



**Information Governance Team**

Postal Address:  
Coventry City Council  
PO Box 15  
Council House  
Coventry  
CV1 5RR

[www.coventry.gov.uk](http://www.coventry.gov.uk)

E-mail: [infogov@coventry.gov.uk](mailto:infogov@coventry.gov.uk)

Phone: 024 7697 5408

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Dear Sir/Madam

**Freedom of Information Act 2000 (FOIA)**

**Request ID: FOI630710417**

Thank you for your request for information relating to Non-Disclosure Agreements.

You have requested the following information:

**All requests should be limited to the past 3 years.**

**1. Has the Council asked a member of staff to sign a Non-Disclosure Agreement (NDA)?**

Yes, as part of settlements agreements in employment matters.

**2. Has the Council asked a individual who is not a member of staff in the last three years to sign a Non-Disclosure Agreement (NDA)?**

No.

**3. Please can you attach a copy of any NDA's used.**

In response to Question 3, we confirm this information is exempt under Section 40 (2) of the FOIA. This exemption covers the personal data of third parties (anyone other than the requester) where complying with the request would breach any of the principles in the Data Protection Act.

This has been done as the Council considers that this information meets the definition for personal data set out in Section 3(2) and 3(3) of the Data Protection Act 2018 (DPA) as:

*(2) personal data means any information relating to an identified or identifiable living*

*individual (subject to subsection (14)(c))”*

*(3) “Identifiable living individual” means a living individual who can be identified, directly or indirectly, in particular by reference to –*

*(a) an identifier such as a name, an identification number, location data or an online identifier, or  
(b) one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of the individual.”*

Section 40(2) of the FOIA states that personal data relating to third parties (i.e. a party other than the person requesting the information) is exempt information if it is the personal data of a third party (i.e. not yourself) and one of the conditions in section 40(3A-B) or 40(4A) is satisfied.

The information you have requested includes Non-Disclosure Agreements which contains personal information of employees of Coventry City Council who are not at a senior level, and are subject to actionable confidentiality clauses. The disclosure of this information would breach one or more of the Data Protection Principles in the UK General Data Protection Regulation (UK GDPR). The condition at section 40 3A(a) is therefore satisfied because disclosure in this instance would breach the first data protection principle. This is because it would be unfair to disclose such personal data where the employees concerned have no expectation that their names would be released in the context of the information held.

Section 40(2) is an absolute exemption not subject to the Public Interest Test.

To advise and assist you, no non-employees have been asked to sign such an agreement but some contracts with organisations will contain confidentiality clauses in relation to the non-disclosure of personal or commercially sensitive data. To assist you further, a copy of this confidentiality clause has been provided below:

“The parties agree that the existence and terms of this agreement are confidential and neither will disclose the content of this Agreement or the matters relating to it to any third party, except to the Employee's professional advisers including any Trade Union Official or as required by law.

Nothing in this Agreement will prevent the Employee:

- making a protected disclosure under Part IVA of the Employment Rights Act 1996 and nothing in this Agreement shall prevent the Respondent from making such a disclosure as it is required by law to make
- making a disclosure to a regulator regarding any misconduct, wrongdoing or serious breach of regulatory requirements
- reporting a criminal offence to any law enforcement agency; or
- co-operating with any law enforcement agency regarding a criminal investigation or prosecution.”

#### **4. How many members of staff have signed NDAs?**

We confirm that a total of 21 Council employees and 29 Local Authority School employees have signed NDAs with the Council.

The supply of information in response to a FOI/EIR request does not confer an automatic right to re-use the information. You can use any information supplied for the purposes of private study and non-commercial research without requiring further permission. Similarly, information supplied can

also be re-used for the purposes of news reporting. An exception to this is photographs. Please contact us if you wish to use the information for any other purpose.

For information, we publish a variety of information such as: [FOI/EIR Disclosure Log](#), [Publication Scheme](#), [Facts about Coventry](#) and [Open Data](#) that you may find of useful if you are looking for information in the future.

If you are unhappy with the handling of your request, you can ask us to review our response. Requests for reviews should be submitted within 40 days of the date of receipt of our response to your original request – email: [infogov@coventry.gov.uk](mailto:infogov@coventry.gov.uk)

If you are unhappy with the outcome of our review, you can write to the Information Commissioner, who can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF or email [icocasework@ico.org.uk](mailto:icocasework@ico.org.uk).

Please remember to quote the reference number above in your response.

Yours faithfully

**Information Governance**