

Neil Hamilton's staff

Cynulliad
Cenedlaethol
Cymru
National
Assembly for
Wales



19 September 2019

Request for Information.

Thank you for your request received on 23 August in which you asked:

Dear Welsh Assembly

I would like to request the names of who is on the payroll of staff for Neil Hamilton AM from 1st January 2019 to the current date (23rd August 2019) please.

Kind regards,

Please see the response below:

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

Some of the information requested is already reasonably accessible by other means and is therefore exempt under section 21 of the Freedom of Information Act 2000 ("FOIA 2000"). The Assembly Commission publishes some information via the Register of Members' Interests, including the employment of family members by elected representatives. I have included a link in this response to the appropriate page on the Register:

<http://senedd.assembly.wales/mgDeclarationSubmission.aspx?UID=5048&HID=1219&FID=0&HPID=1507361491>

In relation to the disclosure of names of individual support staff not already in the public domain, this 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 FOIA 2000.

Bae Caerdydd
Caerdydd
CF99 1NA
Cardiff Bay
Cardiff
CF99 1NA

Ffôn/Tel: 0300 200 6544
E-bost/Email: Ceisiadau-gwybodaeth@cynulliad.cymru
Information-request@assembly.wales

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

Further reasoning for this conclusion and the application of section 40 is set out in the annex to this letter.

Yours sincerely

**Freedom of Information Manager
National Assembly for 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 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. Our conclusion is that a disclosure would be unfair. AMSS work for elected representatives but are not elected themselves. Although their names and job titles are known by members of the public who contact them, we do not believe that, in ordinary circumstances, publishing their names would outweigh their own individual rights over their personal data.

Where there is a stronger public interest in disclosure, for example where an Assembly Member employs a family member, this information is published via the Register of Members’ Interests.

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. In our view, the public interest is met in this instance by disclosures in anonymised form where requested, together with the Register of Members' Interests and 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.