



## FREEDOM OF INFORMATION REQUEST



**Request Number:** F-2018-00988

**Keyword:** Organisational Information/Governance

**Subject:** Non Disclosure Agreements

### Request and Answer:

Your request for information below has now been considered. In respect of Section 1(1)(a) of the Freedom of Information Act 2000 (FOIA) I can confirm that the Police Service of Northern Ireland does hold the information you have requested however it is estimated that the cost of complying with your request for information would exceed the “appropriate costs limit” under Section 12(1) of the Freedom of Information Act 2000.

### Request 1

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 whistle-blower complaints). Please provide the total number of NDAs but also the different types of NDA agreements (e.g. whistle-blower complaint/ / sexual harassment complaint etc.). Please make clear if the agreements concern commercial companies rather than employees.

### Request 2

Please provide the total amount of financial compensation awarded as part of these agreements for the entirety of this period in £.

Please provide the information in the attached spreadsheet.

Below is a definition if helpful:

#### "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).

However, there has also been criticism of their use in sexual harassment cases, with concerns that they may be used to conceal improper, discriminatory or even illegal behaviour or to impede reporting of such behaviour to the proper authorities."

Source:

<https://www.parliament.uk/business/committees/committees-a-z/commons-select/women-and->

Authorities are duty bound to reveal these agreements under the FOIA, as made clear in this government guidance concerning NDAs.

<https://www.gov.uk/government/publications/non-disclosure-agreements/non-disclosure-agreements>

## Answers

Section 17(5) of the Freedom of Information Act 2000 requires the Police Service of Northern Ireland, when refusing to provide such information (because the cost of compliance exceeds the appropriate limit) to provide you the applicant with a notice which states that fact.

It is estimated that the cost of complying with your request for information would exceed the “appropriate costs limit” under Section 12(1) of the Freedom of Information Act 2000. Section 12 of FOIA allows a public authority to refuse to deal with a request where it estimates that it would exceed the appropriate limit to either comply with the request in its entirety or confirm or deny whether the requested information is held. The estimate must be reasonable in the circumstances of the case. The ‘appropriate limit’ is currently £600 for central government and £450 for all other public authorities including PSNI. The relevant Regulations which define the appropriate limit for section 12 purposes are The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulation 2004 SI 2004 No 3244. These are known as the ‘Fees Regulations’ for brevity.

Regulation 4(3) of the Fees Regulations states that a public authority can take into account the costs it reasonably expects to incur in carrying out the following permitted activities in complying with the request:

- (i) determining whether the information is held;
- (ii) locating the information, or a document containing it;
- (iii) retrieving the information, or a document containing it; and
- (iv) extracting the information from a document containing it.

Under those regulations PSNI can calculate the time spent on each of these permitted activities at £25 per hour (thus if the activity(s) takes more than 18 hours PSNI will be in excess of the ‘appropriate limit’).

I contacted the PSNI Legal Department who have advised that the information requested is held in a manual format. Information in relation to the outcome of civil claim cases are in the main settled on terms endorsed which ensures that neither party to the proceedings divulges the outcome/settlement figure. This outcome is not recorded and in order to establish the number of cases each file would need to be checked individually. Please find below the number of cases settled in each of the years required and as you will see to check this number of files would be well in excess of the FOI legislative cost of 18 hours:

2014 – 4,273 cases  
2015 – 1,434 cases  
2016 – 1,209 cases  
2017 – 736 cases

In accordance with the Freedom of Information Act 2000, this letter should be considered as a Refusal Notice, and the request has therefore been closed.

You may wish to submit a refined request in order that the cost of complying with your request may be facilitated within the ‘appropriate limit’. In compliance with Section 16 of the Act, I have considered how your request may be refined to bring it under the appropriate limit unfortunately due to the PSNI

recording system on this occasion this is not possible.

Submission of a refined request would be treated as a new request, and considered in accordance with the Freedom of Information Act 2000, including consideration of relevant Part II exemptions.

If you have any queries regarding your request or this decision please do not hesitate to contact me on 028 9070 0164. When contacting the Freedom of Information Team, please quote the reference number listed at the beginning of this letter.

If you are dissatisfied in any way with the handling of your request, you have the right to request a review. You should do this as soon as possible or in any case within two months of the date of issue of this letter. In the event that you require a review to be undertaken, you can do so by writing to the Head of Freedom of Information, PSNI Headquarters, 65 Knock Road, Belfast, BT5 6LE or by emailing [foi@psni.pnn.police.uk](mailto:foi@psni.pnn.police.uk).

If following an internal review, carried out by an independent decision maker, you were to remain dissatisfied in any way with the handling of the request you may make a complaint, under Section 50 of the Freedom of Information Act, to the Information Commissioner's Office and ask that they investigate whether the PSNI has complied with the terms of the Freedom of Information Act. You can write to the Information Commissioner at Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. In most circumstances the Information Commissioner will not investigate a complaint unless an internal review procedure has been carried out, however the Commissioner has the option to investigate the matter at his discretion.

Please be advised that PSNI replies under Freedom of Information may be released into the public domain via our website @ [www.psni.police.uk](http://www.psni.police.uk)

Personal details in respect of your request have, where applicable, been removed to protect confidentiality.