

# Family member support staff

30 August 2017

## Request for Information.

Thank you for your request received on 4 August in which you asked:

*Under the FOI Act, I would like to know which pay band each family member employed by an AM is on. I see it is already published how many hours they work, but I would like to know the pay band and how long they have been on that pay band for.*

We can confirm that we hold the information requested. However, it constitutes personal data for the purposes of the Data Protection Act 1998. A disclosure of the respective sums paid to individual support staff along with the period in which they have been on that pay band for would, in our view, contravene the first data protection principle of the Data Protection Act 1998. As such, it is exempt from disclosure under section 40(2) and section 40(3)(a)(i) of the Freedom of Information Act 2000 (the Act). Further reasoning for this conclusion is set out in the [annex](#) to this letter.

However, in an effort to provide you with information, whilst complying with our duties under the Data Protection Act 1998, we have provided details of the sums paid in an anonymised form in the table below.

Salary Band	Number of Staff as 4 August 2017
Band 1 and Senior Advisor	5
Band 2	5
Band 3	5

Assembly Members are entitled to resources to employ staff and run offices in their constituencies so that they can deal with issues and cases raised by the people they represent.

The rules surrounding what they are entitled to claim for are contained within a 'Determination'. The relevant section of the [Determination](#) which deals with the staffing expenditure allowance states that:

*'7.1.2 A Member may claim an allowance to cover the salary for up to three full-time equivalent staff (111 hours). The related employer National Insurance contributions, including those for any overtime payments referred to in paragraph 7.3.1, will be paid centrally and will not be deducted from the Staffing Expenditure Allowance.*

Table 3 under paragraph 7.1.4 provides you with the Assembly Member Support Staff salary scales for 2017-18.

Earlier determinations are also published on our [website](#) where previous salary scale information is available.

As your request is family member specific, I wanted to make you aware that prospective AMSS who are family members are currently recruited through an open and fair competition in which the Assembly Member in question is removed from the appointment process, for as long as their family member is a candidate. The present recruitment policy states that:

*'The appointment of the employing Assembly Member's family members will only be permitted where the Assembly Member plays no part in the selection process, which will instead be conducted by the Members' Business Support team.*

*Where the family member is not shortlisted or decides to withdraw, the process will be handed back to the Assembly Member at that stage.'*

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](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 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

## Annex

The information sought falls within the definition of personal data 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 Act 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 persons concerned and the balance between their rights and any legitimate interest in disclosure. Family members support staff are a specific and small group of staff whose names, job descriptions and hours worked per week are already published on the [Register of Members' Interests](#). Our conclusion is that a disclosure would be unfair. An individual's salary band relates to their financial position and is private in nature. The staff, although classed as family members, have no expectation that information relating to the detail of their remuneration will be made public. Instead, the rules pursuant to which payments may (or may not) be made are published, as stated in the [Determination](#).

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 are 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 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 particular instance by the disclosure in anonymised form 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.

In the circumstances, the disclosure of the respective sums paid to individual support staff is not necessary to meet the public interest. Our conclusion, therefore, is that it would not be possible to meet a Schedule 2 condition.