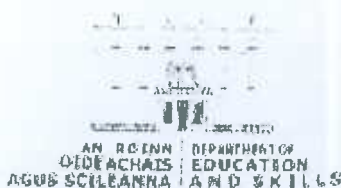


Seirbhísí Corparáideacha
An Roinn Oideachais agus Scileanna
Sráid Maoilbhríde
Baile Átha Cliath 1
D01 RC96



Corporate Services
Department of Education and Skills
Marlborough Street
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D01 RC96

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16th February, 2017

Re: FOI request 2017/21

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

“The latest available risk register prepared for the Department of Education”

I, John Rafferty, Higher Executive Officer, have now made a final decision to refuse your request on 16th February 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

This request is being refused in total under Section 29 (deliberations of public bodies) and Section 30 (functions and negotiations of public bodies) of the Freedom of Information Act 2014 on the basis that the information contained on the Department's Risk Register is of a sensitive nature which, although may be of concern to the public, could significantly constrain the Department in carrying out its statutory functions and/or significantly negatively impact on the Department's ability to provide education services to citizens. As such, it is not possible to provide a schedule of records to be released.

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.

Section 29(1) (deliberations of public bodies)

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).

Records relating to a deliberative process fall into two distinct phases – deliberative/pre-decision stage and post-decision stage.

Records relating to the deliberative process may continue to be protected after a decision has been made provided the decision maker is satisfied that the balance of the public interest does not favour granting the request.

The Department's Risk Register is compiled in consultation with heads of business units throughout the Department. Currently, the risks contained on the register are categorized as Operational, Reputational, Financial, Legal and Organisational. The risks identified on the Risk Register reflect the potential impacts of certain actions, decisions or other external factors which, if disclosed, could be extremely detrimental to the Department's decision-making capacity or operational efficiency and effectiveness, and negatively impact upon its ability to provide services to citizens. Accordingly, I am of the opinion that these considerations outweigh the potential public interest in relation to releasing the actual content of the Department's Risk Register.

Section 30 (functions and negotiation of public bodies)

Under section 30 records may be protected where disclosure could harm certain operations of a public body i.e. information which could:-

- prejudice the effectiveness of tests, audits, inquiries, examinations or investigations conducted by or on behalf of an FOI body or the procedure or methods used to conduct such
- have a significant adverse effect on the performance of an FOI body of any of its functions relating to management, including industrial relations and management of its staff
- disclose negotiating positions (including plans, procedures, criteria or instructions) of Government or any FOI body.

The Department of Education and Skills is responsible for the oversight, monitoring and regulation of the wider Education sector and its employees both through direct intervention and provision of services and through its aegis bodies. Certain risks contained on the Department's Risk Register pertain directly to impacts of certain actions, decisions and other external factors which, if released, could significantly and negatively restrict the Department's arrangements for the effective governance, oversight and audit of its aegis bodies and constrain the Department's ability to negotiate with the education partners and school/university employee representatives. Accordingly, I am of the opinion that these considerations outweigh the potential public interest in relation to releasing the actual content of the Department's Risk Register.

3. 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 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

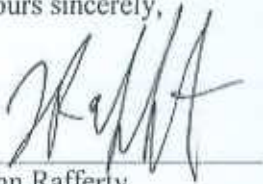
You should make your appeal within 4 weeks from the date of this notification, where a day is defined as a working day excluding, the weekend and public holidays. However, the making of a late appeal may be permitted in appropriate circumstances. The appeal will involve a complete reconsideration of the matter by a more senior member of the staff of this body.

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 wish to discuss the above, please contact me by telephone at 01 889 6462.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'John Rafferty', written over a horizontal line.

John Rafferty
Higher Executive Officer