



Ein cyf/Our ref ATISN 11364

21 July 2017

Dear ,

ATISN 11364 – A Level results for schools in Monmouth

Thank you for your email of 25 June asking for the following information under the Freedom of Information Act 2000:

A level examination results for 2014, 2015, 2016 and provisional results for 2017 broken down by subject, gender and school for the Monmouth area (Monmouth Comprehensive, Monmouth School, HMSG) for the following subjects:

Physics
Chemistry
Biology
Computer Science/Information and Communication Technology
Mathematics
Further Mathematics
Statistics
Design and Technology

BTEC Level 3:
Business
Engineering
Public Services

I have decided that some of the information is exempt from disclosure under section 40(2) ('personal information') of the Freedom of Information Act and is therefore withheld. The reasons for applying this exemption are set out in full at Annex 1 to this letter.

The information that I am releasing is attached at Annex 2 and Annex 3. Data on examination results for 2017 are not yet held by Welsh Government and will be available for release following the publication of final National Statistics for the academic year in question in November/December 2017.

The following notes accompany the data in the Annexes.

Notes

Pupils aged 17 on 31 August at the start of the academic year. Only includes schools with pupils aged 17 on register. "*" Refers to a data item that has been suppressed as it is potentially disclosive due to small numbers.

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. However, please note the Commissioner will not normally investigate a complaint until it has been through our own internal review process. The Information Commissioner can be contacted at:

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

The request you sent me contains personal information about you – for example, your name and address. I will only use this personal information in accordance with the Data Protection Act 1998 to deal with your request and any matters which arise as a result of it. I 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.

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 <http://wales.gov.uk/about/foi/responses/?lang=en>).

Yours sincerely,

Annex 1

I have decided to withhold the following information:

Information being withheld	Section number and exemption name
Examination entries and results of less than 5 individuals	Section 40(2) Personal information

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 on examination results by subject 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

- *Whether the information is sensitive personal data and the possible consequences of disclosure on the individual ;*

We believe that the release of small numbers (which may be as low as 1), when taken in conjunction with other information that could be reasonably supposed to be available, could result in disclosing personal data about the examination achievements of individual pupils. To that end, we believe the information falls within the description of personal data as defined by the DPA.

Disclosing information that allows an individual's grade to be identified may be unfair, particularly when it could be used to make judgements about the pupil. The information is collected for statistical and research purposes only.

Our disclosure control rules are set in accordance with the Code of Practice for Official Statistics. This is statutory Code published under section 10 of the Statistics and Registration Service Act 2007 which applies to all UK official statistics (including National Statistics). Principle 5 Practice 1 of the Code states "Ensure that official statistics do not reveal the identity of an individual or organisation, or any private information relating to them, taking into account other relevant sources of information." We believe that setting a disclosure threshold of 5 individuals strikes a reasonable balance between the FOIA principles of transparency and accountability and our duties under the Data Protection Act and the Code of Practice for Official Statistics to protect the confidentiality of individuals.

- *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;*

This information is not currently in the public domain. In the fair processing notice issued to parents we undertake to use this "personal information for research (carried out in a way that ensures individual children and young people cannot be identified) and for statistical purposes, to inform, influence and improve education policy and to monitor the performance of the education service as a whole." We believe that individuals have an expectation that the information we hold about them will be protected and not released in such a way that could allow them to be identified.

- *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 there are any legitimate public interests in having access to this information when balanced against the assurances we have made regarding our use of the data in the fair processing notice and our duties to protect confidentiality. Parents of pupils at the school, or prospective parents, can access specific information about the performance of the school by contacting the Headteacher. Wider public interest in examination performance is satisfied by the publication of aggregate data on the My Local School website.

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.