

Ein cyf / Our ref: **ATISN 11989**

Dyddiad / Date: 12/02/2018

Dear ,

ATISN-11989: Request for Information

Thank you for your request which we received on 15/01/2018 for information regarding Care Inspectorate Wales staff members.

You requested:

- The childcare qualifications and child care experience of two CIW Inspectors
- The number of complaints against two CIW Inspectors

We have decided that this information is exempt from disclosure under section 40(2) of the Freedom of Information Act and is therefore withheld. The reasons for applying these exemptions are set out at Annex 1 enclosed.

However, the Welsh Government recognises that there is a public interest in knowing that an individual employed as a CIW Inspector is qualified to do that job. Outlined below is the minimum qualifications and experience required for all CIW Inspectors.

All CIW Inspectors are required to hold a relevant degree level qualification such as Social Work, Degree in Early Years / Childhood Studies, degree in Education e.g. B.Ed / BA Primary Education and also a PGCE qualification, Nursing or Allied Health Professional degree (or a recognised predecessor qualification). We will also accept the RCSA award and applications from Social Care Managers with a Level 5 Diploma in Leadership for Children's Care, Learning and Development. In addition they must have a minimum of 2 years post qualifying experience relevant to the role.

I confirm that the qualifications and experience of the CIW Inspectors to which your request refers meet this criteria.

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Care Inspectorate Wales (CIW)
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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

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

We have decided to withhold the following information:

Information being withheld	Section number and exemption name
The childcare qualifications and childcare experience of the two CIW Inspectors.	Section 40(2) of the Freedom of Information Act. Personal data protected by the Data Protection Act 1998 (DPA). Personal data is defined in Section 1(1) of the DPA.
The number of complaints made against the two CIW Inspectors.	Section 40(2) of the Freedom of Information Act. Personal data protected by the Data Protection Act 1998 (DPA). Personal data is defined in Section 1(1) of the DPA.

This Annex sets out the reasons for the engagement of **Section 40(2) of the Freedom of Information Act** relating to 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 part of the information requested 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.

Guidance from the Information Commissioner’s Office (Personal information (section 40 and regulation 13) v 1.3) states (at p11):

The starting point is to consider whether it would be fair to the data subject to disclose their personal data. The key considerations in assessing this are set out in the section on Fairness below. 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

Further, the second data protection principle states:

Personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes.

Whilst we may hold details of the qualifications and experience of CIW Inspectors and records of any complaints made against them, there would be no reasonable expectation that this information would be put into the public domain. Thus, we believe release of this information would be both unfair so as to breach the first data protection principle, and also that the publishing of this information in the public domain would be incompatible with the purpose for which the data was originally obtained.

For these reasons, 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.