

Reference: 01478050

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### Freedom of Information request: Right to know request

Thank you for your request for information concerning individuals raising concerns about wrongdoing or malpractice (whistleblowing) in relation to Ofcom's duties as regulator. Your request was received on 14 July 2022 and we have considered it under the Freedom of Information Act 2000 (the FOI Act).

#### Your request & our response

*Please can you provide details of the number of individuals (either workers or non-workers) raising concerns about wrongdoing or malpractice (whistleblowing) who have contacted you in relation to your duties as a regulator for each month in 2021, and for January to June in 2022? The definition of 'workers' is staff at firms authorised and regulated by OFCOM who submit whistleblowing reports about their own firm to OFCOM.*

Ofcom is a Prescribed Person under the Public Interest Disclosure Act 1998 ("PIDA") to which external disclosures can be made by individuals working for organisations in the communications sector, i.e. 'workers'. Disclosures made by 'non-workers' fall outside of Ofcom's whistleblowing procedures and we do not record or report on these as part of our whistleblowing obligations under PIDA.

We reported 0 whistleblower disclosures for the financial year 2020/21 (this would include the period 1 January 2021 to 31 March 2021) – see page 86 of [our annual report and accounts 2020/2021](#).

We reported 10 whistleblower disclosures for the financial year 2021/22 (1 April 2021 to 31 March 2022) - see page 92 of our [annual report and accounts 2021-22](#).

The number of whistleblower disclosures between 1 April and 30 June 2022 will be included in the figure we publish for this financial year (i.e. 1 April 2022 to 31 March 2023). This will be published on this page: [Annual reports and plans - Ofcom](#) in/around summer 2023. We consider that the information on the number of whistleblower disclosures for the period 1 April 2022 to June 2022 is exempt from disclosure under section 22 of the FOI Act as it is intended for future publication.

In applying the exemption in section 22 of the FOI Act, we have had to balance the public interest in withholding the information against the public interest in disclosing the information. I have attached

a table setting out the factors Ofcom considered when deciding where the public interest lay (see Annex A).

*Where possible, can you please also provide the following details:*

*The breakdown of workers vs. non-workers raising claims, either as a percentage or numerically;*

As stated above we do not collate figures for non-workers' 'whistleblowing' as this is outside of reporting obligations.

*Whether each individual contacted you on an anonymous, confidential, or self-identified basis;*

All 10 whistleblowers provided their name when they contacted Ofcom about their whistleblower disclosure.

*A brief summary of the types of concerns raised and a breakdown of how many concerns of each type were raised, broken down by percentage or numerically;*

We hold information on the types of concerns raised however we are unable to provide a summary of these as we consider that this information is exempt under section 41 of the FOI Act as it is information provided to us in confidence. Section 41 of the FOI Act provides that information is exempt from disclosure if it was obtained by the public authority from any other person (including another public authority), and the disclosure of the information to the public (otherwise than under the FOI Act) by the public authority holding it would constitute a breach of confidence actionable by that or any other person.

You may find it helpful to know that we will be disclosing further details about the whistleblower disclosures for the period [1 April 2021 to 31 March 2022] in our annual whistleblower report for 2021/22, which will be published in the autumn on this [page](#).

*If information was passed on to another regulator or enforcement body. If so please indicate the identity of the regulatory body and a breakdown of the number of cases referred to each, broken down by percentage or numerically;*

We passed 1 case to the Financial Conduct Authority (FCA).

*The number of cases which involved the Employment Tribunal;*

We do not hold this information.

*In respect of the above, please identify (if appropriate) whether any subsequent action was taken and any compensation awarded.*

As advised above, we do not hold this information.

I hope this information is helpful. If you have any further queries, then please send them to [information.requests@ofcom.org.uk](mailto:information.requests@ofcom.org.uk) quoting the reference number above in any future communications.

Yours sincerely

Zach Westbrook

If you are unhappy with the response you have received in relation to your request for information and/or consider that your request was refused without a reason valid under the law, you may ask for an internal review. If you ask us for an internal review of our decision, it will be subject to an independent review within Ofcom.

The following outcomes are possible:

- the original decision is upheld; or
- the original decision is reversed or modified.

#### **Timing**

If you wish to exercise your right to an internal review **you should contact us within two months of the date of this letter**. There is no statutory deadline for responding to internal reviews and it will depend upon the complexity of the case. However, we aim to conclude all such reviews within 20 working days, and up to 40 working days in exceptional cases. We will keep you informed of the progress of any such review. If you wish to request an internal review, you should contact [information.requests@ofcom.org.uk](mailto:information.requests@ofcom.org.uk)

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. Further information about this, and the internal review process can be found on the Information Commissioner's Office [here](#). Alternatively, the Information Commissioner can be contacted at:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

**Section 22: Information Intended For Future Publication**

Section 22 may apply if there is an intention to publish the requested information at some future date. This ensures that the FOI Act does not force public authorities into premature publication of information.

Key points:

- Section 22 may apply even if the specific date for publication has not yet been determined but the proposed publication timetable must be reasonable in all the circumstances;
- Section 22 will only apply if a public authority has decided, before the request is received, to publish the information concerned;
- Section 22 is subject to a public interest balance.

**Factors for disclosure**

- Transparency of Ofcom’s relationships with its external stakeholders and public confidence in regulated activities.

**Factors for withholding**

- Ofcom intends to publish the requested information as part of the Annual Report and plans in/around summer 2023.

**Reasons why the public interest favours withholding information**

- Ofcom can receive whistleblowing disclosures at any time which require careful consideration on an ongoing basis. Premature disclosure of the current number of whistleblowing disclosures received during the current financial year could provide an incomplete impression of the information that we hold. Therefore, it is in the public interest that Ofcom publishes the information in a future Annual Report.