



Ein cyf/Our ref ATISN 10513

3 October 2016

Dear ,

Complaint in respect of Request for Information – reference ATISN 10513

I wrote to you on 8 September regarding your request for an internal review. I have conducted an internal review in accordance with the procedure outlined in the [Welsh Government's Practical Guide for Making Requests for Information](#) which is available by post on request, or via the internet.

I note in your original request you asked for all the correspondence relating to the Welsh Government's decision to award the company KUKD.com Ltd financial grants in relation to the creation of jobs. In our reply dated 12 August we explained that the information requested is exempt from disclosure under Section 43 – commercial interests of the Freedom of Information Act 2000 (FoIA). Full reasoning for applying this exemption was provided in the reply.

In your complaint dated 5 September you asked us to conduct an internal review following an article on the BBC website - <http://www.bbc.co.uk/news/uk-wales-37234034>. You enquired whether the public interest argument originally applied to this FOI request has now changed given the running of this article in the national media, as arguments could now be made that there is a pressing public interest in the release of this information.

I have reviewed your request and have concluded that the original response provided was correct and the arguments that the information, if disclosed, would likely put the company at a commercial disadvantage still apply.

It is important to note that releases under the FoIA are made to the world. The business is still trading, therefore the Welsh Government has to consider whether the company's



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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.

commercial interests would be affected by the disclosure of this information, regardless of what may have already been reported by the BBC. With these points in mind, I believe that if this information were placed in the public domain it would be likely to prejudice the company's commercial interests and thereby place it at a disadvantage in a competitive market. As you are already aware, a significant amount of detailed commercial information is captured by the request. Revealing the details could give competitors an unfair advantage, as they would have access to a level of information not otherwise available.

This commercially sensitive information would be of interest to the company's competitors and would be likely to prejudice the commercial interests of the business and adversely affect KUKD's ability to trade. However, I do not believe it would be of interest to the wider public and I do not believe that facilitating this type of unfair competitive advantage would be in the wider public interest.

As mentioned in my original reply, any information released is made available to everyone, not just the requester. Therefore consideration is given to the effects of disclosure of the information to the world at large. As such, when considering your request I have considered the wider effects of disclosure rather than any direct interest you may have in being provided with the information. The Welsh Government's Counter Fraud and Internal Audit Unit are currently investigating the allegations against Kukd.com. In addition to the commercial implications, release of the information requested could influence any future investigations, prejudicing the interests of fairness to any involved party.

In conclusion, I believe that the balance of the public interest therefore remains in favour of withholding the information. Your complaint is therefore not upheld. I trust the above provides you with a clearer explanation of our position on this matter.

If you remain dissatisfied with this response you also have the right to complain to the Information Commissioner at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Tel: 01625 545 745
Fax: 01625 524 510
Email: casework@ico.gsi.gov.uk

Also, if you think that there has been maladministration in dealing with your request, you have the option to make a complaint to the Public Services Ombudsman for Wales who can be contacted at:

Public Services Ombudsman for Wales
1 Ffordd yr Hen Gae
Pencoed
Bridgend
CF35 5LJ

Telephone: 0845 6010987 (local rate)
Email: ask@ombudsman-wales.org.uk

Yours sincerely

Mick McGuire
Director, Sectors and Business