

Lydia Buckley

From: Sean Lynch
Sent: Tuesday 12 November 2019 17:05
To: [REDACTED]
Subject: RE: FW: FOI Request

Hi [REDACTED]

Your request, as currently phrased, is very large, particularly part 2 of the request. Part 2 is likely to involve thousands of records. The cost is likely to be above the ceiling set out in the FOI act—the request would then be refused.

You may recall you had a similar request two years ago. At that occasion you amended your request. If you were happy with the information you receive on that occasion, I would be grateful if you could amend your request in a similar way.

The request would then read as follows:

1. The concerns raised with HIQA related to nursing homes for 2018.
2. Tables outlining the number of concerns raised in each classifications for both 2017 and 2018.

I would appreciate if you could let me know if this is OK.

Kind regards,

Sean

Sean Lynch
Performance and Planning Coordinator

Health Information and Quality Authority

George's Court
George's Lane
Dublin 7
D07 E98Y

Phone: 01 8147486
Email: slynch@hiqa.ie
Web: www.hiqa.ie

From: [REDACTED]
Sent: 11 November 2019 19:01
To: Sean Lynch
Subject: Re: FW: FOI Request

Hi Sean,

I am in a different timezone for the next fortnight so a phonecall is not possible. Can you email your query please?

Thanks,

██████

On Mon, 11 Nov 2019 at 13:21, Sean Lynch <slynch@hiqa.ie> wrote:

Dear ██████,

I would appreciate if you could give me a call to discuss your FOI request. My number is 01 8147486.

Kind regards,

Sean

Please consider the environment before printing this email.

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Ta an t-eolais san ríomhphost seo, agus in aon ceanglainleis, faoi phribhleid agus faoi run agus le h-agmaigh an seolai amháin. D'fhéadfadh abhar an seoladh seo bheith faoi phribhleid profisiunta nó dlíthiúil. Mura tusa an seolai a bhí beartaithe leis an ríomhphost seo a fháil, tá cosc air, nó aon chuid de, a úsáid, a choipeal, nó a scaoileadh. Ma thainig se chugat de bharr dearmad, teigh i dteagmhail leis an seoltoir agus scríob an t-abhar o do ríomhaire le do thoil.

Data Protection Alert - please ensure security around this information is in keeping with the data protection act and that the information is not used for any other purpose other than what is transmitted in this e-mail

From: Sean Lynch
Sent: 07 November 2019 15:36
To: ██████████
Subject: RE: FOI Request

Dear ██████

Thank you for your email. I would appreciate if you could call me to discuss your request. My number is 01 8147486.

Your request as currently stated is extremely large. You may recall in the information provided in your previous request to HIQA — we could provide the same information on this occasion.

I am happy to discuss further.

Kind regards,

Sean

Sean Lynch

Performance and Planning Coordinator

Health Information and Quality Authority

George's Court

George's Lane

Dublin 7

D07 E98Y

Phone: 01 8147486

Email: slynch@higa.ie

Web: www.higa.ie

From: [REDACTED]

Sent: 04 November 2019 21:05

To: FOI

Subject: FOI Request

Dear FOI Officer,

I wish to make a request under the Freedom of Information Act 2014.

I am seeking:

1. Copies of complaints made by or on behalf of nursing home residents to HIQA in relation to residential care/care at nursing homes between 1 January 2017 and 31 December 2018.
2. Information regarding the subsequent response from HIQA to each complaint made in relation to residential care/care at nursing homes between 1 January 2017 and 31 December 2018.

I would prefer to receive this information electronically, preferably in its original formatting. Please redact personal information and please divide this request if required. Please contact me by email at lauracolgannews@gmail.com if you require anything further.

Kind regards,



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News Reporter

Irish Daily Star

Email: lauracolgannews@gmail.com

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News Reporter
Irish Daily Star





Private & Confidential

[REDACTED]
[REDACTED]
15 November 2019

Our Ref. FOIR 058 019

Re: FOI request, estimation of fee above ceiling, request to refine request or the request as stands will be refused

Dear Ms [REDACTED]

I refer to the request which you have made under the Freedom of Information Act 2014 for records held by the Health Information and Quality Authority. I refer also to the acknowledgement of your request which was sent to you on 11 November 2019.

The act allows for the charging of fees in certain circumstances, and this is set out in Section 27 of the Act, which is included with this letter.

I am now writing to you to advise you of the costs of your request. The Act allows for the charging of search, retrieval and copying of records which are within the scope of your request. After careful consideration and consultations, the decision maker estimates that the services of one staff member for 100 hours will be the minimum amount of time required to efficiently complete the 'search and retrieval' work on your request. The prescribed amount chargeable for each such hour is €20.00 resulting in an overall fee of €2,000, exclusive of copying charges.

