



Llywodraeth Cymru
Welsh Government

11 May 2021

Dear

ATISN 15102 – Infrastructure Investment Board

Thank you for your request to the Welsh Government for information under the Freedom of Information Act (2000) received on 27 April. You requested information regarding the Infrastructure Investment Board as follows:

- *Request for names of those that sits on the Infrastructure Investment Board and any other relevant details about the Board such as how often it meets*
- *Copies of the minutes of the past three meetings of the Board*

Our Response

Information relating to the Infrastructure Investment Board can be found in the accompanying documents (Document 1 and 2) NHS Wales Infrastructure Investment Guidance and associated annexes which includes Terms of Reference and membership. However, it is worth noting that the Terms of Reference are currently under review and the revised version will be available in due course. The membership has altered since the Guidance and associated annexes was last published and I can advise that the current membership is as follows:

Deputy Chief Executive NHS Wales (Chair);
HSS Deputy Director, Capital, Estates and Facilities;
Director NHS Shared Services – Facilities;
Planning Programme Director ;
Senior Medical Officer;
Deputy Director Workforce;
Welsh Government Chief Economist;
Welsh Government Head of Strategic Investment;
Director of Technology, Digital and Transformation.

I am also able to confirm that the Board normally meets on a monthly basis.

With regards to the minutes of the meetings, these are highly confidential and publication could harm processes, Ministerial Decisions and prejudice the interests of Welsh Government as funding body and the individual organisations as part of their business case development. The Board has considered a range of business cases during the time period you have set out, including detailed financial reporting on the All Wales Capital Programme. The range of issues covered will influence future Ministerial Advice,

procurement processes and financial recommendations. As such, we are applying the following exemptions under the Freedom of Information Act 2000.

- Section 29(1)(b) Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the financial interests of any administration in the United Kingdom, as defined by section 28(2).
- Section 43(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).

For further information, see Annex 1 of 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
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,

Engagement of Section 29(1)(b) and Section 43(2)

Section 29(1)(b) Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the financial interests of any administration in the United Kingdom, as defined by section 28(2).

Section 43(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).

Officials have carefully considered all of the information captured by this request and consider that the information in question should be exempt under Section 29(1)(b) and Section 43(2) of the Freedom of Information Act.

Both Section 29(1) and Section 43(2) are public interest exemptions. This means that in order to withhold information under its provisions, it has to be shown that the public interest in withholding the information outweighs that in releasing it.

Public interest arguments in favour of release

Release of this information would promote transparency of the work that is undertaken by the Infrastructure Investment Board and demonstrate the range of investment that Welsh Government are considering, along with the contents of a number of business cases, its rationale, benefits, costs, risks and timescales. This would contribute to increase public understanding and accountability in this area.

Public interest arguments in favour of withholding

Section 29(1)(b)

The Board deals with a range of highly confidential matters and publication could harm processes, Ministerial Decisions and prejudice the interests of Welsh Government as funding body and the individual organisations as part of their business case development. The Board has considered a range of business cases during the time period you have set out, and as such the associated minutes include detailed financial reporting and policy development matters linked to the All Wales Capital Programme. The range of issues covered will influence future Ministerial Advice, procurement processes and financial recommendations. Therefore by releasing these minutes would harm government and financial decision making processes.

Section 43(2)

The Minutes of the Infrastructure Investment Board and its supporting papers being withheld as they contain sensitive information, particularly relating to financial information which will be subject to future decisions and tendering exercises as part of business case development. A range of schemes and reporting has taken place which will influence the commercial interests of the procurement organisation but also those supply chain partners who will have an interest in tendering for the work.

As the business cases are also subject to Ministerial Approval it would not be appropriate for commercial information to be released which could be subject to change, be part of an iterative business process and potentially harm government policy interests and prejudice Ministerial decisions.

Conclusion

Whilst recognising that there are public interest arguments for disclosure of the minutes of the Infrastructure Investment Board, I consider that the public interest in withholding the information outweighs that in releasing it in this instance.