

15 March 2024

Dear

Request for Information - ATISN 20236

Thank you for your requests for information of 19 February.

Information requested

Any documents created during the period 1st July 2021 to 31 January 2024 in relation to A465 dualling project referencing the liaison committee, any authority represented in accordance with clause 8.1 of the project agreement and/or Brian Jenkins.

Our Response

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

In the first instance, I am of the view that the information you want me to search for is environmental information and as such I have considered your request under the Environmental Information Regulations 2004 (EIRs). 'Environmental information' is defined in the Regulations as (inter alia) 'information on measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites, and also factors such as substances, energy, noise, radiation or waste likely to affect the state of the elements of the environment above'.

I have concluded that your request is both voluminous and complex and will be very time consuming to deal. Under the EIRs, there is no appropriate costs limit above which public authorities are not required to deal with requests for information. However, Reg 12(4)(b), manifestly unreasonable request, can apply if the cost or burden of dealing with a request is too great. This position was confirmed in the Upper Tribunal case of *Craven v The Information Commissioner and the Department of Energy and Climate Change* [2012] UKUT442 (AAC).

"Taking the position under the EIR first, it must be right that a public authority is entitled to refuse a single extremely burdensome request under regulation 12(4)(b) as "manifestly unreasonable", purely on the basis that the cost of compliance would be too great (assuming, of course, it is also satisfied that the public interest test favours maintaining the exception). The absence of any provision in the EIR equivalent to section 12 of FOIA makes such a conclusion inescapable."

Public Interest Test

Reg 12(4)(b) is subject to the public interest test. I have given consideration to the public interest in disclosing the information. *The Welsh Government recognises the general public interest in openness and transparency and that releasing the information would help the public gain a better understanding of the projects in question and decisions made to improve future rail travel in Wales. The Welsh Government also recognises the public has an interest in how their money is to be, or has been, used to ensure Government gets the best value from the public purse.*

Requesting a broad scope of information (any documents) as described over a 3 year timeframe makes the search very difficult and time consuming. Not all the information is grouped in the same place as there are numerous departments and members of staff of the Welsh Government that will have dealt with the subject matter. This would therefore encompass searching individual and team emails/letters/notes etc. across the Welsh Government.

A substantial volume of the information requested is stored on our Electronic Document and Records Management System, known as iShare, and within Outlook e-mail accounts for individual officials. iShare is the corporate repository for the majority of information created and received by Welsh Government Officials in the course of their duties that must be retained for business or historical purposes. Further information about iShare can be found under Section 7 of our Information and Records Management policy, which is available on the Welsh Government [website](#).

Documents are saved on iShare using naming conventions appropriate to the effective recording of information for our own purposes. Setting our systems in this way, and in line with our Records Management policy, enables effective delivery and will not necessarily lend themselves to being easily interrogated for generic requests for information. Where the Welsh Government believes providing such information would involve tasks that would be time consuming to deal with, in line with our obligations under the section 45 Code of Practice, we inform the requester of that fact and invite them to narrow down or re-focus their requests.

A general iShare search using the search terms 'A465 dualling' and/or 'Brian Jenkins' for the time period you specified yielded over 5000 results. At an average estimate of one minute per result to check whether it is relevant to your request and then extracting the relevant information, it would take one official at least a full working week, but it is very likely the work would extend beyond that timeframe. There are many different departments that would have had some sort of correspondence and/or meetings with the company over a number of years. We therefore would have to do a Government wide search involving many individuals and teams/departments. The time it would take to undertake the search and the resource would be substantial.

The Welsh Government therefore considers the balance of the public interest lies in favour of refusing your request. This is because it is believed your request would place a substantial and unreasonable burden on Welsh Government resources which are already stretched and on balance, it is considered the public interest would be better served by not deploying our resources in undertaking core work. As part of

these considerations we have applied the statutory presumption in favour of disclosure under Reg12(2) of the Regulations but our view is that the significant burden that this request would impose outweighs the public interest in releasing this information.

Your request is therefore refused under Reg 12(4)(b) – manifestly unreasonable, of the EIRs, for the reasons outlined above.

You may wish to refine your request by narrowing its scope by being more specific about what information you particularly wish to obtain, including any dates or period of time relevant to the information required. I am unable to process your request any further.

If you are dissatisfied with the handling of your request, you have the right to ask for an internal review. Internal review requests should be submitted within two months of the date of receipt of the response to your original letter and should be addressed to: Freedomofinformation@gov.wales

Should you wish to refine your request further, this will be treated as a new request.

Next steps

The request you sent me contains personal information about you - for example, your name and email address. The Welsh Government will be the data processor for this information and, in accordance with the General Data Protection Regulation, it will be processed in order to fulfil our public task and meet our legal obligations under the Act to provide you with a response. We will only use this personal information to deal with your request and any matters which arise as a result of it. We will keep your personal information and all other information relating to your request for three years from the date on which your request is finally closed. Your personal information will then be disposed of securely.

Under data protection legislation, you have the right:

- to be informed of the personal data we hold about you and to access it
- to require us to rectify inaccuracies in that data
- to (in certain circumstances) object to or restrict processing
- for (in certain circumstances) your data to be 'erased'
- to (in certain circumstances) data portability
- to lodge a complaint with the Information Commissioner's Office (ICO) who is our independent regulator for data protection

For further information about the information which the Welsh Government holds and its use, or if you wish to exercise your rights under the GDPR, please see contact details below:

Data Protection Officer
Welsh Government
Cathays Park

CARDIFF
CF10 3NQ

Email: DataProtectionOfficer@gov.wales

The contact details for the Information Commissioner's Office are:

Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Telephone: 0303 123 1113

Website: www.ico.org.uk

Any information released under the Freedom of Information Act 2000 or Environmental Information Regulations 2004 will be listed in the Welsh Government's Disclosure Log (at <https://gov.wales/about/open-government/freedom-of-information/responses/?lang=en>).

Yours sincerely