

Reference: 538447

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## **Freedom of Information: Right to know request**

Thank you for your request for information where you asked about non-disclosure agreements.

This was received by Ofcom on 25 April and it has been considered under the Freedom of Information Act 2000 (the Act).

Your request helpfully provided a definition of non-disclosure agreements:

*“Non-Disclosure Agreements is a catch-all term for agreements that include confidentiality clauses – sometimes referred to as gagging clauses. They are used in employment contracts for a range of purposes including, for example, protecting intellectual property, trade secrets or other confidential information such as customer details. They are also commonly used in agreements that are reached between employers and employees when employment is terminated (known as settlement agreements)....”*

We have interpreted your request in light of this and considered it in the context of employment related agreements. Please see below our response to each of your questions:

- A) *How many non-disclosure agreements has the authority agreed in each of the calendar years of 2014, 2015, 2016 and 2017?*
- *Please provide individual figures per year*
  - *Please also provide reasons for the agreements being agreed where possible (e.g. 2 whistleblower complaints).*
  - *Please provide the total number of NDAs but also the different types of NDA agreements (e.g. whistleblower complaint/ / sexual harassment complaint etc.).*
  - *Please make clear if the agreements concern commercial companies rather than employees*

Please note that we have already received a similar Freedom of Information request with respect to confidentiality clauses, which can be accessed on our website:

[https://www.ofcom.org.uk/data/assets/pdf\\_file/0024/113586/confidentiality-clauses-foi.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0024/113586/confidentiality-clauses-foi.pdf).

As a matter of standard practice, all our settlement agreements include a confidentiality clause and we use settlement agreements in all cases of redundancy or negotiated exits.

Please see below Ofcom’s figures of settlement agreements issued for the financial years 2013/14 to 2016/17. We are still auditing restructuring information for the 2017/18 Annual

Report, therefore those figures are not available. We do not hold the information according to calendar year.

Financial Year	Settlement Agreements issued
2013/14	8
2014/15	11
2015/16	13
2016/17	40

The above settlement agreements were signed because positions were made redundant or there was a negotiated exit. The above agreements fall within the category of settlement agreements, we don't sub-categorise further.

However, we can confirm that there have been no severance deals or agreements agreed from 2013/14 to 2016/2017 that included confidentiality clauses for staff who had made an allegation of sexual assault or sexual harassment against another member of staff.

The settlement agreements were issued to employees.

*B) Please provide the total amount of financial compensation awarded as part of these agreements for the entirety of this period (2014-2017) in £*

As explained earlier, our settlement agreements include a confidentiality clause and we use this type of agreement in all cases of redundancy or negotiated exits.

Ofcom publishes an Annual Report every financial year, which is available in the public domain. In this we provide data on annual staff restructuring costs. Please see the following link: <https://www.ofcom.org.uk/about-ofcom/annual-reports-and-plans>.

For the specific financial years, restructuring costs are a combination of termination payments and pay in lieu of notice (PILON). As such, termination payments are calculated by deducting PILON from the total restructuring costs. The accounts for the 2017/18 financial year are currently being finalised.

Financial Year	PILON
2013/14	£53,133
2014/15	£257,427
2015/16	£454,556
2016/17	£385,503

If you have any queries, then please contact [information.requests@ofcom.org.uk](mailto:information.requests@ofcom.org.uk). Please remember to quote the reference number above in any future communications.

Yours sincerely,

## Jerin John

If you are unhappy with the response or level of service you have received in relation to your request from Ofcom, you may ask for an internal review. If you ask us for an internal review of our decision, it will be treated as a formal complaint and will be subject to an independent review within Ofcom. We will acknowledge the complaint and inform you of the date by which you might expect to be told the outcome.

The following outcomes are possible:

- the original decision is upheld; or
- the original decision is reversed or modified.

### Timing

If you wish to exercise your right to an internal review **you should contact us within two months of the date of this letter**. There is no statutory deadline for undertaking internal reviews and it will depend upon the complexity of the case. However, we aim to conclude all such reviews within 20 working days, and up to 40 working days in exceptional cases. We will keep you informed of the progress of any such review. If you wish to request an internal review, you should contact:

Steve Gettings  
The Secretary to the Corporation  
Ofcom  
Riverside House  
2a Southwark Bridge Road  
London SE1 9HA

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