



Llywodraeth Cymru
Welsh Government

9 March 2020

Dear _____,

Complaint in respect of Request for Information – reference ATISN 13712

I am writing in response to your 15 February 2020 request for a review of the Welsh Government's response to your FOIA request for information, dated 19 January 2019.

I intend to respond to the issue you raise in your February request, namely the decision to withhold the information requested in point 1:

The education, qualifications & training held by the two Cafcass Cymru Officers named in your request.

The Welsh Government has set out that having considered your request for this information it has decided the information requested amounts to third party personal data and the section 40(2) exemption should be applied in this case. The response provides a definition of personal information and correctly states the Freedom of Information Act is a vehicle for the public to ask for information held by public authorities to be placed into the public arena for the World to access and use. This means the requested information is not just provided to you but that the information has to be made freely available to everyone else. When processing such requests the Welsh Government must consider the effects of widely sharing this information. As such, any decision to withhold information is not a decision on whether or not the requester should not have access to the information but rather that the information should not be made freely available to anybody and everybody.

The response to your request states the Welsh Government considered Article 6(1)(f) the most relevant lawful basis for processing your request. In arriving at this decision the Welsh Government is then required to consider a three part test which is set out in the response to you.

Having reviewed the evidence and guidance available to me I am satisfied the decision to classify the information requested as “personal” is sound and the subsequent decision to apply Article 6(1)(f) is the correct lawful basis. Following on from these decision I am also satisfied the section 40(2) exemption has been applied appropriately. My reasoning for this is set out in this response.

Application of the exemption

The Welsh Government considered your request and concluded the information requested contains third party personal data and provided to you the reasoning for this decision. Based on this decision they were required to consider whether or not the information should or should not be shared. At this point they identified the section 40(2) exemption as being applicable and informed you of the decision.

My review of the information requested and guidance available to me indicates this is the correct decision. Whilst educational information is not listed within the response, it is clear that providing an educational history of the Family Court Advisers could enable their identification by others following the wider release of the information. I am of the view the Family Court Advisers would not expect such personal information to be shared with the public considering they have been appointed on the basis of meeting the minimum criteria for the role.

I also note that upon receipt of similar requests the Welsh Government has adopted the same position and this exemption has been consistently applied.

The Legitimate Interest test

The Welsh Government has already recognised there is a legitimate interest in members of the public being assured that an individual employed as a Cafcass Cymru Family Court Adviser is qualified and experienced to undertake the duties of that role.

I am satisfied this test has been appropriately considered and applied.

The Necessity test

In considering the response to the request I note the information provided to you sets out the minimum qualification and post qualifying experience requirements for a Cafcass Cymru Family Court Adviser. The Welsh Government clearly understands the importance of making this information public to demonstrate all Family Court Advisers are suitably qualified and experienced to undertake the role and have opted to do this. This is supported by evidencing the requirement for, and maintaining, Social Care Wales registration and signposting the Social

Care Wales register. Based on this, the Welsh Government does not feel it is appropriate or necessary to share the qualification history of individual Family Court Advisers.

It is my view that the release of individual qualification and experience information, identified as personal information, to the requestor, and therefore the wider public, is not necessary given that the Family Court Advisers in question have met the minimum requirements for the role as set, and published, by the employing organisation and regulatory body.

The Balancing test

The Welsh Government recognises the wider public interest in this matter and believes the information shared in the response provides assurance as to the qualification and experience requirements for the Family Court Adviser role. It is clear that maintaining the interests, fundamental rights and freedoms of the data subjects, in this case the specific Family Court Advisors, were considered when deciding whether or not to release information.

I find there is no reasonable expectation that the Family Court Advisers personal information would be made publicly available and that doing so would not meet the 'fair' requirement of Article 5 of the GDPR. It is my opinion that the Welsh Government have appropriately applied the Balancing test in considering whether or not the interests, fundamental rights and freedoms of the data subject are overridden by the interests of the requestor.

If you remain dissatisfied with this response you also have the right to complain to the Information Commissioner at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Tel: 01625 545 745
Fax: 01625 524 510
Email: casework@ico.gsi.gov.uk

Also, if you think there has been maladministration in dealing with your request, you have the option to make a complaint to the Public Services Ombudsman for Wales who can be contacted at:

Public Services Ombudsman for Wales
1 Ffordd yr Hen Gae
Pencoed
Bridgend
CF35 5LJ

Telephone: 0845 6010987 (local rate)
Email: ask@ombudsman-wales.org.uk

Yours sincerely

Matthew Wright
Head of Central Support Team
Cafcass Cymru

CafcassCymru@gov.wales

Rydym yn croesawu gohebiaeth Gymraeg. Cewch ateb Cymraeg i bob gohebiaeth Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome correspondence in Welsh. Correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not involve any delay.