



Ein cyf/Our ref ATISN 10776

Llywodraeth Cymru
Welsh Government

4 April 2017

Dear ,

Request for Information – ATISN 10776

I am writing in response to your request for information regarding Heads of the Valleys Development Company (HOTVDC) and Aventa Capital Partners. Please accept my apologies for the delay in providing you with this response. You asked for:

1. Copies of all correspondence and emails between Welsh Government Ministers and officials, dating from May 2014 to October 2014, which a) make any reference to payments between Heads of the Valleys Development Company (HOTVDC) and Aventa Capital Partners; and b) make any reference to the relationship between HOTVDC and Aventa.
2. A copy of the contract between HOTVDC and Aventa provided to your department between May and August 2014.

I can confirm that we hold some information relating to question 1 of your request. We don't hold information in relation to question 2 of your request.

I have concluded that the information we hold which relates to question 1 amounts to environmental information as defined by the Environmental Information Regulations (EIRs). It is our view that this information is exempt from disclosure under Reg(4)(e) of the EIRs. Full reasoning for applying this exception is given 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



E&I FOI
Llywodraeth Cymru
Canolfan QED
Main Avenue
Ystad Ddiwydiannol
Trefforest
Pontypridd
CF37 5YR

EconomyandInfrastructureFOI@wales.gsi.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.

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

This Annex sets out the reasons for the engagement of regulation 12(4)(e) - Internal communications of the Environmental Information Regulations and our subsequent consideration of the Public Interest Test.

Regulation 12(4)(e) states that a public authority may refuse to disclose information to the extent that—

(e) the request involves the disclosure of internal communications.

This exception is drafted broadly and is a class based exception which covers *all* internal communications, not just those that are sensitive or actually reflect internal thinking. The concept of 'internal communications' covers a wide range of information and includes any information intended to be communicated to others or saved in a file where it may be consulted by others. I can confirm that the information held by the Welsh Government which is captured by your request amounts to internal communications.

Regulation 12(4)(e) is a qualified (public interest tested) exception. Even if the exception is engaged, public authorities must go on to apply the public interest test set out in regulation 12(1)(b). A public authority can only withhold the information if the public interest in maintaining the exception outweighs the public interest in disclosing the information. Because of this, consideration has been given to the effects of disclosure to the world at large rather than any personal interest you may have in being provided with the information.

The Welsh Government acknowledges the presumption in favour of disclosure under Regulation 12(2) and we acknowledge 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 on behalf of the people of Wales.

However, the information in question relates to the provision of advice by officials regarding funding options and support for the Circuit of Wales and captures advice and exchanges of views which explore various options for the project. Some of the information also includes information on the project's commercial position which includes funding details, proposals, structures and scenarios that are unique to this project, as well as emails between Officers in connection with the appraisal of the company's request for funding, including the basis of the decision to refuse support until the Circuit has proof of sufficient private funding.

It is important for good governance that officials are able to fully engage with each other and Ministers and provide advice away from the public gaze and that there should be no disincentive in doing so. If officials believed their advice or freely exchanged views would be made public, it is likely to inhibit the future provision of advice and exchange of views, leading to less rigorous and in-depth exploration of options and impairment of the quality of decision making. Unless officials are able to provide options and advice surrounding the possible offer of support to any company, the effectiveness of the possible support that could be offered and the process of reaching such a decision would be undermined. This would not be in the public interest.

The Welsh Government believes the public interest in this project is satisfied by the amount of information already in the public domain. The company actively engages with the public through its website and other activities such as its Community Engagement programme. For example, the company hosted a successful Meet the Buyer event in Ebbw Vale where over 400 local businesses met its construction partners, Alun Griffiths and FCC.

In this regard, the Welsh Government believes the balance of public interest to withhold the information outweighs the public interest to release it for the reasons outlined above. The information has therefore been withheld under Regulation 12(4)(e) of the EIRs.