

04/11/2024

Dear

ATISN 22018 – Trydan Gwyrdd Cymru

Information requested

Thank you for your request which I received on 14 October 2024. You asked for:

A copy of the remaining four elements of the Business Case providing justification for the establishment of the publicly owned company Trydan Gwyrdd Cymru. The remaining four elements are; the Economic, Commercial, Financial and Management Case. The first element of the business case [strategic case] was provided 27 October 2023.

Or, alternatively, confirmation that Welsh Government intend to withhold the information under a FOI Act 2000 exemption or EIR 2004 exception.

Our response

The information you requested is enclosed.

I have decided that some of the information is exempt from disclosure under section 12(5)(e) of the of the Environmental Information Regulations and is therefore withheld. The reasons for applying these exceptions 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

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 A

EIR - Engagement of Section 12(5)(e)

Regulation 12(5)(e) states a public authority may refuse to disclose information to the extent that its disclosure would adversely affect the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest.

Officials have carefully considered all of the information captured by this request and consider that some of the information in question should be exempt under Regulation 12(5)(e) of the Environmental Information Regulations 2004 – Commercial or industrial information.

This is a public interest tested exemption, which 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

The elements of the business case refer to the establishment of the publicly owned company, Trydan Gwyrdd Cymru. The establishment of this is of clear public interest, and public understanding of what is proposed, transparency of the process and of the disbursement of public money are all served by release of the requested information.

Public interest arguments in favour of withholding

It is important for companies to share commercially sensitive information with us in the confidence that that information will not then enter the public domain and damage their wider commercial interests and opportunities. Where disclosure of the requested information would undermine confidence of business processes, allowing competitors commercial advantage, disclosure of such information would not be in the public interest. In addition, some of the information, that was provisional and is now superseded, if placed in the public domain, would be likely to misinform the public debate, and such misinformation, if placed in the public view, would be likely to cause commercial harm, either to the company it relates to, or to others relying on such information. This would not be in the public interest.

Conclusion

Whilst recognising the strength of the is public interest argument for sharing this information, this is mitigated by our decision to release most of the information that we hold. On balance, we consider that the public interest in disclosing some of the commercial information – that is, the commercial information where the harms would or would be likely to arise – is outweighed by the public interest considerations in favour of withholding the information for the reasons above. We have therefore withheld some information, which is marked as redacted in the attached document.