



Llywodraeth Cymru  
Welsh Government

14 February 2020

Dear

**ATISN 13705 – Shared Ownership – Wales scheme – Monitoring Returns**

Thank you for your request which I received on 19 January 2020. In respect of the Shared Ownership – Wales Scheme, you asked for:

A copy of the six-monthly monitoring returns provided by Ateb Group to Welsh Government, in accordance with Para. 9 [a] [ii] of Grant Award Letter dated 8 January 2019.

A copy of the information I have decided to release is enclosed. For your information, we are currently requesting these returns on an annual basis and this return records lettings and sales made between the launch of the Rent to Own-Wales and Shared Ownership-Wales schemes in February 2018 and the end of March 2019.

I have decided that some of the information is exempt from disclosure under section 40(2) of the Freedom of Information Act and is therefore withheld. The reasons for applying this exemption 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: [Freedom.ofinformation@gov.wales](mailto:Freedom.ofinformation@gov.wales)

Llywodraeth Cymru  
Cathays Parc  
Caerdydd  
CF10 3NQ

Welsh Government  
Cathays Park  
Cardiff  
CF10 3NQ



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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
Pg.2 - Shared Ownership-Wales-Sales: Household Income Main Applicant – Age Range Family Composition Previous Housing Situation First Tranche Sale - Deposit Amount (%), House Price when sold (£), Percentage share sold (%), Lender.	Section 40(2) of the Freedom of Information Act – Personal information about others
Pg.3 - Rent to Own-Wales Initial let: Household Income Main Applicant – Age Range Family Composition Previous Housing Situation Initial monthly rent (£) Application Status	Section 40(2) of the Freedom of Information Act – Personal information about others

‘Personal data’ is defined in sections 3(2) and (3) of the Data Protection Act 1998 (‘the DPA 2018’) and means any information relating to an identified or identifiable living individual. An identifiable living individual is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of the individual.

We have concluded that, in this instance, some of the information requested contains third party personal data.

Under Section 40(2) of the FOIA, personal data is exempt from release if disclosure would breach one of the data protection principles set out in Article 5 of the GDPR.

We consider the principle being most relevant in this instance as being the first. This states that personal data must be:

*“processed lawfully, fairly and in a transparent manner in relation to the data subject”*

The lawful basis that is most relevant in relation to a request for information under the FOIA is Article 6(1)(f). This states:

*“processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child”.*

In considering the application of Article 6(1)(f) in the context of a request for information under FOIA it is necessary to consider the following three-part test:-

- **The Legitimate interest test:** Whether a legitimate interest is being pursued in the request for information;
- **The Necessity test:** Whether disclosure of the information/confirmation or denial that it is held is necessary to meet the legitimate interest in question;
- **The Balancing test:** Whether the above interests override the interests, fundamental rights and freedoms of the data subject.

Our consideration of these tests is set out below:

### **1. Legitimate interests**

We have identified a legitimate interest in the request for the monitoring return, in terms of the accountability and transparency of the Rent to Own-Wales and Shared Ownership-Wales programme and an interest in how Registered Social Landlords (RSLs) are utilising the funding. However, we have not identified a legitimate interest as regards the disclosure of personal data contained in the returns.

### **2. Is disclosure necessary?**

We have decided that disclosure of the information requested which is personal data is not necessary to meet the legitimate interest in question. The information which has been disclosed provides the requestor with information about the quantity and type of homes funded under the Rent to Own-Wales and Shared Ownership-Wales programmes. Including information that identifies individuals would not add to the understanding of the returns or the understanding of how the RSL is using public funds. It is deemed that the information which has been disclosed is sufficient to meet the legitimate interest in terms of the accountability and transparency of Welsh Government and an RSL in receipt of Welsh Government funding.

### **3. The balance between legitimate interests and the data subject's interests or fundamental rights and freedoms**

As we have not been able to identify a legitimate interest in disclosure of the personal data and that disclosure of that personal data is not necessary to the understanding of the information being released, the fundamental rights of the data subjects favours the withholding of the information.

As release of the information would not be legitimate under Article 6(1)(f), and as no other condition of Article 6 is deemed to apply, release of the information would not be lawful within the meaning of the first data protection principle. It has therefore been withheld under section 40 of the Freedom of Information Act. Section 40 is an absolute exemption and not subject to the public interest test