

Sent via email to:

Ein cyf / Our ref: ATISN 15556

Dyddiad / Date: 8 October 2021

Dear

ATISN 15556 – Freedom of Information (FOI) Request for the identity of a complainant who raised a concern to Care Inspectorate Wales (CIW).

Thank you for your request for information received on 21 September 2021, in which you asked for the identity of a complainant to be shared with you.

We have decided this information is exempt from disclosure under the following sections of the Freedom of Information Act 2000:

Section 40(2) – Personal information, and
Section 41(1) – Information provided in confidence

Our reasons for applying these exemptions are set out at Annex 1 to this response.

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

Arolygiaeth Gofal Cymru (AGC)
Swyddfeydd Llywodraeth
Sarn Mynach
Cyffordd Llandudno
Conwy
LL31 9RZ
www.arolygiaethgofal.cymru

Care Inspectorate Wales (CIW)
Government Offices
Sarn Mynach
Llandudno Junction
Conwy
LL31 9RZ
www.careinspectorate.wales

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.

or Email: Freedomofinformation@gov.wales

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 the Commissioner will not normally investigate a complaint until it has been through our own internal review process.

Yours sincerely

Annex 1

This annex sets out the reasons for withholding the following information:

Information being withheld	Section number and exemption name
Identity of a complainant who raised a concern to Care Inspectorate Wales (CIW).	Section 40(2) of the Freedom of Information Act – Personal information. Section 41(1) of the Freedom of Information Act – Information provided in confidence.

Section 40(2) of the Freedom of Information Act covers the personal data of third parties and refers to the processing of personal data in accordance with the General Data Protection Regulation (GDPR) and the Data Protection Act 2018 (DPA).

Personal data is defined in UK GDPR as:

“personal data’ means any information relating to an identified or identifiable natural person (‘data subject’); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person”.

This exemption covers the personal data of third parties and disclosure of the information would contravene one of the data protection principles of UK GDPR. We consider the principle relevant in this case to be the first.

Principle (a) states:

Personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject.

Individuals are able to raise concerns with us anonymously and we will only provide their details to service providers where they are content for us to do so. In this instance, the third party individual confirmed they wished to remain anonymous and did not consent to their identity and the information they provided in respect of their concerns to be shared. This means there is no reasonable expectation this personal data would be shared with third parties or placed into the public domain. Therefore, we believe the disclosure of such information would be unfair and would breach the first data protection principle.

Section 41(1) of the Freedom of Information Act covers information provided in confidence.

Section 41(1) states:

(1) *“Information is exempt information if –*

a) it was obtained by the public authority from any other person (including another public authority), and

b) the disclosure of the information to the public (otherwise than under this Act) by the public authority holding it would constitute a breach of confidence actionable by that or any other person.”

We must maintain the confidentiality of people who raise concerns with us so that people can feel safe to do so, particularly where those individuals have explicitly requested anonymity. In this case, the individual who raised the concern did not provide consent for their identity or details of the concern to be shared and we do not believe, for the reasons set out in this annex, that anonymity should be waived.

If people raising concerns with us are not confident their identities will be protected, this could prevent them from coming forward and therefore hinder CIW’s ability to undertake its regulatory role.

Public Interest

These exemptions are absolute and not subject to the public interest tests. However, CIW recognises there is a public interest argument to make in favour of the disclosure of concerns raised about care services to the public and to the providers of those services. CIW have provided you with a summary of the concern in order for you to be able to address the matters raised. We believe public interest in specific care services can be met by other means, such as via our published inspection reports. We therefore believe in this case, there is a wider public interest in ensuring people can feel safe to raise concerns with us and this outweighs any public interest in disclosure of this concern and the personal data of the individual who submitted it.