



Llywodraeth Cymru
Welsh Government

18 December 2019

Dear ,

ATISN 13562 – Ireland-Wales programme – Funding Decision Report (Joint Secretariat Appraisal Report) and CB SEA information held

Thank you for your request, which we received on 7 November about providing a copy of the Ireland-Wales Programme Funding Decision Report in relation to CB SEA.

We have decided that the Funding Decision Report is exempt from disclosure under section 36 (2)(b)(ii) – free and frank exchange of views for the purpose of deliberation and Section 36(2)(c) - prejudice to the effective conduct of public affairs 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.

Thank you also for your request, which we received on 9 November about providing the following information:

- A copy of all emails from WEFO staff since 2016 that refer to the Cross Border Social Enterprise Accelerator operation
- A copy of all minutes from meetings that refer to the Cross Border Social Enterprise Accelerator operation
- A copy of all documents or notes from WEFO staff referring to the Cross Border Social Enterprise Accelerator operation

Following an assessment by officials, they 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.

To provide you with the information that you have requested would require a significant number of persons in several WEFO divisions and in the wider Welsh Government collating information from individual and departmental mailboxes, from the PPIMs management system and from the i-Share document management system; as well as extracting information from those individual documents which



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have information pertaining to other operations. Consequently, we 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.

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

Section 36 - Effective conduct of public affairs

Decisions relating to non-disclosure of this information have been taken with due consideration of the exemptions identified under Section 36 - Effective conduct of public affairs. These exemptions state that:

(2) *Information to which this section applies is exempt information if, in the reasonable opinion of a qualified person, disclosure of the information under this Act—*

(b) would, or would be likely to, inhibit—

(ii) the free and frank exchange of views for the purposes of deliberation

(c) would otherwise prejudice, or would be likely otherwise to prejudice, the effective conduct of public affairs.

Section 36 is a qualified (public interest tested) exemption. This means that in order to engage it, I must show that the public interest in withholding the information is greater than the public interest in releasing it. I have therefore given consideration to the effects of disclosure of the information to the world at large as the information is made available to anybody and everybody, not just the requestor.

I recognise the general public interest in openness and transparency and that releasing the information would help the public gain a better understanding of the decisions made by Public Bodies, however, this requirement has been met to some extent by the provision of detailed feedback on the justification for the decision by officials. I believe that the public interest arguments in favour of maintaining the exemptions outweigh the arguments in favour of disclosure, as addressed below.

Section 36 (2) (b) (ii) - the free and frank exchange of views for the purposes of deliberation

An Ireland Wales 2014 – 2020 Programme Funding Decision report (Joint Secretariat appraisal report) constitutes the technical appraisal of a project by the Programme's Joint Secretariat and is provided to members of the Programme Steering Committee (PSC) to inform the decision-making process. The PSC is responsible for considering the overall merits of a project and making a consensus decision on awarding funding.

The report is used to evidence the gateway process when assessing the three core criteria in Gateway 1 of Strategic Fit, Delivery and Financial & Compliance and for assessment against a further 6 key criteria – Cross Cutting Themes, Suitability of Investment, Indicators and Outcomes, Management of Operations, Value for Money and Long Term Sustainability at Gateway 2 (Approval).

The report provides an effective assessment and appraisal of a business case and requires officials to be able to provide a full, frank and honest exchange of views on the positive and negative components of a business plan against the funding criteria,

for the purpose of facilitating deliberation on where public funding should attain the ideal vehicle for its delivery. The document also includes narrative from Welsh Government Departments invited to provide full, frank and honest comment on the merits of the business plan (e.g. Policy, State Aid, etc) to further support deliberation.

To disclose this information would impair the way in which such reports are completed in the future in that officials would be likely to be more guarded and inhibited in their assessment and comments if they believed they would be released into the public domain.

Reluctance on the part of the officials to engage in a candid exchange of views would have an impact on the objective quality of the assessment of the business case. Therefore, disclosure would be likely to have an adverse effect on the wider general public as it would compromise the integrity of the deliberation and decision making process and have an impact on the fair and robust scrutiny of project proposals seeking public funding.

Section 36 (2) (c) - would otherwise prejudice, or would be likely otherwise to prejudice, the effective conduct of public affairs.

It would not be in the public interest to release the information requested as it would also prejudice the effective conduct of the Ireland-Wales Programme Steering Committee and is likely to prejudice the delivery of the programme as a whole, which would have a detrimental impact on the effective use of public funds and value for money.

The process set out for the selection of projects was approved by the Ireland Wales Programme Monitoring Committee at its inception meeting in April 2015 and by the EU via the Article 70 report.

A final version of the business plan, Funding Decision Report (and any other relevant documentation) is circulated to the Programme Steering Committee to aid their deliberations when reaching a funding decision.

Without an objective report based on the funding criteria, deliberations would take much longer and any potential risks could be unintentionally minimised or overlooked, ultimately putting public funds at risk. There is also a considerable risk that in the absence of an objective report the Programme Steering Committee will feel unsupported in their decision making process and cease to function, severely compromising delivery of the programme and its economic, social and environmental benefits.

In conclusion, I believe that the balance of the public interest therefore falls in favour of withholding the Funding Decision Report.