

Freedom of information requests to public authorities

24 November 2010

Dear

Request for Information.

I refer to your request received on 11 November in which you asked,

May I now take this opportunity to request the name of the Assembly Member who has raised this request for information?

I note your reference to a confidential service but we consider there to be a legitimate public interest in knowing the names of elected Assembly Members who either make, or request others to make, freedom of information requests to public authorities.

For your information I note in a recent decision notice made against Buckinghamshire County Council the Information Commissioner ruled that names of elected members who were a member of the LGPS should be released as there was a legitimate interest in the public in knowing their names. We consider a similar public interest exists in these types of instances.

*Please record this message as an acknowledgement of your request **and as a** Freedom of Information Act 2000 request for information for which I trust I shall be afforded a reference*

If the information I request is denied to me then please advise me of the relevant exemption in the Act and of your appeal procedure.

Although your request is linked to a request made to your authority by the Assembly's Members Research Service, you are making it as a separate request under the Freedom of Information Act 2000 and it is being considered as such.

Your request refers to "the name of the Assembly Member who has raised this request for information". However, discussions with our Members Research Service have led me to conclude that it is not really accurate to refer to the request submitted by Dr Roy as one which was "raised by" an Assembly Member. In fact the request was raised by Members Research Service itself to

Bae Caerdydd
Caerdydd
CF99 1NA

Cardiff Bay
Cardiff
CF99 1NA

Ffôn/Tel: 029 2089 89889

E-bost/Email: Kevin.willoughby@wales.gov.uk

Croesewir gohebiaeth yn y Gymraeg a'r Saesneg/We welcome correspondence in both English and Welsh

enable it to carry out a wider piece of research commissioned by a particular Assembly Member. I will, however, treat the request as relating to the identity of that Member.

The name of the Assembly Member for whom the wider piece of research is being undertaken is personal data. The data is exempt from disclosure under Section 40(3)(a)(i) of the Freedom of Information Act if disclosure would break any of the data protection principles.

To comply with the Data Protection Act, a disclosure of personal data under the Freedom of Information Act must:

- be fair and lawful;
- meet one of the conditions in Schedule 2 of the Data Protection Act;
- in the case of sensitive information (such as information about health or criminal activity) also meet one of the conditions in Schedule 3; and,
- take into account the reasonable expectations of the individual.

The individual has not given consent for the processing of their personal data and consequently the Schedule 2 condition most likely to be relevant is that at paragraph 6:

“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”.

Disclosure under the Freedom of Information Act is considered disclosure to the public at large and consequently it is the wider general interest that must be met by the processing of the data.

You are already aware that the practice of the Assembly’s Members Research Service is to undertake research for Assembly Members on a confidential basis. This reflects the preference of Members generally for maintaining the privacy of the work that the Members Research Service does on their behalf, leaving them free to decide, after considering it fully, whether, and in what way, to make use of it. Maintaining that privacy therefore reflects the reasonable expectation of the Assembly Member in question.

Against this there must be balanced any legitimate interest which you, or the public at large, may have in disclosure. I am of the opinion that there is no general public interest in disclosing the identity of individual Assembly

Members who commission particular pieces of research from the Members Research Service. On the contrary, I believe that the ability of Assembly Members to commission research confidentially is in the public interest in that it encourages Members to make use of an effective and objective source of information on which to base their work as Assembly Members.

I am not aware of any special circumstances that would make the disclosure of the identity of the Assembly Member who commissioned this particular piece of research a matter of legitimate interest to your authority or to the general public. As far as I am aware the research in question, and the request for information which it generated, were routine in nature.

Consequently I consider the information that you have requested to be exempt from disclosure under section 40(3)(a)(i) of the Freedom of Information Act.

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/abt-foi/abt-foi-cop-pub.htm> If you have any questions regarding this response please contact me.

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

Yours sincerely

Kevin Willoughby
Access to Information Manager
National Assembly for Wales