



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref ATISN 11294

27 June 2017

Dear ,

Request for Information – ATISN 11294

I wrote to you on 23 May and 19 June regarding your request for information. In your request you asked for:

1. Details of meetings between the Cabinet Secretary for Economy and Infrastructure and the British Hospitality Association, including details of attendees and the purpose of any meetings, as well as any documentation relating to meetings, such as agendas, minutes and background briefings, from 1 January 2017 to .
2. Between January 2017 and today, all correspondence (letters and emails) between Ken Skates, and/or his office, and representatives of the British Hospitality Association.

I can confirm we hold information relating to your request. For your first question, this consists of a Diary Briefing for the Cabinet Secretary for Economy and Infrastructure. I have concluded, however, that this is exempt from disclosure under Section 36 of the Freedom of Information Act 2000, specifically:

Section 36(2)(b)(i) - inhibiting the free and frank provision of advice;
Section 36(2)(c) – otherwise prejudice the effective conduct of public affairs

Full reasoning for applying this exemption is enclosed at Annex A.

The information we hold in relation to your second question is enclosed at Annex B. Some of this information has been exempted under Section 40(2) of the Freedom of Information Act 2000 as it amounts to personal data. Full reasoning for applying this exemption is also given at Annex A.

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:



BUDDSODDWYR | **INVESTORS**
MEWN POBL | **IN PEOPLE**

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Main Avenue
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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.

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

APPLICATION OF EXEMPTIONS

Section 36 - Effective Conduct of Public Affairs

The Freedom of Information Act 2000 (FOIA) has introduced a two-stage process for considering and using the s36 exemption. Stage 1 is to ascertain whether the basic conditions for triggering the application of the exemption apply. This is the role of the 'qualified person' and in relation to the Welsh Government, the qualified person usually means the First Minister. If the qualified person decides that the information would, or would be likely to, have the specified adverse effect(s), then the exemption is said to be engaged and Stage 2 can commence.

Stage 1 – Engagement of Exemption

The First Minister, as the 'qualified person', has agreed that s36(2)(b)(i) and Section 36(2)(c) are engaged for the following reasons:

Section 36 (2)(b)(i) – inhibiting the free and frank provision of advice for the purposes of deliberation

The information withheld under these exemptions captures the provision of advice in relation to a meeting between the Cabinet Secretary for Economy and Infrastructure and the BHA, as part of the normal working process. There is an expectation that there is a 'safe space' in which Welsh Government can provide such advice; it is important that Officials are able to provide advice away from the public gaze and that there should be no disincentive in doing so. If Officials believed their advice would be made public, it is likely they would, in the future, be more inhibited in what they say and be less willing to engage in free and frank exchange provision of advice for the purposes of deliberation, leading to less rigorous and in-depth exploration of options.

It is normal practice for Officials to provide advice in an open and frank way, and exploring various options as part of the process of deliberation. It is believed that disclosure of this information would mean that future discussions would be likely to be inhibited in that they would be less candid, would be likely to lead to less rigorous and in-depth exploration of options and this in turn would harm our deliberations resulting in less robust and effective outcomes, thus compromising the effective working of the Welsh Government with its key stakeholders.

Section 36(2)(c) – otherwise prejudice the effective conduct of public affairs

There is a set process in place for providing Ministers with robust briefing and advice on live and topical matters for a scheduled meeting or visit. The process exists so that officials can provide Ministers with briefing which contains factual information which is often sensitive and/or confidential including commercial, financial and statistical information. It is in the interests of good Government that this robust process and its effectiveness is not undermined.

The prospect of disclosure of the requested information into the public domain would be likely to have a negative impact on this established process. This is because officials

would be more reluctant to provide full and detailed briefing (that includes the information set out above) so as to ensure Ministers are fully briefed of all facts and aware of all possible matters which may be raised with them.

When officials prepare Diary Cases, they do so with the view that they will not be sent to anyone outside the Welsh Government, as described in the guidance. We believe that release of this information would be likely to prejudice this process in that its quality, reliability and efficiency would be undermined. It is important to avoid public resources being unnecessarily expended in explaining the reason for interim positions, and/or why particular options were not subsequently chosen.

It was decided the above prejudicial effects would be relevant to the “would be likely to” limbs of section 36(2)(b)(i) and 36(2)(c). After due consideration, the Qualified Person was in agreement that the exemption was engaged.

Stage 2

Section 36 is a public interest tested exemption. This means that in order to withhold information under its provisions, it has to be shown that the public interest in withholding the information outweighs that in releasing it.

The Welsh Government acknowledges the inherent public interest in the openness and transparency that release of the information would engender. It would also demonstrate that Government officials and Ministers are fully exploring all possible avenues so that decisions are based on sound evidence.

