



Llywodraeth Cymru  
Welsh Government

## E-mail request

Our ref: ATISN 14135

Date: 24 July 2020

Dear

ATISN 14135

Thank you for your request which I received on 9 July 2020. You asked the following:

1. How many people are employed by the Welsh Government?
2. How many BAME people are employed by the Welsh Government, and of those can I have a breakdown by:
  - i) jobs titles/ pay band
  - ii) race (black, Asian etc)
  - iii) gender
  - iv) how many graduate schemes/apprenticeships
3. How many BAME residents from Butetown are employed by the Welsh Government?

Staff in the Welsh Government are asked to complete a personal details form, which includes a field relating to their ethnic origins, when they commence working in the organisation. This is entirely voluntary and the ethnic origins details are not checked for accuracy. In some cases, staff may not wish to declare their ethnic origins and simply leave the field blank; others openly state that they do not wish to declare their ethnic origins. The data at Annex 1 is, therefore, based on self-declaration by a limited number of staff.

I have concluded that some of the information you have requested is exempt from disclosure under Section 40(2) of the Freedom of Information Act (2000). Annex 2 of this letter refers. In order to protect the identity of individuals in the tables at Annex 1, all figures are rounded to the nearest 10 and figures below 5 have been suppressed and are denoted by \*. As a consequence of rounding, some totals may not match others. In respect of your question relating to the number of BAME residents of Butetown working in the Welsh Government, I have reviewed our staff records to identify those living in the

CF10 5 postal area, which covers Butetown. I can confirm that less than 10 staff who have declared their ethnic origin as BAME resided in this area as at 30 June 2020.

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 e-mail: [Freedom.ofinformation@gov.wales](mailto:Freedom.ofinformation@gov.wales)

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

**Welsh Government Staff - 30 June 2020**

Total number of staff - 5,680 headcount

<b>Ethnic Origin: Self-Declaration</b>	
Not Declared	120
Other Ethnicity	150
Prefer Not to Say	230
White	5,180

<b>Ethnic Origin: BAME</b>	
Arab	*
Asian - Bangladeshi	10
Asian - Chinese	10
Asian - Indian	20
Asian - Pakistani	20
Black - African	10
Black - Caribbean	10
Gypsy and Irish Traveller	*
Mixed Asian and White	20
Mixed Black African and White	*
Mixed Black Caribbean and	10
Other Asian Background	*
Other Ethnic Group	10
Other Mixed Ethnic Background	30

<b>Gender: BAME Ethnic Origin</b>	
Female	80
Male	70

<b>Pay Bands: BAME Ethnic Origin</b>	
Team Support	20
Executive Officer	40
Higher Executive Officer	30
Senior Executive Officer	30
Grade 7	20
Grade 6	*
Senior Civil Service	*

## **Section 40(2) – Personal Data**

Section 40(2) of the Freedom of Information Act 2000 (FOIA), together with the conditions in section 40(3)(a)(i) or 40(3)(b), provides an absolute exemption if disclosure of the personal data would breach any of the data protection principles.

‘Personal data’ is defined in sections 3(2) and (3) of the Data Protection Act 1998 (‘the DPA 2018’) and means any information relating to an identified or identifiable living individual. An identifiable living individual 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 the individual. I have concluded that Section 40(2) applies to part of your request for a breakdown of BAME staff by ethnic origin, gender and pay band, for where those numbers are less than 5.

Under Section 40(2) of the FOIA, personal data is exempt from release if disclosure would breach one of the data protection principles set out in Article 5 of the GDPR. We consider the principle being most relevant in this instance as being the first. This states that personal data must be:

*“processed lawfully, fairly and in a transparent manner in relation to the data subject”*

The lawful basis that is most relevant in relation to a request for information under the FOIA is Article 6(1)(f). This states:

*“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”.*

In considering the application of Article 6(1)(f) in the context of a request for information under FOIA it is necessary to consider the following three-part test:

1. The Legitimate interest test: Whether a legitimate interest is being pursued in the request for information;
2. The Necessity test: Whether disclosure of the information/confirmation or denial that it is held is necessary to meet the legitimate interest in question;
3. The Balancing test: Whether the above interests override the interests, fundamental rights and freedoms of the data subject.

Our consideration of these tests is set out below:

### **1. Legitimate Interest Test**

The Welsh Government recognises there is a legitimate interest in a breakdown of BAME staff by ethnic origin, gender and pay band (this is personal information to the individual). However, I do not believe there is any legitimate reason why this personal data would need to be released. The Welsh Government cannot identify any other legitimate interest in you or the public receiving the personal data captured by your request.

## **2. Is disclosure necessary?**

The Welsh Government is of the view that it is not necessary to disclose the personal information caught by your request - we do not believe it is necessary to disclose the personal data to understand the information.

## **3. The Balancing Test**

As it has been concluded it is not necessary to disclose numbers less than 5 within the breakdown of BAME staff by ethnic origin, gender and pay band within the information disclosed, there is no requirement to balance the rights and interests of those individuals against the rights, under FOIA, of the requester.

To conclude, as release of the information would not be legitimate under Article 6(1)(f), and as no other condition of Article 6 is deemed to apply, release of the information would not be lawful within the meaning of the first data protection principle. It has therefore been withheld under section 40 of the Freedom of Information Act. Section 40 is an absolute exemption and not subject to the public interest test.