

2 May 2017

[REDACTED]

Re: FOI request 2017/122

[REDACTED]

I refer again to your request for access to information under the provisions of the Freedom of Information Act 2014 (the "FOI Act") and in particular to my decision letter dated 20 April 2017, your email to me of that date and our various telephone discussions. I note your view that my decision of 20 April meant that your original request has been "incorrectly narrowed down to correspondence alone rather than a search of all relevant records". In the light of the clarification you have provided I have, as requested, conducted a wider review of records that may be relevant to your request. I have identified a number of further records that come under the expanded scope of your request and I have prepared the attached supplementary schedule that lists these additional records and where relevant, refers to the sections of the FOI Act which apply to prevent release.

Two further exemptions provided for in the FOI Act apply in the case of the records that are listed the supplementary schedule. Under Section 29 of the FOI Act a Head may refuse to grant an FOI request if the record concerned contains matters relating to the deliberative processes of an FOI body while under Section 30 access may be refused if the record relates to the functions and negotiations of an FOI body.

I refuse access to record 7 and to parts of record 21 on the basis that that sections 29 and 30 apply. The records in question contain matters relating to the Department's deliberative processes and its positions in regard to the transfer of particular properties from religious congregations. The process of transferring properties has not concluded and I consider that the release of the two records at this time would disclose opinions, advice and recommendations and positions that might be taken in regard to specific property transfers and that such release could prejudice the ability of the Minister and the Department to progress the transfers of the properties leading to an adverse outcome being the failure to complete those transfers and the consequential reduction in the value of contributions achieved from religious congregations.

I am required to consider the public interest tests set out in sections 29 and 30. I consider that the public interest considerations in favour of release and those against release at this time are those set out in my letter of 20 April and that they also apply in this case. It is my view that release of the records would, by disclosing parts of the deliberative process and other issues and positions, impact on the State's ability to conclude property transfers leading to the adverse outcome noted above. On balance therefore I believe that the public interest is better served by refusing to grant access to record 7 and to part of record 21.

Correspondence with the Department's legal advisors relating to individual property transfers is refused as the provisions Section 31 of the FOI Act applies (legal professional privilege). Access to four such records is refused.

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

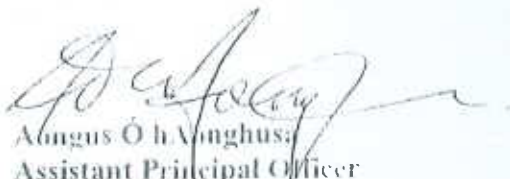
You should make your appeal within 4 weeks from the date of this notification, where a day is defined as a working day excluding, the weekend and public holidays. However, the making of a late appeal may be permitted in appropriate circumstances. The appeal will involve a complete reconsideration of 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 01-8892014.

Yours sincerely


Angus Ó hAinghuis
Assistant Principal Officer
Redress Unit