

Hunger strikes and protests

01 November 2013

Request for Information.

Thank you for your request received on 10 October. I will answer each question in turn.

1) How many hunger strikes have there been at Tŷ Hywel since 1998?

Our records began in May 2007, which is when the Government of Wales Act 2006 came into force; and the National Assembly for Wales and Welsh Government were formally separated. At that time the National Assembly for Wales Commission ('the Assembly Commission') was also created. The role of the Assembly Commission is to provide property, staff and services for the Assembly's purposes.

Since May 2007, fewer than six hunger strikes have taken place at Tŷ Hywel. I am unable to provide you with an exact figure as that would constitute unfair processing of personal data and is exempt under section 40 of the Freedom of Information Act 2000. See the [annex](#) for a fuller explanation.

You may wish to contact the Welsh Government to ascertain what information they hold for the period before May 2007, via the following email address: FreedomOfInformationOfficer@wales.gsi.gov.uk

2) How long did each one last?

At the time of the hunger strikes, Assembly Commission staff did not keep a record of the length of each strike. We were informed of the individuals' intentions to fast, but hold no information as to the start or end of any periods of fasting.

South Wales Police have a permanent presence at both Tŷ Hywel and the Senedd. It is a separate public authority for the purposes of the Freedom of Information Act 2000, and you may want to contact them at the following address: foi@south-wales.pnn.police.uk

3) How many hunger strikes have there been at the Senedd from 2006?

The Senedd opened in 2006 and is the main public building of the National Assembly.

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As mentioned in my response to question 1 above, the Assembly Commission's records as regards the Senedd building commenced in May 2007. Since then, fewer than three hunger strikes have taken place at the Senedd. I am unable to provide you with an exact figure as that would constitute unfair processing of personal data and is exempt under section 40 of the Freedom of Information Act 2000. Again, please see the [annex](#) for a fuller explanation.

4) How long did each one last?

Please see my response to question 2.

5) How many staff at Tŷ Hywel or the Senedd have submitted compensation claims to the responsible department claiming their health and welfare suffered after having witnessed a hunger strike outside either Tŷ Hywel or the Senedd?

Since May 2007, there have been no such claims made to the Assembly Commission attributable to witnessing a hunger strike.

I have previously explained the separation of the National Assembly for Wales and the Welsh Government in response to question 1.

As to the period prior to May 2007, you may wish to contact the Welsh Government to ascertain what information they hold. Contact details are provided in response to question 1.

6) How many members of the public submitted a claim for compensation to the relevant department claiming their health or welfare was effected after having witnessed a hunger strike outside either the Senedd or Tŷ Hywel?

Since May 2007, there have been no such claims made to the Assembly Commission attributable to witnessing a hunger strike. Any relevant information relating to the time before May 2007 will be held by the Welsh Government.

7) Did the relevant department responsible for the claims accept liability for any of those claims? If so how much compensation did they pay out and what evidence was submitted (medical report/other general terms. I am not asking for anything bound by confidentiality)?

We do not hold any relevant information as no claims have been made since May 2007. Any relevant information relating to the time before May 2007 will be held by the Welsh Government.

8) If the relevant department did not accept liability and the case/s went to court what were the outcomes of any case/s?

We do not hold any relevant information as no claims have been made since May 2007. Any relevant information relating to the time before May 2007 will be held by the Welsh Government.

9) *How many people who have notified the Commission or just turned up to protest outside the Senedd/Tŷ Hywel have been banned for ever entering the Senedd, even when not on protest, and what were the reasons they were/are banned?*

No permanent bans have been issued and fewer than three temporary bans have been issued. I am unable to provide you with the exact number of temporary bans as that would constitute unfair processing of personal data and is exempt under section 40 of the Freedom of Information Act 2000. Again, my rationale for relying on section 40 is set out in the [annex](#).

