

26 June 2023

Dear

## **ATISN 1855 – Request for Information**

### **Information requested**

Thank you for your request which I received on 12 June 2023. You asked for:

- A full list of document titles and dates which contain the mention of the company Marubeni. Limit this search only to documents which are contained on the electronic filing system.

### **Our response**

I have decided that the information is exempt from disclosure under section 14(1) of the Freedom of Information Act and/or regulation 12(4)(b) of the Environmental Information Regulations and is therefore withheld. The reasons for applying these exemptions are set out in full at Annex A to this letter.

### **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

## **Annex**

### **Application of exemptions/exceptions**

The Freedom of information Act/Environmental Information Regulations provide 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.

I have decided to withhold the requested information. This Annex sets out the reasons for the engagement of section(s) 14(1) of the Freedom of Information Act and regulation 12(4)(b) of the Environmental Information Regulations.

### **Engagement of section 14(1) (Vexatious requests) of the Freedom of Information Act**

The Welsh Government believes that the information should be exempt from disclosure. Your request captures, at the time of receipt of your request, 3720 documents, without describing what information you are seeking.

When considering whether a request is vexatious under section 14(1), it is necessary to consider the request under four broad themes. These are:

1. the burden (on the public authority and its staff);
2. the motive (of the requester);
3. the value or serious purpose (of the request); and
4. any harassment or distress (of and to staff).

Having considered your request, I find that it meets the definition of a vexatious request under two of these themes, these being the burden and the value of the request.

In order to provide you with the list of documents you require, we would need to export a document list of the 3720 documents in our electronic filing system, ensuring that the creation dates were inserted. The filing system is not designed for such file list exports and would require commissioning the export from service providers at significant cost. Having done so, the list of documents would then need to be reviewed to consider, for each document, whether this could be exported or whether the document title itself reveals information covered by legal non disclosure agreements, personal data or data that would be otherwise exempt.

As you have indicated, in our previous response we were able to deduce that many of these documents were unrelated to HyBONT, although investigating how that understanding was arrived at, I have found that this was achieved by search term but was unchecked, and meant as an indicative number. We do not know how many of the 3720 documents caught by this request relate to the HyBONT matter.

The next question is to the value of the information that would be captured. In a test exercise, I have searched on the keyword and returned the first 20 matching documents. The first 9 of these documents are emails, all with the same name. Similarly other documents in those first 20 also duplicate titles, so a list of documents will not describe the contents of each document beyond a title which might indicate a meeting on a date or some other administrative matter, but would provide no information beyond that.

I also take into consideration that the purpose of requesting such a list would be clearly with an intent to then request individual items from the list. Yet, without any context in document titles, the ensuing requests for information would be a fishing expedition, describing documents required, but without a clear understanding of the information being sought.

I take into account the recent history of requests, which have been refused as exceeding the appropriate limit. As we have indicated, in order to process a request, it is important that you describe the information that you are looking for. Requesting a list of thousands of documents does not describe information, places an unnecessary burden on the authority, and does not provide any public value. Reformulating your request to describe the *information* you are looking for would allow us to search our records appropriately in a targeted fashion for that information.

Guidance from the ICO says:

“all the circumstances need to be considered in reaching what is ultimately a value judgement as to whether the request in issue is vexatious in the sense of being a disproportionate, manifestly unjustified, inappropriate or improper use of FOIA” (paragraph 82).

The guidance further states:

Even where a request is speculative, fishing for information is not, in itself, enough to make a request vexatious. However, some requests might:

- impose a burden by obliging you to sift through a substantial volume of information to isolate and extract the relevant details;
- encompass information which is only of limited value because of the wide scope of the request;
- create a burden by requiring you to spend a considerable amount of time considering any exemptions and redactions; or
- be part of a pattern of persistent fishing expeditions by the same requester.

In this case, it is my judgement that your request lacks value as it does not describe the information you require, and it is unnecessarily burdensome for officials to

process, and will cost a significant amount to the public purse to do so. The burden is multiplied by the need to consider exemptions and redactions for 3720 individual documents. This, therefore, meets the threshold for being a vexatious request.

This judgement applies to the request, and not to the requester. If you could describe the information you are looking for, in a manner that does not create this unnecessary burden to the authority, we would be happy to consider that request. Any reformulated request will be treated as a new request.

### **Engagement of regulation 12(4)(b) (Manifestly unreasonable requests) of the Environmental Information Regulations**

Some of the information you have requested would likely be considered as environmental information and thus the appropriate regime for considering that part of your request would be the environmental information regulations. Nevertheless, to identify the information captured that is environmental information would require that we first conduct the search of all documents under FOI, and then, for each document, consider whether this information is environmental information. As this would require the review of each of the 3720 documents held at the time the request was received, the amount of time required would exceed the appropriate limit under FOI and would meet the definition of vexatious as above. As it is not possible to disaggregate such information without such a search and review, this would clearly meet the definition of manifestly unreasonable under the environmental information regulations.