



Department of
Education and Skills
Cornamaddy
Athlone
Co. Westmeath

20th May 2016

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Re: FOI/2016/154

Dear [REDACTED]

I refer to your request dated 21st April 2016 made under the Freedom of Information Act 2014, which was received on 22nd April 2016, for records held by the Department of Education. Your request sought:

- * Records and minutes of management advisory council meetings at the Department of Education since December 2015 up to the date of processing this request*
- * Inspection reports and overall findings relating to the 55 preschools inspected as part of the pilot phase of education-focused inspections in early years settings.*

Your request was assigned to two separate decision makers: Stacey Cannon, Office of the Secretary General, and Caitriona Ní Bhriain of the Department's Inspectorate. A separate reply will issue to you from Stacey Cannon in relation to part 1 of your request.

I, Caitriona Ní Bhriain, have made a final decision to refuse your request for records under part 2 of your request on 20th May 2016. The purpose of this letter is to explain that decision. This explanation has the following parts:

1. an explanation as to why your request for records under part 2 of your request is refused, and
2. a statement of how you can appeal this decision should you wish to do so.

This letter addresses both of these parts in turn.

1. An explanation of the relevant findings

The sections of the FOI Act 2014 that can apply to deny access to documents are known as its exemption provisions.

Section 29(1) exempts information relating to the deliberative processes of public bodies, (including opinions, advice, recommendations and the results of consultations considered by the body). 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*

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

Records that fall into this category may include those related to policy formulation. The inspections to which you refer were conducted for research and development purposes during the pilot phase of the Early Years Education-focused Inspection model (EYEI). They, thus, fall outside the general inspection programme for schools and centres of education, the reports of which are published. Section 1.4 of the *Inspectorate Guidelines on the Publication of Reports* advises that:

The procedures for publication of reports described in these guidelines do not apply to inspection reports that fall outside the general inspection programme for schools and centres for education. This means, for example, that the guidelines do not apply to reports arising from:

- inspections carried out for the purpose of research and the development and trial of new inspection practices in schools and centres for education*

In making my decision I have considered whether access to this information should be granted taking account of public interest factors in favour of release. I have come to the conclusion that the public interest would not, on balance, be better served by the granting of these records; as the Early Years Education-focused Inspection model is still in its pilot phase, releasing these records could cause an unnecessary intrusion into the ongoing deliberative and decision-making process regarding policy formation in this area.

Section 35(1)(a) relates to information that is obtained in confidence. It provides that information shall be protected if (i) it is held on the basis of a mutual understanding of confidence (ii) the information is important and (iii) releasing it would jeopardise the future supply of similar information.

The relevant text is:

*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*

I have concluded that the records you seek are also exempt under this section of the Act.

In making my decision, I have considered whether access to this information should be granted taking account of public interest factors in favour of release. I have come to the conclusion that the public interest would not, on balance, be better served by the granting of these records as the participants in the pilot inspections understood that the data collected would be treated in confidence. It was also a condition of participation in the research/trial phase of the Early Years Education-focused Inspection (EYEI) that the reports would not be published. Thus, releasing these records would jeopardise the future involvement of participants in similar pilots.

2. Right of appeal

In the event that you are unhappy with this decision, you may appeal it. Should 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, 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 accountant, 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 wish to discuss the above, please contact me at 0906 483986.

Yours sincerely,

Caitríona Ní Bhriain
FOI Decision Maker (Inspectorate)
Department of Education and Skills