

28 August 2017

**Re: FOI request refusing request 2017/364**

Dear \_\_\_\_\_

I refer to your email made under the Freedom of Information Act 2014, which was received on 15 August 2017 for records held by the Department of Education and Skills. Your request sought:

- All records supplied to the department by schools as part of this information gathering exercise: <http://www.education.ie/en/Press-Events/Press-Releases/2013-Press-Releases/PR%202013-%203-%205.html>

I, Claire Dolan, Higher Executive Officer have now made a final decision to refuse your request on 25 August 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 the Department of Education and Skills 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 relevant legislation allows access to a record to be refused if its contents relate to the deliberative process of a public body, if access to those contents could prejudice the effectiveness of an inquiry conducted by a public body, if the record contains financial and commercial information whose disclosure could prejudice the competitive position of that person in the conduct of his or her business or if the record contains personal information and if information was obtained in confidence where disclosure would breach duty of confidence. This is set out in Sections 29 (1)(a) 35(1)(b) and 36(1)(b) of the Freedom of Information Act 2014. The text of those sections is as follows:

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).
- 35 (1)Subhead to this section, a head shall refuse to grant an FOI request if-
- (b) disclosure of the information concerned would constitute a breach of a duty of confidence provided for by a provision of an agreement or enactment (other than a provision specified in column (3) in Part 1 or 2 of Schedule 3 of an enactment specified in that Schedule) or otherwise by law.
36. (1) Subject to *subsection (2)*, a head shall refuse to grant an FOI request if the record concerned contains—
- (b) financial, commercial, scientific or technical or other information whose disclosure could reasonably be expected to result in a material financial loss or gain to the person to whom the information relates, or could prejudice the competitive position of that person in the conduct of his or her profession or business or otherwise in his or her occupation, or

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## 3. Rights of appeal

If you are unhappy with this decision you may appeal 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, Dublin 1 or by e-mail to [foi@education.gov.ie](mailto:foi@education.gov.ie). Your correspondence should include a fee of €30 for processing the appeal. Payment should be made by way of bank draft, money order, postal order or personal cheque made payable to

the Department of Education & Skills. 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.

#### **4. Publication**

All non-personal FOI requests will be recorded on an FOI disclosure log which will be published on the Dept. of Education & Skills website in due course.

Please contact me should you wish to discuss any of the above.

Yours sincerely

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