



Llywodraeth Cymru
Welsh Government

Our ref: ATISN 10142
Date: 5 February 2016

Dear

Request for Information – ATISN reference 10142

Thank you for your request which was received by the Welsh Government on 27 January 2016. You asked for the following information in respect of the Head of Marketing for Visit Wales post.

1. Of the candidates who were shortlisted, how many were men and how many were women?
2. What ages were the shortlisted candidates?
3. How many people were on the selection panel?
4. Of the people on the selection panel, how many were men and how many were women?
5. What were the occupations of the people on the selection panel?
6. Is the person appointed already an employee of the Welsh Government?
7. Was use of the Welsh language used as a criteria in the selection process?

The answers to your question are as follows;

3. Three
4. Two male, one female
5. Deputy Director HR; Deputy Director Marketing; Head of Communications
6. The selection process has not yet concluded
7. No

In respect of questions 1 and 2, Section 40 of the Freedom of Information Act sets out an exemption from the right to know if the information requested is personal information protected by the Data Protection Act 1998 (DPA). Personal data is defined in Section 1(1) of the DPA as:

“personal data” means data which relates 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.

Under Section 40(2) of the FOI Act, personal data is exempt from release if disclosure would breach one of the data protection principles. We consider the principle being most relevant in this instance as being the first.

The first data protection principle.

This states:

Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless—

(a) at least one of the conditions in Schedule 2 is met, and (b) in the case of sensitive personal data, at least one of the conditions in Schedule 3 is also met.

We consider that information relating to the gender and age of each of the candidates selected for interview clearly falls within the description of personal data as defined by the DPA and that its disclosure would breach the first data protection principle. The first data protection principle has two components:

1. Personal data shall be processed fairly and lawfully and
2. Personal data shall not be processed unless at least one of the conditions in DPA schedule 2 is met

Guidance from the Information Commissioner's Office (Personal information (section 40 and regulation 13) v 1.3) states (at p11):

- *The starting point is to consider whether it would be fair to the data subject to disclose their personal data. The key considerations in assessing this are set out in the section on Fairness below.*
- *If disclosure would not be fair, then the information is exempt from disclosure.*

In this instance therefore, we do not believe that the candidates would have any expectation that information about their individual gender and age would be made public. Thus, we believe release of this information would be unfair and so breach the first data protection principle. For that reason, the information is being withheld under section 40(2) of the Freedom of Information Act. This is an absolute exemption and not subject to the public interest tests.

If you are dissatisfied with the Welsh Government's handling of your request, you can ask for an internal review within 40 working days of the date of this response. Requests for an internal review should be addressed to the Welsh Government's Freedom of Information Officer at:

Information Rights Unit,
Welsh Government,
Cathays Park,
Cardiff,
CF10 3NQ

or

Email: FreedomOfInformationOfficer@wales.gsi.gov.uk

Please remember to quote the ATISN reference number above.

You also have the right to complain to the Information Commissioner. The Information Commissioner can be contacted at:

Information Commissioner's Office,
Wycliffe House,
Water Lane,
Wilmslow,

Cheshire,
SK9 5AF.

However, please note that the Commissioner will not normally investigate a complaint until it has been through our own internal review process.

Yours sincerely

Head of Resourcing