



Ein cyf/Our ref ATISN 11079

Llywodraeth Cymru
Welsh Government

9 March 2017

Dear ,

Request for Information – ATISN 11079

We wrote to you on 2 February 2017 regarding your request for information. You asked for:

1. Can you confirm who are the members of the Programme Board who oversee the contract with BT?
2. How often do the Programme Board meet to monitor the progress of this project?
3. Can you provide me with an update and facts as to where you are in terms of reaching the target established with BT of having 690,000 of premises connected by 2017?
4. May I request the minutes and reports from the last Programme Board.
5. You state that there is a distance issue in our case. Can you confirm what the distance boundary for superfast is please in KM or Miles.

I confirm that we hold some of the information captured by your request.

1. Members of the Programme Board can be seen below. I have concluded, however that some of the information is exempt from disclosure under section 40 – Personal Information of the Freedom of Information Act 2000 (FOIA). Personal identifiable details of some of the BT members of the programme board have been redacted. Full reasoning for applying this exemption is provided at Annex A.

The members of the Programme Board are:

- Simon Jones (Chair) Welsh Government (WG) Director of Transport



BUDDSODD WYR | **INVESTORS**
MEWN POBL | **IN PEOPLE**

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

Economyandinfrastructurefoi@wales.gsi.gov.uk

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.

- Richard Sewell WG Deputy Director ICT Infrastructure
- Viv Collins WG Project Director – Superfast Cymru
- Michael Groves WG Superfast Exploitation Programme Manager
- Oliver Jarvis WG Project Manager
- Delyth Lewis WG Next Generation Broadband Wales
Communications and Marketing Manager
- Sion Meredith WG Senior Skills Manager
- Andrew Mathias WG Head of Communications
- Chris Johnson Broadband Delivery (UK) Commercial Lead - Superfast
Broadband Rollout Programme
- Billy McClean Broadband Delivery (UK) Project Director
- Rhodri Williams Ofcom Director Wales
- Alwen Williams BT Director Wales
- BT Programme Director
- BT Programme Manager
- BT Senior Finance Manager
- Openreach Finance Manager
- Openreach Regional Infrastructure Delivery Director Wales, Midlands & Home
Counties
- Openreach Infrastructure Division Project Director Wales and Shropshire

2. The Programme Board meet every three months.
3. Up to the end of December 2016 the project has provided access to superfast broadband to 630,702 premises.
4. I have concluded that the minutes and reports are exempt from disclosure under section 43(2), Commercial Interests, of the Freedom of Information Act 2000 (FOIA). Full reasoning for applying this exemption is provided at Annex A.
5. No specific information is held by Welsh Government to enable us to respond to this question. Broadly speaking, for broadband delivered via Fibre to the Cabinet technology, the distance from the cabinet at which the speed falls below a superfast speed (30Mbps) is around 1 – 1.5 KM.

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.

Yours sincerely

ATISN 11079 – Application for Exemption**Section 40(2) – Personal Data**

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, 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. The individuals concerned do not have public facing roles. We consider that those individuals would be under 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 withheld 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 tests.

Section 43 (2) – Commercial Interests

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 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).

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.

Public Interest Test

I recognise the general public interest in openness and transparency and releasing all of the information would help the public gain a better understanding of the decisions made by

Government. It is also recognised that there is a public interest in how public money is to be, or has been, used to ensure that Government gets the best value from the public purse.

The nature of discussions at the Programme Board as well as the reports that are presented to it require the disclosure of confidential commercially sensitive information which include deployment and challenges faced with regard to deployment.. That would give other suppliers information that they would not normally otherwise have access to and would be likely to prejudice the commercial interests of the company. This would cause commercial detriment to BT in circumstances where future procurements are anticipated. Releasing the discussions and reports when BT is currently still rolling out the network, could create an unreasonable expectation from the public of certainty as to what will be achieved, this could lead to significant reputational damage to BT, if such plans then change due to unforeseen delays and would be likely to prejudice their commercial interests. Whilst this information may be of interest to competitors and potential future projects and partners, I do not believe that it would be of interest to the wider public. I do not believe that facilitating this type of unfair competitive advantage would be in the wider public interest.

I am aware that as a general rule, the sensitivity of information is likely to reduce over time, so that the age of 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.

In conclusion, I believe that the balance of the public interest therefore falls in favour of withholding the information requested.