



Llywodraeth Cymru
Welsh Government

21 April 2021

Dear

ATISN 15021 – Velindre Cancer Centre

Thank you for your request to the Welsh Government for information under the Freedom of Information Act (2000) received on 20 March. I have interpreted your requested information regarding the Outline Business Case (OBC) as follows:

A copy of the Outline Business Case for the new Velindre Cancer Centre as referred to in the Minister for Health and Social Care's written statement dated 19 March 2021 and should include engagement, support, technical advice documentation as well as other related information.

The information requested is to cover from the date of initial consideration of the potential Velindre Cancer Centre to 20th March 2021.

Our Response

1. Engagement - The Velindre NHS Trust has undertaken a range of engagement activities linked to the development of the OBC, these have been captured as part of a published timeline link on the Velindre website at:
<https://velindre.nhs.wales/transformingcancerservices/the-journey-from-start-to-finish/>
2. Technical Advice – Due to the nature of the procurement via the Mutual Investment Model through a competitive dialogue process, detailed technical advice cannot be shared. This is highly confidential and publication could harm the process and prejudice the interests of both Welsh Government as funder and Velindre as procuring authority.

Disclosure of commercially sensitive information will not only harm the procurement process but also prejudice the financial interests of the project and Welsh Government as funder and therefore exempt under Section 29(1)(b) and Section 43(2) of the FOIA at this time. For further information, see **Annex 1**.

- Section 29(1)(b) Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the financial interests of any administration in the United Kingdom, as defined by section 28(2).

- Section 43(2) Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).
3. Related Documentation – We have undertaken a search of our electronic records using key words (New Cancer Centre, Velindre) in attempt to capture the information from the date of initial consideration of a potential Velindre Cancer Centre in South East Wales up to 20th March 2021. We have located 2,603 documents that may fall into this category and 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 this aspect of your request. As such, this part of your request should be refused, as dealing with it would exceed the ‘appropriate limit’ set out under Section 12 of the Act. The ‘appropriate limit’ is set out in the Freedom of Information & Data Protection (Appropriate Limit and Fees) Regulations and, for central government, that’s £600 or 24 hours. This means if we estimate it would take over 24 hours to determine whether we hold the information and to thereafter locate, retrieve and extract it then we can refuse the request.

You may wish to refine this part of your request with further parameters by being more specific about what information you particularly wish to obtain. If you do refine your request, this will be treated as a new request.

4. Outline Business Case – a copy of the redacted version of the OBC has now been published by Velindre as part of the journey timeline, included in the earlier link at point 1. There is a range of information in the business case which is commercially sensitive given the procurement exercise to be followed. As such, redacted versions of the Strategic and Economic Cases are included at this point, the commercial, financial and management cases are not available at this stage due the highly commercial process.

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
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,

Engagement of Section 43(2) and Section 29(1)(b)

Section 43(2) Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).

Section 29(1)(b) Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the financial interests of any administration in the United Kingdom, as defined by section 28(2).

Officials have carefully considered all of the information captured by this request and consider that the information in question should be exempt under Section 43(2) and Section 29(1) of the Freedom of Information Act.

Both Section 43(2) and Section 29(1) are public interest exemption. This means that in order to withhold information under its provisions, it has to be shown that the public interest in withholding the information outweighs that in releasing it.

Public interest arguments in favour of release

Release of this information would promote transparency of the content of the outline business case, its rationale, benefits, costs, risks and timescales. This would contribute to increase public understanding and accountability in this area.

Public interest arguments in favour of withholding

Section 29(1)(b)

Technical documentation relating to the Outline Business Case inform a procurement process via competitive dialogue and as such are commercially sensitive. The release of commercially sensitive information will not only harm the procurement process but also prejudice the financial interests of the project and Welsh Government as funding body.

Section 43(2)

Technical information in support of the Outline Business Case forms part of key information used in the procurement process. The information contained therefore, should not be made public as it contain details about procurement approach and technical aspects which could prejudice competitive dialogue process. As a result, the commercial and financial interests of the Welsh Government as project sponsor and funder will be prejudiced by such disclosure.

Conclusion

Releasing sensitive technical information when a procurement process is to take place would place the Welsh Government as funder and sponsor and Velindre procuring authority in a difficult position. If any technical sensitive information was released at this stage of the process could impact on the procurement and potentially be subject to challenge if any form of unfair advantage is perceived. This may cause potential harm to existing relationships and the successful delivery of the scheme.

Whilst recognising that there are public interest arguments for disclosure all correspondence with relates to the Outline Business Case, I consider that the public interest in withholding the information outweighs that in releasing it in this instance.