



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

Our Ref: FOI/Req/2018/038

1 May 2018

Dear Requester,

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:

- 1. All correspondence (sent and received) between Irish Aid and Mísean Cara from 1st January 2014 to 26th February 2018 relating to the evaluation of protection policy and code of conduct frameworks at the organisation, or for St John of Gods.**
- 2. All correspondence (sent and received) between Irish Aid and GOAL from 1st January 2014 to 26th February 2018 relating to the evaluation of protection policy and code of conduct frameworks at the organisation.**
- 3. All correspondence (sent and received) between Irish Aid and Concern from 1st January 2014 to 26th February 2018 relating to the evaluation of protection policy and code of conduct frameworks at the organisation.**
- 4. All correspondence (sent and received) between Irish Aid and Trócaire from 1st January 2014 to 26th February 2018 relating to the evaluation of protection policy and code of conduct frameworks at the organisation.**
- 5. All correspondence (sent and received) between Irish Aid and Christian Aid from 1st January 2014 to 26th February 2018 in relating to the evaluation of protection policy and code of conduct frameworks at the organisation.**
- 6. All correspondence (sent and received) between Irish Aid and Gorta - Self Help Africa from 1st January 2014 to 26th February 2018 relating to the evaluation of protection policy and code of conduct frameworks at the organisation.**
- 7. All correspondence (sent and received) between Irish Aid and Oxfam Ireland from 1st January 2014 to 26th February 2018 relating to the evaluation of protection policy and code of conduct frameworks at the organisation.**

I refer also to the acknowledgement of your request which was sent to you on 22 March 2018 and the subsequent request for an extension.

The evaluation of protection policies and code of conduct frameworks in the context of international development and humanitarian operations covers a range of areas from human resource systems, accountability mechanisms within programme design and implementation, monitoring systems as well as whistleblowing, audit and governance functions.

In processing this request I have focused on records which have a specific reference to codes of conduct and mechanisms to support accountability to communities, rather than wider processes of risk analysis and mitigation across agencies. In addition, the search and retrieve exercise focused on aspects of organisational systems linked specifically to these issues, rather than records related to programmatic approaches or strategies. The reference in many cases was not a substantial component of the overall content of the document.

Policy frameworks for Irish Aid funded programmes are evaluated through appraisal of applications, annual reports, monitoring trips, formal bilateral meetings and ad hoc meetings or requests for clarification as issues arise.

The agencies mentioned in your request are funded through different funding streams over different time frames. Of the seven organisations you have requested information on, five are part of the multi-annual Programme Grant II (2017-2021) and Humanitarian Partnership Programme (2017-2018) funding stream.

In the 2016 application process for this funding stream, nineteen organisations applied. Thirteen were approved to receive long term development funding and of this number, six also receive humanitarian funding. This stream is referred to in record descriptions as PGII and HPP.

I have identified **170 records** that fall within the scope of your request. The records are listed in the schedule attached. I have made a decision to grant **37**, and refuse **133** of the records.

In reviewing the release of the records I considered 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.

Overall, the records released relate to the policy documents shared by the organisations requested and template documents for funding applications and guidelines.

Where access has been refused the information is exempt from release under Deliberations of FOI Bodies – *Section 29(1)(a)*; Functions and Negotiations of FOI bodies - *Section 30(1)(a) and (c)*; Life and Safety of Individuals - *Section 32 (1)(a)*; Information provided in confidence - *Section 35(1)(a)*; Commercially Sensitive Information *Section 36(1)(b)* and Personal Information *Section 37(1)* as set out in the attached schedule.

Section 29(1) (a) Deliberative process

In relation to Section 29 of the Act, Deliberations of FOI Bodies, I have considered whether the public interest would be better served by releasing the records in question in terms of the right of the public to have access to information and the need for transparency in the decision making process. However, given the sources and nature of the records I am satisfied that on balance the public interest would not be best served by releasing the information.

30(1) (a) and (c) Functions and Negotiations of the Department

I have also considered Section 30(1) (a) and (c) of the 2014 Act in making my decision not to release application forms, annual reports and appraisal information.

These records outline, in significant detail the programme design, planning and strategies to be used, alongside organisational systems and cost models which have been used as a basis for funding allocations. The release of these records at this time could prejudice the fairness of competitive funding processes.

There are also records which have not been released under Section 30(1) (a) as they relate to the oversight of matters of investigation and disclosure could prejudice the effectiveness of the investigative process.

Section 32 (1) (a) Life & Safety of Individuals

In considering non-disclosure I took into account the fact that release could have a prejudicial impact on an on legal proceedings. I am satisfied that the greater good favours refusal rather than release on this occasion and in that light I have refused access to records under Section 32 (1)(a)(iv).

Section 35(1) (a) Information Provided in Confidence

With regard to information refused under Section 35 of the Act, Information received in confidence, this relates to information given in confidence on the understanding that it would be treated as confidential. This is also a mandatory exemption.

This exemption has been applied largely to communication documents linked to code of conduct and protection issues. The information on numbers of cases of allegations of misconduct generally stems from confidential investigation processes. Organisations providing this information have a reasonable expectation that it will be handled confidentially. It is important for the Department that such information continues to be shared on an open basis as systems of awareness raising and reporting become more robust.

Section 36(1) (b) Commercially Sensitive Information

I have considered Section 36 of the Act in making my decision not to release certain information. Access to certain confidential information is essential in order to allow the Department of Foreign Affairs & Trade to execute its functions. In certain instances, such information may also be of a commercially sensitive nature.

Many of the records are linked to the evaluation or organisational systems as part of the funding allocation and grant monitoring process which contain technical and financial information describing specific elements of the programme approach used by organisations. Since these organisations access funds from a variety of sources, largely through a competitive process, I have considered whether the release of these records would have the potential to prejudice their competitive position and ability to generate funds.

In this case, I am satisfied that these documents contain commercially sensitive information, the release of which could reasonably be expected to have adverse business consequences for the organisations.

In weighing these adverse consequences against the public interest, I have again considered the right of the public to have access to information; the need for an open, transparent and accountable civil service and the need for decision-making processes to be adequately scrutinised. I am satisfied that the balance favours refusal rather than release on this occasion.

Section 37(1) Personal Information

I have considered the public interest in the context of the public's right to access personal information. However, I am satisfied that on balance the broader public interest is best served by protecting the personal information that would otherwise not be available and have refused access to the relevant records. These records include reference to personal information that could be indirectly attributed to individuals.

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 02 DX45 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 4 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,

Joanne Smyth