

Freedom of Information Request: Our Reference CTHB_102_18

You asked:

1. The total number of confidentiality clauses agreed in severance deals for trust staff per year from 2015-2017 inclusive.
2. The total number of confidentiality clauses agreed in severance deals for trust staff where that person had made an allegation of sexual assault or sexual harassment against another member of staff per year from 2015-2017 inclusive.
3. The total amount of financial compensation paid to former employees where confidentiality clauses were included as part of severance deals from 2015-2017 inclusive.
4. The total amount of financial compensation paid to former employees where confidentiality clauses were included as part of severance deals and where that person had made an allegation of sexual assault or sexual harassment against another member of staff from 2015-2017 inclusive.

Please provide individual figures for all parts of the request. Please note 'former employees' relates to those who left the organisation at the point of the severance agreement but may now be back working at the organisation. Please do not preclude these people from the response if it is known they have rejoined.

Please send me the data requested in the form of an Excel spreadsheet or as a csv file. A response template is attached.

Our response:

Please note that we use **confidentiality clauses** in settlement agreements and in COT3 (A COT3 is an agreement which records the terms of settlement of an employment tribunal claim (or potential claim) which has been agreed between the member of staff and employer with the assistance of a conciliation officer employed by ACAS) agreements.

The standard clause is :

"The Claimant and Respondent shall keep the existence and terms of this COT3 Agreement confidential except where disclosure is to HM Revenue and Customs, required by law or to their legal or professional advisers or immediate family (provided that they agree to keep the information confidential)."

However, there is also the standard clause in agreements now which expressly makes clear that nothing in the agreement is intended to prevent someone from making a protected disclosure (whistleblowing):

“For the avoidance of doubt, nothing in this COT3 Agreement shall prejudice any rights the Claimant has or may have under the PIDA 1998 and/or any obligations that the Claimant has or may have to raise concerns about patient safety and care with regulatory or other appropriate statutory bodies pursuant to her professional and ethical obligations including those obligations set out in guidance issued by regulatory or other appropriate statutory bodies from time to time. Nothing in this COT3 Agreement shall prevent the Claimant from making a protected disclosure under s43B of ERA 1996 and nothing in this Agreement shall prevent the Respondent from making such disclosure as it is or they are required to make.”

The information in the attached document mainly refers to staff members accessing the Voluntary Early Release Scheme.

Please note, where the figures are less than 5, this has been denoted by **. The exact figures have been withheld due to the low numbers involved.

Where numbers are low we have considered that there is the potential for the individuals to be identified from the information provided, when considered with other information that may also be in the public domain. Also, responses under the Freedom of Information Act are made available to the public at large. We are therefore withholding this detail under Section 40(2) of the Freedom of Information Act 2000. This information is protected by the Data Protection Act 1998, as its disclosure would constitute unfair and unlawful processing and would be contrary to the principles set out in Schedules 2 and 3 of the Act. Section 40 is an absolute exemption and does not require the Health Board to consider the public interest test.

	2015	2016	2017
The total number of confidentiality clauses agreed in severance deals for Health Board staff per year from 2015-2017 inclusive.	13	15	**

	2015	2016	2017
The total number of confidentiality clauses agreed in severance deals for Health Board staff where that person had made an allegation of sexual assault or sexual harassment against another member of staff per year from 2015-2017 inclusive.	0	0	0

	2015-2017
The total amount of financial compensation paid to former employees where confidentiality clauses were included as part of severance deals from 2015-2017 inclusive.	£694,599.50

	2015-2017
The total amount of financial compensation paid to former employees where confidentiality clauses were included as part of severance deals and where that person had made an allegation of sexual assault or harassment against another member of staff from 2015-2017 inclusive.	0

** less than 5