

An Roinn Caiteachais
Phoiblí agus Athchóirithe
Department of Public
Expenditure and Reform
Oifig An Ard-Rúnaí
Office of the Secretary General



27 April 2023

Ms. Sarah Cremin,
Committee Secretariat,
Committee of Public Accounts,
Leinster House,
Dublin 2.

Your Reference: S1256 PAC33

Dear Ms. Cremin,

I refer to your letter of 12th April 2023 requesting an information note regarding non-disclosure agreements in relation to termination payments and settlements made by public bodies.

The *Code of Practice for the Governance of State Bodies 2016, Business and Financial Reporting Requirements*, sets out the disclosure requirements for the annual report and financial statements in relation to termination/severance agreements:

“ In addition to disclosure requirements of the State body’s governing legislation, applicable accounting standards and other regulations applying to the State body, specific elements to be disclosed in the annual report and financial statements include:

- *Termination/Severance Payments and Agreements*

In relation to termination/severance payments and agreements *The Code* states “*Given the policy underlying the Freedom of Information Acts, in concluding settlements a State body should not enter into confidentiality agreements which preclude it from disclosing details of the settlement reached in the financial statements, save in exceptional circumstances and on foot of legal advice that they are necessary in the circumstances of the case.*”

Specifically in relation to key management personnel compensation *The Code* states that “*State bodies should disclose in their annual report and/or financial statements aggregate details of the compensation of their key management analysed by the following categories: Salaries and short term employee benefits; Post-employment benefits; and Termination benefits*”

Tithe an Rialtais, Sráid Mhuirfean Uacht, Baile Átha Cliath 2, D02 R583, Éire
Government Buildings, Upper Merrion Street, Dublin 2, D02 R583, Ireland
T +353 1 604 5587 LoCall 1890 66 10 10
www.gov.ie

An Roinn Caiteachais
Phoiblí agus Athchóirithe
Department of Public
Expenditure and Reform
Oifig An Ard-Rúnaí
Office of the Secretary General



Extract from the *Code of Practice for the Governance of State Bodies 2016, Business and Financial Reporting Requirements* is attached.

Kind Regards



David Moloney
Secretary General

Extract from *Code of Practice For the Governance of State Bodies 2016, Business and Financial Reporting Requirements*.

1.3 Annual Report and Financial Statements: In addition to disclosure requirements of the State body's governing legislation, applicable accounting standards and other regulations applying to the State body, specific elements to be disclosed in the annual report and financial statements include:

- Termination/Severance Payments and Agreements – “The financial statements should disclose details of payments and agreements with an aggregate value in excess of €10,000 made in the reporting period. This includes severance/ termination payments, granting of added years for pension purposes or early retirement without normal actuarial reductions. The value of the latter can be determined in accordance with guidance to be issued by the Department of Public Expenditure and Reform from time to time. Given the policy underlying the Freedom of Information Acts, in concluding settlements a State body should not enter into confidentiality agreements which preclude it from disclosing details of the settlement reached in the financial statements, save in exceptional circumstances and on foot of legal advice that they are necessary in the circumstances of the case. When, in those circumstances, confidentiality agreements are entered into, parties to the agreements should be given prior notice that they may be subject to disclosure in any case where an overriding public interest is identified or when required by law.

1.4 Reporting Requirements: Reporting requirements should be adhered to as follows:

It is important to note that parent Departments may choose to seek additional financial information at more frequent intervals than those outlined below.

vi) **Disclosure of Key Management Personnel Compensation:** State bodies should disclose in their annual report and/or financial statements aggregate details of the compensation of their key management analysed by the following categories:

- (a) Salaries and short term employee benefits;
- (b) Post-employment benefits; and
- (c) Termination benefits;

An entity shall also disclose key management personnel compensation in total. *Compensation includes all employee benefits.*