

[REDACTED]

14 September 2017

Reference: FOI 2017/389

[REDACTED]

I refer to your request dated 31 August 2017 made under the Freedom of Information Act 2014 which was received by this office on the 31 August 2017. Your request sought:

- a) *"I request the number of teachers for whom the Department of Education Payroll section (Post Primary) had in place a deduction at source facility for membership subscriptions to Teachers Union of Ireland (TUI) on January 1st, 2017 in each of the below listed schools.*
- b) *I request the number of teachers for whom the Department of Education Payroll section (Post Primary) had in place a deduction at source facility for membership subscriptions to the Association of Secondary Teachers, Ireland (ASTI) on January 1st, 2017 in each of the below listed schools.*

In addition I also request the following:

- c) *I request the number of teachers for whom the Department of Education Payroll section (Post Primary) had in place a deduction at source facility for membership subscriptions to Teachers Union of Ireland (TUI) on July 1st, 2017 in each of the below listed schools.*
- d) *I request the number of teachers for whom the Department of Education Payroll section (Post Primary) had in place a deduction at source facility for membership subscription to the Association of Secondary Teachers, Ireland (ASTI) on July 1st, 2017 in each of the below listed schools.*

List of Schools:

1. **St. Gerald's College, Newport Road, Castlebar, Co. Mayo;**
2. **Christ King Girls Secondary School, Half Moon Lane, South Douglas Road, Cork;**
3. **Marist College, Retreat Road, Athlone, Co. Westmeath;**
4. **Skibbereen Community School, Gortnaclohy, Skibbereen, Co. Cork;**
5. **Ballincollig Community School, Innishmore, Ballincollig, Co. Cork;**
6. **St. David's Secondary School, Kilmore Road, Artane, Dublin 5;**
7. **St. Columbas College, Stranorlar, Co. Donegal;**
8. **St. Colman's College, Fermoy, Co. Cork;**
9. **Scoil Christ Rí, Presentation Secondary School, Boris Road, Portlaoise, Co. Laois;**
10. **St. Finians College, Mullingar, Co. Westmeath;**
11. **Mercy Secondary School, Dublin Road, Kilbeggan, Co. Westmeath;**
12. **C.B.S. Mount Sion, Barrack Street, Waterford.**
13. **St. Jarlath's College, Tuam, Co. Galway**
14. **Carrigaline Community School, Waterpark Road, Cork**
15. **St Aidan's Comprehensive School, Cootehill, Co. Cavan"**

I made a final decision to refuse your request on the 14 September 2017.

The purpose of this email is to explain that decision. The explanation has the following parts:

1. an explanation of the relevant findings concerning the records to which access is denied, and
2. a statement of how you can appeal this decision should you wish to do so

1. Findings, particulars and reasons for decisions to deny access

The sections of the Act which can apply to deny access to information are known as its exemption provisions.

Section 37 – Personal Information

Under the provisions of Section 37 (1) of the FOI Act 2014, personal information is exempt from disclosure to third parties which states as follows:

“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)”

Section 37 provides that access to a record shall be refused if access would involve the disclosure of personal information of parties other than the requester.

For the purposes of the FOI Act, Section 2 defines “*personal information*” as information about an identifiable individual that (a) would, in the ordinary course of events, be known only to the individual or his/her family or friends or, (b) is held by a public body on the understanding that it would be treated by it as confidential.

Section 2 details specific categories of information that is defined as ‘*personal information*’ including “... (iv) *information relating to the individual’s membership or former membership of a trade union*”.

Membership subscriptions are submitted electronically from the relevant trade unions to the Department’s Payroll Unit using the teacher’s payroll number as an identifier. The purpose of collecting this data is for the provision of a deduction at source facility for individual teachers.

I consider that the release of information regarding the number of teachers in the schools specified, who have a voluntary deduction at source facility for TUI and ASTI membership subscriptions would, through the process of elimination, identify teachers in those schools and information relating to their membership or former membership of a trade union.

The public interest factors against release which I have considered are considerations in favour of protecting privacy generally, maintaining privacy of third parties and the legitimate expectation members of the public have to have personal information held by public bodies protected. I have concluded that the public interest to granting access to these records is outweighed by the right to privacy of the individuals to whom the information relates.

Section 35 - Information given in confidence

Section 35 (1) (a) provides as follows:

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 35(1) (a) 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.

Membership subscriptions of trade unions are furnished to the Department by trade unions for the purpose of providing a deduction at source facility for individual teachers. There is a duty of confidence between the Department and parties concerned that the information is provided on the understanding that it would be treated as confidential.

The public interest factors against release which I have considered are on the basis that the information has been provided in confidence to the Department and the release of this information would be likely to prejudice the giving of further similar information, by trade unions.

2. 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 D01 RC96 or email foi@education.gov.ie

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 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; however, the making of a late appeal may be permitted in appropriate circumstances. A week is defined in the Act to mean 5 consecutive weekdays, excluding Saturdays and public holidays (Sundays are also excluded, as they are not weekdays). The appeal will involve a complete reconsideration of the matter by a more senior member of the staff of this Department.

Publication

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

Should you have any queries regarding the above information please contact me on (090) 64 83788 or via email at tara_mulryan@education.gov.ie

Yours sincerely,

Tara Mulryan

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