The estimated cost of your request is, therefore, in excess of the overall ceiling limit, which currently stands at €700. On that basis, I am proposing to refuse to process your request unless it can be refined so that the estimated cost of search, retrieval and copying cost falls below the overall ceiling limit. I would be happy to assist you refine your request. If you would like to contact me we can discuss this.

If, following our discussions, you agree to refine your request so that the estimated search, retrieval and copying charges (SRC) are less than the overall ceiling limit of €700, you will

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be required to pay a deposit of not less than 20% of the maximum amount for SRC this currently stands at €500, therefore a deposit of €100 will be required.

The actual search and retrieval work to be carried out will not commence until you have refined your request as required and the deposit has been paid. No deposit should be paid until the text of the refined request has been agreed and relevant SRC has been calculated.

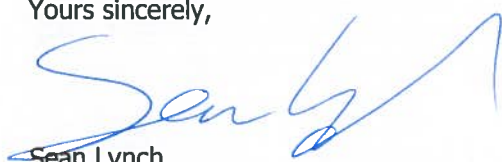
The final cost of processing your request will be based on the actual amount of work undertaken in relation to records released to you. Incorporated in this final charge will be the cost of any copying of records at the prescribed rate. Should the final amount be less than the deposit which you have paid you will be refunded the excess.

You should also note that this letter suspends the time limit for a final decision on your request for access to the records. The time limit will recommence if and when your request is refined so that the estimated search, retrieval and copying fee is less than the overall ceiling limit and the relevant deposit is paid. In the event that we are unable to agree an appropriate refinement of the scope of your request, then I will be unable to process your request and in line with Section 27(12)(a)(iii), your request will be refused.

A separate course is open to you, which is to appeal the decision to impose the stated deposit and fee. This appeal can be made in writing to the Freedom of Information Unit, Health Information and Quality Authority, George's Court, George's Lane, Dublin 7 or by email to foi@hiqa.ie. In that event, you would normally have 4 weeks from receipt of this notification in which to make the appeal. We will, however, allow the appeal to be made late in certain circumstances. It would assist greatly, if in your letter of appeal you refer to this letter and stated the reasons for your appeal.

Should you wish to discuss the above, please contact me at slynch@hiqa.ie or 01 8147486.

Yours sincerely,



Sean Lynch
Freedom of Information Administrator

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Unit 1301, City Gate, Mahon,
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[REDACTED]

02 December 2019

Our Ref: FOIR 058 2019

Re: FOI request, part granting request 058 2019

Dear [REDACTED]

I refer to your request dated 04 November 2019 made under the Freedom of Information Act 2014, which was received on 04 November 2019 for records held by the Health Information and Quality Authority. Your request sought:

The concerns raised with HIQA related to nursing homes for 2018.
Tables outlining the number of concerns raised in each classification for both 2017 and 2018

I, Ann Delany, Regional Manager, have now made a final decision to part grant your request on 02 December 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.

This letter addresses each of these three parts in turn.

1. Schedule of records

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Unit 1301, City Gate, Mahon,
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Dublin Regional Office:
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e-mail: info@hiqa.ie www.hiqa.ie

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 are relevant to the document 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

The sections of the Act which can apply to deny access to documents are known as its exemption provisions.

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,*

The decision maker contend that the records concerned contain information given to the Authority in confidence and on the understanding that it would be treated as such, its disclosure 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 as aforesaid should continue to be given.

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e-mail: info@hiqa.ie www.hiqa.ie

There are no discernible or particular public interest grounds leaning in favour of a release in this specific case. The decision maker has decided to release a redacted version of the records in this request so that all possible identifiable information is removed.

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/identifiable 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 or identifiable information so as to part grant records identified.

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 personal identifiable data and for this reason the Authority is of the view that the exemption applies and the records will be redacted in order not to disclose the personal identifiable information of third parties.

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

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where the public interest would, on balance, be better served by granting than by refusing to grant the request.

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. 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.

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, 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.

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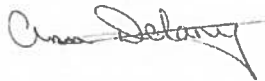
e-mail: info@hiqa.ie www.hiqa.ie

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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Health Information and Quality Authority
 An Údaráil Urrú Fhaisnéis agus Caliaicéit Sláinte

HIQA - Freedom of Information Schedule of Records: Summary of Decision Making

04 November 2019

FOI Received

FOIR 058 019

FOI Request Reference

02 December 2019

Decision due no later than

Ann Delany

Decision Maker

| Rec. No | Brief description and date of record | File Ref | No. of pages | Third Party involvement Y/N | Decision: Grant/Part Grant/Refuse | Basis of Refusal: Section of Act | Reason for Decision | Public Interest Considerations (for and against release) | Record Edited/Identify Deletions |
|---------|--|--|--------------|-----------------------------|-----------------------------------|----------------------------------|---|--|--|
| 1 | The concerns raised with HIQA related to nursing homes for 2018 | FOIR 058019_all DCOP_2018 | 79 | N | Part Grant | Section 35 and Section 37 | Information received in confidence and personal information | see decision | Redaction of personal identifiable information/information given in confidence |
| 2 | Tables outlining the number of concerns raised in each classification for both 2017 and 2018 | concern classification for 2017 and 2018 | 2 | N | Grant | | | | |
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FOIR 058 019

