



Ein cyf/Our ref ATISN 14560

Llywodraeth Cymru  
Welsh Government  
18 December 2020

Dear ,

### **Request for Information – ATISN 14560**

I wrote to you on 25 November regarding your request for information regarding the award of Welsh Government transport grants.

### **Your Request**

1. Any meeting notes, emails, or other reports and correspondence, relating to the review and approval of the £750k for the M4 Junction 34 to Cardiff Airport Transport Network Scheme in 2019, and the £500k for the same Scheme in 2020
2. The evidence or assessment methodology that demonstrates how the applications were assessed and evaluated, versus alternative schemes.
3. Any specific guidance that was provided to Councils in support of their applications, or to Welsh Government officials in support of their application assessment process, if not already publicly available. If already publicly available, please direct me to this guidance.
4. Any grant claims forms or equivalent documentation, submitted by the Vale of Glamorgan Council during 2019/20, relating to their claim of £112k for that financial year, including their final claim in which they outlined their view of the impact of Covid19 upon the claim amount.

### **Our Response**

I confirm the Welsh Government holds some information caught by your request.

1. The two assessment sheets we used (2019/20 assessment sheet and 2020/21 assessment sheet) are enclosed with this letter. We review the applications received and score in line with the criteria. Review/moderation meetings are undertaken but no minutes were recorded.
2. The assessment methodology is in the assessment sheets referred to at 1. The scheme ranked in financial year 19/20 67 out of 88 applications received and financial year 20/21 31 out of 41 applications received.



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**MEWN POBL** | **IN PEOPLE**

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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 .

3. The information relating to question 3 is considered exempt from disclosure under Section 21 of the Freedom of Information Act, information otherwise available. The information is available at:
  - 2019-20 <https://gov.wales/transport-grants-guidance-2019-2020>
  - 2020-21 <https://gov.wales/local-transport-capital-grant-guidance-2020-2021>
  - Welsh Transport Appraisal Guidance (WelTAG) <https://gov.wales/welsh-transport-appraisal-guidance-weltag>
4. The claim forms submitted by the Vale of Glamorgan are enclosed with this letter.

Some of the information contained in the documents we are releasing to you is being withheld under Section 40 of the Freedom of Information Act, personal data. Our reasoning for withholding this information is given at Annex A.

### **Next Steps**

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](mailto: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

## ATISN 14560 - Application of exemptions

The Freedom of information Act provides a right for anyone to ask a public authority to make requested information available to the wider public. As the release of requested information is to the world, not just the requester, public authorities need to consider the effects of making the information freely available to everybody. Any personal interest the requester has for accessing the information cannot override those wider considerations.

We have decided to withhold the following information:

- The personal data contained in the information you have requested under Section 40 of the Freedom of Information Act 2000 (FoIA), personal data.

This Annex sets out the reasons for the engagement of Section 40 of the FoIA.

### Engagement of S40(2) – Personal Data

The Welsh Government believes the personal data contained in the information being released with this request should be exempt from disclosure

Section 40(2) of the Freedom of Information Act 2000 (FOIA), together with the conditions in section 40(3)(a)(i) or 40(3)(b), provides an absolute exemption if disclosure of the personal data would breach any of the data protection principles.

‘Personal data’ is defined in sections 3(2) and (3) of the Data Protection Act 1998 (‘the DPA 2018’) and means any information relating to an identified or identifiable living individual. An identifiable living individual is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of the individual.

We have concluded that, in this instance, some of the information contained within the information caught by your request contains third party personal data. Specifically, this relates to the names, direct e-mail addresses, direct telephone numbers and signatures of local authority officers.

Under Section 40(2) of the FOIA, personal data is exempt from release if disclosure would breach one of the data protection principles set out in Article 5 of the GDPR. We consider the principle being most relevant in this instance as being the first. This states that personal data must be:

*“processed lawfully, fairly and in a transparent manner in relation to the data subject”*

The lawful basis that is most relevant in relation to a request for information under the FOIA is Article 6(1)(f). This states:

*“processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child”.*

In considering the application of Article 6(1)(f) in the context of a request for information under FOIA it is necessary to consider the following three-part test:

1. The Legitimate interest test: Whether a legitimate interest is being pursued in the request for information;
2. The Necessity test: Whether disclosure of the information/confirmation or denial that it is held is necessary to meet the legitimate interest in question;
3. The Balancing test: Whether the above interests override the interests, fundamental rights and freedoms of the data subject.

Our consideration of these tests is set out below:

### **1. Legitimate Interest Test**

The Welsh Government recognises there is a legitimate interest in being able to identify the parties involved in any communication in order to follow the flow of that communication. We do not believe, however, there is any legitimate reason why the personal data would need to be released in order to follow and understand those communications. The individuals are representing the respective organisations rather than themselves. As such, the personal details of the local authority officers is irrelevant. The Welsh Government cannot identify any other legitimate interest in you or the public receiving the personal data captured by your request.

### **2. Is disclosure necessary?**

The Welsh Government is of the view that it is not necessary to disclose the personal information caught by your request. It is straight forward, even when withholding the personal data, to follow the documents we are releasing. As such we do not believe it is necessary to disclose the personal data.

### **3. The Balancing Test**

As it has been concluded it is not necessary to disclose the identity of the individuals, there is no requirement to balance the rights and interests of those individuals against the rights, under FOIA, of the requester.

### **Conclusion**

To conclude, as release of the information would not be legitimate under Article 6(1)(f), and as no other condition of Article 6 is deemed to apply, release of the information would not be lawful within the meaning of the first data protection principle. It has therefore been withheld under section 40 of the Freedom of Information Act. Section 40 is an absolute exemption and not subject to the public interest test.