The bans were imposed to enable the Assembly Commission to discharge the duty of care owed to its employees and to visitors to the estate. The Assembly Commission seeks to ensure that the activities of protestors do not interfere with the functioning of the estate, including the Senedd and Tŷ Hywel. The freedom of access to both buildings and the welfare of Assembly Commission staff must also be maintained.

You will find more information in our corporate health and safety policy. It says, for example: *'Employee safety is of paramount importance to the Assembly and to ensure that all work is carried out with full regard to personal health and safety and with consideration to others'*.

The full policy is available online here:

http://www.assemblywales.org/corporate_policy_review_h_s.pdf

10) *Is the Senedd a public building owned by the public who paid for it? If not who owns it? If it was owned by the public who paid for it but now someone else owns it, how did this change of ownership occur?*

The Senedd, opened in 2006 and is the main public building of the National Assembly, the seat of democracy and devolution in Wales.

The plot of land on which the Senedd stands was bought in 1998 by the (then) National Assembly for Wales. In May 2007, the Assembly Commission took ownership of the Senedd in accordance with provisions of the Government of Wales Act 2006.

The Senedd is owned by the Assembly Commission and the costs of construction were paid for from the 'Welsh Block Grant'. This is the annual funding provided to the Welsh Government from the UK Government.

The Welsh Government will hold any relevant information for the period before May 2007.

11) *How many members of staff or public have claimed their health or welfare has been affected by witnessing a hunger strike outside Tŷ Hywel/The Senedd and what were the relevant department/person's responses to those claims?*

None since May 2007. Any relevant information relating to the time before May 2007 will be held by the Welsh Government.

12) *How many staff have taken sick leave claiming the reason to be as the result of witnessing a hunger strike at either Tŷ Hywel or the Senedd? What evidence did they supply to back up that a medical practitioner verified the person had been unable to work as a result of witnessing a hunger strike?*

None since May 2007. Any relevant information relating to the time before May 2007 will be held by the Welsh Government.

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

Buddug Saer
Programme Officer
National Assembly for Wales

Annex

The first data protection principle as set out in Schedule 1 to the Data Protection Act 1998 ("the Act") states that:

"Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless –
(a) at least one of the conditions in Schedule 2 is met, and
(b) in the case of sensitive personal data, at least one of the conditions in Schedule 3 is also met."

"Sensitive personal data" is defined by the Act and means personal data consisting of information as to the "physical or mental health or condition" of a data subject.

It is my view that disclosing the number of hunger strikes in response to questions 1 and 3 would involve processing information from which those persons who have undertaken the protests can be identified i.e. it would involve a processing of personal data. The *nature* of the information is such that it would involve the processing of sensitive personal data.

To meet the requirements of the Act, any such disclosure must be fair, lawful and meet at least one condition from both Schedule 2 and Schedule 3 to the Act.

A disclosure in response to question 9 would involve the processing of personal data (as opposed to sensitive personal data). In this case, to meet the requirements of the Act, any such disclosure must be fair, lawful and meet at least one condition in Schedule 2.

It is my view that 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."

I have given careful consideration to your right of access under the Freedom of Information Act 2000, and to the obligations that legislation places upon

the National Assembly for Wales. However, it is my opinion that these factors do not outweigh the legitimate interests and the right to privacy of the data subjects concerned. Instead, I conclude that a disclosure of the figures would constitute an unwarranted intrusion into their private lives. In addition, I am of the view that such disclosure would be unfair.

As no Schedule 2 condition can be met, I have not gone on to consider (in relation to questions 1 and 3) whether a Schedule 3 condition could be. However, I would add that the requirements of Schedule 3 are more strenuous than those of Schedule 2.

However, in an effort to meet your request I have provided the information in an anonymised form by couching the information in terms of 'a figure less than [x]'. My intention is that this will enable you to ascertain, in general terms, the numbers involved whilst preserving the rights of the data subjects in question.

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.assemblywales.org/conhome/con-complaint.htm>. 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

Buddug Saer
Programme Officer
National Assembly for Wales