



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: ATISN 11709

27 November 2017

Dear ,

Thank you for your request which I received on 13 November 2017. I have interpreted your request as follows:-

Precisely what instructions Geraint Williams and Lee Guilfoyle received from Ken Skates AM, Cabinet Secretary for Economy and Infrastructure, when he asked them to visit Mr Marquez at Envases in Baglan regarding the public consultation process surrounding the proposed prison at Baglan.

The Welsh Government does not hold the information in relation to your request as no specific instructions were received by Geraint Williams or Lee Guilfoyle from Ken Skates AM, Cabinet Secretary for Economy and infrastructure regarding a visit to Envases.

In order to be helpful I have found in my archive an email that is a commissioning email from Correspondence Unit in response to the letter sent by you on 2 May 2017.

When the Cabinet Secretary read the letter from Envases he indicated to his Private Office, who in turn would have told Correspondence Unit that the Cabinet Secretary would like an official to meet the company. This would have generated the email attached at Annex A.

I have decided that some of the information in Annex A, is exempt from disclosure under section 40 of the Freedom of Information Act and is therefore withheld. The reasons for applying this exemption are set out in full at Annex B to this letter.

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.

Canolfan Cyswllt Cyntaf / First Point of Contact Centre 0300 0604400

Following the receipt of this email (Annex A), officials would have discussed between themselves who was best placed to visit Envases. After the Cabinet Secretary issued his response to Mr Marquez, officials made an appointment with the company to discuss any concerns.

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 Email: 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

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.

Canolfan Cyswllt Cyntaf / First Point of Contact Centre 0300 0604400

Annex A

From: Redacted Section 40 (ESNR-Economy Skills and Natural Resources)
Sent: 10 May 2017 10:55
To: Redacted Section 40 (EPS - LG:T&P); E&I Property Government Business;
Government Business AMM
Cc: Redacted Section 40 (ESNR-Sectors & Business-Property Infrastructure);
Redacted Section 40 (ESNR-Economy Skills and Natural Resources)
Subject: *ADVICE* KS/01719/17 Ministerial Correspondence Due 23/05/2017
Proposed New Prison at Baglan, Port Talbot ScannedMail linked to

All

This will not be an advice but response see email attached.

Please can you advise on a response and which official will meet with the company?

Thank you

Redacted Section 40

Cydllynydd Tîm Drafftio (Economi) / Drafting Team Coordinator (Economy)

Adran yr Economi a'r Seilwaith / Department for Economy and Infrastructure

Llywodraeth Cymru / Welsh Government

Email / E-bost: *Redacted Section 40*@wales.gsi.gov.uk

Yn hapus i ohebu yn Gymraeg neu Saesneg / Happy to correspond in Welsh or English

☐ Please consider the environment before printing this email/A wnewch chi ystyried yr amgylchedd cyn argraffu'r neges hon.

From: Redacted Section 40 (OFMCO - Cabinet Division)

Sent: 09 May 2017 14:41

To: EconomyandInfrastructureGovernmentBusiness

Subject: KS/01719/17 Ministerial Correspondence Due 23/05/2017 Proposed New Prison at Baglan, Port Talbot ScannedMail linked to

Please find attached correspondence dated 02/05/2017 about Proposed New Prison at Baglan, Port Talbot from Joaquin Marquez

Will you please provide a cleared draft reply for the Minister as an iShare reference to **Correspondence Mail (E-MAIL SENT TO ANY OTHER E-MAIL ADDRESS DOES NOT COUNT AS RETURNED)** using the attached template only by 5pm on 23/05/2017

Annex B

Section 40(2) – Personal Data

Section 40 of the Freedom of Information Act sets out an exemption from the right to know if the information requested is personal information protected by the Data Protection Act 1998 (DPA). Personal data is defined in Section 1(1) of the DPA as: “personal data” means data which relates to a living individual who can be identified from those data; or from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller.

I have concluded that, in this instance, the information requested contains third party personal data. Under Section 40(2) of the FOI Act, personal data is exempt from release if disclosure would breach one of the data protection principles. We consider the principle being most relevant in this instance as being the first. This states:

Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless—

(a) at least one of the conditions in Schedule 2 is met, and (b) in the case of sensitive personal data, at least one of the conditions in Schedule 3 is also met.

Guidance from the Information Commissioner’s Office (Personal information (section 40 and regulation 13) v 1.3) states (at p11):

- The starting point is to consider whether it would be fair to the data subject to disclose their personal data. The key considerations in assessing this are set out in the section on Fairness below.
- If disclosure would not be fair, then the information is exempt from disclosure.

This approach was endorsed by the Court of Appeal in the case of *Deborah Clark v the Information Commissioner and East Hertfordshire District Council* where it was held:

“The first data protection principle entails a consideration of whether it would be fair to disclose the personal data in all the circumstances. The Commissioner determined that it would not be fair to disclose the requested information and thus the first data protection principle would be breached. There was no need in the present case therefore to consider whether any other Schedule 2 condition or conditions could be met because even if such conditions could be established, it would still not be possible to disclose the personal data without breaching the DPA” (paragraph 63).