

Sickness Information

14 January 2021

Request for Information.

Thank you for your request received on 7 December in which you asked:

To whom this may concern,

Hope this email finds you well. Under the Freedom of Information Act 2000, please can you break down

- 1. How many staff members at the Senedd have taken sick days in your services, which relate to mental health.*
- 2. How many staff members at the Senedd have taken sick days in your services, which relate to respiratory disorder and muscle problems.*
- 3. How many staff members at the Senedd have taken sick days in your services, which relate to Covid-19.*
- 4. How many staff members at the Senedd have taken sick days in your services, which relate to ill-defined symptoms.*
- 5. How many staff members at the Senedd have taken sick days in your services, which relate to other (defined if viable)*

I would ideally like this over the past ten years (January 1 2010 - December 31 2019), and any recorded data as of time of writing (January 1 2020 - December 1 2020), but I will accept whatever recorded information you have. Additionally, I would like this to be broken down by month and, where possible, by sex/gender, race/ethnicity, and age group (i.e. 18-24, etc.).

During the same period, can you also tell me the total number of days lost to sickness, which relate to mental health, per worker? Again, can you break this down annually.

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Information-request@senedd.wales

If this request is too wide or unclear, I would be grateful if you could contact me as I understand that under the Act you are required to advise and assist requesters. If any of this information is already in the public domain, please can you direct me to it, with page references and URLs if necessary.

Please find the information you have requested in the attached PDF document (please request this information). Each table outlines the number of staff members who have taken sickness days as per the categories you have identified, broken down by month. However, as per your request, one of the tables identifies the number of days per employee recorded as absence due to reasons relate to mental health, as an average per employee. This has been broken down per annum.

For your information – the title - 'Ill defined' in the table relates to unknown and not disclosed conditions.

Our retention schedule means that we only hold information dating back to 2014, so we are unable to provide you with data for any previous years.

Your request asked for the information to be broken down by race/ethnicity, gender and specific age groups, but we are unable to provide you with this level of detail as to do so would leave some individuals identifiable and constitute personal data. It is, therefore, subject to the 'personal information' exemption under section 40 of the Freedom of Information Act 2000 (FOIA). This exemption applies where the requested information constitutes personal data and disclosure would contravene any of the data protection principles set out in the General Data Protection Regulation (GDPR). Further reasoning for this is in the [annex](#) to this letter.

For the same reason, as some of the actual figures are very low, we have not been able to provide you with these below a certain number. Where this is the case, we have instead provided you with an anonymised figure.

We have also not been able to disclose the exact number of absence days recorded due to sickness which relate to mental health per individual employees, as this constitutes personal data and is exempt as per the above exemption. In order to provide you with some of the information you have requested, we have instead provided an average figure per employee for years 2014 to 2020.

If you need anything further from us, please let me know.

Yours sincerely,

**Freedom of Information Manager
Welsh Parliament**

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 Senedd'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@senedd.wales or in writing to

Senedd
Governance and Assurance
Cardiff Bay
Cardiff
CF99 1SN

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 FOIA: disclosure of personal data would be in breach of the GDPR

The definition of personal data is set out in Article 4 of the GDPR, being:

“any information relating to an identified or identifiable 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, physiological, genetic, mental, economic, cultural or social identity of that natural person”.

The information requested, which relates to the detailed breakdown of sickness statistics by gender, race and ages leaves certain members of Senedd Commission staff identifiable.

Personal information is exempt from disclosure under section 40(2) and section 40(3A)(a) of the FOIA where disclosure would contravene one or more of the data protection principles set out in 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. Our conclusion is that a disclosure would be unfair. Senedd Commission staff have an expectation that their sickness records would remain confidential and not subject to a disclosure such as this.

Notwithstanding my view as to fairness, I went on to consider Article 6 of the GDPR. None of the legal bases in Article 6 is relevant other than Article 6(1)(f), which allows the processing of personal data if:

“processing is necessary for the purposes of the legitimate interests pursued by the controller or by a 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 subjects.

We have given careful consideration to the relevant interests which include: the Senedd's obligations under the GDPR and the Data Protection Act 2018; your right to access this information; the individuals' concerned and their right to privacy; and the public interest in this information being disclosed.

The individuals' concerned would not have a reasonable expectation that this information would be released. Their sickness information is shared with their line manager and the human resources team on a confidential basis. These records are used for management purposes to monitor sickness within the organisation, but a release of such detailed information to the wider public, is not necessary and fair to meet your request. The anonymised data in the table attached to this is, in our view, a balanced way of meeting the public interest whilst ensuring the interests, fundamental rights or freedoms of those involved are not jeopardised.