



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref ATISN 11113

19 April 2017

Dear ,

Request for Information – ATISN 11113

I wrote to you on 27 March regarding your complaint for this request. Please accept my apologies for the delay in providing you with this response.

I have conducted an internal review 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.

I note in your original request you asked for information regarding the statement made by the First Minister during First Minister's Questions on 14 February, that of the business the Welsh Government has supported, only 2.4 per cent have failed to deliver on their agreed objectives. You asked for the names of the companies/ organisations which make up this 2.4 per cent and the amount awarded to each project.

In our response of 15 March, you were provided with information relating to those businesses within the 2.4 per cent who are no longer trading as they have been subject to insolvency proceedings. It was further explained in our response that the remaining information was exempt from disclosure under section 43(2), Commercial Interests, of the Freedom of Information Act 2000 (FOIA). You were provided with full reasoning for applying this exemption.

I have noted your e-mail of complaint in which you state that the public interest in releasing the information far outweighs the public interest in suppressing it.



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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.

I have reviewed the response you received and considered the comments you have made in your complaint.

Section 43(2) states that information will be exempt if its disclosure would, or would be likely to, prejudice the commercial interest of any person. This exemption is qualified. Even if information falls within Section 43, public authorities must then apply the public interest test. The information can only be withheld if the public interest in maintaining the exemption outweighs the public interest in disclosure.

I can confirm that on receipt of your request, Officials consulted with the companies who form part of the 2.4 percent but remain active. Those businesses firmly expressed their concerns over the release of the information.

In your complaint, you have stated the public interest in releasing the information far outweighs the public interest in suppressing it.

I have taken into account the views expressed by the businesses as outlined above, and the public interest considerations which were applied to withhold the information you asked for.

Public interest arguments for releasing the information

The Welsh Government recognises there is a public interest in an open and transparent Government and that the public is interested in how Government reaches its decisions and spends the public purse. It also recognises that the public has an interest in what businesses it supports, why it supports those businesses, the purpose for which that support is given and the benefit the public is likely to receive as a result.

Public interest arguments against releasing the information

When a project fails for whatever reason, it is not something the company wishes to publicise as it highlights failure of the company concerned and any reputational damage which may ensue. Whilst release of the information would be likely to be of interest to each of the company's competitors, the Welsh Government does not believe there is any wider public interest in the perceived commercial failure of the affected companies or in placing additional hardship on businesses which are trying to rebuild themselves from a perceived failure. The Welsh Government believes the public interest would be better served if the affected companies received a certain amount of protection from the negative publicity that would likely be raised from the release of this information. The consequential reputational damage would be likely to cause the businesses to lose clients and a loss of revenue which in turn would be likely to result in the loss of jobs. This would not be in the public interest.

For the reasons outlined above, the Welsh Government believes the public interest in withholding the information therefore outweighs the interest in releasing the information.

Accordingly, and for the reasons outlined above, I do not uphold your complaint.

Whilst I have concluded that information about every individual company cannot be released into the public domain for the reasons outlined above, I consider that the

weight of public interest would be in favour of placing into the public domain some further detail about the 2.4 per cent of companies which have failed to deliver on their agreed objectives as I consider that no harm would result if that information did not identify individual companies. I can therefore advise that this 2.4 per cent consists of the companies whose identities were released in our response of 15th March plus 10 other businesses which continue trading and to whom the total amount awarded for their projects is £4,118,833.

I trust the above provides a clearer explanation of our position on this matter.

If you remain dissatisfied with this response you also have the right to complain to the Information Commissioner at:

Information Commissioner's Office
Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF

Tel: 01625 545 745
Fax: 01625 524 510
Email: casework@ico.gsi.gov.uk

Also, if you think that there has been maladministration in dealing with your request, you have the option to make a complaint to the Public Services Ombudsman for Wales who can be contacted at:

Public Services Ombudsman for Wales
1 Ffordd yr Hen Gae, Pencoed, Bridgend, CF35 5LJ

Telephone: 0845 6010987 (local rate)
Email: ask@ombudsman-wales.org.uk

Yours sincerely,

Mick McGuire
Director – Sectors and Business