

**Private & Confidential**

[REDACTED]

11 October 2022

**Our Ref.** FOIR 091 022

**Re: FOI decision (refuse)**

Dear [REDACTED],

I refer to the following request, which you made under the Freedom of Information (FOI) Act 2014, for records held by the Health Information and Quality Authority (HIQA). Your request was received on 21 September 2022 seeking access to following records:

Accordingly, in line with the Procedures, our Company formally asks for copies of all email and written correspondence within HIQA and between the Inspectors and their managers and colleagues relating to the Inspection [of Lucan Lodge Nursing Home] between the date of the Inspection and the date of issuance of the Draft Report.

In addition, we raise this query as an information request made pursuant to the Freedom of Information Act 2014.

I have now made a final decision to refuse your requests.

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 requests;
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 I considered to come within the scope of your request. It describes each document and refers to the sections of

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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 documents 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

Two different exemptions have been applied in relating to these records. The specific records to which these exemptions were applied are identified in the schedule.

### Section 29 (1) – Deliberations of FOI bodies

Section 29 of the FOI Act 2014 states:

*“(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)’*

The records indicated in the schedule contain information relating to an ongoing inspection process. The inspection process adheres to due process and includes the right of reply and the right to appeal, which in this case has not yet been exhausted. Therefore, the information withheld under this exemption relates to matters currently under deliberations by HIQA. I am satisfied that the release of information while the deliberative process is ongoing would prejudice the report and it is, therefore, my view that this information should not be released.

### Public Interest Test

I have considered the public interest issues that arise in this case and have taken account of the following factors in favour of release:

- The right of the public to have access to information.
- The accountability of administrators and scrutiny of decision-making processes.
- The information will make a valuable contribution to the public debate on an issue.

In considering the public interest factors which favour withholding the records I have taken account of the following:

- The release of records would impair future decisions.
- Premature release could contaminate the decision making process.
- Premature release of records would impair the integrity and viability of the decision making process to a significant or substantial degree without countervailing benefit to the public.

Having considered the above factors, I consider that it is contrary to the public interest to release the records.

## Section 30 (1) Functions and negotiations of FOI bodies

Section 30(1) of the FOI Act states:

*'(1) A head may refuse to grant an FOI request if access to the record concerned could, in the opinion of the head, reasonably be expected to*  
*(a) prejudice the effectiveness of tests, examinations, investigations, inquiries or*  
*activities conducted by or on behalf of an FOI body or the procedures or methods*  
*employed by or on behalf of,*  
*(b) have a significant, adverse effect on the performance by an FOI body of any of*  
*its functions relating to management (including industrial relations and management*  
*of its staff), or*  
*(c) disclose positions taken, or to be taken, or plans, procedures, criteria or*  
*instructions used or followed, or to be used or followed, for the purpose of any*  
*negotiations carried on or being, or to be, carried on by or on behalf of the*  
*Government or an FOI body.*

### Reasons for Decision

I am of the view that the above exemption applies to the records identified on the schedule. The records relate to the inspection process within HIQA. The release of the information contained in the records would prejudice the effectiveness of regulatory activity by HIQA.

### Public Interest Consideration

I am aware that the above exemption is subject to a "public interest test" under Section 30(2). This provision provides for the release of information covered by the exemption if the public interest in the releasing the information outweighs the public interest in refusing access to it.

I have considered the public interest issues which arise in this case and have taken account of the following factors.

In favour of release:

- The public interest in openness and transparency.

In favour of refusing access to the records:

- The public interest in public bodies being able to carry out their functions in efficient and effective manner

In this instance, I am of the view that the public interest is best served by refusing to release this information.

### **3. Rights of appeal**

If you are unhappy with this decision you may seek an internal review. In the event that you wish to do so, please e-mail [foi@hiqa.ie](mailto:foi@hiqa.ie). The appeal will involve a complete reconsideration of the matter by a more senior member of the staff of HIQA. Please note that a fee of €30 (€10 for medical card holders) applies in the case of an internal review.

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.

#### **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 [REDACTED] moved 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.

If you have any queries in relation to this decision, please feel free to contact Sean Lynch at [foi@hiqa.ie](mailto:foi@hiqa.ie) or 0858050586.

Yours sincerely

[REDACTED]  
Manuela Cristea  
Regional Manager