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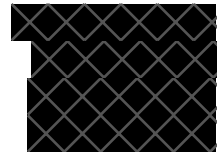
Promoting atheism, reason and ethical secularism

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c/o John Hamill



7th February 2019

Attn: Mr Pearse O'Connor
Senior Investigating Officer
Office of the Information Commissioner
18 Lower Lesson Street,
Dublin 2,
D02 HE97.

Re: Submission with respect to OIC Review 190055

Dear Mr O'Connor,

Thank you for agreeing to review my FoI request to the Department of Education and Skills. The Department of Education and Skills reference for the request in question is FOI/2018/0012. Your reference for the review is 190055 and I would be grateful if you could accept the present correspondence as a formal submission from me to be considered by your review. In order to assist with your review, I can briefly summarise the broad context and then provide further details on the pertinent documents and communications.

- i. On 1st January 2018, I submitted a FoI request to the Professional Development Service for Teachers (PDST), which related to their cooperation and communication with the Catholic Church. I was aware of some such cooperation and communication from public information and other FoI requests, and I sought further details of same.
- ii. On 30th January 2018, the PDST provided a detailed response to each item of my FoI request. This response denied that any cooperation at all with the Catholic Church took place, and included demonstrably false statements.



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- iii. I highlighted these false statements to the PDST and sought clarification. On 5th February 2018, the National Director of the PDST provided some clarification to me by email. This clarification confirmed that the original FoI response was inaccurate and incomplete, and so I sought a review of my FoI request by a senior manager within the PDST.
- iv. Only after I had sought this review, the PDST reported to me that they are not a public body for the purpose of the Act. I sought a review of this position by the OIC. This OIC review agreed with the PDST position, on the basis that the PDST is not an independent legal entity but rather is a function of the Teacher Education Section within Department of Education and Skills.
- v. Following this decision by the OIC, I then submitted exactly the same FoI request to the Department of Education and Skills as I had originally submitted to the PDST. That is, this is a request against which the PDST has already told me that documents and communications exist, but that the PDST will not provide. Unfortunately, the Department of Education and Skills is now also refusing to provide any of the documents, and it is this refusal by the Department of Education and Skills that the present review relates to.

I have provided in the attached Appendices all of the documents that relate to the timeline outlined above, including the statement from the National Director of the PDST that documents and communications matching my FoI request do exist. In the sections below, I can outline some further detail relating to these Appendices.

1. Relationship to Previous Review

As summarised above, the present review is closely related to a previous review that your office undertook at my request, which was published to me on 21st August 2018. Your reference for that previous closely related review, was 180072. I had asked you to undertake that review with respect to the PDST, which had refused to answer a FoI request as it claimed not to be a public body for the purposes of the Act. You initially concluded that you did not have evidence indicating that the PDST was established by a Government Minister, as described by Section 6.1(c) of the Act. Subsequent to that initial conclusion, I provided some additional evidence that wasn't available at the time that your initial decision was made. I can summarise that evidence again below, which demonstrates that the PDST was in fact established according to the instructions of the then Minister for Education.

Before the PDST was established by then Minister Batt O'Keeffe, continuous professional development was carried out by a number of functions within the Teacher Education Section of the Department of Education. Among others, the main functions performing this work within the Department were the Second Level Support Service (SLSS), the Primary Professional Development Service (PPDS) and the function for Leadership Development in Schools (LDS). During 2009, Minister O'Keeffe developed plans to instead create a new amalgamated service. As a cost-saving measure, the other functions would be merged into the SLSS, to create a new entity that would provide for a reduced overall headcount for the Department. The Minister made public statements with respect to these plans. For example, On 25th February 2009, Minister O'Keeffe informed the Dáil of these plans¹ as follows:

¹ <https://www.oireachtas.ie/en/debates/question/2009-02-25/194/>



“My Department is currently reviewing the various supports offered to teachers in the context of the resources that are available to me. As part of this exercise, the SLSS is being restructured and other services are folding into its remit.”

By September 2009, much of the Minister’s planning had been finalised in terms of the number of positions that would be retained from across these functions. The attached spreadsheet indicates by how much the SLSS headcount would be reduced, as other functions were amalgamated into it. I obtained this spreadsheet through a FoI request to the Department, which asked for:

“All documents and communications from the period 19th February 2009 to 19th February 2010 within the Department of Education and Skills, which refer to both the Minister for Education and the Professional Development Service for Teachers (PDST).”

