

23 July 2018

Our Reference CAS-405340-0FBFX9

Mr Naveed Hussain
By email:
request-495634-
c0d95ef2@whatdotheyknow.com

Dear Mr Hussain

Your request for information

Thank you for your email of 4 July 2018 in which you requested disclosure of the following information:

"I would like to access all the inspection reports that included Jane Millward in the inspection team or in a supervisory position, further how can i access information related to complaints paid against inspectors in relation to inspections."

The Freedom of Information Act

We have dealt with your request in accordance with the Freedom of Information (FOI) Act 2000. The FOI Act is primarily concerned with the disclosure of information to the public at large, and does not take account of who the requester is or the purpose for which the request has been made.

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. We are then 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.

In this instance I can confirm we hold information about a current Ofsted Inspector named Jane Millward who carries out inspections of childcare settings, and a former Senior Her Majesty's Inspector named Jane Millward who worked in the education remit of Ofsted. We hold details of which inspections both individuals have been involved in and whether they were subject to complaints.

We consider this information is exempt from disclosure to the public under section 40(2) of the FOI Act as this is personal data it would not be fair to share with the public at large. This is explained in the attached Annex A.

If you are dissatisfied with our response and would like to discuss it further, or you have any queries about the response, please contact me at 0300 013 1087 and I will be happy to discuss it with you.

If you remain 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: Richard McGowan at informationrequest@ofsted.gov.uk or write to:

Senior Information Rights and Delivery Manager
Ofsted
2 Rivergate
Temple Quay
Bristol
BS1 6EH

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:

<https://ico.org.uk/concerns/getting/>

or:

Customer Contact
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
SK9 5AF

Yours sincerely,

A handwritten signature in black ink, appearing to read "Nicola".

Nicola Tanner
Information Delivery Officer
Ofsted Information Management Team

Annex A – Exempt Information

Section 40(2) of the FOI Act¹ applies to any requested information which is personal data. Personal data is defined, within the GDPR, as being “any information relating to an identified or identifiable natural person [...] who can be identified, directly or indirectly [...]”. You are requesting information about specific individuals who can be identified, as well as their work and if they have been subject to complaints. This is clearly personal data.

Section 40(2) of the FOI Act sets out a number of conditions which, if they apply to the personal data, mean that it cannot be disclosed to the public. The first such condition is where disclosing the personal data to the public “would contravene any of the data protection principles”. We think this condition is relevant to this request.

The data protection principles, as set out in Article 5(1) of the GDPR, require that personal data shall be processed lawfully, fairly and in a transparent manner. If no lawful basis can be found, then our processing will contravene this principle. In order to process personal data fairly, Ofsted must only handle it in ways that people would reasonably expect; and not use it in ways that have unjustified adverse effects on them.

We consider that the disclosure of information relating to inspectors’ work activity, from which it may be possible to discern or make assumptions about their performance in their roles, would be unfair. Disclosure of a list of inspections that a particular named inspector has been involved with would reveal data about the performance of the inspector in their role, and allow assumptions to be made about their expertise and experience, possibly incorrectly. This is particularly the case given that similar information is not routinely shared about their colleagues.

When an inspector carries out an inspection, either singly or as part of an inspection team, and the report is quality assured and published, their name appears on the final report and they are publicly accountable for it. However, providing a list of inspections carried out by a particular inspector goes beyond accountability for individual reports and allows a profile of the work carried out by that inspector, and their overall performance, to be created. Doing this and disclosing it to the public may lead to a misleading impression being formed of the work carried out by an inspector.

Inaccurate conclusions may be drawn if an inspector has carried out more or less inspections than their colleagues, or if the grade breakdowns given for their inspections differ from what might be expected based on the national picture with regard to inspection outcomes. For example, if an inspector is perceived to have given more inadequate judgements than their peers, it may be assumed to be

¹ <https://www.legislation.gov.uk/ukpga/2000/36/section/40>

because they are not applying the evaluation schedule correctly when, in fact, it may simply be due to the way the inspections have been allocated.

The overall performance of inspectors is for Ofsted to manage – for employed staff through our performance management process, and for Ofsted Inspectors through our contracting process. It is not appropriate for this process to be conducted in the public domain through the disclosure of performance data. Although some of the information you have requested could be discerned by reviewing inspection reports on our website, if we were to supply the list to you, we would be effectively publishing “official” performance data about the inspectors and tacitly supporting any analysis that might be done with it.

In relation to the aspect of your request relating to complaints; we do not routinely publish information about the number of complaints that are made against individual inspectors, or provide information about specific complaints, and inspectors would not expect us to share this information on request.

Disclosure of this sort of information could have a negative impact on an inspector and their reputation. It should be noted that complaints made against an inspector may not be upheld, and may sometimes have even been made maliciously or in an attempt to get an inspection grade altered. They do not necessarily reflect on the performance of an individual inspector. In any event, we consider it would not be reasonable to share this sort of performance management information with the public at large, and we also consider that complaints should be dealt with in confidence.

Ofsted has a legal obligation to ensure that it processes personal data in line with the data protection principles set out under the GDPR; we believe that disclosure of this personal information would be in contravention of those principles. This being the case, the disclosure would contravene the first data protection principle. The exemption at section 40(2) of the FOI Act therefore applies for the reasons explained above and we are not disclosing this personal data to you.