

17th October 2024

Dear

Complaint in respect of ATISN 20877

I am writing to address the recent complaint you raised regarding your Freedom of Information (FOI) request dated 20th September 2024 and the subsequent communications you made in connection with the Transitional Accommodation Capital Programme (TACP) funding.

Upon reviewing the correspondence and your concerns, I would like to sincerely apologise for any frustration or confusion caused during this process.

Your original FOI request was, in retrospect, somewhat broad, and I acknowledge that we should have reached out for further clarification to ensure we were addressing the specific information you were seeking. Instead, we interpreted your request at face value and provided information that may not have fully met your expectations. I appreciate that this has led to dissatisfaction, and for that, I apologise.

Additionally, I note a separate email was sent to the TACP mailbox on the 23rd August 2024 requesting a copy of the grant offer letter and any other conditions. This email was not included as part of the FOI request, and due to the high volume of work we are currently managing, the FOI request took precedence, which regrettably delayed our response to your mailbox query. Again, I apologise for this delay and for any inconvenience this may have caused.

To summarise and clarify the requests made:

1. **Initial Correspondence** – You initially requested the "rules for what purposes Local Authorities can use TACP funding" for. In response, we outlined the general standards governing the use of TACP funds, added below for your convenience:

TACP Standards shared via email on 22nd August 2024:

TACP is an All-Wales scheme that local authorities and registered social landlords are eligible to apply to. TACP provides this grant funding to bring forward good quality longer term accommodation at pace to support everyone in housing need (those in temporary accommodation). Local authorities and registered social landlords in Wales are eligible to apply for this grant funding for the purpose of developing or purchasing affordable housing at pace in order to support individuals/families and help them move on from temporary accommodation.

TACP supports the following different types of projects to help reduce housing pressures:

- Bring voids (empty properties owned by local authorities and registered social landlords) back into use.
- Acquisition of existing dwellings (homes) to bring them into the social housing sector including the purchase of tenanted properties where this will prevent homelessness.
- Acquisition of new build properties (for example straight from a developer) to bring more homes into the social housing sector.
- Acquisition of larger houses (existing dwelling or new builds) specifically to meet the needs of large households currently in temporary accommodation including families being supported through resettlement schemes.
- Acquisition and/or development of other properties (e.g. offices, hotels, care homes, student accommodation) to provide more longer-term accommodation.
- Demolition and rebuild of properties to deliver homes that meet local housing needs to reduce numbers in temporary accommodation and prevent homelessness.
- Use of modular accommodation on land that is being used on a meanwhile basis (i.e. earmarked for future development).
- Purchase of Housing of Multiple Occupancy (HMOs) to convert into family accommodation or self-contained flats at point of purchase or purchasing of HMOs for shared housing use which cannot be converted (either at point of purchase or in the future).
- Temporary supported accommodation to deliver better quality temporary accommodation and help reduce housing pressures.

All projects applying for funding must meet the TACP minimum standards for design and safety.

This information can be found on our website: [Transitional Accommodation Capital Funding Programme \[HTML\] | GOV.WALES](#)

2. **Mailbox Query** – Your separate email dated 23rd August 2024 requested a copy of the grant offer letter and related conditions. Please find attached a copy of the Grant Award Letter for the conversion of St Isan, with personal details redacted under s40(2) ‘personal data’ exemption provided by the FoI Act. Full details of our application of this exemption is set out in Annex A. . In addition, I have also attached a copy of the Welsh Government’s Existing Dwelling (ED) and Off the Shelf (OTS) Property Guidance for Registered Social Landlords and Local Authorities, which is referred to in the letter.
3. **FOI Query Regarding the Conversion of St Isan** – In relation to your FOI request concerning the conversion of St Isan, I would like to reiterate that the detailed information regarding this scheme is held by the Local Authority. However, we hope that the attached documentation, including the specific terms and conditions of the grant award, provides clarity on the information you were seeking. I can confirm that Welsh Government, through the TACP Programme, awarded Cardiff Council £884,000 in the financial year 2023-2024 to help develop the St Isan Scheme. Cardiff Council also plan on claiming construction costs for the St Isan development this financial year however the accurate costs are not yet known.

We'd be happy to respond to any further queries you may have via our TACP Mailbox (transitionalcapitalprogramme@gov.wales). Please be assured that we will aim to respond as soon as possible.

I have considered your complaint in accordance with the procedure outlined in the [Welsh Government's Practical Guide for Making Requests for Information](#) which is available by post on request or via the internet.

If you remain dissatisfied with this response you 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.

Yours sincerely,

Annex A

Freedom of Information Act 2000: Section 40(2)

Section 40(2) together with the conditions in section 40(3)(a)(i) or 40(3)(b) provides an absolute exemption if disclosure of the personal data would breach any of the data protection principles.

'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, 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

The legitimate interest expressed by the requestor is to understand if funding has been provided to convert St Isan's nursing home into temporary accommodation,

and if so, to understand the conditions of the grant. The requestor seeks to understand the financial details of the project, how public money was used, or how funding decisions were made.

2. Is disclosure necessary?

Disclosing personal data captured in the information to be release is not necessary to meet the legitimate interest above. The information being sought relates to financial figures, not personal information. The decision to fund the project can be fully understood without revealing the identity of any individual involved in the process. As such, redacting personal information still allows for the transparency requested in the FOI without compromising the privacy of third parties.

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

As disclosure of the requested information is not necessary to meet the legitimate interest in the requested information, there is no need to balance the fundamental rights and freedoms of the third parties, and the information is withheld.