

15 March 2024

Dear

Request for Information ATISN 20231 – South Wales Fire and Rescue Service

Information requested

Thank you for your request which I received on 19 February. You asked for:

- how many candidates were considered for the interim Chief Fire Officer post at South Wales Fire and Rescue Service.
- how did candidates meet the criteria for consideration, and a list of all those considered.
- The criteria applied to ensure that the candidates being considered had the skill set to address the cultural review findings around sexing, bullying and nepotism.
- The basis for the decision to recruit Stuart Millington, including the selection criteria.
- A list all those involved in the recruitment process for Interim Chief Fire Officer.
- were all those involved in the recruitment process for Interim Chief Fire Officer aware of the outstanding allegation on bullying against Stuart Millington?
- how were those appointed as commissioners to oversee South Wales Fire and Rescue Service selected? Please provide a copy of the selection criteria and any shortlist
- is there any personal relationship between any of the commissioners or the Welsh government fire adviser and Stuart Millington including having worked together previously?
- how can somebody who is subject to a live investigation be tasked with addressing a report finding around tackling bullying?
- how many allegations of bullying have been made against Welsh Government staff in the past 3 years broken down by year?
- a copy of the Welsh Government bullying and harassment policy?

Our response

A copy of the information I have decided to release is provided below :-

- **how many candidates were considered for the interim Chief Fire Officer post at South Wales Fire and Rescue Service.**

The appointment was made by the Commissioners of South Wales Fire and Rescue Service, (SWFRS) not the Welsh Government. The Welsh Government holds information that indicates that the Commissioners considered at least 2 candidates for the interim CFO post South Wales Fire and Rescue Service.

- **how did candidates meet the criteria for consideration, and a list of all those considered.**

The appointment was made by the Commissioners of South Wales Fire and Rescue Service, not the Welsh Government. The Welsh Government holds information indicating that the criteria which the Commissioners applied to the interim Chief Fire Officer included (but were not necessarily confined to):

- that the individual required a Fire and Rescue Service strategic operations background to ensure that they were able to maintain strategic leadership of the Service and operational command continuity.
- that the individual was able to relocate to the SWFRS area to provide operational cover.

We hold a record of the names of 2 individuals the Commissioners considered, one of whom was Stuart Millington. The other name is withheld under section 40(2) of the Freedom of Information Act 2000. The reason for applying this exemption is set out in Annex 1 of this letter. We do not hold information about whether the Commissioners considered other individuals; or, if they did, the identities of such individuals.

- **The criteria applied to ensure that the candidates being considered had the skill set to address the cultural review findings around sexing, bullying and nepotism.**

The appointment was made by the Commissioners of South Wales Fire and Rescue Service, not the Welsh Government. The Welsh Government does not hold this information.

- **The basis for the decision to recruit Stuart Millington, including the selection criteria.**

The appointment was made by the Commissioners of South Wales Fire and Rescue Service, not the Welsh Government. The information that the Welsh Government holds on the selection criteria is identified above.

- **A list all those involved in the recruitment process for Interim Chief Fire Officer.**

Information held by the Welsh Government indicates the following individuals were involved:

- The Chief Fire and Rescue Advisor, the Chief Fire Officer of North Wales Fire and Rescue Service, and the Chief Fire Officer of Mid and West Wales Fire and Rescue Service – to identify, at the request of Commissioners, staff in the grades of Assistant Chief Fire Officer or Deputy Chief Fire Officer in either FRA who might wish to express an interest in taking the post. These individuals, however, had no part in the decision to appoint Mr Millington, nor in any consideration of any other candidates.
- The recruitment process itself was undertaken by the 4 Commissioners: Vij Randeniya, Baroness Wilcox of Newport, Kirsty Williams and Carl Foulkes.
- **were all those involved in the recruitment process for Interim Chief Fire Officer aware of the outstanding allegation on bullying against Stuart Millington?**

The Chief Fire and Rescue Advisor, the Chief Fire Officer of North Wales Fire and Rescue Service and all 4 Commissioners were aware of the allegations against Mr Millington.

- **how were those appointed as commissioners to oversee South Wales Fire and Rescue Service selected? Please provide a copy of the selection criteria and any shortlist**

The Commissioners were chosen based on the range and balance of their experience, skills and background, and independence. The Welsh Government sought to ensure a mixture of fire and rescue operational knowledge, an understanding of the key elements and requirements of intervention, and the strong leadership that is required to make sustainable change to culture and service provision in SWFRS.

Four other individuals were considered for appointment as Commissioners, and approached to ascertain their interest and availability, but ultimately not appointed. Their names are withheld under section 40(2) of the Freedom of Information Act 2000. The reason for applying this exemption is set out in Annex 1 of this letter.

- **is there any personal relationship between any of the commissioners or the Welsh government fire adviser and Stuart Millington including having worked together previously?**

The Welsh Government holds information that confirms the Chief Fire and Rescue Adviser does not have a personal relationship with Stuart Millington. The Welsh Government does not hold information which confirms whether or not any of the Commissioners have a personal relationship with Stuart Millington.

- **how can somebody who is subject to a live investigation be tasked with addressing a report finding around tackling bullying?**

This question seeks an opinion and is therefore not a request for information held by the Welsh Government.

- **how many allegations of bullying have been made against Welsh Government staff in the past 3 years broken down by year?**

The relevant information is provided below. Please note that these data relate only to employees of the Welsh Government. They do not cover allegations of bullying within other organisations.

Allegations of bullying made against Welsh Government Staff in the past 3 years :-
2021 – 3
2022 – 8
2023 – 7

- **a copy of the Welsh Government bullying and harassment policy?**

A copy of the Welsh Government's Dignity at Work policy is attached. Again, please note that this policy only applies within the Welsh Government, not to other organisations.

Next steps

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: 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

Annex 1

Freedom of Information Act: Section 40(2) Personal Data

Section 40(2) of the 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 2018 ('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.

We have concluded that, in this instance, the information requested contains third party personal data in the form of the names of individuals considered for the posts.

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".

Legitimate Interest

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: -

- **The Legitimate interest test:** Whether a legitimate interest is being pursued in the request for information;
- **The Necessity test:** Whether disclosure of the information/confirmation or denial that it is held is necessary to meet the legitimate interest in question;
- **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:

3. Legitimate interest

The Welsh Government acknowledges the legitimate interests of openness and transparency that release would engender.

2. Is disclosure necessary?

We do not believe disclosure of personal data of individuals is necessary in this case. In providing the information in response to this request regarding the recruitment process and criteria, the context around the appointment decision is provided, as is the number of individuals considered for appointment (so far as that is known to the Welsh Government).

3. The balance between legitimate interests and the data subject's interests or fundamental rights and freedoms

None of the individuals concerned made any formal application for the posts of interim Chief Fire Officer or Commissioner. They were approached on a wholly unsolicited basis to ascertain their interest in the posts. Such approaches were also made in confidence, and without any express or implied understanding that the individuals would be identified unless they were ultimately appointed; and it is not normal or expected for the identities of unsuccessful candidates for posts, including senior posts, to be publicly disclosed. Disclosure of their identities may have potential to cause unjustified harm or distress to the individuals and, as such, we believe the legitimate interest of the individuals outweigh any potential interest in disclosure.

As release of the information would not therefore 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.