



Ein cyf/Our ref ATISN 11899

9 February 2018

Dear ,

### Request for Information – ATISN 11899

I wrote to you on 18 January regarding your request for information. You asked for:

1. The layout of the roundabout prior to the recent work undertaken by the Welsh Government, Cardiff Council, Dawnus Construction and/ or any other third party contractor between 10 October 2017 and 8 December 2017 ("the Works").
2. The layout of the roundabout following the Works.
3. The reason for the Works and for adjusting the layout of the roundabout, in particular the road markings from the roundabout onto the New Road.
4. The details of any discussions held between the Welsh Government, Cardiff Council and/or any third party contractor in relation to the Works or the layout of the Roundabout.
5. All Road Safety Audits carried out in respect of the roundabout or, at the very least, the full details of the recommendations given in the Road Safety Audit(s). I am aware that a Stage 3 Road Safety Audit was undertaken in response to reports of collisions at the roundabout.
6. The number and details (anonymised) of complaints in relation to the layout of the roundabout prior to the Works.
7. The number of road traffic collisions to have occurred on the roundabout between 15 June 2017 and 10 October 2017 that have been reported to the Welsh Government.
8. Whether the Welsh Government has any form of statutory responsibility in relation to the roundabout.



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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 can confirm we hold information caught by your request. For your first question, the final construction issue drawing for the carriageway markings and road signs at Queens Gate Roundabout is appended at Annex A.

The layout following "The Works" is appended at Annex B. Please be advised that the note column provides a timeline for drawing issue.

The reason for the changes in design was to better enforce the new road layout. Following review of the RSA reports it was considered that the reported incidents were down to driver behaviours in adjusting to the changed highway layout.

The details of any discussions held between the Welsh Government, Cardiff City Council (CCC) and/or any third party contractor in relation to the Works or the layout of the Roundabout are set out below:

The key items on the timeline were:

- i. On 18 July 2017 WG, Contractor and CCC stated that another interim Stage 3 Road Safety Audit (RSA3) was to be undertaken in response to the reports of collisions at the junction.
- ii. On 24 July 2017 CCC staff were in attendance during the interim RSA3 and subsequently made comments on the draft report before it was issued to the Client and Designer.
- iii. On 21 August 2017 CCC sent additional comments to the Welsh Government client in relation to the interim RSA2.
- iv. On 5 September 2017 there was a meeting between the Welsh Government, the Contractors and Cardiff Council where the Interim RSA3 for the whole scheme and the additional Works were discussed.
- v. CCC will have had various contacts regarding the programming of the works, the traffic management and the implementation of the Works with the Contractor.

These discussions were to consider recommendations arising from the Road Safety Audit and identify further interventions or changes that could be made to influence driver behaviour on the roundabout.

For question five, I can confirm that all Road Safety Audits were carried out in respect of the Roundabout or, at the very least, the full details of the recommendations given in the Road Safety Audit(s). A Stage 3 Road Safety Audit was undertaken in response to reports of collisions at the Roundabout.

A Road Safety Audit stage 1 was undertaken on the final preliminary design with an audit report issued. I am releasing to you the Road Safety Audit Report, appended at Annex C, dated June 2016. The Road Safety Audit Report with designer comments is also appended at Annex C.

A Road Safety Audit Stage 2 was undertaken on the detail design with an audit report issued. The designer compiled a response to the audit report. The audit report together with designers comments were reviewed with the Employers Agent, Welsh Government and Cardiff City Council and changes were made to the design to align with the recommendations.

Road Safety Audit Report stage 2 Junctions is appended at Annex D. The Road Safety Audit Report Stage 2 Junctions with designers' comments is also appended at Annex D.

An interim RSA 3 was undertaken in July 2017. Road Safety Audit stage 3 Interim QGR is appended at Annex E dated July 2017.

Cardiff City Council received complaints from members of the public following the opening of the new road. On 24 July 2017 a further Road Safety Audit was instructed and undertaken. The following Road Safety Audit Interim stage 3 report with designers' comments is appended at Annex F.

For number six, I can confirm that Cardiff City Council received two formal complaints and we received communications from two members of the public. These are provided at Annex G.

In response to number seven, between 15 June 2017 and 10 October 2017, Cardiff Council was informed of 6 collisions. Accidents were not reported to the Welsh Government. None of the collisions were indicated to be more than damage only.

For question eight, I can confirm that Welsh Ministers have entered an agreement with Cardiff City Council, as Highway Authority, to undertake the maintenance and improvement of the Works pursuant to section 5 of the Highways Act 1980 after they have been brought into use and to adopt the Works pursuant to Section 38 but not earlier than issue of the Final Certificate by the Council under this Agreement. The Final Certificate will be in June 2018.

Finally, I have concluded that some of the information within the documents appended at Annex C, D, E and F are withheld under Section 40, personal data of the Freedom of Information Act 2000. Full reasoning for applying this exemption is given at Annex H.

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 [FreedomOfInformationOfficer@wales.gsi.gov.uk](mailto:FreedomOfInformationOfficer@wales.gsi.gov.uk).

