

Legal Service

27 February 2018

Request for Information.

Thank you for your request received on 31 January in which you asked:

Could the following information be provided in accordance with the Freedom of Information Act:-

- 1. Since 2012 please confirm the number of individuals who have left Legal Services. This should include resignations, re-deployment within the organisation and retirement of Legal, secretarial and administrative members of staff.*
- 2. Since 2012 please confirm the total number of grievance proceedings brought by members of legal services. In the event of grievance proceedings being brought please set out the exact nature of, or reason for each grievance.*
- 3. Since 2012 please confirm whether there has been any investigation, conducted internally or by external parties, into mismanagement and/or bullying by senior members of Legal Services. Please provide a copy of any report prepared as a consequence of such investigations.*
- 4. In the event of an investigation having taken place please provide information in respect of what steps or measures were implemented by the Assembly to resolve the issues identified by the investigation.*
- 5. Since 2012 have concerns about the conduct of any member of staff within Legal Services been brought to the attention of either HR or the Head of Service. Please provide details of any measures taken to address any concerns raised.*

Our response is as follows, adopting your numbering.

Bae Caerdydd
Caerdydd
CF99 1NA

Cardiff Bay
Cardiff
CF99 1NA

Ffôn/Tel: 0300 200 6544
E-bost/Email: MynediadAtWybodaeth@Cynulliad.cymru
Assembly-AccessInformation@assembly.wales

1. Six including resignations, moves within the Assembly Commission and retirement. This includes legal and non-legal staff.

In 2012, there were eleven permanent staff members in Legal Services; currently there are fifteen.

2. Fewer than three grievances have been brought in this period.

To disclose further 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. Further reasoning for this conclusion is set out in the [Annex](#) to this letter.

3. Since 2012, one investigation into mismanagement and/or bullying by senior members of Legal Services has taken place.

To disclose further 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. Further reasoning for this conclusion is set out in the [Annex](#) to this letter.

4. To disclose information in response to this request 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. Further reasoning for this conclusion is set out in the [Annex](#) to this letter.

5. Some concerns were raised during this period. On each occasion advice, additional support or practical solutions have been provided. To disclose further 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. 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

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 we 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. 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 subjects whose personal data would be disclosed and the balance between their rights, our duties and any legitimate interest in disclosure.

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 the operation of the Assembly Commission. However, we can see no legitimate public interest in disclosing personal data, especially given the nature of the data held. 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.