

Mr X

25 February 2016

Our Reference: 150169

Dear Mr. X

I refer to your application for a review of the decision of the General Council of the Bar of Ireland (the Bar Council) to refuse your request for information under the Freedom of Information Act 2014 (the FOI Act) on the ground that it is not a public body for the purposes of the Act. I apologise for the delay in responding, which was due largely to the fact that this Office was awaiting the publication of a Dispute Resolution Policy by the Department of Public Expenditure and Reform (the Department). That Policy sets out the procedures to be followed where issues arise as to whether a body is a public body for the purposes of the Act and is available on the website of the Department's Central Policy Unit (CPU) at www.foi.gov.ie.

Section 6(1) of the FOI Act contains details of the bodies that are considered to be public bodies for the purposes of the Act. It provides as follows:

- 6(1) Subject to this section, each of the following shall be a public body for the purposes of this Act:
- (a) a Department of State;
 - (b) an entity established by or under any enactment (other than the Companies Acts);
 - (c) any other entity established (other than under the Companies Acts) or appointed by the Government or a Minister of the Government, including an entity established (other than under the Companies Acts) by a Minister of the Government under any scheme;
 - (d) a company (within the meaning of the Companies Acts) a majority of the shares in which are held by or on behalf of a Minister of the Government;
 - (e) a subsidiary (within the meaning of the Companies Acts) of a company to which paragraph (d) relates;
 - (f) an entity (other than a subsidiary to which paragraph (e) relates) that is directly or indirectly controlled by an entity to which paragraph (b), (c) (d) or (e) relates;
 - (g) a higher education institution in receipt of public funding;
 - (h) notwithstanding the repeal of the Act of 1997 by section 5, and subject to this Act, any entity that was a public body (including bodies or elements of bodies prescribed as such) within the meaning of the Act of 1997 on the enactment of this Act.

For the purposes of the FOI Act, the term "enactment" is defined as a statute or an instrument made under a power conferred by a statute. The Bar Council was created by the Consitution

of the Bar Council in 1914. In such circumstances, it seems to me that it does not come within any of the categories (a) to (h) as outlined above.

Accordingly, I find that the Bar Council of Ireland is not a public body for the purposes of the FOI Act and that it was justified in refusing to process your FOI request.

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Yours sincerely,

Stephen Rafferty
Senior Investigator