



Llywodraeth Cymru
Welsh Government

21 May 2020

Dear,

ATISN 13963 – Draft Water Resources (Control of Agricultural Pollution) (Wales) Regulations 2020.

Thank you for your request which I received on 6 May. You asked for:

- copies of all correspondence between the Welsh Government and ADAS relating to the production of Regulatory Impact Assessments (RIAs) of the Welsh Government's draft Water Resources (Control of Agricultural Pollution)(Wales) Regulations 2020.

I have decided that the information is exempt from disclosure under section 12(4)(d) of the Environmental Information Regulations and is therefore withheld. The reasons for applying these exceptions are set out in full at Annex 1 of 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

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,

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.

Rhodfa Padarn
Llanbadarn Fawr
Aberystwyth
Ceredigion
SY23 3UR

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
Copies of all correspondence between the Welsh Government and ADAS relating to the production of Regulatory Impact Assessments (RIAs) of the Welsh Government's draft Water Resources (Control of Agricultural Pollution)(Wales) Regulations 2020	Section 12(4)(d) : Material in the course of completion

This Annex sets out the reasons for the engagement of regulation 12(4)(d) of the Environmental Information Regulations and our subsequent consideration of the Public Interest Test.

Engagement of regulation 12(4)(d) (Material in the course of completion) of the Environmental Information Regulations

The Welsh Government believes the information captured by this request constitutes an incomplete draft of the Regulatory Impact Assessments, which has been shared with Welsh Government by our contractors, ADAS. The information shared is incomplete and Welsh Government has requested additional information from ADAS which has not yet been received. Release of the information held at this time would place incomplete and inaccurate information into the public domain. This could harm public confidence in the accurateness and completeness of government data, and could lead to misunderstanding of and damage of the public trust in the proposed regulations.

Public Interest Test

In order to satisfy the public interest test in relation to the exemption(s), it is necessary to conclude that the public interest arguments in favour of withholding the information are sufficient to *outweigh* the public interest arguments in favour of release.

Public interest arguments in favour of disclosure

The Regulatory Impact Assessment is a key piece of work required ahead of any regulations, and it is important that the information contained in this impact assessment is shared in the public domain alongside the introduction of regulations, allowing public scrutiny and understanding of the issues at hand. There should be no doubt the information should be published, and Welsh Government intends to do so at the same time as the introduction of regulations.

Public interest arguments in favour of withholding

Against this, it is important that when the Welsh Government publishes information, it should be full, complete and accurate. Although there is a clear public interest in publication of the RIA, it is equally important the information published should first be completed. The damage to the public trust in the accuracy and completeness of Welsh Government information, and the resulting damage to public trust and possible confusion around the proposed regulations is a strong countervailing argument to release of the information at this time.

Balance of public interest test

On balance I believe the public interest favours withholding the draft RIA at this time. It is clear the balance of public interest only applies to withholding the information at this time, and it will not apply when the information is complete. Welsh Government intends to proactively publish the RIA once it has been completed.