Guidance from the Information Commissioner’s Office states that “information may be exempt under section 36(2)(b)(i) or (ii) if its disclosure would, or would be likely to inhibit the ability of public authority staff and others to express themselves openly, honestly and completely, or to explore extreme options, when providing advice or giving their views as part of the process of deliberation. The rationale for this is that inhibiting the provision of advice or the exchange of views may impair the quality of decision making by the public authority”. The section 36(2)(c) exemption can be applied if releasing the information would *otherwise* prejudice, or would be likely to *otherwise* prejudice, the effective conduct of public affairs, and is about the process that may be inhibited, rather than what is in the information.

Section 36(2)(b)(i) - *free and frank provision of advice*

We are heavily reliant on Government Officials being able to provide advice in an open and frank way, exploring various options as part of the normal working process. This provides the Welsh Government with the space and freedom to hold such discussions and provide advice in the knowledge that if different outcomes or conclusions are finally agreed, these assessments will not have more far reaching implications than necessary.

The withheld information relates to the provision of advice by Officials to the Cabinet Secretary for Economy and Infrastructure in preparation for a meeting with the BHA.

It is in the interest of good governance to produce the best advice available for Ministers. To fully explore all options, Officials must be able to speak and debate freely. Officials would be less likely to fully engage in the provision of advice if they thought their free and frank advice would be revealed, and this outcome would be likely to lead to a less

strenuous and in depth exploration of options and potentially less robust and effective recommendations. This would not be in the public interest.

Section 36(2)(c) - *otherwise prejudice the effective conduct of public affairs*

The withheld information was generated through the Welsh Government processes described above regarding the provision of Diary briefing. Officials believe that release of this information would be likely to prejudice this process undertaken by Officials because Officials would likely be less willing to provide such advice away from the public gaze. Also, it is important to avoid public resources being unnecessarily expended in explaining to the public reasons for interim positions, and/or why particular options were not subsequently chosen.

It is normal practice for Officials to submit Diary Briefings to Ministers in an open and frank way, and exploring various options as part of the process of deliberation. It is believed that disclosure of this information would mean that future discussions would be likely to be inhibited in that they would be less candid, would be likely to lead to less rigorous and in-depth exploration of options and this in turn would harm our deliberations resulting in less robust and effective outcomes, thus compromising the effective working of the Welsh Government with its key stakeholders. This in turn, would be likely to prejudice the effective conduct of public affairs.

Accordingly, the information requested has been withheld under Section 36(2)(b)(i) and Section 36(2)(c) of the Freedom of Information Act for the reasons set out above.

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 personal information would not be 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.

Q2 - RELEASED INFORMATION

From: BHA

Sent: 30 March 2017 19:01

To: Correspondence mail - KS

Subject: Hospitality and Tourism industry announces first post-Brexit sector skills strategy [Embargoed until 7.00am Friday 31st March]

Dear Minister,

Hospitality today becomes the first major UK industry to present a plan to reduce its dependence on EU workers and substantially increase the number of workers from the UK.

Today the BHA is publishing a report commissioned from the consulting firm KPMG to examine the extent of the industry's reliance on EU workers and to quantify the resourcing challenge it would face in the event that free movement ended and no arrangements were put in place for continued access to EU workers (the 'cliff-edge' scenario). KPMG's report, [click here to read online](#), shows that, in such circumstances, the industry would need to recruit more than 60,000 UK workers each year in addition to ongoing recruitment of 200,000 workers per annum required to replace churn and meet the demands of growth. At a time of low unemployment and a very high level of participation in the labour market by people of working age the BHA believes this would be impossible – especially given the competing resourcing requirements of other sectors.

At the same time, we have been working on drafting a 10-year strategy whereby the industry is able to recruit a substantially higher proportion of its workforce from the UK. We want to see a situation in which we have continued access to the EU workforce, especially in London, but the extent of our reliance steadily declines each year as we are able to attract more UK workers. Recent comments by Cabinet Ministers that there will be no cliff-edge in immigration policy are very much welcomed as it gives us time to make the change required of us.

The 10-year strategy will be focused on three main sections of the population:

- **Britain's unemployed population** – using the existing campaign titles of *Hospitality Works* and *The Big Hospitality Conversation* to organise events and activities throughout the UK to connect the unemployed with Hospitality employers. Based upon the advice of the DWP team, these events will be tailored for particular groups within the unemployed population: young people, ex-offenders, people with disabilities, and those coming out of the care or criminal justice system, the homeless or other at risk groups. We know that people looking for a job want one that is close to where they live now – it is fanciful to believe that large numbers of people are going to relocate hundreds of miles to a new opportunity in a different part of the country. The campaigns will be locally focused and we expect to bring together the leading employers from a town or city to work with the DWP and local campaign groups.

