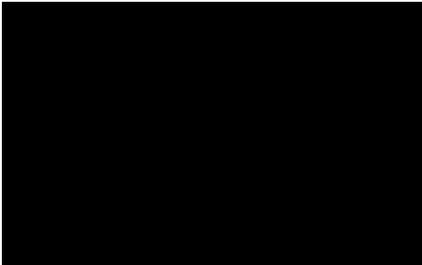


Strictly Private & Confidential



25 February 2020

Our Ref: FOIR 005 020

Re: Decision on FOI request (part grant)

Dear 

I refer to the following request which you made under the Freedom of Information Act 2014 for records held by the Health Information and Quality Authority (HIQA):

- Correspondence between media/ journalists with regard to unsolicited information regarding nursing home care for the period 2019 to date.
- The outcome/ determination of unsolicited information submissions to HIQA in years 2014 to 2019.

Your request was received by HIQA on 29 January 2020, and the scope of your request was clarified in emails/telephone conversations between you and the FOI Office, as set out above.

I, Ms Lydia Buckley, am the decision maker for this FOI request and have I made a decision to part grant your request today, 25 February 2020.

The purpose of this letter is to explain my decision. This explanation has the following parts:

Head Office:
Unit 1301, City Gate, Mahon,
Cork, Ireland.
Tel: +353 (0) 21 240 9300
Fax: +353 (0) 21 240 9600

Dublin Regional Office:
George's Court, George's Lane,
Dublin 7, Ireland
Tel: +353 (0) 1 814 7400
Fax: +353 (0) 1 814 7499

1. A schedule of all of the records covered by your request
2. An explanation of the relevant findings concerning the records to which access is denied, and;
3. A statement of how you can appeal this decision should you wish to do so.

This letter addresses each of these three parts in turn.

1. Schedule of records

A schedule is attached. It shows the documents that HIQA considers relevant to your request. It also gives you a summary and overview of the decision as a whole. The schedule describes each document, and indicates whether the document is released in full, released with deletions/redactions or not released. The schedule refers to the sections of the FOI Act which apply to prevent release.

2. Findings, particulars and reasons for decisions to deny access

A. Section 37- Personal Information

Section 37 of the FOI Act 2014 states:

"(1)...a head shall refuse to grant an FOI request, if in the opinion Of the head, access to the record concerned would involve the disclosure Of personal information (including personal information relating to a deceased individual)."

Some of the records that come within the scope of this request contain the personal information of a third parties, i.e. the names and contact details of journalists who made FOI requests about unsolicited information and such details included in correspondence to and from HIQA's Communications team about unsolicited infoamtion.

This personal information is exempt under Section 37(1) and cannot be released to you. In the interest of transparency, the personal information that is exempt has been redacted from the records in question so as to give you access to the remainder of the record.

Public interest test

I acknowledge that Section 37(5)(a) provides for the release of personal information relating to third parties where the public interest that the request should be granted outweighs the right to privacy of the individuals to whom the information relates.

I have considered the public interest issues which arise in this case and have taken account of the following factors.

In favour of release:

- the public interest in the public knowing how a public body performs its functions;
- the public interest in members of the public exercising their rights under the FOI Acts.

In favour of withholding the records:

- the public interest in protecting the right to privacy;
- the public interest in public bodies being able to perform their functions effectively.

I consider that the public interest in preserving the privacy of the third party involved outweighs the public interest that would be served were the records to be released to you in this instance.

B. Section 15(1)(a) –Records do not exist

Section 15(1)(a) of the FOI Act 2014 states:

“A head to whom an FOI request is made may refuse to grant the request where... the record concerned does not exist or cannot be found after all reasonable steps to ascertain its whereabouts have been taken”

You requested records relating to the outcome/ determination of unsolicited information submissions to HIQA in years 2014 to 2019, and provided a sample of the type of information you wished to obtain.

The records requested only exist for information received in 2017. This is because a once of study of the use of information was conducted in 2018, based on the information received in 2017. A summary of this information relating to information received in 2017 has been provided to you, as outlined in the schedule, but similar information does not exist for other years and cannot be provided.

It is important to note that the FOI Act provides for a right of access only to records which already exist. With the exception of certain electronic records, the Act does not require the creation of records in order to grant a request.

Accordingly, access to records for years apart from 2017 must be refused on the basis of Section 15(1)(a).

3. Appeal Rights

In the event that you are unsatisfied with this decision you can make an internal appeal by writing to the Freedom of Information Unit, George's Court, George's Lane, Smithfield, Dublin 7, or by e-mail to foi@hiqa.ie. You should make your appeal within 4 weeks (20 working days) from the date of this letter, where a day is defined as a working day excluding, the weekend and public holidays, however, the making of a late appeal may be permitted in appropriate circumstances.

The appeal will involve a complete reconsideration of the matter by a more senior member of the staff of this body.

A fee of €30 is payable in respect of a such an appeal (or €15 if you are a medical card holder). If you wish to make an appeal, please contact the FOI Office on foi@hiqa.ie to obtain the account information in order to make an electronic payment.

Should you wish to discuss this decision please contact the FOI Liaison Officer on 021-4547722 or via email foi@hiqa.ie.

Yours sincerely,



Lydia Buckley
FOI Liaison Officer