

## FOI Request Response information

FOI request reference:	2016/106
Date request received:	29/04/2016
Date request responded to:	06/06/2016
Category:	Corporate
Tags:	Compromise, agreements, whistle blowing, whistle blowers, whistle blowing procedure, staff

### Request Detail:

Info on use of compromise agreements

Please advise in relation to the 5 years between January 2011 and December 2016 inclusive:

- 1) How many compromise agreements has the Trust entered into with staff or former staff? Please include all COT3 agreements in this figure.
- 2) How many of these compromise agreements require staff members not to disclose the existence of the compromise agreement itself?
- 3) How many of these compromise agreements contain non-disparagement clauses that require staff members not to criticise the employees of the Trust?
- 4) How many of these compromise agreements were entered into by the Trust with staff who had previously made public interest disclosures, (whether or not these were raised by formally invoking the Trust's whistleblowing policy)?
- 5) If staff who have entered into a compromise agreement with the Trust were to voice concerns about reprisal by the Trust for whistleblowing, would the Trust consider this to be an actionable breach of non-disparagement clauses, or would it consider the raising of such concerns to be qualifying disclosures under PIDA?

### Response Detail:

Question One – How many compromise agreements has the Trust entered into with staff or former staff? Please include all COT3 agreements in this figure.

We have reviewed our annual reports since 2011 and set out information we have obtained in the table below.

Question Two – How many of these compromise agreements require staff members not to disclose the existence of the compromise agreement itself?

We have highlighted this in the table below

Question Three – How many of these compromise agreements contain non-disparagement clauses that require staff members not to criticise the employees of the Trust?

No comment – please see below table.

Question Four – How many of these compromise agreements were entered into by the Trust with staff who had previously made public interest disclosures, (whether or not these were raised by formally invoking the Trust’s whistleblowing policy)?

We have identified only one case whereby a whistleblowing claim has been brought in the ET. Please see table below.

Question Five - If staff who have entered into a compromise agreement with the Trust were to voice concerns about reprisal by the Trust for whistleblowing, would the Trust consider this to be an actionable breach of non-disparagement clauses, or would it consider the raising of such concerns to be qualifying disclosures under PIDA?

Each case would be assessed on a case by case basis. As referred above, our standard settlement agreement makes it clear that nothing in the agreement prevents the employee or claimant from raising genuine concerns under PIDA.

Year	Claim / Reasons	Agreement	Regarding Whistleblowing?	Confidentiality provision in respect of the "existence of the agreement"	None disparaging statements clause
2011	Restructuring resulting in redundancy Disability Discrimination	Compromise Agreement	No	Yes	Yes
2011	Voluntary Redundancy	Compromise Agreement	No	Yes	Yes
2011	Redundancy	Compromise Agreement	No	Yes	Yes
2011	Grievance regarding workload	Compromise Agreement	No	Yes	Yes
2011	Unfair Dismissal	COT3	No	Yes	No
2011	Age Discrimination	COT3	No	Yes	No
2011	Unfair Dismissal	COT3	No	Yes	No
2011	Redundancy Compensation Dispute	COT3	No	Yes	No
2011	Constructive Dismissal	COT3	No	Yes	Yes

2011	Disability Discrimination	COT3	No	Yes	Yes
2011	Retirement Compensation	Compromise Agreement	No	Yes	Yes
2012	Restructuring Redundancy	Compromise Agreement	No	Yes	Yes
2012	Retirement Compensation	Compromise Agreement	No	Yes	Yes
2012	Retirement Compensation	Compromise Agreement	No	Yes	Yes
2012	Voluntary Redundancy	Compromise Agreement	No	Yes	Yes
2012	Unfair Dismissal	COT3	No	Yes	No
2012	Unfair Dismissal performance	COT3	No	Yes	Yes
2012	Unfair Dismissal	Compromise Agreement	No	No	No
2012	Expiry of secondment agreement	Compromise Agreement	No	Yes	Yes

2012	Restructuring redundancy	Compromise Agreement	No	Yes	Yes
2014	Sex Discrimination	COT3	No	Yes	Yes
2014	Unfair Dismissal – Disability & Sexual Orientation Discrimination Whistleblowing	COT3	Yes	Yes	No
2014	Unfair Dismissal	COT3	No	Yes	Yes
2014	Harassment Sex/Race	Settlement Agreement	No	Yes	Yes
2014	Secondment/Resignation	Settlement Agreement	NO	Yes	Yes

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