



Llywodraeth Cymru
Welsh Government

30 March 2016

Dear ,

ATISN 10231

Thank you for your request which we received on 22 February requesting the following:

- copy of the Welsh Government's JESSICA Business Plan for ERDF funding (March 2010).

A copy of the information we have decided to release is enclosed.

We have decided that some of the information described in the enclosed list is exempt from disclosure under section 40(2) of the Freedom of Information Act and is therefore withheld. The reasons for applying this exemption is set out in full at Annex A to this letter.

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: FreedomOfInformationOfficer@wales.gsi.gov.uk

Please remember to quote the ATISN reference number above.



Swyddfa Llandudno Junction Office
Sarn Mynach/Sarn Mynach
Conwy/Conwy
LL31 9RZ

Ffôn/Tel: 0300 062 5361
E-Bost/E-Mail: ken.cook@wales.gsi.gov.uk

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

I have decided to withhold the following information:

Information being withheld	Section number and exemption name
JESSICA Business Plan	Some information is redacted under: • section 40(2) – Personal data exempt from disclosure
Appendix 2 –Members Agreement	Some information is redacted under: • section 40(2) – Personal data exempt from disclosure
Appendix 3 – Fund Management Agreement	Some information is redacted under: • section 40(2) – Personal data exempt from disclosure
Appendix 6 – Preliminary Comms & Marketing Plan	Some information is redacted under: • section 40(2) – Personal data exempt from disclosure

Section 40(2) - Personal data exempt from disclosure

After consideration of section 40 of the Freedom of Information Act, we have redacted the names of some Welsh Government and Welsh European Funding Office officials (staff below Deputy Director level) and names of third parties.

Section 40(2) of FOIA requires third party personal data to be withheld in circumstances where its disclosure would breach any of the data protection principles set out in Schedule 1 of the Data Protection Act 1998 (DPA).

We consider that disclosure of this personal data would breach the first data protection principle. The first data protection principle requires that processing of personal data must be fair and lawful and, in particular, that it should not be processed unless one of the conditions set out in Schedule 2 of the DPA is met.

In determining whether disclosure would contravene the first data protection principle, we have considered whether disclosure would amount to fair and lawful processing of those individuals' personal data. We consider that those individuals would be under the reasonable expectation that their information would remain confidential and not disclosed to the public at large. As such, we do not consider that disclosure of the redacted personal data would be fair.

Guidance from the Information Commissioner's Office (Personal information (section 40 and regulation 13) v1.0) states:

"The public authority must decide.....whether it would be fair to disclose the personal data. If the public authority concludes that it would not be fair, then it must not disclose the information in response to the FOIA request".

In this instance, because the individuals would have had no expectation that their personal data would be released into the public domain, we believe that release of this information would be unfair and so breach the first data protection principle. For that reason, the information is being withheld under section 40(2) of the Freedom of Information Act. This is an absolute exemption and not subject to public interest tests.