



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

Our Ref: FOI/Req/20/170

25 September 2020

Dear Mr

I refer to the request which you made by email on 1 September 2020 under the Freedom of Information Act 2014 (the FOI Act), as follows:

I wish to make a request under the Freedom of Information provision. The request is for records relating to training sessions for new election roster members held in 2019 to include details of observers in attendance, details of trainers and fees paid to them, copy of training materials and photographs taken.

I also refer to the acknowledgement of this request sent on 9 September, and my emails to you on 1, 2, 3 and 11 September as well as your 25 September email (enclosed).

In making my determination on this request I have looked to the purpose of the Act which is articulated in the Long Title as being to enable members of the public to obtain access to information consistent with the public interest and the right to privacy.

Determination

It is my opinion that this request is made by you acting in concert with another person in the furtherance of a well established pattern of manifestly unreasonable requests and that it therefore should be refused under section 15(1)(g) FOI Act. I believe that this may not be the first time that a certain person has asked another to submit information requests, including FOI requests, to the Department on his behalf as a means of abusing the right of access.

My opinion is based on the considerations I set out in my letter of 11 September and the response received to that letter on 25 September. That you have chosen not to engage with me as the decision-maker on your FOI request suggests to me that you do not have a genuine interest in this FOI process and that you are submitting it on behalf of another.

Ordinarily, the motive of a requester is not relevant when making a decision on an FOI request. However, only when a decision-maker may consider refusing a request under

s15(1)(g) FOI Act can such an issue be taken into account. As detailed in my letter of 11 September, some of the concerns I have in relation to this request include:

1. That your request relates to the election roster

The Department regularly grants FOI requests relating to the election roster. However, in recent months the Department has refused a number of FOI requests from two individuals. It is my opinion that one or both of these individuals are seeking to abuse the right of access by continuing a pattern of requests by acting in concert with others.

As you are not nor have ever been a member of the election roster (to my knowledge); as this is your first request; as you have not provided any context as to why you would like this information (which you are of course not required to do under the law – this alone is not a problem, only in the specific context); and that your request mirrors those made by the individuals concerned, has raised my suspicion that you may have submitted this request at the instigation of one of the individuals concerned.

2. The circumstances of your request

While there are no set formalities as to the information a requester is obliged to provide in an FOI request, there are characteristics typically common to many. These include a willingness to engage with the Department on issues requiring clarification or expansion in order to effectively answer the request. In your case, given the large amount of personal data you were seeking (see below) I contacted you the day you made your request by email seeking a phone call to clarify the information you were seeking. I followed this up with a second email the next day. You responded and said you were “rather busy” and that you did not see any need for clarification. My proposals of other times for a call and my 11 September letter requesting further information went unanswered until 25 September when you repeated that you are “quite busy” and that “dealing with [my] office has added unexpectedly to [your] work”.

As you are not a current or former member of the roster, and nor have we had any dealings with you before, your very specific request raised a flag with me, given my personal experience on this desk - this desk has experienced a significant burden of election roster-related requests, as noted by the Information Commissioner in his 2019 Annual Report. My requests for a phone call were to clarify what exactly you were seeking when you asked for “details” of observers attending training sessions. Your reluctance to respond and engage with me in good faith in order to process this request efficiently has raised my suspicions.

3. The large amount of personal data you are seeking

You have asked for “details of observers in attendance” at training sessions in 2019, “details” of trainers including fees paid, and any “photographs taken” at such training sessions. As is public knowledge, the roster is made up of approximately 200 individuals. Accordingly, unless or until I can clarify with you otherwise, it appears that you want the Department to provide you with names of hundreds of observers and trainers, dates they attended a training session

and photos of these hundreds of observers. All of this information constitutes personal data and under section 37 FOI Act, I would be obliged to seek all their consent before releasing this data to you. Given the resources this would entail on behalf of the Department, as well as the rights of the 200+ individuals concerned, I find it is not in the public interest to undertake this exercise.

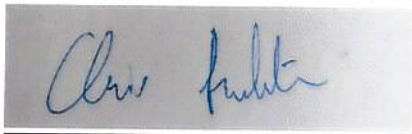
Accordingly, I refuse to release this information when it is my opinion that you are acting in concert with other individual(s) as part of a well-documented, long-running pattern of manifestly unreasonable requests.

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 (€10 for medical card holders and their dependants). 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,

A rectangular box containing a handwritten signature in blue ink. The signature appears to read 'Claire Kerschensteiner'.

Claire Kerschensteiner

Claire.kerschensteiner@dfa.ie | 01 408 2099