Tables outlining the number of concerns raised in each classification for both 2017 and 2018.

| Classification | Total in 2017 |
|--|---------------|
| 14-DCOP18 Outcome 11: Health and Social Care Needs | 208 |
| 14-DCOP18 Outcome 07: Safeguarding and Safety | 94 |
| 14-DCOP18 Outcome 08: Health and Safety and Risk Management | 63 |
| 14-DCOP18 Outcome 16: Residents' Rights, Dignity and Consultation | 63 |
| 14-DCOP18 Outcome 02: Governance and Management | 45 |
| 14-DCOP18 Outcome 18: Suitable Staffing | 28 |
| 14-DCOP18 Outcome 03: Information for residents | 24 |
| DCOP18 - Outcome 18: Suitable Staffing | 24 |
| 14-DCOP18 Outcome 12: Safe and Suitable Premises | 22 |
| 14-DCOP18 Outcome 09: Medication Management | 17 |
| 14-DCOP18 Outcome 13: Complaints procedures | 17 |
| 14-DCOP18 Outcome 14: End of Life Care | 10 |
| DCOP18 - Outcome 16: Residents Rights Dignity and Consultation | 8 |
| 14-DCOP18 Outcome 15: Food and Nutrition | 7 |
| NOT CLASSIFIED | 4 |
| 14-DCOP18 Outcome 17: Residents' clothing and personal property and possessions | 3 |
| DCOP18 - Outcome 12: Safe and Suitable Premises | 3 |
| 14-DCOP18 Outcome 04: Suitable Person in Charge | 2 |
| DCOP18 - Outcome 02: Contract for the Provision of Services | 2 |
| DCOP18 - Outcome 11: Health and Social Care Needs | 2 |
| DCOP18 - Outcome 14: End of Life Care | 2 |
| DCOP18 - Outcome 15: Food and Nutrition | 2 |
| 14-DCOP18 Outcome 01: Statement of Purpose | 1 |
| 14-DCOP18 Outcome 10: Notification of Incidents | 1 |
| DCOP18 - Outcome 03: Suitable Person in Charge | 1 |
| DCOP18 - Outcome 04: Records and documentation to be kept at a designated centre | 1 |
| DCOP18 - Outcome 07: Health and Safety and Risk Management | 1 |
| DCOP18 - Outcome 13: Complaints procedures | 1 |
| | |

| Classification | Total in 2018 |
|---|---------------|
| 14-DCOP18 Outcome 11: Health and Social Care Needs | 206 |
| 14-DCOP18 Outcome 07: Safeguarding and Safety | 88 |
| 14-DCOP18 Outcome 08: Health and Safety and Risk Management | 49 |
| 14-DCOP18 Outcome 18: Suitable Staffing | 45 |
| 14-DCOP18 Outcome 16: Residents' Rights, Dignity and Consultation | 37 |
| 14-DCOP18 Outcome 02: Governance and Management | 34 |
| 14-DCOP18 Outcome 13: Complaints procedures | 26 |
| 14-DCOP18 Outcome 12: Safe and Suitable Premises | 23 |
| 14-DCOP18 Outcome 09: Medication Management | 22 |

| | |
|---|----|
| 14-DCOP18 Outcome 15: Food and Nutrition | 20 |
| 14-DCOP18 Outcome 03: Information for residents | 15 |
| 14-DCOP18 Outcome 14: End of Life Care | 12 |
| DCOP18 - Outcome 18: Suitable Staffing | 12 |
| DCOP18 - Outcome 02: Contract for the Provision of Services | 7 |
| DCOP18 - Outcome 11: Health and Social Care Needs | 4 |
| DCOP18 - Outcome 16: Residents Rights Dignity and Consultation | 3 |
| 14-DCOP18 Outcome 04: Suitable Person in Charge | 2 |
| 14-DCOP18 Outcome 10: Notification of Incidents | 2 |
| 14-DCOP18 Outcome 17: Residents' clothing and personal property and possessions | 2 |
| DCOP18 - Outcome 08: Medication Management | 2 |
| DCOP18 - Outcome 15: Food and Nutrition | 2 |
| 14-DCOP18 Outcome 05: Documentation to be kept at a designated centre | 1 |
| DCOP18 - Outcome 07: Health and Safety and Risk Management | 1 |
| DCOP18 - Outcome 12: Safe and Suitable Premises | 1 |
| DCOP18 - Outcome 13: Complaints procedures | 1 |
| DCOP18 - Outcome 14: End of Life Care | 1 |
| | |