23rd January 2017

Re: FOI request 2016/473

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

"Under FOI law I would like copies of all correspondence sent to Minister Richard Bruton’s private email from within the Department since his appointment as Minister.

I would also like copies of all work related (government and departmental) emails sent and received by the minister on this private email since his appointment. Please include any lobbying correspondence the Minister may have received on this account relating to his position."

Minister Bruton has several email addresses, including an Oireachtas address, a number of Department of Education addresses, and a personal address, each of which is used for the appropriate purpose. On occasions in the past the Minister’s personal email account has been used for non-sensitive official correspondence.

The use of the Minister’s personal email address has been used to communicate with the Minister, generally out of office hours, and where he is not accompanied by a member of staff, and where there was an urgent need to communicate information to the Minister.

The use of this email address for work purposes has been discontinued. A new Personal Department of Education and Skills email has been set up, and this will be used in future, when necessary.

I, Derek Newcombe, have now made a final decision to part grant your request on 23rd January 2017.

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

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.

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.

Please note that the documents not released were withheld under the following sections of the Freedom of Information Act 2014:

Deliberative Process

Section 29 - Deliberations of FOI bodies
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

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

I consider records 1, 7, 10, 12, 13, 15, 20, 21, 22, 23, 36, 38, 41 and 42 are exempt from release under the provisions of section 29 (1) of the FOI Act 2014 as they contain matters relating to the deliberative processes of this Department and that disclosure of the records at this time would be contrary to the public interest.

Exempt record
A record which relates to the functions or activities of a Government Minister as a member of the Oireachtas or a political party, the record is deemed as an “exempt record” under the provisions of the Act.

“exempt record” means—
(b) a record that is created for or held by an office holder and relates to the functions or activities of—

   (i) the office holder as a member of the Oireachtas or a political party, or
   (ii) a political party;
I consider records 4 as exempt records under the provisions of the FOI Act 2014 as they contain political matters relevant to the Minister as a member of a political party.

15. (1) A head to whom an FOI request is made may refuse to grant the request where—

(d) the information is already in the public domain.

I consider records 2, 3, 8, 9, 11, 16, 18, 19, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 37, 39, 40, 43, 44 and 45 are exempt from release under the provisions of section 15 (1) (d).

3. Right of appeal

You may appeal this decision within 4 weeks of receiving this letter which will involve a complete reconsideration of the matter by a more senior member of the staff of this Department. 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 for processing the appeal. Payment should be made by way of personal cheque or postal money order 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

Should you have any questions or concerns regarding the above, please contact me by telephone on 01 889 2335.

Yours sincerely,

[Signature]

Derek Newcombe
Private Secretary