



Llywodraeth Cymru  
Welsh Government

16 April 2021

Dear

## **ATISN 15024 – Kidz R Us Funding**

### **Information requested**

Thank you for your request which I received on 23 March 2021. You asked for:

- a copy of the funding application submitted by Kidz R Us, Tredegar to the Community Facilities programme;
- details of the proposed project;
- the names of any partners to the project;
- conditions of the grant awarded: and
- the amount of funding awarded to Kidz R Us from the Community Facilities programme.

### **Our response**

The information you requested is attached. The first three bullet points above are covered in the application form and the latter two by the grant award letter. I have decided that some of the information is exempt from disclosure under section(s) 40(2) of the Freedom of Information Act and is therefore withheld, namely the ages of the volunteers at the project. The reasons for applying this exemption are set out in full at Annex A to this letter.

### **Next steps**

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](mailto: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

## Annex A

Freedom of Information Act 2000: Section 40(2) Section 40(2) together with the conditions in section 40(3)(a)(i) or 40(3)(b) provides an absolute exemption if disclosure of the personal data would breach any of the data protection principles.

'Personal data' is defined in sections 3(2) and (3) of the Data Protection Act 1998 ('the DPA 2018') and means any information relating to an identified or identifiable living individual. An identifiable living individual is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of the individual.

We have concluded that, in this instance, the information requested contains third party personal data.

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:

### 1. Legitimate interests

You have not provided any indication as to why you want this information and as such we cannot identify whether or not you have a legitimate interest in obtaining this personal data. Without any indication as to why you want this information we must assume there is no legitimate interest in obtaining the personal data.

## **2. Is disclosure necessary?**

The disclosure of personal data contained within the bid does not add to the understanding of the bid by Kidz R Us or to the understanding of the bid process. As such, I do not believe disclosure of the personal data is necessary.

## **3. Balancing test**

As I do not believe disclosure of personal data is necessary, disclosure would breach the fundamental rights, interests, and freedoms of the data subjects.

Therefore I find 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(2) of the Freedom of Information Act. Section 40(2) is an absolute exemption and not subject to the public interest test.