

**Private & Confidential**

[REDACTED]  
[REDACTED]

17 June 2022

**Our Ref. FOIR 067 022**

Dear [REDACTED]

I refer to your request dated 20 May 2022 made under the Freedom of Information Act 2014, for records held by the Health Information and Quality Authority (HIQA). Your request was subsequently amended to the following:

- Copies of all protected disclosures (redacted if necessary) from the 1st of March 2020 until 1st of July 2020 made by staff members at Dealgan House Nursing Home;
- Copies of all volumes (no. 1 to no. 12) of the ‘Regulatory Response by the Chief Inspector of Social Services to Covid-19 – Communique’ document. This request is made in respect of all Communiques created in relation to Dealgan House Nursing Home from 1st of March 2020 until 1st of July 2020;
- Copies of minutes for all Zoom meetings between HIQA and HSE in respect of the outbreak of Covid-19 in Dealgan House Nursing Home from 1st of March 2020 until 1st of July 2020
- Copies of volumes 1.0 to 3.0 of the ‘HIQA-Rapid Review of Public Health Guidance on Infection Prevention and Control Measures for Residential Care Facilities in the Context of Covid-19’ document. I have attached a copy of volume 5.4 for your ease of reference;
- A copy of the 2019 Inspection Report of Dealgan House Nursing Home.

I have now made a final decision to part grant your request.

□ **Head Office:**  
Unit 1301, City Gate, Mahon,  
Cork, T12 Y2XT, Ireland  
**Tel:** +353 (0) 21 240 9300  
**Fax:** +353 (0) 21 240 9600

□ **Dublin Regional Office:**  
George’s Court, George’s Lane,  
Dublin, D07 E98Y, Ireland  
**Tel:** +353 (0) 1 814 7400  
**Fax:** +353 (0) 1 814 7699

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 HIQA 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 gives you a summary and overview of the decision as a whole.

## **2. Findings, particulars and reasons for decisions to deny access**

Two exemptions and one restriction were applied in relation to your request.

### ***Section 35 – Information obtained in confidence***

Section 35 of the Freedom of Information Act states:

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, or

(b) disclosure of the information concerned would constitute a breach of a duty of confidence provided for by a provision of an

□ **Head Office:**  
Unit 1301, City Gate, Mahon,  
Cork, T12 Y2XT, Ireland  
Tel: +353 (0) 21 240 9300  
Fax: +353 (0) 21 240 9600

□ **Dublin Regional Office:**  
George's Court, George's Lane,  
Dublin, D07 E98Y, Ireland  
Tel: +353 (0) 1 814 7400  
Fax: +353 (0) 1 814 7699

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.

(2) Subsection (1) shall not apply to a record which is prepared by a head or any other person (being a director, or member of the staff of, an FOI body or a service provider) in the course of the performance of his or her functions unless disclosure of the information concerned would constitute a breach of a duty of confidence that is provided for by an agreement or statute or otherwise by law and is owed to a person other than an FOI body or head or a director, or member of the staff of, an FOI body or of such a service provider.

(3) Subject to section 38 , subsection (1)(a) shall not apply in relation to a case in which, in the opinion of the head concerned, the public interest would, on balance, be better served by granting than by refusing to grant the FOI request concerned.

(4) Where—

(a) an FOI request relates to a record to which subsection (1) applies but to which subsection (2) and (3) do not apply or would not, if the record existed, apply, and

(b) in the opinion of the head concerned, the disclosure of the existence or non- existence of the record would have an effect specified in subsection (1), he or she shall refuse to grant the request and shall not disclose to the requester concerned whether or not the record exists.

(5) Subject to section 2 , in this section “record” includes information conveyed in confidence in person, by telephone, electronically or in writing (including a written note taken of a phone message by a person authorised to receive such message).

In relation to the request for protected disclosures, any relevant records would contain information given to HIQA in confidence and on the understanding that it would be treated as such; therefore, there disclosure would be likely to

□ **Head Office:**  
**Unit 1301, City Gate, Mahon,**  
**Cork, T12 Y2XT, Ireland**  
**Tel:** +353 (0) 21 240 9300  
**Fax:** +353 (0) 21 240 9600

□ **Dublin Regional Office:**  
George's Court, George's Lane,  
Dublin, D07 E98Y, Ireland  
**Tel:** +353 (0) 1 814 7400  
**Fax:** +353 (0) 1 814 7699

prejudice the giving to the Authority of further similar information from the same person or other persons. It is of importance to HIQA that such further similar information as aforesaid should continue to be given. The refusal of this part of the request neither confirms nor denies the existence of any protected disclosures in respect of the designated centre.

