



Ein cyf/Our ref ATISN 10844

9 November 2016

Dear ,

Request for Information – ATISN 10844

I wrote to you on 19 October regarding your request for information. You asked for –

- all correspondence between Welsh Government and Shelim Hussain and Iwan Griffith, of Kukd.com and Euro Foods Group, dating from August 2015 to the present day
- a copy of the grant agreement and/or letter of offer approving the £2.75m grant aid package from Welsh Government to Kukd.com.

I can confirm that we hold information relating to your request. However, I have concluded that the information relating to the correspondence is exempt under Section 31 (law enforcement) of the Freedom of Information Act. Full reasoning for applying this exemption can be seen at Annex A below.

I have enclosed a copy of the Award of Funding letter approving the £2.75m grant aid package from Welsh Government to Kukd.com. However, I have concluded that the information in the letter relating to the payment schedule, pre-conditions, costs and salaries is exempt from disclosure under Section 43 – commercial interests of the Freedom of Information Act 2000. Full reasoning for applying this exemption is given at Annex A to this letter. Some personal details have also been redacted from the document as they are not relevant to the request.

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:



E&I FOI Team
Welsh Government
Treforest - QED Centre
Main Avenue
Treforest Industrial Estate
Pontypridd
CF37 5YR

EconomyandInfrastructureFOI@wales.gov.uk
i.gov.uk
www.gov.wales

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.

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.

Yours sincerely

ANNEX A

ATISN 10844 – Consideration For and Against Disclosure of Information

Decisions relating to non-disclosure have been taken with due consideration of the exemptions identified under Section 31(1)(a) and Section 43(2) of the Freedom of Information Act 2000 (FOIA).

Both exemptions are 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.

Public Interest Test

Section 31 states that information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the prevention or detection of crime.

It has been reported widely in the press that our Counter Fraud and Internal Audit Unit are investigating allegations against Kukd.com and are in touch with the company to gather additional information. The investigation is ongoing and we are currently assessing information which includes the documentation you have asked for. This information will be a key piece of evidence in the investigation and to release it at this stage would be likely to prejudice the current investigation and adversely influence any future investigations, it would also be likely to prejudice the interests of fairness to any involved party.

It would be premature to assess what evidence may be relevant at this stage or in future investigations and it would be unreasonable to assume otherwise. To release the information requested at this stage would be likely, therefore, to prejudice the investigation and also would be likely to prejudice the outcome of any future investigations which would not be in the interest of fairness.

I believe that the balance of the public interest therefore falls in favour of withholding the information.

Section 43 – Section 43 states that information is exempt information 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).

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.

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 commercial interests would be affected by the disclosure of this information.

The information relating to the grant terms which contains the payment schedule, pre-conditions, cost, salaries, job creation and targets includes commercially sensitive information relating to the company's financing strategies which are unique to this project. All of this is current and commercially sensitive information and, if released, would be likely to prejudice the commercial interests of the company.

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. Competitors could use the information to develop strategies to better target both suppliers and customers of the business. Any disclosure would be prejudicial to their ability to do deals and negotiations with other third parties/future investors regarding future projects. 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 previously, 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.

I believe that the balance of the public interest therefore falls in favour of withholding the information.