

**Private & Confidential**

[REDACTED]

[REDACTED]

21 April 2020

**Our Ref. FOIR 017 020**

**Re: – Decision on FOI Request (Part Grant)**

Dear [REDACTED],

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

1. On 14<sup>th</sup> August 2019 Eva Boyle of Hiqa wrote to Tusla about the issue, and received a 25<sup>th</sup> September response from Linda Creamer, which said Tusla was to conduct a national audit of the practice and then compile a report on the matter, with a service improvement plan if inconsistencies were identified.

I would request both the initial letter from Eva Boyle, and Tusla's response.

2. Tusla told Hiqa it would compile a report on this issue following the national audit, I would request a copy of this report, and any service improvement plan drawn up.

Your request was received by HIQA on 24 March 2020 and subsequently amended to the above request. I, Ms Eva Boyle, am the decision maker for this FOI request and have I made a decision to part grant your request today, XX April 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 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 29(1)(a) - Deliberations of FOI bodies

I am of the view that the exemption provided for under S.29(1)(a) of the FOI Act applies to one of the records that came within the scope of this request.

*Section 29 (1) A head may refuse to grant an FOI request—*

*(a) if the record concerned contains matter relating to the deliberative processes 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 of the staff of the body for the purpose of those processes),*

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

#### Reasons for Decision

The record to which this exemption applies, identified in the schedule, relates to on-going regulatory activity engaged in by HIQA. The records, therefore, contain information relating to the deliberate process of an FOI body.

#### Public interest considerations

The Decision Maker accepts that Section 29(1)(a) is subject to Section 29(1)(b), 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.

The following public interest factors were considered:

In favour of release:

- The public interest in openness and transparency in the way public bodies exercise their statutory functions. This interest has been met to some extent by the release of other records relevant to this request and the partial redaction of some documents.

In favour

- The release of documents relevant to an ongoing regulatory matter would compromise the fair procedures applicable to the regulatory process.
- It would undermine the current regulatory activity, contrary to the public interest in HIOA conducting its regulatory activities.

After weighing the factors in favour of release against those favouring refusal, I have decided that on balance, the public interest favoured the non-disclosure of the record listed. Accordingly, the information concerned has been redacted from the record to enable its release.

### **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)."*

Some of the records contain the personal information of third parties (these records are indicated in the schedule). 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 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 protecting 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. Accordingly, the information concerned has been redacted from the records released.

### 3. Appeal Rights

In the event that you are not happy with this decision you can seek an internal review by writing to the FOI Unit, George's Court, George's Lane, Smithfield, Dublin 7, or by e-mail to [foi@hiqa.ie](mailto:foi@hiqa.ie). This appeal will involve a complete reconsideration of the matter by a more senior member of the staff of this body.

Please note that a fee of €30 (or €10 if you are a medical card holder), applies to internal reviews. Please contact the FOI Unit for payment details.

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.

If you have any queries in relation to this decision, please feel free to contact the FOI Unit, on [foi@hiqa.ie](mailto:foi@hiqa.ie).

Yours sincerely,

Ms Eva Boyle  
Regional Manager (Children's Service)