



30 August 2017

Dear ,

Request for Information – ATISN 11376

I wrote to you on 31 July regarding your request for information. You asked for:

1. A copy of the minutes of the Welsh Government Cabinet meeting held on 27 June 2017.
2. A copy of the reports presented to the Cabinet meeting on 27 June 2017 by external advisors and civil servants relating to the Circuit of Wales.
3. A copy of the report(s) presented to the Cabinet meeting on 27 June 2017 by external advisors and civil servants relating to the creation of an Automotive Technology Business Park.

I can confirm that we hold information relating to your request. In line with the Cabinet's policy to conduct its business as openly as possible, the minutes of the Cabinet meeting held on 27 June have been published on the Welsh Government website. They are available at <http://gov.wales/about/cabinet/meetings/?lang=en> and <http://gov.wales/about/cabinet/meetings/2016-2021new/27june2017/?lang=en>.

As per the comments in our letter of 31 July, on considering the information caught by this request it was regarded as falling within the definition of 'environmental' information as set out under Regulation 2(1) of the Environmental Information Regulations 2000 (EIRs). As environmental information is exempt from release under the Freedom of Information Act by virtue of section 39 of that Act, the request has been handled under the EIRs. To that end, it has been concluded that some of the information within Item 4 of the minutes, together with the accompanying Cabinet Paper for Item 4, 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.



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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

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.

Guidance from the Information Commissioner has confirmed that 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 to Cabinet Ministers regarding funding options and support for the Circuit of Wales and the Automotive Technology Business Park, exploring various options for the project. Some of the information also includes funding details, proposals, structures and scenarios that are unique to this project, 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 or which will be published in the next few weeks. For example, in addition to the minutes referred to above, the Welsh Government has released a lot of information in response to Written Assembly Questions (WAQ's). You can search for responses to these WAQs by entering the search term "Circuit of Wales" (or other suitable term) using the search function on the National Assembly for Wales website at [http://www.assembly.wales/en/bus-home/Pages/Plenary.aspx?assembly=5&category=Written%20Question&keyword="Circuit%20of%20Wales"](http://www.assembly.wales/en/bus-home/Pages/Plenary.aspx?assembly=5&category=Written%20Question&keyword=). In addition, the Welsh Government will, once it has obtained permission from the relevant third parties, publish on its website key extracts from the external due diligence reports.

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.