

Freshford House
Redcliffe Way
Bristol
BS1 6NL

T 0300 123 1231
Textphone 0161 618 8524
xxxxxxxxx@xxxxxx.xxx.xx
www.ofsted.gov.uk

Direct T 03000 131 294
karon.crew@ofsted.gov.uk



22 August 2014

Mr M Davies
By email:
[request-224220-
364cf6ca@whatdotheyknow.com](mailto:request-224220-364cf6ca@whatdotheyknow.com)

Our Reference: CAS-301637-ZZQ4N3

Dear Mr Davies

Your request for information

Thank you for your request dated 9 August 2014 which we received via the whatdotheyknow.com website on the same day. You have requested the following information:

- A list of all Early Years establishments i.e. Nurseries, Creche, Children's Centres.
- Can this be in a spreadsheet with email addresses.

The Freedom of Information Act

We have dealt with your request in accordance with the Freedom of Information (FOI) Act 2000.

The first requirement of the Act is that we should confirm whether or not we hold information of the description set out in your request. I can confirm that we hold details of all Early Years provisions registered with Ofsted in England. We do not categorise settings as nurseries or children's centres but as childcare on domestic or non-domestic premises. As you have specified you require a list including nurseries, crèches and children's centres we have considered your request as a list of Early Years providers on non-domestic premises.

Under the FOI Act, we are under a duty to provide you with all the information we hold which falls within the scope of your request, provided it is not 'exempt' information.

Exempt Information

Section 2(2) of the FOI Act describes circumstances in which information is 'exempt' and therefore does not have to be provided in response to a request. On this occasion, we have concluded that the exemptions at sections 26, 38 and 40(2) apply to some of the information you have requested.

Section 26

Section 26 applies to information that, if disclosed, could prejudice the defence of any British Island or colony or the capability, effectiveness or security of any relevant forces. The locations of some military bases are not made public because of concerns about security. Should we disclose details of the Early Years settings located on those military bases then this would reveal their location and compromise their security and effectiveness.

As section 26 is a qualified exemption, we are required to consider whether or not the public interest in maintaining the exemption outweighs that in release of the information.

Although there may be a public interest in the location of all childcare providers being available for the sake of transparency, there is a very clear public interest in not revealing the locations of military bases where this would compromise security, reduce the effectiveness of the nation's defence and possibly expose the staff on the base, and the children in the childcare located there, to a greater risk of harm. We therefore believe that the greater public interest lies in maintaining the exemption for this information.

Section 38

Section 38 applies to information that, if disclosed, would or would likely endanger the physical or mental health of any individual or endanger the safety of any individual. Women's refuges house vulnerable women and their children, many of whom have moved there to escape domestic violence and other abuse. Very often, the location of the refuges is not widely publicised to prevent the residents being located by their abusers and subjected to threats and further violence.

Consequently, the release of information about the location of childcare based in refuges would be likely to endanger the physical or mental health or the safety of the women and children who use these centres.

Again, section 38 is a qualified exemption, so we are required to apply the public interest test. We believe that the public interest is clearly in maintaining the exemption. The women and children that use these centres are vulnerable and the fact that their locations are not known to the public affords them greater protection and reduces the risk that they would suffer further harm. If we were to disclose the location of these refuges then it would make them ineffectual and would prompt

many women who need the safety and anonymity offered by the refuge to not use this valuable service.

Section 40 (2)

Section 40(2) states that information is exempt from the requirement to disclose under the FOI Act if it satisfies the following criteria:

1. it is personal data about a third party (Section 40(2)(a)); and
2. its disclosure to the public would contravene any of the data protection principles (Section 40(2)(b) and 40(3)(a)(i)). The data protection principles are set out in Part 1 of Schedule 1 of the DPA.

Some registered providers share their email addresses with us, as one of a number of methods, to enable us to contact them about their registration. We do not hold email addresses for all settings, and where we do, some are personal email addresses provided to us to allow us to communicate with them about their registration. The addresses we do hold are shared with us solely for this purpose and providers have no expectation that they would be shared more widely. The email addresses we do hold constitute the personal data of the providers that have shared them with us; therefore the first criterion is satisfied.

The first data protection principle requires that any processing of personal data, including disclosure, is fair and lawful and meets relevant conditions from schedules 2 and 3 of the DPA. Disclosure can be considered to be fair if the individual to whom the personal data relates ("the data subject") has consented to the disclosure or has a reasonable expectation that their information will be disclosed to the public, or if the disclosure is otherwise reasonable in the circumstances of the case.

In this case, the requested information is the providers' personal data, specifically their personal email addresses, which we do not have consent to disclose to the public, and the individuals concerned have no expectation that we would do so. Disclosure would therefore not be fair, as required by the first data protection principle.

This being the case, the second of the above criteria is also satisfied. The exemption at section 40(2) of the FOI Act therefore applies to the personal information you have requested and we are not disclosing it to you.

Disclosed Information

Please find attached a spreadsheet containing the information that we are able to disclose to you with some information relating to setting name, type, and setting address. As explained above we are not providing to you any email addresses or information relating to women's refuges and some providers on military bases.

Please note that the copyright and database rights in the document we are disclosing belong to the crown. Disclosure under the FOI Act does not entitle you to use the document in breach of the crown's copyright and database rights. Subject to these, material may be reproduced in part or in whole free of charge in any format or medium for any non-commercial educational purposes, such as research, private study or for internal circulation within an organisation. This is subject to the material being reproduced accurately and not used in a misleading context. Where crown copyright/database right material is being republished or copied to others, the source of the material must be identified and the copyright status acknowledged. You should not present out of date material as if it is current. You are not entitled to use material subject to crown copyright or database rights for the principal purpose of advertising or promoting a particular product or service.

I trust that this letter clearly explains our decision. If you have any queries about our response, please contact me on 0300 013 1294 and I will do my best to address them.

Alternatively, if you are dissatisfied with our response or the handling of your request, you may request a formal internal review. In order to do this, please write to the following address, setting out which areas of the response you are unhappy with:

Email: informxxxxxxxxxxxx@xxxxxx.xxx.xx or write to:

Head of Information
Commercial Services Division
Ofsted
Aviation House
125 Kingsway
London
WC2B 6SE

If you are not content with the outcome of the internal review, you also have the right to apply to the Information Commissioner for a decision as to whether or not we have complied with our obligations under the FOI Act with respect to your request. The Information Commissioner can be contacted at:

FOI Case Reception Unit
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Yours sincerely,

A handwritten signature in black ink that reads "Karon Crew". The signature is written in a cursive style and is underlined with a single horizontal line.

Karon Crew
Information Delivery Officer
Information Management Team