



Dear ,

13 February 2020

Request for Information – ATISN 13693

I wrote to you on 21 January regarding your request for information. You asked for the full arbitration ruling into the dispute between the Welsh Government and Costain over design information relating to the A465 Heads of the Valleys Road widening scheme that was received by the two parties in December 2019.

I can confirm that we hold the information you have requested. However, I have concluded that the information requested is exempt from disclosure under Section 32(2)(b) of the Freedom of Information Act – Court, inquiry or arbitration records.

(2) Information held by a public authority is exempt information if it is held only by virtue of being contained in—

(a) any document placed in the custody of a person conducting an inquiry or arbitration, for the purposes of the inquiry or arbitration, or

(b) any document created by a person conducting an inquiry or arbitration, for the purposes of the inquiry or arbitration.

Section 32 applies to judgments and orders (where these haven't been published). The ICO says

“We believe that section 32 was drafted to allow the courts to maintain judicial control over access to information about court proceedings. This includes giving courts control to decide what information can be disclosed without prejudicing those proceedings.

Section 32(2) covers inquiry and arbitration records. It provides an exemption for information held only by virtue of being recorded in a document that has been: filed or placed in the custody of a person conducting an inquiry or arbitration; or created by the individual or body conducting the inquiry or arbitration.

Proceedings in this matter continue and the ruling (in December 2019) was created in conducting the arbitration. No information relating to the judgments and orders of the court in this matter have been made public. It has been agreed by the parties to the



arbitration that some information will be released as part of the Wales Audit Office A465 Section 2 Interim Findings Report to be issued shortly.

We have therefore concluded that Section 32 applies in relation to your request. Section 32 is an absolute exemption therefore there is no requirement to carry out a public interest test.

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