



Llywodraeth Cymru
Welsh Government

Our Ref: ATISN 15732

23 December 2021

Dear

Request for Information – ATISN 15732

I wrote to you on 6 December regarding your request for information.

Information Requested

1. The dates and times of any visits made by the Deputy Minister for Climate Change, Lee Waters MS, to Llanbedr, Gwynedd, between 1 August and 30 November 2021.
2. Details of all individuals and all organisations whom the Deputy Minister met during any such visits.
3. Records of all meetings and discussions which were held with individuals and organisations during any such visits made by the Deputy Minister to Llanbedr.
4. Following any visit made by the Deputy Minister to Llanbedr, all correspondence, emails and minutes of meetings and discussions in which the Deputy Minister participated concerning the Llanbedr bypass.

Our Response

I confirm the Welsh Government holds some information caught by your request. The Deputy Minister visited Llanbedr on one occasion during the dates specified. A visit was undertaken at 12.00 noon on 6 September 2021 to meet representatives of the Wildlife Trust to discuss development of a National Rainforest Strategy. The names of the individuals who attended the visit are being withheld under Regulation 13 of the Environmental Information Regulations, personal data. I can confirm, however, that those who attended were representatives of the Wildlife Trust and a Welsh



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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.

Government official. The information you have requested under your third question is being withheld under Regulation 12(4)(e) of the Environmental Information Regulations, internal communications. Full reasoning for applying these exceptions are given at Annex A.

No information is held by your last question as there have been no meetings regarding the Llanbedr bypass.

Next Steps

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

Regulation 12(4)(e) – internal communications

Regulation 12(4)(e) states that a public authority may refuse to disclose information to the extent that—

(e) the request involves the disclosure of internal communications.

Guidance from the Information Commissioner has confirmed that this exception is drafted broadly and is a class based exception which covers all internal communications, not just those that are sensitive or actually reflect internal thinking. The concept of ‘internal communications’ covers a wide range of information and includes any information intended to be communicated to others or saved in a file where it may be consulted by others. I can confirm that the information held by the Welsh Government which is captured by your request amounts to internal communications.

Regulation 12(4)(e) is a qualified (public interest tested) exception. Even if the exception is engaged, public authorities must go on to apply the public interest test set out in regulation 12(1)(b). A public authority can only withhold the information if the public interest in maintaining the exception outweighs the public interest in disclosing the information. Because of this, consideration has been given to the effects of disclosure to the world at large rather than any personal interest you may have in being provided with the information.

Public Interest Test

The Welsh Government acknowledges the presumption in favour of disclosure under Regulation 12(2) and we acknowledge there is a public interest in openness and transparency within Government, particularly in terms of ensuring transparent and accountable government by disclosing how the Welsh Government utilises its resources, spends public money and that both are invested wisely on behalf of the people of Wales.

The internal notes regarding the meeting you have requested consists of advice by officials to the Deputy Minister for Climate Change regarding an informal meeting to discuss opportunities to restore, protect, expand and connect our rainforests. There is also a note of that meeting. The advice discusses the proposals and structures for the project and how it relates to the National Forest for Wales all of which are yet to be agreed by Ministers. The ideas are wide ranging, complex and sensitive in nature relating to the National Forest proposals.

It is important for good governance that officials are able to fully engage with each other and with Ministers and exchange and provide advice away from the public gaze and that there should be no disincentive in doing so. If officials believed their advice or freely exchanged views would be made public, it is likely to inhibit the future provision of advice and exchange of views, leading to less rigorous and in-depth exploration of options and impairment of the quality of decision making. Unless officials are able to provide options and advice surrounding proposed projects, the effectiveness of the

project and the process of reaching decisions would be undermined. This would not be in the public interest.

The Welsh Government believes the public interest in this project is satisfied by the amount of information already published and the National Forest consultation exercise planned for 2022, the outcomes of which will be published.

In this regard, the Welsh Government believes the balance of public interest to withhold the information outweighs the public interest to release it for the reasons outlined above. The information has therefore been withheld under Regulation 12(4)(e) of the EIRs.

Regulation 13 - Personal Data

Regulation 13 of the EIRs sets out an exception from the right to know if the information requested is personal information protected by the General Data Protection Regulation (GDPR) and Data Protection Act 2018 (DPA). Personal data is defined in the GDPR as:

“any information relating to an identified or identifiable natural person (‘data subject’); an identifiable natural person 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 that natural person”

We have concluded that, in this instance, the information in relation to the names of those who met the Deputy Minister amounts to personal data. Under Regulation 13 of the EIRs, 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”

Guidance from the Information Commissioner’s Office (Personal information (section 40 and regulation 13) v 1.3) states (at p11):

- The starting point is to consider whether it would be fair to the data subject to disclose their personal data. The key considerations in assessing this are set out in the section on Fairness below.
- If disclosure would not be fair, then the information is exempt from disclosure.

This approach was endorsed by the Court of Appeal in the case of *Deborah Clark v the Information Commissioner and East Hertfordshire District Council* where it was held:

“The first data protection principle entails a consideration of whether it would be fair to disclose the personal data in all the circumstances. The Commissioner determined that it would not be fair to disclose the requested information and thus the first data protection principle would be breached. There was no need in the present case

therefore to consider whether any other Schedule 2 condition or conditions could be met because even if such conditions could be established, it would still not be possible to disclose the personal data without breaching the DPA” (paragraph 63).

The personal data of those who met the Deputy Minister would not expect their names to be released in this context. We believe they would have no expectation this information would be made public. They were representing their respective bodies rather than themselves as individuals. Thus, we believe release of this information would be unfair and so breach the first data protection principle.

For that reason, the information is being withheld under Regulation 13 of the EIRs. This is an absolute exemption and not subject to the public interest test.