

Ein cyf / Our ref: ATISN 15764

Dyddiad / Date: 17/12/2021

Dear ,

## **ATISN 15764 – Request for information in relation to Osbourne Lodge Day Nursery**

Thank you for your request which we received on 19/11/2021. You asked for the following information in regards to Osbourne Lodge Day Nursery:

1. The building control documents;
2. The structural engineers report regarding the supporting wall holding up the main road;
3. The environmental health report on air quality;
4. The risk assessment on rear yard;
5. The risk assessment on the carpark and main road to the front;
6. The position of the safety area in emergencies.

I will respond to each point of your request in turn.

### **1. The building control documents**

I confirm that CIW holds a copy of the Certificate of Completion for the nursery from Torfaen County Borough Council dated 23 November 2017. We have decided this information is exempt from disclosure under **Section 21(1) of the Freedom of Information Act (FOIA)** as it is information accessible to you by other means. The full reasons for the application of this exemption are set out at Annex 1 to this response.

CIW do not hold any further building control documents in respect of the nursery.

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Care Inspectorate Wales (CIW)  
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LL31 9RZ  
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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.

**2. The structural engineers report regarding the supporting wall holding up the main road**

CIW do not hold any structural engineers reports in respect of the nursery.

**3. The environmental health report on air quality**

CIW do not hold any environmental health reports on air quality in respect of the nursery.

**4. The risk assessment on rear yard**

CIW holds a copy of the nursery's risk assessment on '*Injury in outdoor play area*'. This document is enclosed at Appendix 1 to this response.

Some information within this document has been redacted as we have decided it is exempt from disclosure under **section 38(1)(b) of the FOIA – Health & Safety**. The full reasons for the application of this exemption are set out at Annex 1 to this response.

**5. The risk assessment on the carpark and main road to the front**

CIW holds a copy of the nursery's risk assessment on '*Road Safety*'. We have decided to disclose this information to you and therefore a copy of this document is enclosed at Appendix 1 to this response.

**6. The position of the safety area in emergencies.**

CIW does not hold any information in regard to the position of the emergency safety areas at the nursery.

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: [Freedomofinformation@gov.wales](mailto: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**

### **ATISN 15764 - Request for Information**

Care Inspectorate Wales has decided to withhold the following information:

<b>Information being withheld</b>	<b>Section number and exemption name</b>
The Certificate of Completion for the nursery from Torfaen County Borough Council dated 23 November 2017.	Section 21(1) of the FoIA – Information reasonably accessible by other means
Information relating to the gate access code for the nursery premises	Section 38(1)(b) of the FoIA- – Health & Safety

This Annex sets out the reasons for the application of the above exemptions under the FoIA.

#### **Section 21(1) - Information that is reasonably accessible to the requester by other means**

CIW have decided the Certificate of Completion is exempt from disclosure under Section 21(1) of the FoIA.

Section 21(1) states that information is exempt from disclosure if it is reasonably accessible to the requester by other means. On 12/11/2019, CIW disclosed a copy of this document to you in response to your request for information reference ATISN 13507.

We have therefore concluded that this information is thereby reasonably accessible to you and so is exempt from disclosure. This exemption is absolute and is therefore not subject to the Public Interest Test.

#### **Section 38(1)(b) – Health & Safety**

CIW have decided that the information relating to the gate access codes for the nursery premises which is contained within the risk assessment for the outdoor play area is exempt from disclosure under sections 38(1)(b) of the FoIA.

Section 38(1)(b) states that information is exempt from disclosure if disclosure would, or would be likely to, endanger the safety of any individual.

Information released in response to a FoI request is released to the wider world, for any and everybody to access. When considering whether information should be withheld we need to consider how any individual, not necessarily the person making the request, may use the information, should it be made freely available.

The information being exempted is the instructions and code for the nursery's security gate. We believe disclosure of this information would be likely to endanger the health and wellbeing of both the children attending the service, their parents, and the staff employed at

the service. There are, unfortunately, members of society who may use this information to access the site, which is likely to cause significant distress to the children, their parents and staff.

We therefore conclude that, putting this information into the public domain would compromise the security of the building thereby putting the safety of children and staff at the nursery at risk and is thereby exempt from disclosure.

### **Public interest test**

When applying an exemption under Sections 38 of the FoIA, we must carry out a public interest test to consider the public interest arguments both for and against disclosure before deciding whether any information is exempt from release.

CIW recognises there is a public interest in assurance that children are safe whilst being looked after in a childcare service and that appropriate risk assessments are in place to minimise risks to those children. We therefore accept there is a public interest in disclosure of the risk assessments for this nursery.

However, there is a substantial public interest in ensuring CIW do not release information that has the potential to increase the risk to children whilst attending childcare. CIW believes the safety of children would be put at risk by disclosing the security gate access code for the reasons set out above. We believe it is therefore in the wider public interest to withhold this information.