



Ein cyf/Our ref ATISN 15086

Llywodraeth Cymru
Welsh Government

21 May 2021

Dear

Request for Information – ATISN 15086

I wrote to you on 22 April regarding your request for information.

Information requested

1. Copies of any communications between the Minister for Economy, Transport and North Wales, Ken Skates MS with Liberty Steel and GFG Alliance from 1 January 2021 to 21 April 2021, including but not limited to, letters, emails, records of phone calls and text messages (including the Minister's personal phone).
2. Notes/readouts from any meetings with representatives of these entities, in particular a meeting between the Minister and Liberty Steel on 18 March 2021 and a further meeting with the Secretary of State for the Department of Business, Energy and Industrial Strategy.

Our Response

I confirm the Welsh Government holds information caught by your request. The information we hold in relation to your first question is enclosed at Annex 1. Some of that information is being withheld under Regulation 13, personal data, of the Environmental Information Regulations and is therefore withheld. The information we hold in relation to your second question is exempt from disclosure under Regulation 12(4)(e), internal communications of the Environmental Information Regulations and is therefore withheld. The reasons for applying both of these exceptions are set out in full at Annex 2 to this letter.



BUDDSODDWYR | 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.

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.of.information@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

INFORMATION FOR RELEASE

1.	<p>From: GFG Alliance Sent: 10 February 2021 11:39 To: PS Minister Economy & Transport Cc: Jay Hambro, Simec; Welsh Government; XXX Liberty House Subject: Letter from Jay Hambro, CIO at GFG Alliance, to Minister Ken Skates MS (10 February 2021)</p> <p>Dear Minister,</p> <p>Please see attached a letter from Jay Hambro, CIO at GFG Alliance, updating on the conversion project of Uskmouth Power Station and wider developments in Newport.</p> <p>If you have any questions or need any further information, please get in touch.</p>
2.	<p>Letter from Jay Hamrbo, CIO, GFG Alliance to Minister for Economy, Transport and North Wales – 10 February 2021</p> <p>Dear Mr Skates,</p> <p>GFG Alliance in Wales</p> <p>Following our meeting in November, I agreed to write to give you another brief update on the work of GFG Alliance in Wales, not least in progress on our exciting proposals for development of Uskmouth Power Station, for LIBERTY Newport and our ongoing discussions about participation in a proposal for a Newport Freeport. We are extremely grateful for the Government of Wales' ongoing support for GFG's investment in the country and for your personal engagement with our development plans.</p> <p>As we discussed, the transformation of Uskmouth Power Station is a key part of the company's portfolio, where we are working with SIMEC Atlantis Energy (SAE) to harness the latest technology alongside our existing infrastructure to support industrial growth in the region while reducing the environmental impact of the power station. This is at the heart of GFG's vision for a low-carbon industrial revolution. The project has now submitted its planning application for storage silos and auxiliary works and we were pleased to receive the planning officers recommendation for approval.</p> <p>As you may be aware, Newport City Council were notified that there has now been a request for Welsh Government to 'call in' the project and this is now being considered. Naturally, the SAE team are continuing to work with NCC and partners to ensure all relevant information is available and ultimately to secure the timely delivery of this key investment in Wales.</p> <p>Elsewhere, LIBERTY Newport continues to develop its investment plans and</p>

