

21 November 2017

Dear ,

Request for Information – ATISN 11617

I refer to your request for information which was partly responded to on 3 November. In my letter of 8 November, I informed you further consideration was required to determine if the remaining information you requested (parts 1 and 3 of your original request relating to the CC-CAWAC tool and questionnaires) could be released.

Following due consideration, it has been decided this information is exempt from disclosure under section 36(2)(c) of the Freedom of Information Act and is therefore withheld.

The reasons for applying this exemption are set out in full at Annex A to this letter.

If you are dissatisfied with the 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:

Nigel Brown, Interim Chief Executive,
Cafcass Cymru,
Sarn Mynach
Llandudno Junction,
Conwy
LL31 9RZ

Please remember to quote the ATISN reference number above.

You also have the right to complain to the Information Commissioner. Normally, however, you should pursue the matter through our internal procedure before you complain to the Information Commissioner. The Information Commissioner can be contacted 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

Yours sincerely

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.

Tîm Cefnogaeth Ganolog ▪ Central Support Team
Cafcass Cymru
Sarn Mynach
Cyffordd Llandudno ▪ Llandudno Junction
Conwy
LL31 9RZ
Ffôn ▪ Tel 03000 625500



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Welsh Government

I have decided to withhold the following information:

Information being withheld	Section number and exemption name
Cafcass Cymru Child and Adolescent Welfare Checklist (CC-CAWAC) Tool and questionnaires	Section 36(2)(c) -prejudice to the effective conduct of public affairs.

This Annex sets out the reasons for the engagement of section 36 of the Freedom of Information Act and our subsequent consideration of the Public Interest Test.

The engagement of section 36 (prejudice to the effective conduct of public affairs) of the Freedom of Information Act

The scope of the Section 36 exemption is potentially wide ranging and, in order to safeguard against possible abuse of its use by a public authority, the Freedom of Information Act (FOIA) introduces a two-stage process when its use is being considered. Stage 1 is to ascertain whether the basic conditions for triggering the application of the exemption apply. This is the role of the ‘qualified person’ and section 36 of the FOIA states that in relation to the Welsh Government, the qualified person means the Welsh Ministers or the Counsel General. If, after considering the information, the qualified person forms the reasonable opinion that the specified adverse effects will not (or will not be likely to) arise from disclosure, then the information cannot be withheld under Section 36.

If the qualified person decides that the information would, or would be likely to, have the specified adverse effect(s), then Stage 2 can commence.

In this case, the First Minister has decided that the following inhibiting effects are sufficient to trigger the use of section 36(2)(c) of the FOIA.

The Welsh Government believes the CC-CAWAC tool and questionnaires should be exempt from disclosure. The use of CC-CAWAC relies on ensuring its integrity. There is the potential that children could be “coached” and/or highly influenced if copies of the tool and questionnaires become freely available. This could potentially harm individual children in that their true wishes and feelings as to key aspects of their lives being considered by the court could be skewed. Further, release would also be likely to prejudice confidence in the CC-CAWAC and undermine its value as

an objective and evidence-based assessment tool within Cafcass Cymru but also amongst service users and the family court.

Section 36(2)(c) FOIA – prejudice or would likely otherwise to prejudice the effective conduct of public affairs.

Section 36 is a public interest tested exemption. This means that in order to withhold information under it, it has to be shown that the public interest in withholding the information outweighs that in releasing it.

Public Interest Test

Factors favouring release of the information

The Welsh Government acknowledges the general public interest in openness and transparency that release would engender. Also, as the use of the CC-CAWAC is intended to complement other assessment information and to assist but not replace practitioner judgements, release of the individual questionnaires, together with the scoring information (for those quantitative based questionnaires), would allow service users and others to better understand how individual scores are arrived at and how this may be used to help inform an analysis of a child's situation.

In order to better understand how an individual child is experiencing a situation where inter-parental conflict may be an issue, the CC-CAWAC incorporates a number of quantitative and qualitative based questionnaires. Cafcass Cymru is assured that the majority of these questionnaires are validated and for example the Strengths & Difficulties Questionnaire (Goodman, 1997) has been endorsed by the Department of Health in England and Welsh Government. By releasing the questionnaires this may help provide service users and others with improved assurance as to the detail of the questions asked and the validated nature of each.

Factors favouring withholding the information

The use of CC-CAWAC relies on ensuring its integrity. In the context of litigation and court where separated parents are in dispute over child arrangements, there is the potential that children could be “coached” and/or highly influenced if copies of the tool and questionnaires become freely available. This could potentially prejudice the reliability of a practitioner's assessment and analysis of a child's situation and could skew the child's true wishes and feelings as to a particular proposal that is being considered by the court. Further, release would also be likely to prejudice confidence in the CC-CAWAC and undermine its value as an objective and



evidence-based assessment tool within Cafcass Cymru but also amongst children, service users and the family court.

Balance of public interest test

On balance whilst there would be benefits to releasing the CC-CAWAC tool and questionnaires in terms of improved transparency and scrutiny, the significant detriments that could potentially flow, not least in undermining the integrity and value of the CC-CAWAC and placing children in an increasingly difficult situation, suggest that such a release would be likely to prejudice the effective conduct of public affairs and this would not be in the public interest.

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