

Lydia Buckley

From: [REDACTED]
To: Lydia Buckley
Subject: Re: Press FOI Query (HIQA Ref: FOIR 055 019)

Yes, that's correct, Thanks, Lydia, I am happy to amend both requests in line with the comments below.

On Thu, Nov 7, 2019 at 11:00 AM Lydia Buckley <lbuckley@hiqa.ie> wrote:

Hi [REDACTED]

Thanks for the below. I just want to note that, as discussed in our call, you are happy to amend the scope of both requests, the nursing home and foster care requests, in line with the comments below.

Lydia

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Ta an t-eolais san ríomhphost seo, agus in aon ceanglainleis, faoi phribhleid agus faoi run agus le h-ghaigh an seolai amhain. D'headfadh abhar an seoladh seo bheith faoi phribhleid profisiunta no dlíthiúil. Mura tusa an seolai a bhi beartaithe leis an ríomhphost seo a fhail, ta cosc air, no aon chuid de, a usaid, a choipeal, no a scaoileadh. Ma thainig se chugat de bharr dearmad, teigh i dteagmhail leis an seoltoir agus scríos an t-abhar o do ríomhaire le do thoil.

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From: [REDACTED]
Sent: 07 November 2019 10:48
To: Lydia Buckley
Subject: Re: Press FOI Query (HIQA Ref: FOIR 055 019)

hi Lydia, I am happy with that. Thanks, [REDACTED]

On Wed, Nov 6, 2019 at 5:31 PM Lydia Buckley <lbuckley@hiqa.ie> wrote:

Ref: FOIR 055 019

Dear [REDACTED]

Please see the attached acknowledgement letter in respect of your below request.

I tried to ring you today to clarify some details in respect of your request.

As you are aware, HIQA records unsolicited information that it receives from members of the public (these are called “concerns”). Can you please confirm that what you are requesting are details of unsolicited information or concerns received by HIQA about nursing homes? In response to your request, HIQA will provide a table containing details of the unsolicited information or concerns received with exempt information removed in accordance with the FOI Act.

It is important to note that unsolicited information or concerns are not complaints per se and HIQA does not have a complaint handling function. Complaints from service users and other persons in respect of nursing homes are handled by the nursing home in question, in the case of a private nursing home, or the HSE, in case of a public nursing home. Complaints can also be made to the Office of the Ombudsman, which has a complaint handling remit.

I note that your request refers specifically to documents regarding sexual abuse complaints and complaints involving the Gardaí. Given the above clarification that HIQA does not manage complaints, can you please also exclude these documents from your request? The reason for this is that HIQA does not deal with complaints so would not have the specific documents/records requested.

Please feel free to give me a call about the above, my details are below.

Kind regards

Lydia Buckley

Data Protection Officer

Freedom of Information Officer

Health Information and Quality Authority

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From: [REDACTED]
Sent: 30 October 2019 17:07
To: Sean Lynch; FOI
Subject: Press FOI Query

Dear Sir/Madam,

Under the Freedom of Information Act, 2014, I am seeking the following information from Hiqa.

Documents relating details of the unsolicited complaints made to Hiqa by phone or in writing in 2018 and to date in 2019 in relation to nursing homes for the elderly.

Documents specifically relating to sexual assault complaints in nursing homes in 2018 and to date in 2019.

Documents specifically relating to any complaints in nursing homes in 2018 and to date in 2019 which involved the Gardai.

All the best, [REDACTED]

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[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

26 November 2019

Our Ref: FOIR 055 2019

Re: FOI request, part granting request 055 2019

Dear [REDACTED]

I refer to your request dated 31 October 2019 made under the Freedom of Information Act 2014, which was received on 31 October 2019 for records held by the Health Information and Quality Authority. Your request sought:

“Documents relating details of the unsolicited complaints made to HIQA by phone or in writing from 01 January - 31 October 2019 in relation to nursing homes for the elderly”

I, Ann Delany, Regional Manager, have now made a final decision to part grant your request on 26 November 2019.

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 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.

