



9th February 2018

Dear ,

FOI Request - ATISN 11941

Thank you for your request which I received on 23rd January 2018. You asked for:

- Communications concerning Evan-Evans Group, Evan-Evans, Simon Buckley and West Coast Brands Ltd;
- Detailed information contained, in written notes, emails, electronic phone transferred emails, file note / meeting summary confirming correspondence or conversations, all copies of inter department emails, correspondence with the Cabinet Secretary, and Minister for Rural Affairs, Buster Grant and any other department to which correspondence has been referred between the following:
 - Lesley Griffiths, Minister and her staff
 - Secretary of State for Wales
 - Anne Reynish and her department, Ministers, David Morris, Keith Smyton, James Perry, and Mark Hughes
 - External Third party contractors, to include Linda Grant, Levercliff, menter a Business
 - Andrew Martin and all personnel in his departments, and communications from him to all other parties in relation to the subject and as set out in 1-3 above.

The Freedom of Information Act (FOIA) states in section 14(1) that a public authority is not obliged to comply with a request for information if the request is vexatious.

In considering your requests for information, the ICO guidance on vexatious requests allows me to take into account the history and context of requests.

I thus note that you also submitted an email of complaint to officials on 22 January 2018 and received a response on 2 February.

Additionally you have emailed a number of officials in recent months and always in relation to the same subject areas including:

- Criticism of Welsh Government food policy in relation to the brewing sector;
- The failure of your application to secure a place on the upcoming trade development visit (TDV) to Ireland;
- Your perception that certain officials have not treated you fairly;
- Criticism of the Food & Drink Wales Industry Board and its drinks lead (Buster Grant).

You are continuing to email officials and most recently in response to the Welsh Government's response to you following your complaint.

Officials have considered your history of communications in relation to these subject matters and in the context of this FOI request and have concluded that the FOI request is vexatious. The reasons why we have come to this conclusion are explained in the following paragraphs.

ICO guidance (<https://ico.org.uk/media/for-organisations/documents/1198/dealing-with-vexatious-requests.pdf>) states that the Freedom of Information Act 2000 (FOIA) gives the public a right of access to information held by public authorities.

- Under section 14(1) of the Act, public authorities do not have to comply with vexatious requests. There is no public interest test.
- Section 14(1) may be used in a variety of circumstances where a request, or its impact on a public authority, cannot be justified. Whilst public authorities should think carefully before refusing a request as vexatious they should not regard section 14(1) as something which is only to be applied in the most extreme of circumstances.

The Information Commissioners Office (ICO) has published indicators to determine when a request could be considered vexatious in the above guidance document. A request meeting the definition under these indicators in several categories will be clearly indicative that the request should be considered vexatious. I have thus considered these indicators against your request and the associated context.

I am of the view that your FOI request is vexatious because the following indicators are apparent:

Burden on the Authority

Your request is wide ranging, and does not describe what information that you hope to find. It is clear that you have formulated your request to capture as much information as possible from as many sources as possible, either as a general fishing expedition or else to cause deliberate annoyance. This request therefore places a large burden on the Welsh Government, and compliance with this request would require wide ranging searches and consultation with many third parties, without providing any clear benefit – as you do not specify the information you require. The burden on the authority would therefore be disproportionate.

Personal grudges

It is clear from your correspondence that you hold a grudge against at least one of our officials, refusing to meet with them, and indicating you will only speak with senior officials but with that official excluded. You further believe that this official must hold a grudge against you and is banning you from Welsh Government support despite their very clear email to you (12 January 2018 17.23) indicating further opportunities to access support, and assuring you that all applications will always be judged on merit. On the face of it, it seems clear you hold a personal grudge against this official.

Intransigence

Welsh Government has made a number of attempts to reach out to you to attempt to resolve the differences of opinion you hold, and to explain how you can continue to engage with us. Although we understand that differences of opinion are inevitable and to be expected, we note that you have repeatedly refused to engage with officials because you say, for instance, that you are “not prepared to attend a meeting where I would receive a wiggling ... about my criticism of government and the mistakes it was making.”

As you will neither meet with nor engage with us, and instead repeated the same complaints over and over, it is clear that your requests and complaints are characterised by intransigence.

Unreasonable persistence

You have received an explanation as to your unsuccessful Trade Development Visit application and have been advised how you should engage with Food Division which would be on the same basis as every other business yet you continue to question this point.

Unfounded accusations

You have made a number of accusations without foundation or evidence. You explain that you believe Welsh Government lacks knowledge of this policy area, makes silly mistakes, has acted without evidence and has treated you as “disruptive,” despite the fact we have made no such case against you. You have also made accusations against specific named officials and delivery partners. These accusations have been investigated and were not upheld.

Deliberate intention to cause annoyance

In your letter of complaint of 22 January, you request a meeting with the Ministers and/or senior civil servants, but not with those you appear to hold a grudge against, and warn in your letter that “We are considering Freedom of Information act information requests, on all the correspondence between departments.”

This was a clear statement of your intention to use the act as a means of coercion or with the intention to cause annoyance, and thus a clear indicator of the vexatious intent of the above request.

Scattergun approach

The request appears to be part of a completely random approach, lacks any clear focus, or seems to have been solely designed for the purpose of 'fishing' for information without any idea of what might be revealed.

Your request asks for detailed information contained, in written notes, emails, electronic phone transferred emails, file note / meeting summary confirming correspondence or conversations, all copies of inter department emails, correspondence with the Cabinet Secretary, and Minister for Rural Affairs, third parties, UK government, officials across all departments in Welsh Government and contractors, without providing any clear description of what information it is that you hope to find.

The volume of correspondence being requested would suggest that you do not have a clear grasp of exactly what information it is that you require, and this meets the definition of a fishing expedition.

I am mindful of the importance of the Welsh Government's commitment to openness and transparency, but the ICO is clear that section 14 is there to protect the resources of a public authority. Although we do not wish to discourage you from making requests for information where this will enhance openness and transparency, it is clear from the above that this request does meet the test for being vexatious, and as such we are refusing to comply with it under section 14 of the FOI Act and will not be processing it further.

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: 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. Normally, however, you should provide us with an opportunity to undertake an internal review before you complain to the Information Commissioner. The Information Commissioner can be contacted 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

However, please note that the Commissioner will not normally investigate a complaint until it has been through our own internal review process.

Yours sincerely,