



Llywodraeth Cymru
Welsh Government

10 July 2017

Dear ,

ATISN 11339- Coleg QS Monitoring Reports

Thank you for your request, which I received on 12 June 2017 and clarified on 25 June, in which you asked for copies of the reports of monitoring visits made to Coleg QS in February 2011 and September/October 2013 by Mr Gareth Marsden and colleagues.

I am enclosing copies of two monitoring reports in respect of visits undertaken to Coleg QS on 08 February 2011 and 03 October 2013.

You should be aware that the reports were created on an electronic database and the copies attached are printouts from that database. In some cases, text cannot be viewed in the printed version of the reports. I have printed the missing text and attached documents called 'Extended Text Boxes' to the reports.

Please note that there is a typographical error in the monitoring report dated 08 February 2011. At page 9 of the report, the response to the question "If not, what actions still need to be taken" is "See separate id 15 report in Provider ID 1035692". Our database assigns a unique identification number to each training provider. The error here is that Coleg QS's unique identification number is 1035642 and not 1035692. I can confirm that no monitoring reports in respect of Coleg QS exist other than those for which copies have been provided.



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Skills Higher Education&Lifelong Learning
c/o Access to Information Unit
4th Floor West
Cathays Park
Cardiff CF210 3NQ

You should also be aware that the monitoring reports refer to ReAct programme participants other than yourself. The identities of the other participants have been withheld under the s40(2) "Personal data" exemption provided by the Freedom of Information Act 2000 (FOIA). Full details of our application of this exemption is in the attached annex.

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: FreedomOfInformationOfficer@wales.gsi.gov.uk

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 the s40(2) exemption

Section 40 of the Freedom of Information Act sets out an exemption from the right to know if the information requested is personal information protected by the Data Protection Act 1998 (DPA). Personal data is defined in Section 1(1) of the DPA as:

“personal data” means data which relates to a living individual who can be identified from those data; or from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller”.

We have concluded that, in this instance, the information identifying other ReAct programme participants amounts to third party personal data.

Under Section 40(2) of the FOI Act, personal data is exempt from release if disclosure would breach one of the data protection principles. We consider the principle being most relevant in this instance as being the first.

The first data protection principle.

This states:

Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless -

(a) at least one of the conditions in Schedule 2 is met, and (b) in the case of sensitive personal data, at least one of the conditions in Schedule 3 is also met.

We consider that the information highlighted falls within the description of personal data as defined by the DPA and that its disclosure would breach the first data protection principle. The first data protection principle has two components:

1. Personal data shall be processed fairly and lawfully and
2. Personal data shall not be processed unless at least one of the conditions in DPA schedule 2 is met

Guidance from the Information Commissioner's Office (Personal information (section 40 and regulation 13) v 1.4) states:

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).

Our analysis of the ICO’s key considerations in assessing ‘fairness’, as set out in the Guidance, are below

- *The reasonable expectations of the individual, taking into account: their expectations both at the time the information was collected and at the time of the request; the nature of the information itself; the circumstances in which the information was obtained; whether the information has been or remains in the public domain; and the FOIA principles of transparency and accountability;*

The individuals concerned will have no expectation that their personal data would be released into the public domain as a result of a FoI request. At the time these individuals entered into the ReAct programme they were provided with information about how the Welsh Government would use and share the personal information they had provided and why and with whom the information would be shared. The information provided to individuals was that their information would be used by the Welsh Government for the purposes of evaluation, the compiling of statistical information and equal opportunities monitoring. The Welsh Government informed individuals that their personal information would be shared only with authorised Welsh Government contractors or other Government agencies.....

- *Whether there is any legitimate interest in the public or the requester having access to the information and the balance between this and the rights and freedoms of the individuals who are the data subjects.*

We do not believe that disclosure of other participants’ personal data would increase the wider public’s understanding of the visits and subsequent reports and as such we do not believe that there is an overriding wider public interest in disclosure of their personal data without their explicit consent.

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 section 40(2) of the Freedom of Information Act. This is an absolute exemption and not subject to the public interest tests.

Annex 2 – Copies of the Monitoring Reports



Coleg QS Monitoring
Visit 08-02-2011.pdf

<<Doc 1>>



Coleg QS Monitoring
Visit 03-10-2013.pdf

<<Doc 2>>