

[REDACTED]

16th May 2016

Our Reference Number: FOI/2016/147

[REDACTED]

I refer to your request for data under the Freedom of Information Act 2014. You are seeking access to specified records held by this Department. In large part your request is for personal data relating to persons other than yourself. Personal data is defined in Section 2 of the Freedom of Information Act 2014, an abridged version is as follows:

“personal information” means information about an identifiable individual that, either—

(a) would, in the ordinary course of events, be known only to the individual or members of the family, or friends, of the individual, or

(b) is held by an FOI body on the understanding that it would be treated by that body as confidential,

and, without prejudice to the generality of the foregoing, includes—

Extracts from your email request are set out hereunder:

1) Copies of all correspondence, written or electronic, between the Department and the board of management or school principal of Coláiste Iognáid, Sea Road, Galway during the period 1st January 2014 and 14th April 2016.

i) Complaints from staff regarding school management (School Governance Section or Minister's Office?)

ii) Complaints from parents regarding school management (Parental Complaints Section?)

iii) Correspondence regarding negotiations over the transfer of a staff member or member of management, and any correspondence relating to a settlement facilitating such a transfer (School Governance Section/Minister's Office?)

iv) A separate matter regarding a report of a child protection issue (Child Protection Section)

None of the information sought by you is personal to you.

Section 11 of the Freedom of Information Act 2014 sets out the general right to access information. This right of access is limited by Part 4 of the Act (Sections 28 to 41 inclusive) which sets out a range of Exemptions. Part 5 of the Act (Section 42) deals with restrictions of access under the Act.

You will be aware that under the Education Act 1998 the day to day management of a school rests with the schools Board of Management and that that body employs all the school staff. Ordinarily one would expect that complaints and grievances from students, parents, or staff would be addressed to the Board and or the school Patron / Trustees. This Department's role is to clarify for parents and students how their grievances and complaints against schools can be progressed.

Records have been sought in the following areas of the department – Ministers Office, School Governance, Teacher Allocations, Parental Complaints and Child Protection.

Attached are Schedule of records of records from the Ministers Office (10), School Governance (5) and Teacher Allocations (1). There are no records from Parental Complaints and Child Protection.

The schedules lists records that are relevant to the request. The sections of the Act which apply to deny access to documents are as follows.

Section 37 – Personal Information

Documents numbered 1-5 have been refused (as scheduled) under section 37 (1) and (7) of the Freedom of Information Act, 2014.

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).

(7) Notwithstanding paragraph (a) of subsection (2), a head shall, subject to paragraphs (b) to (e) of that subsection and subsections (5) and (8), refuse to grant an FOI request if, in the opinion of the head, access to the record concerned would, in addition to involving the disclosure of personal information relating to the requester, also involve the disclosure of personal information relating to an individual or individuals other than the requester.

Section 35 – Information obtained in confidence

Documents numbered 1,2,3 and 4 have been refused under section 35 (1) (a) of The Freedom of Information Act, 2014.

35. (1) Subject to this section, a head shall refuse to grant an FOI request if-

(a) the record concerned contains information given to an 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.

Section 29 – Deliberations of a Public Body

Documents numbered 3-5 have been refused or part granted (as scheduled) under section 29 (1) (a) and (b) of The Freedom of Information Act, 2014.

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), and

The following are responses to your questions as set down above. All reference to sections hereunder are to the Freedom of Information Act 2014.

1) The request for this information is declined for the period 1st January 2014 and 14th April 2016 insofar as it concerns general school Payroll and Human Resource matters and the collation of same would prove unduly onerous.

i) There are no such complaints or such complaint(s) exist they are outside the scope of the Act by virtue of Section 42 of the Act.

ii) There are no such complaints, or if such complaint(s) were lodged then Section 42 would apply i.e. the Act does not provide for access to such information.

iii) There is no such information.

iv) Were a child protection issue to arise access to information would be restricted by reference to the provisions of Section 42 in general and Section 42(m) in particular i.e. the Act does not provide for access to such information.

Apart from Section 42 other Exemptions would typically have application in such cases:

Section 30 (1) (a) – not in the public interest

Section 32 (1) (a) – law enforcement aspect

Section 35 (1) – information provided in confidence

Section 37 (1) – Personal information of third party

Right of appeal

You may appeal this decision. 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 and Skills, Marlborough Street, Dublin 1. Your correspondence should include a fee of €30 (€10 for medical card holders) for processing the appeal. Payment should be made by way of personal cheque or postal money order made payable to the accountant in the Department of Education and Skills. Please note the Department of Education and Skills no longer accept cheque payments from business users. For further information regarding payment methods for business users, please email 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 090-6484264.

Yours sincerely

Paul Haynes
Freedom of Information Act - Decision Maker
Schools Division