



3 June 2016

Dear ,

**ATISN 10428 – NEATH PORT TALBOT – PROPOSED NEW DEVELOPMENT AT  
DYFFRYN COMPREHENSIVE SCHOOL**

Thank you for your request which I received on 5 May. You asked for the following in relation to the proposed new development at Dyffryn Comprehensive School:

1. A copy of the Strategic Outline Case (SOC), Outline Business Case (OBC), Full Business Case (FBC) and Grant Letter (if awarded) for the proposed new development at Dyffryn High School; and
2. A copy of the updated SOP for this proposal.

There is no FBC or grant award letter as the project is still in the approval process. The remaining information is attached as requested at **Annexes 2-4**.

However, I have decided that financial information included in the business cases is exempt from disclosure under section 43(2) of the Freedom of Information Act 2000 and is therefore withheld. Section 43(2) applies when the disclosure of information would, or would be likely to, prejudice the commercial interests of any person. A person may be an individual, a company, the public authority itself or any other legal entity.

I believe that disclosure of this information would be likely to prejudice the local authority's ability to deliver this and other projects within current budgetary constraints. As the contractors would be aware of the project financial envelope, it would be likely to result in contractors submitting a higher tender than would otherwise be the case. The decision to withhold the details of the estimated costs was taken following consultation with Neath Port Talbot County Borough Council. The reasons for applying this exemption are set out in full at **Annex 1** of 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](mailto: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.

Yours sincerely

Yours sincerely

I have decided to withhold the following information:

Information being withheld	Section number and exemption name
Financial information included in business cases.	Section 43(2) of the Freedom of Information Act 2000. This applies when the disclosure of information would, or would be likely to prejudice the commercial interests of any person. A person may be an individual, a company, the public authority itself or any other legal entity.

This Annex sets out the reasons for the engagement of **section 43(2)** of the **Freedom of Information Act 2000** and our subsequent consideration of the Public Interest Test.

The Welsh Government believes that the financial information in the business cases should be exempt from disclosure. The release of this information would likely prejudice the local authority's ability to deliver this and other projects within current budgetary constraints. As the contractors would be aware of the project financial envelope, it would be likely to result in contractors submitting a higher tender than would otherwise be the case

Exemption of this information is subject to a public interest test. In order to satisfy the public interest test in relation to the exemption it is necessary to conclude that the public interest arguments in favour of withholding the information are sufficient to outweigh the public interest arguments in favour of release. The issues I have considered are detailed below.

#### **Public interest arguments in favour of disclosure**

- The disclosure of this information would promote accountability of the local authority.
- Disclosure would also provide transparency in the spending of the local authority budget through its 21<sup>st</sup> Century Schools Programme.

#### **Public interest arguments against disclosure**

- To release details of the estimated cost, and thus the amount of money put aside, for the project would be likely to result in prejudice to the local authority's commercial interests.
- By making public the estimated cost of the project, prospective bidders would be likely to submit bids at, or close to that figure, rather than at a more competitive level. This would result in the local authority having to accept a bid that would have been likely to be lower if those bidding for the contract were not aware of the amount set aside.
- Although cost is only one aspect of a bid that is taken into consideration when awarding tenders, it is an important consideration particularly when looking to obtain the best value for money.

#### **Balance of public interest test**

On this basis I consider that the public interest argument in favour of maintaining the exemption is sufficient to outweigh the arguments in favour of