

Allegations of Sexual Harassment

10 May 2016

Request for Information.

Thank you for your request received 7 April in which you asked:

How many allegations of sexual harassment have been made during the last five years? The request is for complaints made or received by all staff and also sitting members. I would also request a breakdown of the genders of the complainants and the individual the complaint is about.

The information sought about the number of allegations of sexual harassment made during the last five years comprises personal data for the purposes of the Data Protection Act 1998 and falls within the scope of the “personal information” exemption in section 40 of the Freedom of Information Act 2000 (the Act).

The number of persons affected is so small that disclosure of the information sought could, either from the data itself, or from that data in addition to other information, identify the persons concerned. In the circumstances we cannot satisfy ourselves that the disclosure sought would be fair. As such we consider the information to be exempt under section 40(2) of the Act.

However, we are able to tell you that the number was less than five. Further reasoning for this is 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

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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**

Annex

Your request asks for the number of allegations of sexual harassment made during the last five years? The request is for complaints made or received by all staff and also sitting members. I would also request a breakdown of the genders of the complainants and the individual the complaint is about.

This information falls within the definition of personal data in the Data Protection Act 1998 (“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) of the Freedom of Information Act 2000 (‘the Act’) where disclosure would contravene any of the data protection principles. The principle relevant on this occasion is set out below.

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 individuals’ reasonable expectations and the balance between their rights and any legitimate interest in disclosure. Our conclusion is that a disclosure would be unfair. A summary of our consideration follows.

A disclosure of the number of allegations made could not only identify the complainant and the subject of the allegation but it could also deter individuals from making such allegations in the future. A disclosure would, in our view, jeopardise the policy in place to protect staff against such behaviour in the work place.

It is the policy of National Assembly for Wales to create an environment, which is free from harassment. The senior management of the Assembly regards any form of bullying and harassment as a disciplinary issue and takes a zero tolerance approach to such behaviour. The Dignity at Work policy covers each of the protected characteristics listed in the Equality Act 2010.

The aim of the policy is to:

...provide a safe working environment free from harassment and intimidation. The National Assembly for Wales Commission¹ is committed to ensuring that complaints of harassment are dealt with quickly, positively and confidentially.

We recognise that there is a legitimate interest in knowing that we record these allegations and that there is a policy in place to protect our employees, but we consider this interest is met by the fact that we are providing you with an anonymised figure.

Having concluded that disclosure is unfair there is no requirement for us to give further consideration to the processing conditions set out in Schedules 2 and 3 of the Act.

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.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