

Dear

20 July 2022

### **Request for Information – ATISN 16320**

Thank you for your correspondence dated 8 July regarding your request for information. You asked for the following –

1. A written record of the verbal and written (including email exchange) authorisation for this expenditure.
2. The mandate under which this expenditure was made.
3. A copy of the agreement between WG and the 'tenant'; and a written record (including email exchange) of the communication between WG and the individual tenant leading up to the agreement.
4. Details of other purchases of land or property by the WG.
5. Details of any other agreements made between WG and private individuals as tenants.
6. Details of any other proposed purchases by WG of land or property.
7. Whether there are any connections between Senedd Members and those involved in this arrangement.
8. Whether any Senedd Members or their close connections will benefit from this arrangement.

### **Our response**

For questions 1 and 3, we consider this information to be exempt from disclosure under Section 43 (commercial interests) of the Freedom of Information Act 2000. Full reasoning for applying these exemptions is given at Annex A to this letter.

For question 2, the purchase was made by the Welsh Government for economic development purposes. The Welsh Government will consider the acquisition of any type of property, including farms, where it considers such action can help to deliver policy objectives.

For questions 7&8, there are no connections as described.

For questions 4-6, as stated in my email of 6 July, I explained it will be very time consuming to deal with.

Requesting a broad scope of information as described without specifying a timeframe makes the search very difficult and time consuming. Not all the information is grouped

in the same place as there are potentially dozens of departments and numerous members of staff of the Welsh Government that will have dealt with this subject matter. This would therefore encompass searching individual and team emails/letters/notes etc. across dozens of departments.

I have therefore concluded that it will cost more than the appropriate limit set out in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 to deal with that part of your request. I have therefore decided to refuse that part under Section 12 of the FOIA as to comply with it would exceed the appropriate limit.

### **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**

### ATISN 16320 – Consideration For and Against Disclosure of Information

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).

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.

### Section 43(2) – commercial interests

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 revealing the correspondence in relation to the purchase would be likely to prejudice our commercial interests should it be disclosed at this point in time. To reveal the information would include the financial information and business case which is directly linked to any valuations and or offers for the land. To reveal this information would likely to prejudice our commercial interests should the information associated with this matter be disclosed. The information would reveal commercially sensitive information not otherwise publically available and which, if disclosed would be likely to prejudice our service offering and future strategy and development .

Disclosing the information would give us a disadvantage in future dealings for any potential future purchases. It would place WG at a distinct commercial advantage when negotiating and therefore prejudice our ability to engage in future commercial activities. It would also allow any other potential purchasers an insight into our methodology and proprietary information they would otherwise not have considered in their offering. We do not believe that facilitating this type of unfair competitive advantage would be in the wider public interest.

#### Public Interest Test For Disclosure

The Welsh Government recognises the public interest in openness and transparency within government, particularly in terms of ensuring an accountable government by disclosing how the Welsh Government spends public money and that the money is invested wisely.

#### Public Interest Against Disclosure

Disclosure of this information would provide competitors and potential sellers access to a level of information not otherwise available to them. This would be likely to enable them to obtain an advantage when negotiating with Welsh Government. We do not believe facilitating this type of unfair competitive advantage would be in the wider public interest.

For example, disclosure of information would allow land owners to understand previous purchases and potentially negotiate a detrimental position for the Welsh Government. To freely disclose the information would give competitors a distinct commercial advantage and stepping stone which would be likely to prejudice our ability to engage in fair and level playing field for our commercial activities. WG do not have access to similar information on its competitors as they do not publish it, so would be at a significant disadvantage. We believe the resultant harm should this information be released, would be substantial.

Whilst the withheld information would be of interest to other competitors, we do not believe it would be of sufficient interest to the wider public. Release of the information would also allow potential competitors access to a level of detail that they otherwise wouldn't have, so as to enable them to obtain a commercial advantage by understanding and potentially copying the methodology, our processes and business case. I do not believe that facilitating this type of unfair competitive advantage would be in the wider public interest. I further do not believe there is a public interest in

prejudicing the commercial interests of the Welsh Government or the company by the release of this information.

I am aware that, as a general rule, the sensitivity of information is likely to reduce over time; therefore the age of the information, or timing of the request, may be relevant in determining whether to apply an exemption, or where the public interest may lie. In this case, however, the information captured is very much current information. I believe therefore that the balance of the public interest falls in favour of withholding the information.