



25 September 2023

Dear ,

ATISN 18890 – Prospect Place.

Information Requested.

Thank you for your request, which we received on 24 August 2023. You asked for:

- 1) A copy of Bellway's signed Welsh Governments' contract, including all annexes.
- 2) A copy of the data reports submitted by Bellway
- 3) A copy of Bellway's assessment order and method statement
- 4) A copy of Bellway's works order and method statement

Our response

- 1) Exempt in part from disclosure. A copy of the information I have decided to release is enclosed. I have decided that some of the information requested is exempt from disclosure under sections 38, 40(2) and 43(2) of the Freedom of Information Act and is therefore withheld. The reasons for applying these exemptions are set out in full at Annex 1 to this letter.
- 2) Exempt in full from disclosure – please see Annex 1
- 3) Exempt in full from disclosure – please see Annex 1
- 4) Exempt in full from disclosure – please see Annex 1

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

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 1 - Application of exemptions/exceptions

The Freedom of information Act/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.

I have decided to withhold the following information:

Information being withheld	Section number and exemption name
Personal information included within the signed contract	Section 40(2) - Personal Information
A copy of the Data Reports submitted by Bellway	Section 40(2) - Personal Information; Section 43 – Prejudice to commercial interests
A copy of Bellway’s assessment order and method statement	Section 43 – Prejudice to commercial interests
A copy of Bellway’s works order and method statement	Section 43 – Prejudice to commercial interests

This Annex sets out the reasons for the engagement of section(s) **38, 40** and **43** of the **Freedom of Information Act** and our subsequent consideration of the Public Interest Test.

1. Contract Annexes

Section 40(2) – Personal Information

This exemption applies to names and personal information of individuals in the released information. The Welsh Government believes that personal information of third parties involved in the contract is contained at certain sections of the contract, namely the names of staff and are therefore exempt from disclosure.

Under Section 40(2) of the FOIA, personal data is exempt from release if disclosure if:

- (2) Any information to which a request for information relates is also exempt information if—
- (a) it constitutes personal data which does not fall within subsection (1), and
 - (b) the first, second or third condition below is satisfied.

The withheld information amounts to the personal data of individuals involved in contract development and monitoring who would not have reasonably expected that their personal data would be released into the public domain in this context. Thus, we believe release of this information contrary to their reasonable expectation would be unfair disclosure under the first data protection principle. This is an absolute exemption and not subject to the public interest tests.

Engagement of Section 38 – Endangering health and safety

This exemption applies to when the request would or would likely to endanger anyone's physical or mental health or safety. The Welsh Government believes that disclosing the information contained in Schedule 2 of the contract (there are no Annexes) of the contract would have a detrimental impact on the people living in those buildings. Disclosure would make public the full address of buildings identified as being at higher risk of fire related issues. We consider this a health and safety issue as there is the potential for these buildings to be targeted by those with malicious intent and/or to cause harm.

In line with the terms of this exemption, we have considered whether it would be in the public interest for us to provide you with the information, despite the exemption being applicable, for reasons of transparency. We believe that the impact of physical or mental health or safety of those residing in these properties outweighs any wider public interest that would be served by disclosing that information.

- 2. A copy of the data reports submitted by Bellway**
- 3. A copy of Bellway's assessment order and method statement**
- 4. A copy of Bellway's works order and method statement**

Engagement of Section 40(2) – Personal Information

This exemption applies to names and personal information of individuals in the released information. The Welsh Government believes that personal information of third parties related to the contract is contained throughout the data reports, namely the names of staff, emails and phone numbers and are therefore exempt from disclosure.

Under Section 40(2) of the FOIA, personal data is exempt from release if disclosure if:

- (2) Any information to which a request for information relates is also exempt information if—
 - (a) it constitutes personal data which does not fall within subsection (1), and
 - (b) the first, second or third condition below is satisfied.

The withheld information amounts to the personal data of individuals involved in contract development and monitoring who would not have reasonably expected that their personal data would be released into the public domain in this context. Thus, we believe release of this information contrary to their reasonable expectation would be unfair disclosure under the first data protection principle. This is an absolute exemption and not subject to the public interest tests.

Engagement of Section 43 – Commercial prejudice

The exemption applies when complying with the request would prejudice or would likely to prejudice commercial interests. The data report, assessments, method statement and works orders contains information concerning project staff, budgets

and costs and business information that is a business asset not currently in the public domain.

The Welsh Government consider that to release the information into the public domain, we would allow competitors and/or other third parties (including but not limited to insurers/supply chain etc) access to this business information. This would be highly prejudicial and harmful to Bellway's commercial interests, trading position and their ability to remain competitive in the development market.

In line with the terms of this exemption, we have considered whether it would be in the public interest for us to provide you with the information, despite the exemption being applicable, for reasons of transparency.

Welsh Government acknowledges the public interest in the safety of medium and high-rise buildings in Wales. It also accepts there is public interest in progress being made to remediate buildings that have been affected.

It is not in the public interest for developers signed up to the contract to suffer commercial prejudice because of their commitment to remediation. Release of this information would cause such harm and would likely negatively impact their ability to deliver on their contractual obligations.

As such, on balance, we feel there is no specific or sufficiently strong countervailing interest to allow bidders to suffer such loss, so the balance of public interest lies with withholding this information.