

9 October 2015



Re: FOI request 2015/277

I refer to the request which you made under the Freedom of Information Act 2014 for records held by this body:

2. All documents including emails, memos, reports, etc. relating to the scheme that were produced as part of your Department's deliberations about introducing the scheme since the McMahon Working Group concluded.

I Angela McDonald have now made a final decision to part grant your request on 9th October 2015.

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,
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 this body 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.

The following are the sections of the Freedom of Information Act, 2014, under which records have been either refused or partially exempted from release as per the attached schedule.

Meetings of the Government: Section 28(1)(a) & 28(2)(a)

Section 28

(1) A head may refuse to grant an FOI request concerned –

(a) has been, or is proposed to be, submitted to the Government for its consideration by a Minister of the Government or the Attorney General and was created for that purpose

(2) A head shall refuse to grant an FOI request if the record concerned –

(a) contains the whole or part of a statement made at a meeting of the Government or information that reveals, or from which may be inferred, the substance of the whole or part of such a statement

Deliberations of FOI Bodies: Section 29(1)(a)

Section 29

(1) A head may refuse to grant a 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), and

Having considered section 29(1)(a) I must also consider section 29(1)(b) which provides that a head may decide to release records if, in his or her opinion, "the public interest would, on balance, be better served by granting than by refusing to grant the request". Having considered where the balance of the public interest lies in these cases, I have decided to withhold release of such records.

Functions and Negotiations of FOI Bodies: Section 30(1)(a)

Section 30

(1) 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

Having considered section 30(1)(a) I must also consider section 30(2) which provides that a head may decide to release records if, in his or her opinion, "the public interest would, on balance, be better served by granting than by refusing to grant the request". Having considered where the balance of the public interest lies in these cases, I have decided to withhold release of such records.

Law enforcement and public safety: Section 32(1)(a)(iv)

Section 32

(1) 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 or impair –

(iv) the fairness of a criminal proceeding in a court or of a civil proceeding in a court or tribunal

Having considered section 32(1)(a)(iv) I must also consider section 32(3)(b) which provides that a head may decide to release records if, in his or her opinion, "the public interest would, on balance, be better served by granting than by refusing to grant the request". Having considered where the balance of the public interest lies in these cases, I have decided to withhold release of such records.

Personal Information: Section 37(1)

Section 37

(1) 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)

Having considered section 37(1) I must also consider section 37(5)(a) which provides that a head may decide to release records if, in his or her opinion, "the public interest would, on balance, be better served by granting than by refusing to grant the request". Having considered where the balance of the public interest lies in these cases, I have decided to withhold release of such records.

Record held or created by the Attorney General: Section 42(f)

Section 42

This Act does not apply to-

(f) a record held or created by the Attorney General or the Director of Public Prosecutions or the Office of the Attorney General or the Office of the Director of Public Prosecutions, other than a record relating to administration

3. Rights of appeal

In the event that you are unhappy with this decision you may appeal this it. In the event that you need to make such an appeal, you can do so by writing to the Freedom of Information Unit, Department of Education & Skills, Marlborough Street, D01 RC96 or by e-mail to foi@education.gov.ie. Your correspondence should include a fee of €30 for processing the appeal. Payment should be made by way of money order, postal order or personal cheque made payable to the Department of Education & Skills if you wish to make payment by electronic means please contact foi@education.gov.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 this body.

Should you have any questions or concerns regarding the above, please contact me by telephone on 057 9325398.


Angela McDonald
Higher Education Equity of Access