There are no discernible or particular public interest grounds leaning in favour of a release for this type of record.

### ***Section 42 (M) – Restriction of Act***

Section 42 (M) provides as follows:

42. This Act does not apply to –

(m) a record relating to information whose disclosure could reasonably be expected to reveal, or lead to the revelation of –

- (i) the identity of a person who has provided information in confidence in relation to the enforcement or administration of the law to an FOI body, or where such information is otherwise in its possession, or*
- (ii) any other source of such information provided in confidence to an FOI body, or where such information is otherwise in its possession.*

### **Grounds for Decision to Refuse Request**

This section states that the Act does not apply to a record that may reveal the identity of a source of confidential information. The information contained in the relevant records was received in confidence and could reveal the source of the information; therefore, the Act does not apply to these records.

This exemption applies to information related to protected disclosures being sought in your request. As this is an absolute exemption, it does not require a harm test nor a public interest test. The refusal of this request is based on the Restrictions of the Act and, therefore, it neither confirms nor denies the existence of any protected disclosures in respect of the designated centre.

□ **Head Office:**  
Unit 1301, City Gate, Mahon,  
Cork, T12 Y2XT, Ireland  
Tel: +353 (0) 21 240 9300  
Fax: +353 (0) 21 240 9600

□ **Dublin Regional Office:**  
George's Court, George's Lane,  
Dublin, D07 E98Y, Ireland  
Tel: +353 (0) 1 814 7400  
Fax: +353 (0) 1 814 7699

## Section 15(1)(a)

Section 15(1)(a) of the FOI Act states:

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

*(a) the record concerned does not exist or cannot be found after all reasonable steps to ascertain its whereabouts have been taken,"*

In relation to "Copies of minutes for all Zoom meetings between HIQA and HSE in respect of the outbreak of Covid-19 in Dealgan House Nursing Home from 1st of March 2020 until 1st of July 2020", I have refused this part of the request on the grounds that the records do not exist.

### 3. Rights of appeal

If you are unhappy with this decision you may appeal it. Please note that a fee applies for an appeal, with the exception of an appeal against the imposition of a €30 fee. In the event that you need to make such an appeal, you can do so by writing to the Freedom of Information Unit, Health Information and Quality Authority, Dublin Regional Office, George's Court, George's Lane, Smithfield, Dublin 7, D07 E98Y or by e-mail to [foi@hiqa.ie](mailto:foi@hiqa.ie). Payment should be made by way of electronic transfer. Please contact the FOI Office for further details.

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 the Authority.

□ **Head Office:**  
Unit 1301, City Gate, Mahon,  
Cork, T12 Y2XT, Ireland  
Tel: +353 (0) 21 240 9300  
Fax: +353 (0) 21 240 9600

□ **Dublin Regional Office:**  
George's Court, George's Lane,  
Dublin, D07 E98Y, Ireland  
Tel: +353 (0) 1 814 7400  
Fax: +353 (0) 1 814 7699



#### **4. Publication**

It is the policy of HIQA to make decisions on non-personal FOI requests, including this decision letter and a copy of the records released, available to the public on our website <https://www.hiqa.ie/about-us/freedom-of-information>. Any personal information relating to you, such as your name etc., will be removed from the decision letter before this happens. This decision letter and the records released under FOI, will be added to our website approximately one week after today's date.

Yours sincerely,

**Maria Kiely**  
**Programme Coordinator**

□ **Head Office:**  
**Unit 1301, City Gate, Mahon,**  
**Cork, T12 Y2XT, Ireland**  
**Tel:** +353 (0) 21 240 9300  
**Fax:** +353 (0) 21 240 9600

□ **Dublin Regional Office:**  
George's Court, George's Lane,  
Dublin, D07 E98Y, Ireland  
**Tel:** +353 (0) 1 814 7400  
**Fax:** +353 (0) 1 814 7699