

August 2024

Dear

ATISN 20796

Information requested

Thank you for your request which I received on 24 July 2024. You asked for:

- A list of dates of Ogi Broadband's current plan for rollout to home customers in Rhondda Cynon Taf (for each village/town). This includes information for the past four years and for broadband rollouts funded by either private or public funding.

Our response

I have decided that information described in the enclosed list is exempt from disclosure under section(s) 12, 41 and 43 of the Freedom of Information Act and is therefore withheld. The reasons for applying these exemptions are set out in full at Annex A to this letter.

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

Annex A

Application of exemptions

The Freedom of information Act provide a right for anyone to ask a public authority to make requested information available to the wider public. As the release of requested information is to the world, not just the requester, public authorities need to consider the effects of making the information freely available to everybody. Any personal interest the requester has for accessing the information cannot override those wider considerations.

I have decided to withhold the following information:

1. Information received by the Welsh Government from Ogi as part of an exercise known as an Open Market Review process that outlines the broadband status of premises within Rhondda Cynon Taf.
2. Information received by the Welsh Government from Ogi as part of an exercise known as a Public Review process that outlines the broadband status of premises within Rhondda Cynon Taf.
3. Information provided by Ogi that outlines timings for deployment to towns within Rhondda Cynon Taf as part of the Open Market Review process.
4. Information provided by Ogi that outlines timings for deployment to towns within Rhondda Cynon Taf as part of the Public Review process.
5. Information received from the UK Government about the broadband status of premises within Rhondda Cynon Taf collected as part of a UK wide National Rolling Open Market Review process.

Information set out in bullets 1,2 and 5 above is being withheld under section 12 of the Freedom of Information Act: Cost of compliance exceeds the appropriate limit.

Information set out in bullets 3 and 4 above is being withheld under sections 41 and 43 of the Freedom of Information Act: Information provided in confidence and Commercial interests respectively.

This Annex sets out the reasons for the engagement of section(s) 12, 41 and 43 of the Freedom of Information Act and our subsequent consideration of the Public Interest Test where required.

Engagement of section 12 (Cost of compliance exceeds the appropriate limit) of the Freedom of Information Act.

From my preliminary assessment I estimate that it will cost more than the appropriate limit set out in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 to answer your request. The appropriate limit specified for central government is £600. This represents the estimated cost of it taking over 24 hours of time to determine whether we hold the information and to thereafter locate, retrieve and extract it.

In order to provide you with the information that you have requested would require the manual assessment of information about individual premises across five spreadsheets each containing information about tens of thousands of premises. The time taken to undertake the assessment would exceed the appropriate limit for responding to requests. Assessing all 543,000 entries across the six spreadsheets

would take circa 176 hours. This is based on the actual time taken to assess 100 entries of 1.95 minutes (1 minute 53 seconds). Consequently, I have decided not to provide you with the information you have requested.

You may wish to refine your request by narrowing its scope by being more specific about what information you particularly wish to obtain, including any dates or period of time relevant to the information required. If you do refine your request in this way, this will be treated as a new request.

Engagement of section 41 (Information provided in confidence) of the Freedom of Information Act. The Welsh Government believes that Information provided by Ogi that outlines timings for deployment to towns within Rhondda Cynon Taf as part of the Open Market Review process and the Public Review process should be exempt from disclosure.

The information provided by Ogi to the Welsh Government through the Open Market Review and Public Review processes was provided on the basis of confidentiality. Not only would disclosure breach this confidentiality it would also discourage Ogi and other broadband providers from providing information in future Open Market Review and Public Review processes. These processes are vital in determining which premises remain without access to fast broadband so that publicly funded interventions can be developed to tackle unserved premises.

The s41 exemption is an absolute exemption. That is, it is not subject to the public interest test.

Engagement of section 43 (Commercial Interests) of the Freedom of Information Act. The Welsh Government believes that Information provided by Ogi that outlines timings for deployment to towns within Rhondda Cynon Taf as part of the Open Market Review process and the Public Review process should be exempt from disclosure. Disclosure of the information would harm Ogi's ability to participate competitively in the broadband market. As the information would be available not only to you but also published on our website it would also be available to Ogi's competitors. The information could allow competitors to gain a commercial advantage by altering their own build plans or prevent Ogi from gaining such an advantage.

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

There is a public interest in favour of disclosure. Disclosure would allow residents in Rhondda Cynon Taf to understand whether and when they may have access to fast and reliable broadband.

Public interest arguments in favour of withholding

There is a public interest in favour of withholding the information. The broadband market is very competitive with a range of network providers competing to provide gigabit capable broadband across Wales. Information about the roll-out of broadband at a postcode level but without the provider identified is already available on the Welsh Government website which provides information as to whether premises in the postcode are in plans to receive fast broadband. Although this information does not disclose the provider it is appropriate to meet the public interest.

Competition is vital in ensuring that broadband is deployed as quickly and efficiently as possible and that customers are able to benefit from the competition in terms of choice and price. Distorting this competition by disclosing the build plans of any one provider could mean that these benefits may not be realised.

Balance of public interest test

There is obvious public interest in knowing when a home is likely to be able to access fast and reliable broadband. However, given the competitiveness of the broadband market, the likely impact on competitiveness of disclosure and the information about broadband roll-out already in the public domain the balance of interest is in withholding the information.