

C. Smith-Byrne  
request-44033-9ab3b960@whatdotheyknow.com



**Your ref: CAF379**  
**Our ref: JJ/CAF379 sent by email**  
**Date:** 5<sup>th</sup> October 2010

6th Floor  
Sanctuary Buildings  
Great Smith Street  
London  
SW1P 3BT

Tel: 0844 353 3350  
Fax: 0844 353 3351

Dear Mr/Ms Smith - Byrne

## **Re: Freedom of Information Request**

Thank you for your email received by me on 23<sup>rd</sup> September 2010 requesting the following:

Would you please proceed to answering my first question without any further delay.  
The question asks specifically about this lady's previous posts and not other employees.

### **Your first question:**

- 1 Could you please tell me for which employer this lady (Linda Clark) worked prior to joining the Cafcass South East region, whether she has been employed by a county council in the past and which positions were held?

I do not believe there has been a delay in responding to your request and you were emailed on 29<sup>th</sup> September acknowledging your email.

I have now considered your further request. Cafcass is unable to provide you with this information, the information is exempt under section 40(2). The refusal is on the basis that it constitutes the personal data of the practitioners in question and to release the information would breach the data protection principles. Disclosure would be contrary to the first data protection principle: It would be unfair to release details of the practitioners' employment details.

If you are unhappy with the decisions made in relation to your request, you may ask for an internal review to be undertaken. If you are dissatisfied with the way the internal review is handled or with the final decision made at that review about the information released, you are free to contact the Information Commissioner's office ([www.informationcommissioner.gov.uk](http://www.informationcommissioner.gov.uk))

### **Post**

Information Commissioner's Office  
Wycliffe House, Water Lane, Wilmslow, Cheshire  
SK9 5AF

### **Fax**

01625 524 510



Yours sincerely,

Miss Jasvinder Jassal  
**Information Assurance & Data Handling Officer**  
[jasvinder.jassal@cafcass.gsi.gov.uk](mailto:jasvinder.jassal@cafcass.gsi.gov.uk)

Section 40 of the Freedom of Information Act provides that:

1. Any information to which a request for information relates is exempt information if it constitutes personal data of which the applicant is the data subject.
2. Any information to which a request for information relates is also exempt information if-
  - o (a) it constitutes personal data which do not fall within subsection (1), and
  - o (b) either the first or the second condition below is satisfied.
3. The first condition is-
  - o (a) in a case where the information falls within any of paragraphs (a) to (d) of the definition of "data" in section 1(1) of the Data Protection Act 1998, that the disclosure of the information to a member of the public otherwise than under this Act would contravene-
    - (i) any of the data protection principles, or
    - (ii) section 10 of that Act (right to prevent processing likely to cause damage or distress), and
  - o (b) in any other case, that the disclosure of the information to a member of the public otherwise than under this Act would contravene any of the data protection principles if the exemptions in section 33A(1) of the Data Protection Act 1998 (which relate to manual data held by public authorities) were disregarded.
4. The second condition is that by virtue of any provision of Part IV of the Data Protection Act 1998 the information is exempt from section 7(1)(c) of that Act (data subject's right of access to personal data).
5. The duty to confirm or deny-
  - o (a) does not arise in relation to information which is (or if it were held by the public authority would be) exempt information by virtue of subsection (1), and
  - o (b) does not arise in relation to other information if or to the extent that either-
    - (i) the giving to a member of the public the confirmation or denial that would have to be given to comply with section 1(1)(a) would (apart from this Act) contravene any of the data protection principles or section 10 of the Data Protection Act 1998 or would do so if the exemptions in section 33A(1) of that Act were disregarded, or
    - (ii) by virtue of any provision of Part IV of the Data Protection Act 1998 the information is exempt from section 7(1)(a) of that Act (data subject's right to be informed whether personal data are being processed).