	<p>we remain optimistic that we can unlock significant value across the site both through investment in the steelworks but also through participation in the region's bid to develop a Freeport at Newport. Ahead of the Government's bidding process, we have opened discussions with Newport City Council, ABP and others to explore ways we might support a bid, how to maximise its benefits and to assess what role our landholding and industrial assets may play.</p> <p>As ever, I will continue to keep you updated and I look forward to our next meeting in due course, which I will ask my team to arrange with your office.</p>
3.	<p>From: Sanjeev Gupta, GFG Alliance Sent: 04 March 2021 18:25 To: PS Minister Economy & Transport Cc: Jo Milligan, GFG Alliance</p> <p>Subject: Letter - Sanjeev Gupta</p> <p>Dear Minister Skates,</p> <p>I hope you are safe and well during this pandemic. Please find attached a letter from me for your kind review.</p>
4.	<p>Letter from Sanjeev Gupta, GFG Alliance, to Minister for Economy, Transport and North Wales – 4 March 2021</p> <p>Dear Minister,</p> <p>I want to provide you with some reassurance following the news this week that Greensill, a significant financial provider to GFG Alliance, is facing difficulties.</p> <p>You will, no doubt, be aware of media stories about the issue, many of which are full of speculation on what might happen next and how that might impact GFG and our operations in Wales. I wanted to update you on what is clearly a challenging situation in the short term.</p> <p>Firstly, GFG Alliance and its core operating divisions have adequate funding for their current needs while its refinancing plans to broaden its capital base and obtain longer term funding are progressing well. This is a process that has been underway for some months, irrespective of recent developments, and we hope to come to a satisfactory conclusion in the next few months. Secondly, our global efficiency drive over the past six months means that our core businesses, LIBERTY Steel Group and ALVANCE Aluminium Group, are operationally strong. Those businesses are also benefiting from a recovery in the iron ore, steel and aluminium markets, with steel prices in Europe currently trading at 13-year highs. This means that the vast majority of our businesses are running at near full capacity to meet high demand and are generating positive cash flows.</p> <p>However, there are a very small number of our operations where the situation is more challenging. We are working with our local management teams to find</p>

ways to establish a better and more sustainable operating position for these businesses.

We are also actively communicating with our employees, suppliers, customers and other stakeholders to provide them with reassurance and as much information as we can.

Due to the complex and fluid situation there is little more that I can add at the moment, beyond confirming that we continue to trade as normal, offering customers the same high quality products and services our businesses have been doing for so many years. I will also take this opportunity to reinforce the commitment that GFG Alliance has to Wales.

Our three core values of Family, Change and Sustainability remain firm. Although this is an unwelcome change in our circumstances, as a family we remain strong and determined to achieve our long term goals of sustainability. The excellent performance of our operating businesses and the commitment of our 35,000 employees worldwide puts us in a strong position to address this challenge.

As soon as I am able to provide a further update I will do so, but until then if you have any further questions please do not hesitate to contact our Head of External Affairs, Jo Milligan XXXX

ATISN 15086 - Application of exceptions

The Environmental Information Regulations provide a right for anyone to ask a public authority to make requested information available to the wider public. As the release of requested information is to the world, not just the requester, public authorities need to consider the effects of making the information freely available to everybody. Any personal interest the requester has for accessing the information cannot override those wider considerations.

We have decided to withhold the following information:

- Personal information contained in the correspondence caught by question 1.
- Notes of meetings held on 18 March 2021.

This Annex sets out the reasons for the engagement of Regulation 13, personal data and Regulation 12(4)(e), internal communications of the Environmental Information Regulations and our subsequent consideration of the Public Interest Test, where relevant.

Regulation 13 - Personal Data

Regulation 13 of the EIRs sets out an exception from the right to know if the information requested is personal information protected by the General Data Protection Regulation (GDPR) and Data Protection Act 2018 (DPA). Personal data is defined in the GDPR as:

“any information relating to an identified or identifiable natural person (‘data subject’); an identifiable natural person 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 that natural person”

We have concluded that, in this instance, the information in relation to names of junior employees and personal e-mail addresses amounts to personal data. Under Regulation 13 of the EIRs, 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”

Guidance from the Information Commissioner’s Office (Personal information (section 40 and regulation 13) v 1.3) states (at p11):

- The starting point is to consider whether it would be fair to the data subject to disclose their personal data. The key considerations in assessing this are set out in the section on Fairness below.
- If disclosure would not be fair, then the information is exempt from disclosure.

This approach was endorsed by the Court of Appeal in the case of *Deborah Clark v the Information Commissioner and East Hertfordshire District Council* where it was held:

“The first data protection principle entails a consideration of whether it would be fair to disclose the personal data in all the circumstances. The Commissioner determined that it would not be fair to disclose the requested information and thus the first data protection principle would be breached. There was no need in the present case therefore to consider whether any other Schedule 2 condition or conditions could be met because even if such conditions could be established, it would still not be possible to disclose the personal data without breaching the DPA” (paragraph 63).

