



Llywodraeth Cymru
Welsh Government

26 September 2019

Ein cyf/Our ref ATISN 13375

Dear

Request for Information – ATISN 13375

I wrote to you on 28 August regarding your request for information. You asked for a copy of Cell Therapy Limited's application for a £148,712 Single Investment Fund grant in April 2011.

I can confirm that we hold information relating to your request. However, I have concluded the information is exempt from disclosure under Section 43 (commercial interests) of the Freedom of Information Act 2000. Full reasoning for applying this exemption 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 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.

Yours sincerely



Llywodraeth Cymru /
Welsh Government
Parc Cathays / Cathays
Park
CF10 3NQ

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.

ATISN 13375 – Consideration For and Against Disclosure of Information

Decisions relating to non-disclosure have been taken with due consideration of the exemption identified under Section 43(2), commercial interests, of the Freedom of Information Act 2000 (FOIA).

Section 43 is a qualified (public interest tested) exemption and in order to engage it, I must show that the public interest in withholding the information is greater than the public interest in releasing it. I have therefore given consideration to the effects of disclosure of the information to the world at large, as the information is made available to anybody and everybody, not just the requestor. As such, when considering your request I have considered the wider effects of disclosure rather than any personal interest you may have in being provided with the information.

Section 43(2) – commercial interests

The exemption states:

(2) Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).

The Welsh Government is of the view that revealing the information would be likely to prejudice Cell Therapy Limited's commercial interests should it be disclosed at this point in time. The information would reveal commercially sensitive information not otherwise publically available and which, if disclosed, would be likely to prejudice Cell Therapy Limited's offering and future strategy. The information for example evidences how much money it spends on product development, pricing information and plans for the development of new products. This information is not in the public domain.

To disclose the details would mean competitors would have a distinct commercial advantage and stepping stone which would be likely to put their own business at risk and therefore prejudice the company's ability to engage in future commercial activities. We do not believe that facilitating this type of unfair competitive advantage would be in the wider public interest.

Public Interest Test For Disclosure

The Welsh Government recognises the public interest in openness and transparency within government, particularly in terms of ensuring an accountable government by disclosing how the Welsh Government spends public money and that the money is invested wisely.

Public Interest Against Disclosure

Disclosure of this information would provide competitors with access to a level of information not otherwise available to them. This would be likely to enable competitors to obtain an advantage in negotiations for similar businesses. We do not believe facilitating this type of unfair competitive advantage would be in the wider public interest.

For example, disclosure of information on the company's technology platform, business model and product development would allow competitors to understand and potentially copy its activities. This information is proprietary and unique to Cell Therapy. Cell Therapy does not have access to similar information on its competitors, as they do not publish it, so would be at a significant disadvantage when competing for other businesses in future. We believe the resultant harm should this information be released, would be substantial.

I am aware that, as a general rule, the sensitivity of information is likely to reduce over time; therefore the age of the information, or timing of the request, may be relevant in determining whether to apply an exemption, or where the public interest may lie. In this case, however, the information captured is very much current information. I believe therefore that the balance of the public interest falls in favour of withholding the information.