

Requests relating to Assembly Member Adam Price

12 March 2018



Request for Information.

Thank you for your request received on 15 February in which you asked:

I would be grateful to receive information regarding the Fol requests you have received relating to Assembly Member Adam Price between 5 May 2016 and today.

The information I would like to receive should list:

- *The dates the Fol requests were made;*
- *The name of the organisation, body or individual that made each Fol request; and*
- *The exact nature of each of the requests.*

We received one request relating to Assembly Member Adam Price on Thursday 1 February 2018. The nature of the request is detailed below.

Please provide copies of all communication between Adam Price or any member of his or the Plaid Cymru Assembly group staff, and the Assembly Commission, Presiding Officer or any of her staff between January 22 and January 31.

We hold the information you have requested but we are unable to provide you with the name of the organisation or individual that made the request as to disclose information would, in our view, contravene the first data protection principle as set out in the Data Protection Act 1998. As such, the information is 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.

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

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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 Manager
National Assembly for Wales**

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

ANNEX

Section 40 of the Freedom of Information Act 2000

Some of the information sought falls within the definition of personal data as set out in the Data Protection Act 1998, 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 Freedom of Information Act 2000 where disclosure would contravene any 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 Data Protection Act 1998 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...”

In addressing whether a disclosure would be fair, we have considered the consequences of disclosure, the reasonable expectations of the data subject whose personal data would be disclosed and the balance between their rights, our duties and any legitimate interest in disclosure. The National Assembly for Wales has not sought the consent of the requestor to disclose their personal information, as we believe this would be inappropriate, and beyond the reasonable expectation of privacy. As a public authority listed in schedule 1 of FOIA, we must comply with the legislation and ensure that Individuals and organisations trust us to process their personal data in a fair and lawful way. Judging the validity of a request can sometimes be difficult in a political environment, but this does not diminish the right to privacy of an individual or an organisation when requesting information under FOIA. I would also like to draw your attention to an extract from the [Information Commissioner's Office](#) describing why FOIA is sometimes described as purpose and applicant blind.

Our conclusion is that a disclosure would be unfair. Notably, the information has not been in the public domain. The nature of the information carries with it an expectation against disclosure. The consequences of disclosure would, in all likelihood, be distressing to the data subjects.

Notwithstanding our view as to fairness, we went on to consider Schedule 2 to the Data Protection Act 1998. 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 data subjects.

There is a legitimate public interest in transparency in general terms as regards to the handling and processing of freedom of information requests in general. However, we can see no legitimate public interest in disclosing personal data. Our conclusion, therefore, is that it would not be possible to meet a Schedule 2 condition. Accordingly, we did not consider the remaining limbs of the test.

Extract from the Information Commissioner's Office website

What is the Freedom of Information Act?

The main principle behind freedom of information legislation is that people have a right to know about the activities of public authorities, unless there is a good reason for them not to. This is sometimes described as a presumption or assumption in favour of disclosure. The Act is also sometimes described as purpose and applicant blind.

This means that:

- everybody has a right to access official information. Disclosure of information should be the default – in other words, information should be kept private only when there is a good reason and it is permitted by the Act;
- an applicant (requester) does not need to give you a reason for wanting the information. On the contrary, you must justify refusing them information;
- you must treat all requests for information equally, except under some circumstances relating to vexatious requests and personal data (see [When can we refuse a request?](#) for details on these). The information someone can get under the Act should not be affected by who they are. You should treat all requesters equally, whether they are journalists, local residents, public authority employees, or foreign researchers; and
- because you should treat all requesters equally, you should only disclose information under the Act if you would disclose it to anyone else who asked. In other words, you should consider any information you release under the Act as if it were being released to the world at large.