

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 15 October 2013

**Public Authority:** General Teaching Council for Wales  
**Address:** 9<sup>th</sup> Floor, Eastgate House  
35-43 Newport Road  
Cardiff  
CF24 0AB

#### Decision (including any steps ordered)

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1. The complainant has requested the specific page from the statutory legislation governing the induction of secondary level teachers where it is stated that induction forms part of the professional qualification to teach. The General Teaching Council for Wales (GTCW), informed the complainant that it does not hold the information. The Commissioner's decision is that the GTCW response is compliant with section 1(1) of the FOIA. The Commissioner requires no steps to be taken.

#### Request and response

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2. On 19 March 2013, the complainant wrote to the GTCW and requested the following information:

*"The specific page [complainant's emphasis] from the statutory legislation governing the induction of secondary level teachers where it is stated that induction forms part of the professional qualification to teach, or where there are words to that effect, or having the same meaning. Please do not send a full copy of the legislation. I am asking for one page from the document only." [Complainant's emphasis].*

3. The GTCW responded on 27 March 2013. It stated that:

*"The Council has no responsibility for Induction regulations in Wales and any request for information from the relevant legislation should be made to the Welsh Government directly."*

4. Following an internal review the GTCW wrote to the complainant on 12 April 2013. It stated that:

*"I must reiterate that GTCW has no responsibility for the Welsh statutory legislation relating to the Induction programme in Wales...*

*As already advised any request for information from the relevant Welsh legislation should be made to the Welsh Government directly."*

### **Scope of the case**

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5. The complainant contacted the Commissioner 23 April 2013 to complain about the way his request for information had been handled. He asked the Commissioner to instruct the GTCW to surrender the page from the legislation which supports its current policy.
6. The scope of the Commissioner's investigation is to consider whether the GTCW has complied with section 1(1) of the FOIA.

### **Reasons for decision**

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7. Under section 1(1) of the FOIA, in response to a request for information a public authority is only required to provide recorded information it holds and is not therefore required to create new information in order to respond to a request.
8. In his consideration of this case, the Commissioner is mindful of the former Information Tribunal's ruling in EA/2006/0072 (Bromley) that there can seldom be absolute certainty that additional information relevant to the request does not remain undiscovered somewhere within the public authority's records. When considering whether a public authority does hold any additional information the normal standard of proof to apply is the civil standard of the balance of probabilities.
9. The Commissioner's judgement in cases such as this therefore is based on both the complainant's arguments and the public authority's submissions and where relevant, details of any searches undertaken. The Commissioner has therefore taken into consideration both the arguments of the complainant and the response from the GTCW.
10. The complainant considers that the GTCW must hold this information based on his understanding of the functions of the GTCW. He believes it

is the competent body given responsibility for supervising induction arrangements and acting in accordance with the relevant legislation.

11. He has further outlined its functions as responsibility for:
  - Administering the award of Qualified Teacher Status (QTS).
  - Administering funding for Induction and Early Professional Development (EPD).
  - Hearing Induction appeals and the issuing of Induction certificates.
  - Meeting the costs of enhanced disclosure checks from the Criminal Records Bureau for trainees/NQTs.
12. The complainant has further argued that GTCW must, when exercising its functions pertaining to Induction and in pursuing its corporate objectives, act in a manner harmonious with government legislation concerning teacher Induction.
13. The complainant has stated to the Commissioner that as a public body, GTCW has at least some duty to explain its decisions that have a legislative basis.
14. The Commissioner asked the GTCW to confirm whether the complainant's understanding of its functions is correct and it has subsequently confirmed that the complainant's understanding that it is the competent body given responsibility for supervising inductions arrangements and action in accordance with the relevant legislation is incorrect.
15. In terms of its role in administering the award of QTS, the GTCW receives recommendations to award QTS from the recommending bodies. It is the recommending body that certifies that the individual has met the QTS standard and GTW has no role in the assessment made by the recommending body against the Welsh Government's standards and legislation.
16. The GTCW has also explained that its role in relation to administering funding for Induction and Early Professional Development is in response to claims for funding received from schools in respect of teachers undertaking induction.
17. The GTCW has also explained that its role in relation to hearing Induction appeals is to act as the Appeals Body for any teacher who is not content with the outcome of their Induction period.
18. The GTCW has also confirmed that it has no role in the decision regarding whether to issue an Induction Certificate. This decision is made by the Appropriate Body (Local Authority Co-ordinator). The GTCW receives a certified notification from an Appropriate Body that an

individual has met the Practising Teacher Standards (Induction) and merely issues the individual with a certificate.

19. The Welsh Government meets the costs of the first Disclosure and Barring Check carried out by the GTCW in respect of a newly qualified teacher's application for registration.
20. The GTCW has also confirmed that it has no role in the running of the Induction Programme itself or the application of the relevant existing legislation and regulations.
21. Having considered the arguments of both the complainant and the GTCW, the Commissioner considers that the functions of the GTCW in relation to Induction appear to be more administrative as opposed to decision making as it is the recommending bodies which appear to have responsibility for ensuring compliance with the relevant legislation as opposed to the GTCW. The Commissioner has therefore concluded that the GTCW's response is compliant with section 1(1) of the FOIA.

## Right of appeal

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22. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)  
GRC & GRP Tribunals,  
PO Box 9300,  
LEICESTER,  
LE1 8DJ

Tel: 0300 1234504

Fax: 0116 249 4253

Email: [informationtribunal@hmcts.gsi.gov.uk](mailto:informationtribunal@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm)

23. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
24. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Signed** .....

**Anne Jones**  
**Assistant Commissioner**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**