

**Darren Millar AM**

17 March 2020

Cynulliad  
Cenedlaethol  
Cymru  
National  
Assembly for  
Wales



**Request for Information.**

Thank you for your request received on 19 February in which you asked:

*Dear FOI Officer,*

*As stated in his register of interests, Darren Millar AM employs his wife Rebekah Millar as an Administrator and Caseworker for 22.2 hours a week.*

*Please can you tell me how much money she has claimed in expenses for travelling from the constituency to the Assembly or elsewhere?*

Please see the response below.

We can confirm that we do hold the information requested. However, it constitutes personal data for the purposes of the General Data Protection Regulation (GDPR).

A disclosure of the respective sums paid to individual support staff would, in our view, contravene the first data protection principle as set out in Article 5 of the GDPR. As such, it is exempt from disclosure under section 40(2) and section 40(3A)(a) of the Freedom of Information Act 2000 ("FOIA 2000"). Further reasoning for this conclusion is set out in the annex to this letter.

Yours sincerely

**Freedom of Information Manager  
National Assembly for Wales**

Bae Caerdydd  
Caerdydd  
CF99 1NA  
Cardiff Bay  
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Ffôn/Tel: 0300 200 6544  
E-bost/Email: [Ceisiadau-gwybodaeth@cynulliad.cymru](mailto:Ceisiadau-gwybodaeth@cynulliad.cymru)  
[Information-request@assembly.wales](mailto:Information-request@assembly.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](mailto: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

The information sought falls within the definition of personal data as set out in Article 4 of the 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 FOIA 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 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. Relatives employed by Assembly Members are a specific and small group of support staff whose names, job descriptions and hours worked per week are already published on the [Register of Members' Interests](#). Our conclusion is that a disclosure would be unfair. The staff, although classed as family members, have no expectation that information relating to the detail of their remuneration will be made public. Instead, the rules pursuant to which payments may (or may not) be made are published, as stated in the Determination on Members' Pay and Allowances (2019-2020) which is set by the [National Assembly for Wales Remuneration Board](#).

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 in particular in knowing the parameters within which, and the level at which, Assembly Members receive support to enable them to fulfil their functions, to include the provision of staffing support. We also accept that there is an increased public interest where support staff are relatives of their employer. However, in our view, the public interest is met in this instance by the publication of information on the Register of Members' Interests, as well as publication of the Remuneration Board's Determination. The Determination sets out the allowances available to Assembly Members to secure staffing support. In relation to each type of support it details the circumstances in which sums may be paid, and any applicable maxima.

In the circumstances, the disclosure of the respective sums paid to individual support staff is not necessary to meet the public interest.