

FREEDOM OF INFORMATION ACT – CAF/CASS – CAF379 – 22 NOVEMBER 2010

I have today conducted an internal review into the handling of a request made by a Mr. or Ms. Byrne-Smith, whom I hereafter refer to as “the Applicant”.

History

On 06 August 2010 the Applicant requested information concerning a named Guardian (“the Guardian”). The information sought was in two parts: -

- a) Her employment history, including whether she had been employed by a County Council in the past; and
- b) The training she had received in child protection and domestic abuse, the body providing such training, the duration of training and how long ago it was delivered.

On 10 August 2010 Miss Jassal, the officer in Cafcass overseeing such requests, acknowledged receipt of the request and wrote promising a response by 08 September.

On that day (08 September 2010) she wrote in more detail to the applicant, setting out the qualifications held by all Cafcass practitioners, the need for their registration with the GSCC and the requirements upon those so registered to undertake continuous professional development. Specific details of training undertaken by the Guardian in question since 2008 were set out and this included the elements in respect of domestic violence and safeguarding. The first issue, the employment record, was not addressed further.

On 17 September 2010 the applicant e-mailed Miss Jassal asking for this aspect of the request to be addressed “without any further delay”. This mail was acknowledged by Miss Jassal on 29 September 2010 and she responded by letter in more detail on 05 October 2010, although it should be noted that on that same day the applicant had requested a formal review.

In that response Miss Jassal informed the applicant that Cafcass was unable to provide this aspect of the information requested because it was exempt under section 40 (2) of the Freedom of Information Act 2000. The basis of the refusal was that the information “constitutes the personal data of the practitioners (sic) in question and to release information would breach the data protection principles”, specifically the first data protection principle set out in the Data Protection Act 1998.

Review

On 08 November Miss Jassal wrote again to the applicant. This was following an e-mail exchange confirming the applicant sought an Internal Review. She informed the applicant that the review would be conducted within four weeks and I was asked to undertake the review, which I have done.

1. Request concerning training

This request was fully answered and information provided on 08 September 2010. I consider the information provided in detail sought and have been provided within the appropriate period.

2. Employment history

This request was not dealt with on 08 September 2010 and it should have been. A response was not made until 05 October 2010. This was significantly outside the period allowed, although I am satisfied that part of the period concerned coincided with Miss Jassal's absence on leave (and Cafcass training days). It is not unreasonable, however, for an organisation of the size of Cafcass to provide cover for responsibilities of this nature, which are often time critical. Cafcass should apologise for the lateness of response to this part of the request and for the applicant having to chase the information sought.

The substance of response is another matter. The information sought is personal data of a third party although not "sensitive" within the meaning of the Data Protection Act.

In my judgement, providing the information sought would have placed Cafcass in breach of the principles set out in Schedule 1 to the Data Protection Act 1998. None of the conditions set out in Schedule 2 of the Act applies and I find, in particular, the rights and freedoms or legitimate interest of the data subject (the Guardian) would be prejudiced in an unwarranted manner [schedule 2 paragraph 6 (1) of the Data Protection Act 1998]. This information is highly personal and I see nothing to suggest the interests of the Applicant outweigh the rights of the data subject.

Summary

1. The second part of a request made on 06 August 2010 was dealt with appropriately and to time.
2. The first part of the request was dealt with appropriately as to the substance of the response but well outside the time limits. Cafcass should apologise for the lateness of the response but not its content.

Mark Eldridge
Deputy Chair
Cafcass

26 November 2010