

# Freedom of Information requests

2011

Reference number: 11-007

I am writing to request the following information under the terms of the Freedom of Information Act 2000:

- (1) the amount, in pounds and in percentage terms, of any bonus (or performance award) paid to the Director General of the National Museum Wales for ~~2010/11~~;
- (2) whether any of this has been consolidated into the Director General's salary and if so, how much;
- (3) whether any bonus or performance award has been agreed for the Director General for 2011/12 and, if so, how much.

Thank you, in anticipation of your assistance.

20 July 2011

**REQUEST FOR INFORMATION** – *information relating to the bonus paid to the Director General for 2010-2011 and whether any bonus award has been agreed for 2011-12.*

Thank you for your request for information. As Head of Knowledge and Information Management for Amgueddfa Cymru - National Museum Wales, I will be responsible for responding to your request for information.

I refer to your email of the 8 July 2011, in which you asked for the following information:

1	<i>The amount, in pounds and in percentage terms, of any bonus (or performance award) paid to the Director General of the National Museum Wales for 2010/11;</i>
2	<i>Whether any of this has been consolidated into the Director General's salary and if so, how much;</i>
3	<i>Whether any bonus or performance award has been agreed for the Director General for 2011/12 and, if so, how much.</i>

The information you have requested was firstly considered under the Freedom of Information Act which states that all Personal Data is exempt from disclosure under Section 40(2) of the Act.

### **Section 40 (2) FoIA – Personal data exempt from disclosure**

The information requested amounts to personal data and is exempt under section 40(2), FOIA, as disclosure, without the consent of the individuals to whom it relates, to a member of the public otherwise than under the FOIA would breach the first data protection principles. This exemption is absolute and is not subject to the public interest test. Therefore, the information requested is exempt under FOIA section 40(2) and will now be reviewed under the Data Protection Act 1998 (DPA).

### **Data Protection Act 1998 (DPA)**

#### **Section 1(1) DPA – meaning of “personal data”**

Information relating to the Director-General's salary and associated pay increases is personal data within the meaning of the DPA.

#### **Part I of Schedule 1 DPA – first data protection principle**

In our view, the disclosure of personal data to a third party would be unfair within the meaning of the first data protection principle. Part II of Schedule 1 to the DPA sets out how the principle of fairness is to be interpreted. It states that, in deciding whether personal data is processed fairly, regard must be had to whether any person from whom it was obtained is deceived or misled as to the purpose or purposes for which they are to be processed. However, in this case, the Director-General's salary information and bonus is published within the Museum's Annual Financial Report and the Director-General is aware that this information is generally available. For this reason, the principle of fairness, the information must be already available to the general public at the time the FOIA request has been received or within the period of 20 working days following the date of receipt.

Currently, the information you have requested is not publicly available until the Wales Audit Office has formally laid the Annual Financial Report for 2010-2011 before the Welsh Government, after which, the Museum will make this information available on its corporate website. It is anticipated that the information will be laid before the Welsh Government in September 2011. Releasing this information early would be deemed unfair under the first data protection principle.

The Information Commissioner's Legal Guidance on the Data Protection Act (available on-line at [www.informationcommissioner.gov.uk](http://www.informationcommissioner.gov.uk)) advises that the Commissioner takes a strict view of the concept of compatibility. The Commissioner also cross-refers to the DPA's interpretative provisions on the meaning of fairness, as set out in relation to the first data protection principle above. The DPA says that, in determining whether personal data is processed fairly, regard is to be had to whether the data subject has been deceived or misled as to the purposes for which their personal data is to be processed. The Commissioner says that this is material in considering whether further processing is incompatible with the specified purposes.

In responding to your email, I will address each element of your request separately.

*1. The amount, in pounds and in percentage terms, of any bonus (or performance award) paid to the Director General of the National Museum Wales for 2010/11.*

The Director-General's salary information is published annually within the Museum's Financial Accounts and is available on the National Museum Wales' website. However, prior to this information being published, the information is embargoed until the information has been laid before the Welsh Government. This information is scheduled to be laid before the Welsh Government in September 2011. This information is exempt from disclosure under section 22(1) (a), information intended for future publication.

For information, the Museum's Financial Report for 2009/10 is available at:

<http://www.museumwales.ac.uk/media/1/2/9/2/0/Amgueddfa-Cymru-Financial-Report-09-10.pdf>

*2. Whether any of this has been consolidated into the Director General's salary and if so, how much;*

This information currently does not exist as it will be determined by the Welsh Government during their review in September 2011. The Museum is unable to provide this information in accordance with s.1(1)(a) as the information being requested is not held at the time of the request.

3. *Whether any bonus or performance award has been agreed for the Director General for 2011/12 and, if so, how much.*

This information currently does not exist as it will be determined by the Welsh Government during their review in September 2012. The Museum is unable to provide this information in accordance with s.1(1)(a) as the information being requested is not held at the time of the request

Your request was considered according to the principles set out in the National Assembly's Code of Practice on Public Access to Information (third edition). The Code is published on the Internet at [www.information.wales.gov.uk](http://www.information.wales.gov.uk).

If you believe that I have not applied the Code of Practice on Public Access to Information correctly or have not followed the relevant laws, please contact me to request a first-stage review. If, after that, you are still not satisfied you may request a formal review by the Museum. When dealing with any concerns, we will follow the principles of the National Museum of Wales' Code of Practice on Complaints, which is available on the Internet at [www.nationalmuseumwales.org/en/45/](http://www.nationalmuseumwales.org/en/45/) or by post to:

Mr. Robin Gwyn  
Director of Communications  
National Museum Wales  
Cathays Park  
Cardiff  
CF10 3NP

You also have the right to complain to the Information Commissioner. Normally, however, you should pursue the matter through our internal procedure before you complain to the Information Commissioner. The Information Commissioner can be contacted at:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

Yours sincerely,

Gayle Evans, LLM  
Head of Knowledge & Information Management

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