incorrect and we need to pursue the source of such inaccuracy"*. The accuracy, or otherwise, of the information WG holds is not relevant to an FoI request, which is concerned only with access to the information we hold. This matter therefore does not form part of my review on the handling of this request.
6. Your complaint challenges the *"justification of the position of WG not to reveal information concerning Legal Professional Privilege"*.

I have reviewed the information and I am satisfied that the information referred to consists of advice on matters of law from a Welsh Government lawyer suitably qualified, certified and employed to provide such legal advice. As such, I am satisfied that the information falls within the scope of the exemption that is stated in the letter from Chris Worker dated 15 September.

If you remain dissatisfied with this response you also have the right to complain to the Information Commissioner at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Tel: 01625 545 745

Fax: 01625 524 510
Email: casework@ico.gsi.gov.uk

Also, if you think that there has been maladministration in dealing with your request, you have the option to make a complaint to the Public Services Ombudsman for Wales who can be contacted at:

Public Services Ombudsman for Wales
1 Ffordd yr Hen Gae
Pencoed
Bridgend
CF35 5LJ

Telephone: 0845 6010987 (local rate)
Email: ask@ombudsman-wales.org.uk

Yours faithfully

pp Lynfa Caddy

ANDREW SLADE
Lead Director
Energy, Planning and Rural Affairs