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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 the Authority considers relevant to your request. It describes each document and refers to the sections of the FOI Act which apply to prevent release. The schedule also refers you to sections of the detailed explanation given under heading 2 below, which explains the consideration given to these sections of the FOI Act. It also gives you a summary and overview of the decision as a whole.

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

The FOI Act contains a number of sections which can apply to deny access to certain information, these sections are known as exemptions. The following exemptions are relevant to your request.

Section 35 – Information obtained in confidence

- (1) Subject to this section, a head shall refuse to grant an FOI request if –
- (a) the record concerned contains information given to the FOI body, in confidence and on the understanding that it would be treated by it as confidential (including such information as aforesaid that a person was required by law, or could have been required by the body pursuant to law, to give to the body) and, in the opinion of the head, its disclosure would be likely to prejudice the giving to the body of further similar information from the same person or other persons and it is of importance to the body that such further similar information as aforesaid should continue to be given to the body,*

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Grounds for Decision to Part Grant Request

The decision maker is of the view that this exemption applies to certain information contained in the records requested. This is because the records concerned contain information given to the Authority in confidence, and on the understanding that it would be treated as such, and the disclosure of this information would be likely to prejudice the giving to the Authority of further similar information from the same person or other persons. It is of importance to the Authority that such further similar information, which may inform its regulatory activities, should continue to be given.

Public interest consideration

The Authority accepts that Section 35(1) is subject to Section 35(3) which provides that access to a record may be granted in specified circumstances where the public interest would, on balance, be better served by granting than by refusing to grant the request.

There are no discernible or particular public interest grounds leaning in favour of a release of the information in question. The public interest in preserving the right of privacy is a strong public interest in favour of not releasing the record. Accordingly, the decision maker has decided that the public interest is better served by refusing access to the information and redacted from the records any information given in confidence and any details which would identify the person who provided this information.

Section 37 – Personal Information

In relation to all records identified in the schedule, each contains matters where access to the records would involve disclosure of personal information within the meaning of Section 37 of the FOI Act. Where appropriate, the Authority has sought to the largest extent possible to redact personal information so as to part grant records identified and provide you with a copy of non-exempt information.

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Section 37(1) provides as follows:

“Subject to this section, 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).”

Section 37(5) provides that a head may grant the request if the:

“public interest that the request should be granted outweighing the public interest that the right to privacy of the individual to whom the information relates should be upheld.”

Grounds for Decision to Part Grant Request

The records contain the name(s) of individual(s) and or other information which constitute personal information. This information has been redacted from the records in order not to disclose the personal information.

Public Interest Consideration

The Authority accepts that Section 37(1) is subject to Section 37(5) which provides that access to a record may be granted in specified circumstances where the public interest would, on balance, be better served by granting than by refusing to grant the request.

There are no discernible or particular public interest grounds leaning in favour of a release of the information in question. However, there is a strong public interest in preserving the right of privacy, particularly given the sensitivity of the information concerned. Accordingly, the decision maker has redacted the information which constitutes personal information from the records in question.

Section 42 (M) – Restriction of Act

Section 42 (M) provides as follows:

“42. 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 a 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 otherwise in its possession.

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 where information is provided for the purpose of the administration of law. The information contained in the relevant records was received in confidence and could reveal the source of the information; therefore, such information is excluded from the scope of the FOI Act.

3. Rights of appeal

If you are unhappy with this decision you may appeal it. Please note that a fee applies for an appeal, with the exception of an appeal against the imposition of a €30 fee.

In the event that you need to make such an appeal, you can do so by writing to the Freedom of Information Unit, Health Information and Quality Authority,

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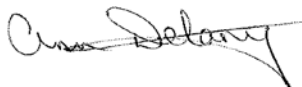
Dublin Regional Office, George's Court, George's Lane, Smithfield, Dublin 7, D07 E98Y or by e-mail to foi@hiqa.ie. Payment should be made by way of electronic transfer. Please contact the FOI Office for further details.

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

4. Publication

All non-personal FOI requests will be recorded on an FOI disclosure log which will be published on the Authority's website in due course.

Yours sincerely,



Ann Delany
Regional Manager

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