

01 December 2023

Re: Freedom of Information Request 202339 - Request Part-Granted.

Dear,

I refer to your request dated 26/10/2023 and the amended scope accepted on 03/11/2023, which you have made under the Freedom of Information Act 2014 (FOI Act) for records held by the Land Development Agency (LDA).

I wish to apply for access to all records held by the Land Development Agency, including opinions, advice and recommendations considered members of the Agency and separately members of the senior Executive team of the Agency, consisting of or relating to communications between the Agency and the Department of Housing, Local Government and Heritage relating to any any proposed increase in Government funding to the Agency beyond the current statutory limit. The request should be considered to relate to the time period from the 1st January, 2023 to the date on which the initial request was made by me under the terms of the Freedom of Information Act, 2014.

I wish to inform you that I have decided to part-grant your request on the 1st of December 2023.

The purpose of this letter is to explain that decision.

1. Findings, particulars and reasons for decisions.

Details of your request were provided to all staff and senior management within the LDA to identify records which were within the scope of your request.

The FOI Act 2014 provides that in certain circumstances, a public body may refuse the release of certain records or part thereof.

As such a number of redactions have been applied to the attached records. These redactions are detailed in the Schedule of Records in **Appendix 1**. These records have been redacted in accordance with Sections 36(1)(b) and 37 of the FOI Act.

Commercially Sensitive Information

36. (1) Subject to subsection (2), a head shall refuse to grant an FOI request if the record concerned contains

(b) financial, commercial, scientific or technical or other information whose disclosure could reasonably be expected to result in a material financial loss or gain to the person to whom the information relates, or could prejudice the competitive position of that person in the conduct of his or her profession or business or otherwise in his or her occupation



I am satisfied that the release of this commercial information contained within this record would prejudice the competitive position of the LDA.

Public Interest Test

There is a Public Interest Test associated with section 36 of the FOI Act whereby my decision must be made having fully considered the harm and public interest relevant to this request.

I have considered the public interest issues which arise in your request, and have taken account of the following factors in favour of release:

- Ensuring openness and transparency of organisational functions to the greatest possible extent.
- The public interest in members of the public exercising their rights under the FOI Act.
- That there is more than just a transitory interest by the public in this information being released.
- The right to commercial confidentiality is outweighed by the needs of the public.

In considering the public interest factors which favour withholding the records as detailed in part one of your request, I have taken account of the following:

- Allowing a public body to hold commercial information without undue access by members of the public.
- The public interest is not best served by releasing these records.
- That the LDA can conduct its commercial activities with external stakeholders in a confidential manner.
- That there is no overriding public interest that outweighs the individual's right to privacy in this case commercial activities.

Having balanced the public interest factors both for and against the release, I decided that the public interest in preserving the information and the reasonable expectation that information can be maintained in confidential manner by the LDA outweighs the public interest which would be served were the detail released to you.

Section 37-Personal Information

Under the FOI Act, records are released without any restriction as to how they may be used and thus, release under the FOI Act, is in effect, and regarded as being released to the world at large. As a result, I am conscious of my obligations to retain personal information in a confidential and secure manner and prevent personal information from being released into the public domain unnecessarily. Additionally, the LDA as a matter of course redacts the mobile phone numbers and email addresses of employees as these are part of the Agency's IT Security Management. This is extended to employees of other public bodies to avoid compromising their IT Security.

Section 2 of the FOI Act defines personal information as follows:

2. (1) In this Act

"personal information" means information about an identifiable individual that, either

(a) would, in the ordinary course of events, be known only to the individual or members of the family, or friends, of the individual, or

(b) is held by an FOI body on the understanding that it would be treated by the body

as confidential, and, without prejudice to the generality of the foregoing, includes (iii) information relating to the employment or employment history of the individual,

Section 37(1) provides that a public body shall refuse to grant a request if access to the records concerned would involve the disclosure of personal information. I am satisfied that parts of certain records consist of personal information. Accordingly, I find that section 37(1) of the Act applies to the records at issue.

Section 37(1) of the FOI Act states as follows:

37. (1) Subject to this section, a head shall refuse to grant an FOI request if, in the opinion of the head, access to the record concerned would involve the disclosure of personal information (including personal information relating to a deceased individual).

As section 37 requires a public interest test be carried out, I have considered the public interest issues which arise in this case and have taken account of the following factors in favour of release:

- Ensuring openness and transparency of organisational functions to the greatest possible extent.
- The public interest in members of the public exercising their rights under the FOI Act.
- That there is more than just a transitory interest by the public in this information being released.
- The right to privacy is outweighed by the needs of the public.

In considering the public interest factors which favour withholding the records as detailed in part one of your request, I have taken account of the following:

- The public interest is not best served by releasing these records.
- That the Organisation can conduct its business in a confidential manner.
- That there is a reasonable and implied expectation that sensitive personal information will remain confidential.
- That there is no overriding public interest that outweighs the individual's right to privacy.

Having balanced the public interest factors both for and against the release, I decided that the public interest in preserving the information and the reasonable expectation that information can be maintained in a confidential manner by the LDA outweighs the public interest which would be served were the detail released to you.

2. Right of Appeal

In the event that you are unhappy with this decision you may appeal against it. If you need to make such an appeal, you can do so by writing to the Freedom of Information Unit, Land Development Agency, 2nd Floor, Ashford House, Tara Street, Dublin 2 or by e-mail to foi@lda.ie.

Please note that a fee applies. This fee has been set at €30 (€10 for a Medical Card holder). Payment should be made by way of bank draft, money order, postal order or personal cheque, and made payable to Head of Finance, Land Development Agency, 2nd Floor, Ashford House, Tara Street, Dublin 2.



Payment can be made by electronic means, using the following details:

The Land Development Agency DAC

IE61AIBK93101264101092

BIC: AIBKIE2D

You must ensure that your FOI reference number (**FOI 202339**) is included in the payment 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 this body.

Please be advised that the Land Development Agency replies under Freedom of Information may be released into the public domain via our website at lda.ie.

Personal details in respect of your request have, where applicable, been removed to protect confidentiality.

Should you have any questions or concerns regarding the above, please contact me by telephone on (01) 9103400.

Yours sincerely,



Monika Szyszko,
Senior Compliance Manager

Appendix 1: Schedule of Records

Requester name:		Request Re:202339			
Page number	Description of document	Deletions	Relevant section of FOI Act	Reasons for deletion	Decision Maker's decision
1-5 (5 pages)	Email subject: LDA Business Plan	Public employees email addresses and phone numbers 5 Paragraphs of commercially sensitive information	Section 37 Section 36	Personal Information Commercially Sensitive	Part Grant
6 (1 page)	Extract from Agenda Item 4 Cabinet Committee on Housing 26 June	4 lines in paragraph 15 and 4 lines in paragraph 16	Section 36	Commercially Sensitive	Part-grant
		Total number of pages			6
		Total number of pages for full release			1
		Total number of pages for partial release			5
		Total number of pages being withheld			0

