

Ein cyf/Our ref ATISN 13757

Dear ,

**Request for
Information
13757**



Llywodraeth Cymru
Welsh Government

I wrote to you on 7 February regarding your request for information. You asked for –

2 March 2020

1. The amount of funding, under the European Agricultural Fund for Rural Development, was awarded by Welsh Government to the Waterfront Gallery for the Wales Contemporary / Cymru Gyfoes 2020 event.
2. A copy of the funding application submitted by the Waterfront Gallery.

I can confirm that we hold the information relating to your request.

For question 1, the amount of funding is already in the public domain and is therefore exempt from disclosure under section 21 of the Freedom of Information Act (information accessible by other means). Please find funding details at – [https://businesswales.gov.wales/tourism/sites/tourism/files/documents/RDP-TPIF Offers made 1-April-2019 to 31-March-2021.pdf](https://businesswales.gov.wales/tourism/sites/tourism/files/documents/RDP-TPIF%20Offers%20made%201-April-2019%20to%2031-March-2021.pdf)

For question 2, I have concluded a copy of the funding application 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.



BUDDSODDWR | **INVESTORS**
MEWN POBL | **IN PEOPLE**

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.

Yours sincerely

ANNEX A

ATISN 13757 – 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 Waterfront Gallery should it be disclosed at this point in time. To reveal the information relating to the funding would be likely to prejudice their commercial interests should the information associated with this matter be disclosed. The information would reveal commercially sensitive information not otherwise publically available and which, if disclosed would be likely to prejudice the company's service offering and future strategy.

Disclosing the information would give any competitors a distinct commercial advantage and stepping stone which would be likely to put the company's own business at risk and therefore prejudice its 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. We do not believe facilitating this type of unfair competitive advantage would be in the wider public interest.

For example, disclosure of information would allow competitors to understand and potentially copy its activities and service offering. To freely disclose the information

would give any competitors a distinct commercial advantage and stepping stone which would be likely to put their business at risk and therefore prejudice the company's ability to engage in future commercial activities. Waterfront Gallery does not have access to similar information on its competitors as they do not publish it, so would be at a significant disadvantage. We believe the resultant harm should this information be released, would be substantial.

Whilst the withheld information would be of interest to competitors, we do not believe it would be of sufficient interest to the wider public. Release of the information would also allow potential competitors access to a level of detail that they otherwise wouldn't have, so as to enable them to obtain a commercial advantage by understanding and potentially copying its activities and service offering. I do not believe that facilitating this type of unfair competitive advantage would be in the wider public interest. I further do not believe there is a public interest in prejudicing the commercial interests of the company by the release of this information.

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.