

**Private & Confidential**

[REDACTED]

14 December 2022

**Our Ref.** FOIR 108 022

**Re: Decision on FOI request (part grant)**

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):

“Pursuant to the Freedom of Information Act 2014, our Company requests HIQA to provide our Company with all necessary information establishing the identity of all such persons, so appointed and/or employed within HIQA since 27 February 2017 to present who have been simultaneously engaged/paid to provide advices and/or assistance to our competitors.”

**1. Decision on FOI request**

I, Kathleen Lombard, am the decision maker in respect of your FOI request and I have decided to part grant your request. This decision was made today, 14 December 2022.

Your request sought records “establishing the identity of all such persons, so appointed and/or employed within HIQA since 27 February 2017 to present who have been simultaneously engaged/paid to provide advices and/or assistance to our competitors”. The reference in your request to “our competitors” was interpreted as meaning a nursing home provider.

Searches conducted in relation to this request did not yield record(s) matching the exact specifics of the request.

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However, two potentially relevant records were identified. In the interests of transparency, these records are being released to you. You have been granted access in full to these records.

In the course of conducting searches for records potentially relevant to this request it was considered whether the statements filed by members of the Board and HIQA employees under the Ethics Act 1995 may be in scope. However, these records are exempt from FOI under Section 35 of the Ethics Act 1995 and accordingly out of scope of the request.

The purpose of this letter is to explain my decision in respect of your request. This explanation has the following parts:

- a schedule of the records covered by your request;
- a statement of how you can appeal this decision should you wish to do so; and,
- a statement on the publication of FOIs.

This letter addresses each of these parts in turn.

## **2. Schedule of records**

Two records were identified as potentially coming within the scope of your request.

These records are:

- extract from the HIQA Board Conflict of Interests Log maintained by the HIQA Board Secretary.
- board Minutes from Meeting 26<sup>th</sup> October 2017. A copy of these minutes is attached and the record is also available online here: <https://www.hiqa.ie/search?keywords=board+minutes+2017>

You have been granted access in full to these records.

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

Two exemptions within the FOI Act have been applied in respect of your request.

- a) Section 15(1)(a) –records do not exist or cannot be found

Section 15 of the FOI Act states:

“(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”

As noted above, searches conducted in relation to this request did not yield record(s) matching the exact specifics of the request. The searches conducted included an email search, file search, and discussions were also had with representatives from relevant business areas within HIQA.

Two potentially relevant records were identified. In the interests of transparency, these records are being released to you.

a) Section 41(1)(a) –Disclosure of records prohibited by an enactment

Section 41 of the FOI Act states:

“(1) A head shall refuse to grant an FOI request if—

(a) the disclosure of the record concerned is prohibited by law of the European Union or any enactment (other than a provision specified in column (3) of Part 1 or 2 of [Schedule 3](#) of an enactment specified in that Schedule), or

(b) the non-disclosure of the record is authorised by any such enactment in certain circumstances and the case is one in which the head would, pursuant to the enactment, refuse to disclose the record.”

Section 35 of the Ethics Acts states:

“(1) A person shall not disclose information obtained by him or her under this Act or by being present at a sitting of a Committee or Commission held in private.”

In the course of conducting searches for records potentially relevant to this request it was considered whether the statements filed by members of the Board and HIQA employees under the Ethics Act 1995 may be in scope. However, these records are prohibited from release under FOI by Section 35 of the Ethics Act 1995 and accordingly cannot be considered for release.

#### **4. Rights of appeal**

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

A request for an internal review should be made within 20 working days of the date of this decision. However, in appropriate circumstances, a late application for an internal review may be considered.

## 5. Publication

It is the policy of HIQA to make decisions on non-personal FOI requests, including the decision letter and a copy of any records released, available to the public on our website <https://www.hiqa.ie/about-us/freedom-of-information>. This is to assist others who may be seeking the same information, in line with the objectives of openness and transparency. Any personal information relating to you, such as your name and address etc., will be removed from the decision letter before this happens.

A summary of your request and the outcome of the decision made in respect of it will also be recorded in HIQA's FOI Disclosure Log, available on HIQA's website.

If you have any queries in relation to your FOI request please feel free to contact the following representative of the FOI Office: Lydia Buckley at [foi@hiqa.ie](mailto:foi@hiqa.ie).

Yours sincerely,

Kathleen Lombard  
Board Secretary