

Private & Confidential

24 February 2022

Our Ref. FOIR 016 022

Re: – FOI Decision (part grant)

Dear [REDACTED],

I refer your recent request under the Freedom of Information Act (FOI Act) 2014. First of all thank you for accepting a two weeks extension for the completion of this FOI request. Your request was received on 31 January 2022 seeking access to the following records:

1. Correspondence related to the response to Covid-19 between HIQA and Beechlawn House Nursing Home from 1st of March 2020 until pt of July 2020. This request excludes routine correspondence related to the registration process and report development and publication process.
2. Copies of all protected disclosures (redacted if necessary) from the first of December 2020 made by all staff members at Beechlawn House Nursing Home until the present day.

I have now made a final decision to part grant your requests.

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

1. A schedule of all of the records covered by your requests;
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 enclosed with this letter, it shows the documents that I considered to come within the scope of your request. It describes each document and refers to the sections of the FOI Act which apply to prevent release or part release. The schedule also refers you to sections of the detailed explanation given under heading 2 below, which are relevant to the

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documents in question. It also gives you a summary and overview of the decision as a whole.

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

Two different exemptions have been applied in relating to these requests. The specific records to which these exemptions were applied are identified in the schedule.

(a) Section 37(1) - 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)."

Most of the records indicated in the schedule contain the personal information of employees of the nursing home, who are not public servants. Access to this information has been refused on the basis of Section 37(1).

Public Interest Consideration

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 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. However, in the interests of transparency and where it was possible to do so, exempt information has been redacted in order to allow access to the remainder of the records concerned.

(b) Section 42 (m) Refusal on the basis of Restrictions of The Act to grant FOI requests

Section 42 (m) of the FOI Act 2014 states:

"This Act does not apply to

(m) a record relating to information whose disclosure could reasonably be expected to reveal, or lead to the revelation of—

(i) the identity of the person who has provided information in confidence in relation to the enforcement or administration of the law to an FOI body, or where such information is otherwise in its possession, or

(ii) any other source of such information provided in confidence to an FOI body, or where such information is in its possessions.

Grounds for Decision to Refuse Request

This section states that the Act does not apply to a record that may reveal the identity of a source of confidential information. The information contained in the relevant records was received in confidence and could reveal the source of the information; therefore, the Act does not apply to these records.

This exemption applies to information related to protected disclosures being sought in your request. As this is an absolute exemption, it does not require a harm test nor a public interest test. The refusal of this request is based on the Restrictions of the Act and therefore it neither confirms nor denies the existence of any protected disclosures in respect of the designated centre.

3. Rights of appeal

If you are unhappy with this decision you may seek an internal review. In the event that you wish to do so, please e-mail foi@hiqa.ie. The appeal will involve a complete reconsideration of the matter by a more senior member of the staff of HIQA. Please note that a fee of €30 (€10 for medical card holders) applies in the case of an internal review.

You should make your appeal within 4 weeks, from the date of this notification, 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.

4. Publication

It is the policy of HIQA to make decisions on non-personal FOI requests, including this decision letter and a copy of the records released, available to the public on our website <https://www.hiqa.ie/about-us/freedom-of-information>. Any personal information relating to you, such as your name etc. will be removed from the decision letter before this happens. This decision letter and the records released under FOI, will be added to our website approximately one week after today's date.

If you have any queries in relation to this decision, please feel free to contact Sean Lynch at foi@hiqa.ie or 0858050586.

Yours sincerely

Siobhan Nunn
Regional Manager