



Ministry
of Defence

Defence Business Services

Secretariat Team
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Ref: FOI2020/04426

E-mail: DBSRES-Secretariat@mod.gov.uk

4 May 2020

Dear

Thank you for your email of 7 April 2020 requesting the following:

1) In the last five financial years (2015/16)(2016/17)(2017/18)(2018/19) and (2019/20) how many staff have left the employment of your department having signed a non-disclosure agreement with your department?

2) What is the total value of termination payments that were made to these staff who signed such agreements?

I am treating your correspondence as a request for information under the Freedom of Information Act 2000 (FOIA).

I can confirm that the Ministry of Defence (MOD) holds all the information on the subject you have requested. However, I must advise you that we will not be able to answer your request without exceeding the appropriate cost limit.

This is because the data held on each case including any agreements reached as a result of a grievance or employment tribunal are not held centrally and in some cases records have been archived. To ascertain the numbers of staff who have left the department having signed a non-disclosure agreement would involve checking each individual grievance or employment tribunal case to establish any involving a non-disclosure agreement.

As an example, from a previous FOI, it was estimated that the total number of Employment Tribunal cases from the beginning of 2016 up until October 2018 alone would take in excess of 229 hours', at a cost of £25 per hour, this equates to £5,725 worth of effort, therefore exceeding the appropriate cost limit.

Section 12(1) of the Act makes provision for public authorities to refuse requests for information where the cost of dealing with them would exceed the appropriate limit, which for central Government is set at £600. This represents the estimated cost of one person spending 3.5 working days in determining whether the department holds the information, and locating, retrieving and extracting it.

Under Section 16 (Advice and Assistance) you may be interested to know that the Rt Hon Tobias Ellwood MP, the then Minister of State for Defence Personnel and Veterans, replied to a Parliamentary Question from Justin Madders MP about non-disclosure agreements. A copy of which can be found at the following link:

<https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2018-05-02/140808>

The MOD may be able to provide some information in scope of your request if you considering reducing your request to bring the cost of compliance under the limit. In order to do this, you may wish to consider refining your request, for example by specifying civilian or military Employment Tribunal cases, and considerably shortening the time period. Although it is not guaranteed that your refined request will fall within the cost limit, we would be happy to look at it again.

If you have any queries regarding the content of this letter, please contact this office in the first instance.

If you wish to complain about the handling of your request, or the content of this response, you can request an independent internal review by contacting the Information Rights Compliance team, Ground Floor, MOD Main Building, Whitehall, SW1A 2HB (e-mail CIOFOI-IR@mod.gov.uk). Please note that any request for an internal review should be made within 40 working days of the date of this response. If you remain dissatisfied following an internal review, you may raise your complaint directly to the Information Commissioner under the provisions of Section 50 of the Freedom of Information Act. Please note that the Information Commissioner will not normally investigate your case until the MOD internal review process has been completed.

The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. Further details of the role and powers of the Information Commissioner can be found on the Commissioner's website at <https://ico.org.uk/>.

Yours sincerely,

Defence Business Services (Secretariat)