



Llywodraeth Cymru
Welsh Government

Our ref: ATISN 13162
Date: 10 June 2019

Dear ,

ATISN 13162

Thank you for your request which I received on the 13th May 2019. You asked the following

1. Between 2007-2009 Simon Hart (now MP for Carmarthen West) wrote a letter to the first minister's office, asking for the Welsh government to take a closer look at Dragon Feeds LTD, Dragon Baits LTD and/or Dragon Research LTD, companies owned and run by Anthony Smith. Could the FOI officer provide a copy of that original letter and the response from the First Minister's office?

Answer:

The Welsh Government has no recorded information from Simon Hart MP between 2007-2009 relating to the Dragon companies.

2. Could the information officer specify the total amount of grant money provided to Anthony Smith (dragon feeds/baits/research ltd) and his companies from the Welsh Government?

Answer:

The total amount of grant money provided to Anthony Smith and his companies from the Welsh Government was £5.63 million. The police took forwarded charges in relation to £4.7 million of that funding.

3. Could the information officer provide the details of each different type of successful grants Anthony Smith (dragon feeds/baits/research ltd) acquired from the Welsh Government? And then also provide a breakdown of how much each successful grant was worth financially?

Answer:



BUDDSODDWR | INVESTORS
MEWN POBL | IN PEOPLE

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Please see Appendix 1 to this letter of response detailing the breakdown of the successful grants and how much they were worth.

4. Could the information officer provide the details of who the senior manager was, and any individual/s were, involved in agreeing the grants provided to Anthony Smith and his businesses?

Answer: There were several different managers for the different grants. In considering your question we have to balance our response considering FOI legislation, GDPR (lawful and fair) and Human Rights legislation (right to privacy).

Under Section 40(2) of the FOIA, personal data is exempt from release if disclosure would breach one of the data protection principles set out in Article 5 of the GDPR. We consider the principle being most relevant in this instance as being the first. This states that personal data must be:

“processed lawfully, fairly and in a transparent manner in relation to the data subject”

The lawful basis that is most relevant in relation to a request for information under the FOIA is Article 6(1) (f). This states:

“processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child”.

In considering the application of Article 6(1) (f) in the context of a request for information under FOIA it is necessary to consider the following three-part test:-

- **The Legitimate interest test:** Whether a legitimate interest is being pursued in the request for information;
- **The Necessity test:** Whether disclosure of the information/confirmation or denial that it is held is necessary to meet the legitimate interest in question;
- **The Balancing test:** Whether the above interests override the interests, fundamental rights and freedoms of the data subject.

Our consideration of these tests is set out below:

Legitimate interests

It is unclear from the request what your legitimate interest is in requesting the names of individuals in Welsh Government. There were several persons involved in the process of providing different grants to Anthony Smith between 1999 and 2009 and in assessing the request cannot see that you have a legitimate interest other than a public interest consideration. Section 40 is an absolute exemption and not subject to the public interest test.

The Necessity Test

It is difficult to see any reasonable basis why your request for names meets the necessity test. ‘Necessary must be more than desirable’ and disclosure under FOIA must be the least intrusive means of achieving the aim in question.

The Balancing Test

The balance is between the legitimate interests of the requestor and the data subject’s interests and their fundamental rights and freedoms. The impact of the requestor, of disclosure would be unjustified, balanced against the rights of the data subjects to privacy

and the failure of your request to meet the necessity tests, legitimate interest and balancing tests.

As release of the information would not be legitimate under Article 6(1) (f), and as no other condition of Article 6 is deemed to apply, release of the information would not be lawful within the meaning of the first data protection principle. It has therefore been withheld under section 40 of the Freedom of Information Act. Section 40 is an absolute exemption and not subject to the public interest test.

5. When was the head of counter fraud at the Welsh Government first made aware of any irregularities with regards to any of Anthony Smith's Company?

Answer:

The Head of Counter Fraud was appointed on the 22nd March 2010. It was his own initiative that made him aware of irregularities, in discussions he had with internal auditors in April 2010. This is the time when suspicions were first identified.

6. Changes have been made to the WG grant application process since the Anthony Smith case. When were the first changes made after the Head of Counter Fraud was made aware of any irregularities with regards to any of Anthony Smith's businesses? When were the most significant changes to the WG grant application process made since 2010?

Clarification was sought from you in relation to this request and the following question received:

Changes have been made to the WG grant application process since the Anthony Smith case.

After the Head of Counter Fraud was made aware of irregularities with regards to Anthony Smiths businesses, when were the first changes made to the grant application process.

Answer:

In July 2011 a steering group of senior managers, including the Head of Counter Fraud, Internal Audit, Legal Services and the European Funds Audit Team set about identifying potential weaknesses in the grants processes and controls. Enhancements and improvements to our grant processes have been continuously since that date and continue to be so.

We have a much stronger approach to fraud prevention as a result of these steps, however the threat of fraud remains significant and is forever changing, particularly in respect of continuous innovations in IT. We continue to review our approach and practices to ensure that incidents such as this remain rare.

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: Freedom.ofinformation@gov.wales

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.

Appendix 1

Dragon Group Grant Funding Timetable

| Timeline | Dragon Baits | Dragon Research | Dragon Feeds |
|-----------------|--|---|--|
| 1999 Dec | £25,000 RSA Grant, Production of pilot Ragworm farm at Port Talbot. | | |
| 2001 May | £22,061 RIN Grant, Culture of Ragworm for sale. | | |
| 2002 May | £25,000 RIN Grant, Integrated Aquaculture process line/cultured ragworm. | | |
| 2003 June | £117,472 SPUR Grant (WDA) | | |
| 2005 May | | £2,409,246 WEFO Obj. 1 FIFG Pilot Production Inov. Aquafeeds £230,191 Fisheries Unit Matchfunding. Pilot Production Inov. Aquafeeds | |
| 2006 Sept | | | £1,030,056 WEFO Obj. 1 FIFG Ragworm Aquaculture £1,030,057 Match Funding Fisheries Unit Ragworm Aquaculture |
| 2007 Feb | £4,485 San Antonio Trade Mission. | £1,338 San Antonio Trade Mission. | £4,485 San Antonio Trade Mission. £2,238 Export Assist Japan £36,000 KB4B Financial Diagnostic. |
| October | | | |
| 2008 March | | | £39,000 KB4B Critique of Business Plan. £14,975 KB4B Consultancy report. |
| May | | | |
| July | £41,000 AIG Manufacture New Bait. | | £191,960 SMART Grant |
| Sept | | | |
| 2009 March | | £10,000 KB4B Feasibility Study. £348,000 SIF Manufacture Animal Feed. £50,000 Workforce Development Prog. £2,450 KB4B Business Review. | |
| August | | | |
| Sept | | | |
| 2010 Jan | £ 0 EFF Project, Saltwater Rainbow Trout Prod. (£363,024 grant rescinded). £ 0 WG Match Funding Saltwater Rainbow Trout Prod. (£155,581 grant rescinded). | | |
| TOTAL | £235,018 | £3,051,225 | £2,348,771 Overall Total: £5,635,014 |