

10 November 2023

Dear

## **Request for Information - ATISN 19167**

Thank you for your requests for information of 4 October 2023, where you requested information about the Compensation Event and about WPPN 09/21. We have dealt with this request under the Freedom of Information Act 2000.

### **Your request**

#### **PART ONE**

You asked for the following information regarding Project Agreement for Sections 5 & 6 of the A465:

1. The Project Agreement for sections 5 & 6 of the A465 between the Welsh Ministers (Welsh Government) and Future Valleys Project Co Limited (Project Co) dated 28 October 2020 (Project Agreement); and
2. The Disruption Events Side Letter between Welsh Government and Project Co dated 29 October 2020 (Side Letter).
3. Information, communications and other records created relied upon or received by the Welsh Government and its advisors in relation to or concerning the "Compensation Event" claim known as "CE-002 – Increase of Construction Material prices" (CE 002), made under the Project Agreement (as varied by the Side Letter) by Project Co, including the following:
  - a) Assessment, consideration and deliberations by the Welsh Government and its advisors of CE 002, including of the contractual notifications, submissions and other materials provided by Project Co in support of CE-002;
  - b) Correspondence (including drafts) with Project Co concerning CE-002; and
  - c) Meetings held with representatives of Project Co and FCC concerning CE-002.

#### **PART TWO**

You asked for the following information regarding the implementation of Welsh Procurement Policy Note WPPN 09/21: Sourcing building materials for construction projects in Wales (WPPN 09/21) issued by the Welsh Government:

1. The following information, communications and other records created, relied upon or received by the Welsh Government and any Welsh Public Sector bodies (together, Welsh Government) in relation to and concerning the implementation of Section 4.2 of WPPN 09/21 (“Managing the impact of volatile material prices”):
  - a) The standard that has been applied by the Welsh Government in determining whether fluctuations in material prices have exceeded “moderate tolerances” sufficiently for the Welsh Government to consider a variation to a contract to which it is a party (as described in Section 4.2.1.1 of WPPN 09/21);
  - b) The type of “compelling evidence” that has been given by contractors or supply chains to demonstrate the impact of fluctuations on material prices for the Welsh Government to consider a price adjustment (as described in Section 4.2.1.6 of WPPN 09/21);
  - c) The process or methodology that has been applied by the Welsh Government in determining a price adjustment (as described in Sections 4.2.1.7 to 4.2.1.10 of WPPN 09/21).

Can the above information be provided for the commencement of WPPN 09/21 (14 October 2021) to the date of this request.

### **Our response**

Section 12 of the Freedom of Information Act 2000 makes provision for public authorities to refuse requests for information where the cost of dealing with them would exceed the appropriate limit, which for central government is set at £600. Your request for all written information, communications, and any other records created, relied upon, or received, across the time period in question is very broad indeed and will take a significant amount of time to locate, retrieve, and extract. We estimate that it will take us in excess of the applicable time limit to do so and, therefore, your request will not be processed further.

Your request as it stands asks for a broad scope of information (information, communications and other records) as described, even with a specified timeframe makes the search very difficult and time consuming. Not all information/communications is grouped in the same place as there are numerous departments and members of staff of the Welsh Government that may have dealt with this matter.

A substantial volume of the information requested is stored on our Electronic Document and Records Management System, known as iShare. 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.

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 your request. I have therefore decided to refuse your request under Section 12 of the FoIA as to comply with it would exceed the appropriate limit.

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](mailto:Freedomofinformation@gov.wales)

Should you wish to refine your request further, this will be treated as a new request. I would advise that asking for any information 'sent by and on behalf of the Minister for Economy and Transport Ken Skates AM/MS', is very broad and could include a significant number of documents sent by many Welsh Government officials on behalf of the Minister. You may wish to clarify the specific type of information/correspondence you are asking for.

## **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](mailto: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](http://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