



Ein cyf/Our ref ATISN 11648

Daniel Morris
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7 December 2017

Dear Mr Morris

Request for Information – ATISN 11648

I wrote to you on 14 November regarding your request for information. Thank you also for your e-mail of 4 December, which I have addressed at the end of this letter.

You have asked for information relating to the FTTC cabinet #6 at the Ammanford exchange including plans for the siting of this cabinet and correspondence with local and town councils. You have also asked how much this development cost and identify which budget(s) the funds were allocated from and any fees if external partners contributed.

The Welsh Government does not hold information for the siting of this cabinet, including all correspondence with local and town councils. This information is held by British Telecommunications. We do hold information in relation to costs and budgets. I have concluded that the information that we hold are considered exempt from disclosure under Section 43 (commercial interest) of the Freedom of Information Act 2000. Full reasoning for applying this exemption can be seen at Annex A.

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 FreedomOfInformationOfficer@wales.gsi.gov.uk. 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.



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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.

I will lastly address your complaint which we received on 4 December. The statutory 20 day deadline for responding to your request was 14 November. Under the FoIA, unless an extension has been legitimately applied then we are obliged to respond to requests for information promptly and in any case not later than 20 working days. On this occasion, an extension was legitimately applied for the part of your request which related to costs. That information has been withheld, as explained above, under Section 43 of the FoIA, a public interest tested exemption. Given we do not hold the remaining information, I acknowledge that we should have advised you of that fact when we became aware of it. I apologise for this oversight.

Yours sincerely

Adam Butcher
Senior Policy Manager

ANNEX A

ATISN 11648 – Consideration For and Against Disclosure of Information

Decisions relating to non-disclosure have been taken with due consideration of the exemptions identified under Section 43(2) of the Freedom of Information Act 2000 (FOIA). This states that information is exempt 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 43 is a qualified (public interest tested) exemption. This means that in order to engage it, I must show that the public interest in withholding the information is greater than the public interest in releasing it. I have therefore given consideration to the effects of disclosure of the information to the world at large as the information is made available to anybody and everybody, not just the requestor. As such, when considering your request I have considered the wider effects of disclosure rather than any personal interest you may have in being provided with the information.

Prejudice Test

Regarding the information relating to costs and budgets in siting of the telecommunications cabinet, to reveal the information captured would prejudice the British Telecommunication's commercial interests should the information associated with this matter be disclosed at this point in time.

Public interest arguments in favour of release

There is a public interest in openness and transparency within government, particularly in terms of ensuring transparent and accountable government by disclosing how the Welsh Government spends public money and that the money is invested wisely.

Public interest arguments in favour of withholding

I believe that putting this information in the public domain would be likely to put BT at a competitive disadvantage. It would be likely to provide BT's competitors with sensitive financial information about pricing, the typical costs incurred by BT and the margins they make on projects of this nature, information which competitors do not share with BT. It would also be likely to provide competitors access to technical and commercial knowledge that BT have gained in roll-out of superfast broadband. Providing access to this information would also be likely to weaken BT's negotiating position when competitors seek access to Openreach networks which would be detrimental to BT. BT is still actively competing with other companies to win similar business. There is a pipeline of opportunities currently available for BT to bid for in order to provide similar services to other public authorities. Disclosure of this information would therefore likely be prejudicial to future bids for public funding and the continued roll-out of their commercial network.

Whilst I accept that, as a public body, the public will always have an interest in the work of the Welsh Government and that release of this information would engender our willingness to be open and transparent in the way that we work, I believe the priority in this instance is ensuring the commercial interests of the company.

There exists a public interest in ensuring that private companies such as this, which create a significant amount of jobs for the people of Wales, can do so in the knowledge that its efforts will not be prejudiced by the untimely disclosure of commercially sensitive information.

I am aware that as a general rule, the sensitivity of information is likely to reduce over time, so that the age of the information, or timing of the request may be relevant in determining whether to apply the exemption, or where the public interest may lie. In this case, however, the information captured is very much current information. I believe that the balance of the public interest therefore falls in favour of withholding the information.