



Our ref: ATISN 13240
Date: 16 July 2019

Dear _____,

Request for Information – ATISN reference 13240

Thank you for your request which I received on 18 June 2019. You asked for the following information:

Cabinet Sub-Committee on European Transition on 20 February 2019:

- Welsh Government No-Deal Action
- Financial Issues Relating to Brexit
- Security of Food and Water Supply

Cabinet Sub-Committee on European Transition on 13 March 2019:

- Brexit Economic Interventions (including in the context of 'no deal'): Cross-Government response
- Agriculture and Fisheries Interventions
- Update on Welsh Ports

Cabinet Sub-Committee on European Transition on 10 April 2019:

- Funding Considerations in the Event of a No-Deal Brexit
- Next Phase of Negotiations in the UK's Withdrawal from the EU

I have concluded that the information requested is exempt from disclosure under sections 28(1) (Relations within the United Kingdom), 29(1)(a) (The Economy) and 35(1)(a) (Formulation of Government Policy) of the Freedom of Information Act and is therefore withheld. An explanation of the engagement of the exemption and the public interest tests are set out at Doc 1 annex 2.

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,

Annex 1

Regarding the request to see the Cabinet Sub-Committee on European Transition titled Update on Welsh Ports from the meeting held on 13 March 2019, please find links to information in the public domain:

- <https://gov.wales/holyhead-port-and-no-deal-brexite-frequently-asked-questions>
- <https://gov.wales/written-statement-no-deal-brexite-contingency-plans-holyhead>

Annex 2

This Annex sets out the reasons for the engagement of sections 28(1), 29(1)(a) and 35(1)(a) of the Freedom of Information Act and our subsequent consideration of the Public Interest Test.

Section number and exemption name:

S28(1) – Relations within the United Kingdom

The Brexit outcome will affect all parts of the United Kingdom, including Wales. The Welsh Government is involved in regular discussions with the UK Government and the Devolved Governments, and frequently shares sensitive and restricted information to help inform both governments' deliberations, including significant non-devolved matters such as security. The outcomes of those discussions have been included in some of the papers.

The Welsh Government is heavily involved in discussions with their Whitehall counterparts to try to influence the UK Government position on matters that affect the people of Wales. Given the highly sensitive nature of those discussions, and the differing views of the governments in Westminster and Wales, the disclosure of any of this information would have a serious impact on our ability to be involved in trying to set the direction etc. for the UK. There is also a very real danger that disclosed information could be seized upon by both proponents of Brexit and those seeking to keep close ties with the EU with them using whatever snippets of information they can to try to drive division and discord between the Welsh Government and the UK Government.

To release the information requested would damage relationships between the Welsh Government and the UK Government and Devolved Governments at a time we need to work closely and collaboratively to deliver the best possible outcomes for citizens as we continue to face the prospect of leaving the EU.

Public interest arguments in favour of disclosure

The Welsh Government recognises that there is strong public interest in Brexit, and in the implications of any scenario for devolution and the potential impact across sectors. Whilst disclosure will not provide clarity on the final outcome, it may provide some insight on some of these matters, helping the public discern wild speculation and scare mongering from the known facts and considered opinions.

Public interest arguments in favour of withholding

Disclosure of information relating to what is a very fluid and constantly changing issue is more likely to add to the confusion rather than provide any real clarity on this matter. The wider public interest is better served by allowing the governments to discuss the issue freely. It is in the public interest that such discussions can take place in a 'safe space' without risk of their content being disclosed, so that administrations can engage fully and openly with each other to deliver better policy outcomes.

On balance, we are of the opinion that the public interest in maintaining the current working relationship with Ministers and officials in Whitehall outweighs any limited benefit in disclosing the information to the World at this point in time.

S29(1)(a) – The Economy

Releasing the information contained within these papers at this time would be likely to affect the Welsh economy. If the Welsh Government were to release information whilst discussions with the UK Government are ongoing on the future of Wales' funding and potential interventions in the various scenarios we are facing, this could be misconstrued by the public and businesses, and likely be damaging to Wales' economy.

Public interest arguments in favour of release

It is recognised there is public interest in openness and transparency within Government, particularly in terms of efficiency, effectiveness and in holding spending Departments to account. There is still however great uncertainty and speculation as to what the UK position is, on what the final outcomes will be and how Brexit, in any of its forms, will affect the ordinary person.

Public interest arguments in favour of withholding

The information captured by the request would likely put at risk the economic interests of Wales and the public purse. Whilst it is recognised that, as a general rule, the sensitivity of information is likely to change over time, as Brexit negotiations are ongoing, the Welsh Government is therefore of the view that the public interest is best served by withholding the information in the papers in order to protect the wider economic interests of Wales and ensuring that discussions with third parties are successfully completed without prejudicing Welsh Government's negotiating position.

S35(1)(a) – Formulation of government policy

Welsh Government policy is continually under review as the UK Government position on departure from the EU develops and evolves. Proposals for financial interventions that may have been discounted previously may become more favourable, whilst current approaches may need to be reconsidered as and when any Brexit agreement is reached. To that extent, all internal discussions on both our current and future policies, as they may be affected by Brexit, and consideration of financial support for programmes and projects led by Welsh Government fall within the definition of policy formulation.

Public interest arguments in favour of disclosure:

As highlighted, Brexit will have a significant impact on the people and businesses of Wales. There is a very strong public interest in being aware of any changes to current policies and any new policies that may arise from Brexit and how these will affect the people and prosperity of Wales.

Public interest arguments in favour of withholding:

The wider public interest is in presenting to the people of Wales considered plans and proposals on the development of existing and future polices as a result of Brexit. It is important, therefore, that such plans and proposals are worked through and are in, at least, a near final state before being made public. Disclosure of early thinking etc. will not provide the clarity the public and businesses require, but rather will add to the confusion and uncertainty that currently exists.

On balance, we believe that the public interest favours withholding information until such time as we know how policies will evolve.