In this instance, the personal data described above has been withheld. The personal information relates to names of junior employees and e-mail addresses of a third party business. The junior employees do not have openly public facing roles and would not expect their names or e-mail addresses to be released in this context. We believe that they would have no expectation that this information would be made public. Thus, we believe release of this information would be unfair and so breach the first data protection principle.

For that reason, the information is being withheld under Regulation 13 of the EIRs. This is an absolute exemption and not subject to the public interest test.

Regulation 12(4)(e) – internal communications

Regulation 12(4)(e) states that a public authority may refuse to disclose information to the extent that—

(e) the request involves the disclosure of internal communications.

Guidance from the Information Commissioner has confirmed that this exception is drafted broadly and is a class based exception which covers all internal communications, not just those that are sensitive or actually reflect internal thinking. The concept of ‘internal communications’ covers a wide range of information and includes any information intended to be communicated to others or saved in a file where it may be consulted by others. I can confirm that the information held by the Welsh Government which is captured by your second question amounts to internal communications.

Regulation 12(4)(e) is a qualified (public interest tested) exception. Even if the exception is engaged, public authorities must go on to apply the public interest test set out in regulation 12(1)(b). A public authority can only withhold the information if the public interest in maintaining the exception outweighs the public interest in disclosing the information. Because of this, consideration has been given to the effects of disclosure to the world at large rather than any personal interest you may have in being provided with the information.

Public interest arguments in favour of disclosure

The Welsh Government acknowledges the presumption in favour of disclosure under Regulation 12(2) and we acknowledge there is a public interest in openness and transparency within Government, particularly in terms of ensuring transparent and

accountable government by disclosing how the Welsh Government utilises its resources, spends public money and that both are invested wisely on behalf of the people of Wales.

Public interest arguments in favour of withholding

The information contained within the meeting notes you have requested consists of advice by officials to Cabinet Ministers reflecting the discussions held on 18 March 2021. The meeting was arranged for the then Minister for Economy, Transport and North Wales to receive an up-date from Liberty Steel and its operations in Wales and possible avenues of Welsh Government support. The advice expands into particularly sensitive and complex information regarding Liberty Steel's wider business interests, including the discussion of financial and commercial matters relating to the business. The advice discusses on-going business support the Welsh Government could further explore with the business, all of which is yet to be agreed by Ministers.

The meeting with the UK Government on 18 March 2021 was a routine quadrilateral meeting attended by the then Minister for Economy, Transport and North Wales. Liberty Steel was not discussed as a formal Agenda item but was briefly raised under any other business. The relevant extract relates to advice by officials to Cabinet Ministers reflecting that brief discussion and as above, refers to particularly sensitive information regarding Liberty Steel's wider business interests.

It is important for good governance that officials are able to fully engage with each other and with Ministers and exchange and provide advice away from the public gaze and that there should be no disincentive in doing so. If officials believed their advice or freely exchanged views would be made public, it is likely to inhibit the future provision of advice and exchange of views, leading to less rigorous and in-depth exploration of options and impairment of the quality of decision making. Unless officials are able to provide options and advice surrounding the possible offer of support to any company, the effectiveness of the possible support that could be offered and the process of reaching such a decision would be undermined. This would not be in the public interest.

Welsh Ministers have answered several Written Questions regarding this business, the answers to which are all available on the Welsh Government website, for example <https://record.senedd.wales/WrittenQuestion/82337>, <https://record.senedd.wales/WrittenQuestion/81598>, <https://record.assembly.wales/WrittenQuestion/82224>, <https://record.assembly.wales/WrittenQuestion/82337>, and <https://record.assembly.wales/WrittenQuestion/81277>. Welsh Ministers also proactively issue Written Statements when it is appropriate to do so, for example <https://gov.wales/written-statement-liberty-steel-newport-announcement>. With this in mind, the Welsh Government believes the amount of information already in the public domain is sufficient to satisfy the public interest.

Balance of public interest test

In this regard, the Welsh Government believes the balance of public interest to withhold the information outweighs the public interest to release it for the reasons outlined above. The information has therefore been withheld under Regulation 12(4)(e) of the EIRs.