

Claims and Complaints

23 February 2016

Request for Information.

Thank you for your request received on 27 January 2016 in which you asked:

- 1. Details of Assembly Members (AMs) and their staff who have reported having an accident at work on the assembly estates*
- 2. Number of AMs or their staff claiming against an assembly insurance policy*
- 3. Which AMs have been taken to employment tribunal by their staff?*
- 4. Which AMs have had a complaint lodged against them, with the names of the AMs and the reason for the complaint.*

We can provide you with the following information:

- 1. Details of AMs and their staff who have reported having an accident at work on the assembly estates.*

We can confirm that we hold the information requested. However, it comprises personal data for the purposes of the Data Protection Act 1998 (“DPA”). A disclosure of such information would, in our view, contravene the data protection principles and, as such, would be exempt from disclosure under section 40(2) and section 40(3)(a)(i) of the Freedom of Information Act 2000 (“FOIA”). Further reasoning for this conclusion is set out in the [annex](#) to this letter.

- 2. Number of AMs or their staff claiming against an assembly insurance policy.*



Since May 2011, seven AMs or their staff have claimed against an Assembly insurance policy.

3. Which AMs have been taken to employment tribunal by their staff?

This information is already published online and as such your request is subject to section 21 of the Freedom of Information Act 2000 which exempts information that is already reasonably accessible by other means.

4. Which AMs have had a complaint lodged against them, with the names of the AMs and the reason for the complaint.

We sought further clarification regarding this question, but you failed to respond so we assume you are referring to complaints against AMs from members of the public. We hold no recorded information relating to this part of your request.

Complaints against AMs are dealt with by the Standards Commissioner, Gerard Elias QC. Further information about his work can be found on his website - <http://standardscommissionerwales.org/>

Your request has been considered according to the principles set out in the Code of Practice on Public Access to Information. The code is published on our website at http://www.assemblywales.org/abthome/about_us-commission_assembly_administration/abt-foi/abt-foi-cop-pub.htm

If you have any questions regarding this response please contact me. If you feel you have cause for complaint, please follow the guidance at the end of this letter.

Yours sincerely,

**Freedom of Information and Project Support Officer
National Assembly for Wales**

Annex

The information sought

- *Details of AMs and their staff who have reported having an accident at work on the Assembly estates.*
- *Number of AMs or their staff claiming against an Assembly insurance policy.*

falls within the definition of personal data in the DPA, being:

“data which relate to a living individual who can be identified from those data, or from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller”.

It is therefore information which is exempt from disclosure under section 40(2) and section 40(3)(a)(i) of the FOIA because disclosure would contravene one or more of the data protection principles. The principle relevant on this occasion is the first data protection principle.

The first data protection principle as set out in Schedule 1 to the DPA states that:

“Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless at least one of the conditions in Schedule 2 is met and, in the case of sensitive personal data, at least one of the conditions in Schedule 3 is also met”

In addressing whether a disclosure 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 a disclosure would be unfair. A summary of our consideration follows.

A disclosure of the number of accidents reported and subsequent insurance claims would leave the individuals identifiable. This would be information about their personal lives, specifically physical injuries and potentially long term conditions as a result of an accident and classed as sensitive personal information.

The AMs and Assembly Members Support Staff (AMSS) concerned would have no expectation of information relating to an accident and/or an insurance claim being released. Disclosure would have a prejudicial effect on the

individuals as there was no prior expectation for their personal details to be placed into the public domain. Disclosure would therefore be unwarranted because the interest in disclosure does not outweigh the prejudice to their rights, freedoms and legitimate interests, and would in our view, represent an unjustified intrusion into their privacy.

Because of the small numbers of individuals captured by the terms of your request it is not possible to provide a breakdown of the information to the level requested. In considering the meaning of personal data we have taken into account the ability to identify an individual based on the information itself and other information that may be or become available.

We of course recognise that there is a legitimate interest in knowing that public bodies such as the National Assembly for Wales record accident information on the Assembly estate and that insurance policies are in place to protect those working and visiting the estate. However, it is our view that the protection of the information requested outweighs any public interest in disclosure.

Notwithstanding my view as to fairness, I went on to consider Schedule 2 of the DPA. None of the conditions in Schedule 2 is relevant other than paragraph 6, which allows the processing of personal data if:

“The processing is necessary for the purposes of legitimate interests pursued by the data controller or by the third party or parties to whom the data are disclosed, except where the processing is unwarranted in any particular case by reason of prejudice to the rights and freedoms or legitimate interests of the data subject.”

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 cause unwarranted interference with the rights, freedoms and legitimate interest of the AMs and AMSS.

As indicated above, whilst we recognise the public interest in knowing that public funds are used prudently and that the Assembly takes the reporting of accidents seriously, we do not accept that the disclosure is necessary to meet the public interest. Our conclusion would, therefore, be that it would not be

possible to meet a Schedule 2 condition. This being the case, I have not gone on to consider Schedule 3.

Cause for concern or complaint with your FOI response?

If you believe that I have not applied the Code correctly or have not followed the relevant laws, you may make a formal complaint to the Chief Executive and Clerk at the National Assembly for Wales, Cardiff Bay. Details of the Assembly's complaints principles are set out in the Code of Practice on Complaints available on the Internet at <http://www.assembly.wales/en/help/contact-the-assembly/con-complaint/Pages/con-complaint-procedure.aspx>. Please advise me if you wish to receive a printed copy.

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