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

## Complaints

### Complaint received on 15 August 2017

"This morning I was involved in a traffic accident on the roundabout coming from the A232 into Cardiff bay. The new layout has previously caused me confusion and a near collision but this morning resulted in another driving going into the side of my car. The road markings suggest you should stay in the left hand lane leaving the A4232 towards the lights and then stay in the left lane towards Cardiff bay. This morning however when I did this the other vehicle came across the solid white line into my lane and crashed into the side of me. Whilst we were at the side of the road we witnessed at least another 3 near collisions for the same reason. I would suggest something is done asap to avoid a bad accident from happening. Please contact me to discuss and provide clarification on which lane I should be in."

### Complaint received on 1 August 2017

"Customer called to adv the road markings on the Queens gate roundabout are very dangerous and misleading. Customer adv that two of there company cars have been written off due to accidents on the roundabout, and the Customer has witness another 2 accidents. Cust adv that one of the marking that adv its going to Cardiff bay actually leads you back up the link road. Cust adv that people are constantly cutting lanes to go up the new link."

### Communication received on 26 July 2017

"I'm very worried about the lane markings on the new roundabout in Cardiff Bay on the A4232 after the tunnels. I work in Cardiff Bay and use the new roundabout regularly. There are now 2 lanes that go Right and Straight on at the roundabout from the tunnels. The LH lane of these two leads to the lane that goes into Cardiff Bay (i.e. Right at the roundabout), and anyone in the RH lane has to cross lanes at the last minute to avoid re-joining the A4232 in the same direction they've just come. This is leading to people using the LH lane to go all the way around the roundabout while some people are using the RH lane to go straight on. I dread driving around the roundabout when it's very busy because it is so dangerous.

*Have you or any other person you represent suffered as a result of these matters?*

"Not yet although the sound of horns from the roundabout is becoming commonplace."

*How can we put things right?*

"Maybe the lane markings should be altered so that people using the RH lane from the tunnels are naturally filtered either straight on or into the Cardiff Bay (docks) lane. The LH lane should not naturally lead to people going all the way around the roundabout."

### Communication received on 29 September 2017:

"Hello I have tried to contact you tonight to make you are aware of a dangerous road layout that needs to be rectified or someone is going to be seriously hurt. I told your agent that we had two near misses at the weekend and that there could been in a serious accident. I also informed them that we have witnessed other people in the same position. I have been on the phone tonight for three quarters of an hour trying to report this to you without any joy: only to be told that I'd have to call back tomorrow and put my comments in

writing. I just informed you that your new road layout is ambiguous and putting people's lives at risk. Should it be this difficult for me to report this?! Can you please take down the issue and pass it to the correct team to be looked into asap. There's a new roundabout in Cardiff Bay by Celestia. When coming from the tunnel direction and going straight across the roundabout, people are using the RIGHT hand lane in order to go into the right hand lane on the new fly over which goes over the dock. People going towards the bay however, from the tunnel direction, are supposed to use the LEFT HAND lane to turn right. What this means is that people are driving across each other's paths. I cannot stress to you how dangerous this is because people are cutting each other up at speed, both thinking they are in the correct lane for where they want to go according to the road markings. Please can someone contact my fiance as a matter of urgency to discuss this as he can explain the problem better than I. Thank you. I was told that I would need to call back during working hours and that I would need to put my comments in writing . I do not feel that I should have to take more time out of my day tomorrow to call again, or put my comments in writing in order to get help.

*Have you or any other person you represent suffered as a result of these matters?*

"They are likely to."

*How can we put things right?*

"Please call us."

## Section 40 – Personal Data

Section 40 of the Freedom of Information Act sets out an exemption from the right to know if the information requested is personal information protected by the Data Protection Act 1998 (DPA). Personal data is defined in Section 1(1) of the DPA as:

*“personal data” means data which relates to a living individual who can be identified from those data; or from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller”.*

I have concluded that, in this instance, the withheld information within the Departure Request amounts to third party personal data.

Under Section 40(2) of the FOI Act, personal data is exempt from release if disclosure would breach one of the data protection principles. I consider the principle being most relevant in this instance as being the first.

The first data protection principle states:

*Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless -*

*(a) at least one of the conditions in Schedule 2 is met, and (b) in the case of sensitive personal data, at least one of the conditions in Schedule 3 is also met.*

I consider that the withheld information in relation to names and signatures falls within the description of personal data as defined by the DPA and that its disclosure would breach the first data protection principle. The first data protection principle has two components:

1. Personal data shall be processed fairly and lawfully and
2. Personal data shall not be processed unless at least one of the conditions in DPA schedule 2 is met

Guidance from the Information Commissioner’s Office (Personal information (section 40 and regulation 13) v 1.4) states:

*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).*

Our analysis of the ICO’s key considerations in assessing ‘fairness’, as set out in the Guidance, are presented below.

The withheld information amounts to the personal data of individuals who would not expect their names and signatures to be released in this context.

The Welsh Government does not believe there is any legitimate interest in the public or the requestor having access to the withheld information, and we do not see any legitimate reason why the named individuals and their signatures as provided on the Road Safety Audit Plans need to be placed into the public domain. Because of that, it is believed release of this information would be unfair and so breach the first data protection principle. Despite withholding information of individuals’ details, it remains clear that each Road Safety Audit Report was written, checked and approved by three different individuals, which is the primary factor.

For that reason, I believe the information should be withheld under section 40(2) of the Freedom of Information Act. This is an absolute exemption and not subject to the public interest tests.