Complaints and settlement agreements

13 September 2019

Request for Information.

Thank you for your request received on 21 August in which you asked:

Dear Sir/Madam,

May I request the following information please?

1. Over the past 5 years, how many complaints have been submitted by Assembly staff regarding bullying within the workplace?
2. What was the outcome of each complaint?
3. During the same period, how many settlement agreements have been reached with staff that have left the organisation?

Please see the response below:

1. Since 2015, 3 complaints have been submitted by Assembly Commission staff regarding bullying within the workplace.

2. None of the 3 complaints were upheld and no further action was taken.

3. Please find the number of settlement agreements that have been reached with staff that have left the Assembly Commission, since 2015, in the table below:

<table>
<thead>
<tr>
<th>Year</th>
<th>No. of settlements agreements per year</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015</td>
<td>0</td>
</tr>
<tr>
<td>2016</td>
<td>4</td>
</tr>
<tr>
<td>2017</td>
<td>Fewer than 3</td>
</tr>
<tr>
<td>2018</td>
<td>0</td>
</tr>
<tr>
<td>2019</td>
<td>0</td>
</tr>
</tbody>
</table>
An exact figure has not been provided for 2017 on the basis that to do so could constitute personal data for the purposes of the General Data Protection Regulation (GDPR). As such, the disclosure is exempt from disclosure under section 40(2) and (3A)(a) of the Freedom of Information Act 2000. Further reasoning for the conclusion reached in relation to this information is set out in the annex to this letter.

Yours sincerely

Freedom of Information Manager
National Assembly for Wales
Your request has been considered according to the principles set out in the Code of Practice on Public Access to Information. If you have any questions regarding this response please contact me. If you feel you have cause for complaint, please follow the guidance below.

**Cause for concern or complaint with your FOI response?**

If you are dissatisfied with the Assembly's handling of your request, you can request an internal review within 40 working days of the date of this response. Requests for an internal review should be addressed to the Freedom of Information Manager at: Information-request@assembly.wales or in writing to The National Assembly for Wales Governance and Assurance Cardiff Bay Cardiff CF99 1NA

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

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

Some of the information sought falls within the definition of personal data as set out in Article 4 of the General Data Protection Regulation (“GDPR”), being:

“any information relating to an identified or identifiable natural person (‘data subject’); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, psychological, genetic, mental, economic, cultural or social identity of that natural person”.

Personal information is exempt from disclosure under section 40(2) and 40(3A)(a) of Freedom of Information Act 2000 where disclosure would contravene one or more of the data protection principles within the GDPR. The principle relevant on this occasion is the first data protection principle.

The first data protection principle as set out in Article 5 of the GDPR states that:

“Personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject (‘lawfulness, fairness and transparency’)

In addressing whether the disclosure of this information would be fair, we have considered the consequences of disclosure, the reasonable expectations of the persons concerned and the balance between their rights and any legitimate interest in disclosure. Our conclusion is that disclosure would be unfair. The withheld information is private in nature and there is no expectation that this information would be made public. To disclose the exact figure for settlement agreements reached with former members of staff in 2017 could inadvertently lead to individuals becoming identifiable.

Notwithstanding our view as to fairness, we went on to consider Article 6 of the GDPR. None of the legal bases in Article 6 are relevant other than Article 6(1)(f), which allows the processing of personal data if:

"Processing is necessary for the purposes of legitimate interests pursued by the controller or by the third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child."
This condition involves a three-part test:

- There must be a legitimate public interest in disclosing the information;
- The disclosure must be necessary to meet that public interest; and
- The disclosure must not override the interests, fundamental rights or freedoms of the data subject.

There is a public interest in transparency in general and the expenses output of the Assembly Commission in reaching settlement agreements with former members of staff. However, in our view the public interest is met in this instance by providing the anonymised figure, rather than the exact figure which could constitute personal data.

In the circumstances, the disclosure of the withheld information is not necessary to meet the public interest.