

Our Reference: 180062
2 October 2018

Dear Ms X

I refer to your application for a review of the decision of the Institute of Public Health (the IPH) to refuse your request for certain financial 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.

For the reasons I have set out below, I am satisfied that the IPH is not a public body for the purposes of the Act and that it was justified in refusing to process your FOI request.

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 IPH to be a public body for the purposes of the Act, it must come within one or more of the categories (a) to (h) as described above. I am satisfied that only categories (c) and (f) are of potential relevance in this case and that none of the other categories apply. However, I will also address your argument that category (g) applies.

On the matter of whether section 6(1)(c) applies, I note from a press release on the website of the Department of Health that the IPH was co-launched in 1999 by the Minister for Health and the Minister for Health and Social Services in Northern Ireland. However, this does not mean that the IPH was established by the Minister. In its submission to this Office, the IPH stated that the Department of Health (DOH) and the Department of Health and Social Services for Northern Ireland (DHSS) agreed to establish the Institute based on the recommendations of a working group which was chaired jointly by the chief medical officers of the two Departments of the time. It stated that the IPH was initially set up and housed within the Royal College of Physicians of Ireland (the RCPI) and that a Memorandum of Agreement was made on 27 March 1997 between the RCPI, DOH and DHSS. It further stated that in 2002, the Institute's status changed to become a company limited by guarantee and not having a share capital, and that a Memorandum of Association sets out the membership of the Board and the trustees which is equally nominated by the two Departments.

Having regard to the IPH's explanation of its establishment, I am satisfied that section 6(1)(c) does not apply

For section 6(1)(f) to apply, the IPH must be directly or indirectly controlled by an entity to which paragraph (b), (c), (d) or (e) relates. It is worth noting that the Department of Health is a public body by virtue of paragraph (a). Therefore, even if it could be shown that the IPH is directly or indirectly controlled by the Department, this would not bring the IPH within the scope of paragraph (f). I am satisfied that section 6(1)(f) does not apply.

You also argued in your submission that the IPH satisfies paragraph (g) as it has offered year-long higher education training courses in "public health leadership" in the past. This does not make the IPH a higher education institute. I am satisfied that paragraph (g) does not apply.

In conclusion, therefore, I find that the IPH is not captured by any of the paragraphs set out in Section 6(1) and that it is not, therefore, a public body for the purposes of the FOI Act.

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Yours sincerely,

Stephen Rafferty,
Senior Investigator