

7 March 2025

Dear

### **Request for Information - ATISN 24372**

Further to your request for information which was received on 11 February 2025.

You asked for the following information about the resurfacing of the A483 near Wrexham in 2021/22:

- 1) The overall planned price of the works in 2021
- 2) The actual cost of the works in 2021
- 3) The overall price of the remedial works
- 4) Who paid for the remedial works
- 5) Who paid for repairs due to fire damage; and
- 6) The settlement date with the third party insurers

### **Our response**

I can confirm the Welsh Government holds some of the information you requested.

- 1) & 2) In relation to the planned price of the works and the actual cost of the works in 2021, we consider this information to be exempt from disclosure under section 43(2) of the FOIA and it is therefore withheld. My reasons for applying this exemption are set out in full at Annex A to this letter. The works are not yet complete and further work is to be done.
- 3) We do not know the cost of the remedial works as they were undertaken at the Contractor's own cost.
- 4) They were paid for by the Contractor.
- 5) The fire damage was caused by an uninsured vehicle on the date of the incident. Accordingly, a claim for recovery of the costs incurred was made to the Motor Insurers' Bureau, which was settled in full under the terms of the Uninsured Drivers Agreement.
- 6) Full settlement of the balance of £28,863.03 was received on 21/11/2022.

### **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: [Freedomofinformation@gov.wales](mailto:Freedomofinformation@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:

Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

Telephone: 0303 123 1113  
Website: [www.ico.org.uk](http://www.ico.org.uk)

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: Application of Section 43 (Prejudice to commercial Interests) Exemption**

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).

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 (WG) is of the view that this Information is exempt information as its disclosure under this Act would, or would be likely to, prejudice the commercial interests of the companies who were awarded contract, pursuant to Section 43(2) of the Freedom of Information Act.

Information relating to contract price is confidential in nature. Disclosure of such information will prejudice a company's ability to compete in the open market and therefore its ability to pursue its legitimate commercial interests and would adversely affect their ability to competitively bid and deliver into that market, and to run their future business activities.

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.

### **Public Interest in Favour of Disclosure**

Welsh Government acknowledges the general public interest in promoting transparency, accountability, public understanding and involvement in democratic processes. In this case there is also a clear public interest in understanding how public money is spent, and for the democratic accountability of spending decisions.

### **Public Interest in Favour of Withholding**

There is a public interest in ensuring companies bidding on public contracts can compete fairly. Because disclosure of information is to the public at large, that disclosure would include disclosure of this information to competitors who do not have to disclose their own costs and prices of their contracts. It is not in the public interest that companies should be commercially disadvantaged in this way. Furthermore, as the works are not yet complete and there will be further contracts to let for this work releasing the costs at this present time would prejudice the company's ability to competitively bid for the follow-on works.

## **Balance of the Public Interest**

The works in question were not completed in 2021, and further work remains to be undertaken. It is because of this that disclosure of the information at this stage would cause commercial harm to the company, whose bid would be undermined by such disclosure, without any requirement for other bidders to provide such information.

Although there is a clear public interest in the accountability of government in the spending of public money, I find that this public interest can still be met by disclosure of the final work costs at a time when the work has been completed, and when disclosure would not cause the same commercial harm in the bidding process as arises at this time.

I therefore find that the public interest in maintaining the exemption outweighs the public interest in disclosure, and the information is withheld.