

Private & Confidential

[REDACTED]

12 May 2022

Our Ref. FOIR 058 022

Dear [REDACTED]

I refer to your request dated 13 April 2022 made under the Freedom of Information Act 2014 for records held by the Health Information and Quality Authority (HIQA).

Your request was the following:

Correspondence between the HIQA CEO/and Interim HIQA CEO and HSE CEO Mr Paul Reid from October 2021 to March 2022

Correspondence between the HIQA CEO/and Interim HIQA CEO and Department of Health Secretary General Mr Robert Watt from October 2021 to March 2022

I have now made a final decision to part grant your request on 12 May 2022. Some exemptions have been applied in relation to the records and these are identified in the enclosed schedule.

1. Schedule of records

The schedule 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 refers you to sections of the detailed explanation given under heading 2 below, which are relevant to the 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

Exemptions have been applied in relating to some of the records. The specific records and the specific exemptions applied are identified in the schedule.

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(a) Section 29(1) – Deliberations of FOI bodies

Section 29(1) of the FOI Act 2014 states:

“A head may refuse to grant an FOI request –

(a) If the record concerned contains matter relating to the deliberative process of an FOI body (including opinions, advice, recommendations, and the results of consultations, considered by the body, the head of the body, or a member of the body or the staff of the body for the purpose of those processes), and

(b) The granting of the request would in the opinion of the head, be contrary to the public interest”

Two of the records, identified in the schedule, were in draft form and are part of the deliberative process.

It is my view that the release of these records would be contrary to the public interest and undermine the deliberations of the Department of Health and HIQA.

The subsequent finalized document has been published and can be accessed at <https://www.hiqa.ie/sites/default/files/2021-10/The-need-for-reform-of-the-health-information-system.pdf>

Public Interest Consideration

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 right of the public to have access to information
- The accountability of administrators and scrutiny of decision making processes
- The information's contribution to the public debate on an issue.

In considering the public interest factors which favour withholding the records I have taken account of the following:

- The release of records would impair future decisions
- Release could contaminate the decision making process
- Release of records would impair the integrity and viability of the decision making process to a significant or substantial degree without countervailing benefit to the public

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Having balanced the above factors, I place greater weight on the public interest favouring the withholding of the records and therefore, my decision is to refuse access to the records indicated in the schedule.

(b) Section 30(1)(a) Functions and negotiations of public bodies

Section 30(1)(a) states that:

“A head may refuse to grant an FOI request if access to the record concerned could, in the opinion of the head, reasonably be expected to

(a) prejudice the effectiveness of tests, examinations, investigations, inquiries or audits conducted by or on behalf of an FOI body or the procedures or methods employed for the conduct thereof,

This section applied to the two records indicated on the schedule. The reason for this decision is that release of the draft records would prejudice the effectiveness of investigations conducted by HIQA.

Public interest considerations

I acknowledge that the above exemption is subject to public interest considerations. I have considered the public interest issues which arise in relation to both records and have taken account of the following factors in favour of release:

- The accountability and objectivity in the decision-making processes
- The right of the public to have access to information

In considering the public interest factors which favour withholding the records I have taken account of the following:

- The public interest in public bodies being able to carry out their functions in efficient and effective manner

In balancing the factors as set out above, I consider that the public interest is better served by refusing access to these records.

As noted above, the subsequent finalized document has been published and can be accessed at <https://www.hiqa.ie/sites/default/files/2021-10/The-need-for-reform-of-the-health-information-system.pdf>

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(c) 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).”

The records indicated in the schedule contains personal information relating to third parties, including residents of disability centers. Access to this information has been refused on the basis of Section 37(1).

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 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.

The release of this information would risk identifying the right to privacy of those residing at a specific center.

3. Right 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)

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applies in the case of an internal review of non-personal FOI requests.

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 the FOI Administrator, Sean Lynch, on foi@hiqa.ie or 085 8050586.

Yours sincerely,

Kathleen Lombard
Board Secretary, Office of the Chief Executive

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