- **Returners to the labour market** - although the KPMG report makes it clear that this will be a demanding objective, some of our member companies have experienced success in attracting the over 55s back to the labour market and we intend to design a targeted

advertising/promotional campaign for this age group. This will be a completely new digital effort – probably through Facebook. This campaign may be of particular value in coastal and rural communities where Hospitality & Tourism is a key part of the local economy;

- **The next generation of workers** – in the longer term, reaching out to school students as they start their secondary education at the age of 11 offers the securest route out of our resourcing problem. *Springboard*, the national charity, already have a well - established network of Industry ambassadors and this will need to be expanded significantly. We have reached out to the Careers & Enterprise Company who have formed strong links with Local Enterprise Partnerships. We need to make sure that all LEPs are including the Hospitality & Tourism sector in their strategic plans. Only 40 of the CEC's 1,500 advisers have experience of our sector and this needs to be rectified. Equally, the sector must recognise that, in England, more than two-thirds of secondary schools are now established as Academies and it will be important for the industry to prioritise forming partnerships with the emerging Multi – Academy Trusts. The expansion of apprenticeship opportunities for the young will also be consistent with this broader ambition.

Over the last four years, the BHA has worked with the DWP in the design and delivery of the *Hospitality Works* and *The Big Hospitality Conversation* campaigns and we will continue to work on these campaigns with the DWP and *Springboard*. The programme of activities outlined above far exceeds anything that has been done hitherto by the industry and it will take some time to put in place the right relationships, organisational structure and additional resources. We plan to blend existing programmes with new initiatives into a new nationwide plan of action from the first half of 2018. Whilst the active participation of a number of key Government departments is essential, we also need the Government as a whole to be fully behind this drive to reposition the industry as a great place to work and to use every opportunity to support the sector in its wider economic agenda.

We acknowledge that, in meeting this resourcing challenge, the industry will have to challenge head-on the negative perception that many people have about a career in Hospitality. We are determined to see our industry seen as it should be: dynamic and completely in tune with today's 'experience economy'. The 2012 Olympics showed the world what a fantastically welcoming country we have and there needs to be a shared understanding that a dynamic Hospitality industry is vital for our international reputation.

We have submitted our strategy to No 10 Downing Street because we are aware of our responsibility to encourage more UK nationals to see the career opportunities available in hospitality and tourism and we will be consulting widely about how best to implement it in practice. We need the Government to play their part by recognising our employment needs and recognising how important this industry, the UK's fourth largest, is to the country but we also need the active support of the industry, our partners and the community. We look forward to speaking and working with you and we are counting on your support to enable the hospitality sector to recruit a substantially higher proportion of its workforce from the UK over the next 10 years.

If you would like to discuss any aspect of the report please do contact me directly by email, or I would be happy to arrange a call.

Kind regards,

BHA

From: BHA
Sent: 03 January 2017 13:00
To: DS Cabinet Secretary for Economy and Infrastructure
Subject: Re: Reply to your note seeking meeting with the Cabinet Secretary.

Thanks XXX

Will do!

XXX

On 3 Jan 2017, at 12:59, DS Cabinet Secretary for Economy and Infrastructure:

Good afternoon XXX. A very happy new year to you too.

Thank you for coming back to me. I can therefore confirm the meeting with the Minister on **Thursday 16th February at 09:30 – 10:00.**

The meeting will be held at the National Assembly for Wales, Ty Hywel, Cardiff Bay, CF99 1NA (location map attached for info). Please report to the main reception where you will be collected for the meeting.

If parking is required, please provide registration details and I will check if there are spaces available.

Kind regards.

XXXX

Diary Secretary to Ken Skates – Cabinet Secretary for Economy & Infrastructure /
Ysgrifennydd y Cabinet dros y Economi a'r Seilwaith

From: BHA
Sent: 03 January 2017 12:23
To: DS Cabinet Secretary for Economy and Infrastructure
Subject: Re: Reply to your note seeking meeting with the Cabinet Secretary.

Hello XXX

Happy New Year to you!

Feb 16 at 9,30 for 30 mins is great, thank you.

I am pleased to say that XXX, XXX and myself will be able to attend.

Kind regards,

XXX

Letter from Cabinet Secretary for Economy and Infrastructure to BHA

20 April 2017

Dear XXX

Thank you for your e-mail of 20 March regarding a BHA commissioned report on the Hospitality and Tourism Industry post-Brexit.

I welcome the report and agree with the concerns expressed in terms of attracting people into the industry, the perceptions of the industry as a career and skill shortages. I am particularly keen to see the partnership working between the industry and the Regional Skills Learning Partnerships continue to develop in Wales.

I understand that my official, XXXX, is meeting with you on 24 April to discuss the findings of the report further.

Yours sincerely,