



**An Roinn Gnóthaí
Eachtracha agus Trádála
Department of
Foreign Affairs and Trade**

Our Ref: FoI/Req/2019/248

9 September 2019

Dear Mr. Whyte,

I refer to the request which you have made under the Freedom of Information Act 2014 for access to records held by this Department, as follows:

All correspondence between Mr Kevin Hyland and the Department of Foreign Affairs (including Irish Aid) relating to his resignation from ChildFund Ireland.

I refer also to the acknowledgement of your request which was sent to you on 19 August 2019.

I have identified six records that fall within the scope of your request. The records are listed in the schedule attached. I have decided to refuse access to all of the records. I consider that the records are exempt from release under Section 29 (1)(a)(b) Deliberations of FOI Bodies; Section 30 (1)(a) Functions and Negotiations of FOI Bodies, Section 36 (1)(b) Commercially Sensitive Information and Section 37(1) Personal Information.

Section 29 (1) Deliberations of FOI Bodies

Section 29 (1)(a) and (b) of the 2014 Act has informed my decision to refuse access to Records One, Three, Four, Five and Six. As you are aware, the Department and ChildFund Ireland have agreed that there will be no further use of the October 2018 grant until there is more certainty regarding the future of the organisation and its governance. Also, according to ChildFund Ireland's 2018 accounts, the organisation is currently engaging with the Charities Regulatory Authority. As such, I consider that the release of the exempted information at this time could prejudice decision making processes and as such, release could be contrary to the public interest.

In arriving at this decision, I have considered whether the public interest would be better served by releasing the record in question in terms of the right of the public to have access to information, the need for transparency in decision-making processes and the need for accountability for use of public funds and I am satisfied that the balance favours refusal rather than release.

Section 30 (1) Functions and Negotiations of FOI Bodies

I am of the view that Section 30(1)(a) applies to Records One, Three, Four and Six. I considered the following public interest factors in favour of release of these records: the need for effective mechanisms to maintain public confidence in Government bodies through access to information on their performance; the right of the public to have access to information/obtain reasons for decisions; the accountability of administrators and scrutiny of decision making processes and the use of public funds. I also considered the principles of openness, transparency and accountability in decision-making and the need for the public to be better informed.

However, the Department carries out important functions in the public interest in terms of providing assurance that risk management, governance, and internal control processes are operating effectively. As such, it is my view that the release of the records would be contrary to the public interest. Should they be released, it is reasonable to assume that ChildFund Ireland, and other organisations in receipt of funding from the Department, would decline to provide similar records to the Department when requested to do so in the future. It is in the public's interest that the organisations in receipt of funding continue to freely supply it with evidence which is complete and of a high quality so that the Department can make decisions in the public's best interest.

Section 36 (1) Commercially Sensitive Information

I consider that Section 36 (1)(b) applies to Record One as it contains commercially sensitive information where disclosure could reasonably be expected to result in financial consequences for ChildFund Ireland. Also, the release of the record could reasonably be expected to discourage the sharing of robust and frank information with the Department in future.

I took the following factors into consideration in favour of disclosure of the record: the accountability of administrators and scrutiny of decision making processes and the use of public funds; the need for the public to be better informed and more competent to comment on and assess public affairs and policies and practices; the need for effective mechanisms to maintain public confidence in Government bodies by access to information on their performance of functions and the right of the public to have access to information/obtain reasons for decisions.

I have carefully considered the right of the public to have access to this record and the need for an open and accountable Civil Service. However, given the nature of the record and the information contained within, I am satisfied that the balance favours refusal rather than release.

Section 37(1): Personal Information

Records One and Two contain personal information about an identified individual relating to the employment of that individual. As such, I consider that Section 37(1) of the Act applies to these records. In arriving at this decision, I have considered that the information contained

in the record may be known to the requester but this does not alter the fact that it is personal information. While Section 37(1), Personal Information is a mandatory exemption, I am still obliged to consider whether the public interest would be best served by releasing these records in full. I have taken into account the benefit to the public to be given access to correspondence in a manner which demonstrates transparency and accountability of the Department. I have particularly considered whether releasing the personal information would provide any additional benefit in this regard. I have weighed this against the right of the individual to have their personal information remain private. I am satisfied that on balance the decision to refuse release of these records is correct.

Right of Appeal

Should you wish to appeal this decision, you may do so in writing to the Freedom of Information Unit, Department of Foreign Affairs and Trade, 76-78 Harcourt Street, Dublin 2 or by email to foi@dfa.ie. A fee applies for an appeal for access to non-personal information; the level of this fee has been set at €30. For methods of payment, please contact FOI Unit at foi@dfa.ie, or 01-4082857.

You should make your appeal within four weeks (20 working days) from the date of this notification. 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 Department.

Yours sincerely,



Niamh Howard