This spreadsheet is attached as Appendix 1. By February 2010, the Department was in a position to inform the SLSS, the PPSD and the LDS of the Minister’s decision. I have also attached as Appendix 2 a document from the same Freedom of Information request, which is a notice that was sent by the Teacher Education Section within the Department, to all personnel at the PPDS, the SLSS and the LDS functions. This notification describes how “consolidation and re-structuring” would see their roles amalgamated in order to establish:

“... a new generic and integrated cross-sectoral support service from September 2010 in the context of current restraints.”

Most of these roles are traditionally filled by teachers on secondment. Consequently, as a result of this cost-reduction decision by Minister Batt O’Keeffe, existing staff within the SLSS, PPDS and LDS were encouraged to “apply for one of the relevant positions” within the new body that the Minister was establishing. While it was clear that not all of the existing staff would be retained, those that were appointed would comprise the new PDST body from September 2010.

After this notice became public, the decision of Minister Batt O’Keeffe to amalgamate existing functions within the Department in order to create the PDST, became the subject of public debate. For example, in March of 2010 the *Irish Independent* reported², that the 250 teachers then seconded into professional development services would have to apply for only 150 positions within the new organisation. In response to criticism of this approach, Minister Batt O’Keeffe provided the following comment:

“My Department is currently making arrangements for a reduction in the number of teachers on secondment to the professional development support services in the context of reduced availability of public funding and the need to reduce the public sector pay bill.”

The process of processing applications to join the new streamlined organisation created by the Minister, was then completed by September 2010, when the PDST came into being. This process by which the PDST was established by Minister Batt O’Keeffe, is in fact described on the PDST web site³ as follows:

² <https://www.independent.ie/life/family/learning/okeeffe-orders-cut-in-training-support-for-teachers-26641437.html>

³ <http://ppds.pdst.ie>



“The PPDS, LDS, SLSS and a number of other primary and post-primary support services have now merged, to provide a cross-sectoral support service for schools and teachers, entitled the Professional Development Service for Teachers. The resources and materials on this website will continue to be available, both through this website (www.pfds.ie) and through the PDST website (www.pdst.ie).”

In summary then, the following sequence of events are clear in terms of the establishment of the PDST:

- i. Minister Batt O’Keeffe told the Dáil in February 2009, about his intention to establish what would become the PDST.
- ii. Minister Batt O’Keeffe’s Department of Education had internally defined and agreed the headcount for the new PDST by September 2009.
- iii. In February 2010, the Department of Education was able to invite applications for appointment to the new PDST, which was being established by Minister Batt O’Keeffe.
- iv. In March 2010, Minister Batt O’Keeffe was offering comment to national newspapers, taking personal responsibility for the establishment of the PDST.
- v. In September 2010, the PDST was established through the amalgamation of the PPDS, the SLSS and the LDS, exactly as instructed by Minister Batt O’Keeffe.

It is clear from the comments made to the Dáil, from the attached documents provided by the Department of Education, and from other public comments made by Minister Batt O’Keeffe, that the PDST was established by the Minister. However, when I presented this new evidence to the OIC, it was explained to me that while the PDST may have been established by the Minister, it is not an independent legal entity. Specifically, I was informed that the OIC considers the PDST to be a service provider within the Teacher Education Section (TES) of the Department of Education and Skills. Consequently, the proper course of action in order to seek PDST documents, is to make a FoI request to the Department of Education and Skills. I followed this advice and submitted to the Department of Education and Skills, exactly the same FoI request that I had originally submitted to the PDST. This FoI request to the Department of Education of Skills, which precisely replicated the request that I had originally made to the PDST, is the request with reference FOI/2018/0012 that the present review relates to.

2. Review of the Most Recent Request

The Department of Education and Skills has refused my request for PDST documents on the basis that no such documents exist within the Teacher Education Section of the Department. In seeking a review of this refusal by a more senior manager within the Department of Education and Skills, I provided details of the background above, and explained that the search for documents should include a search of records held by the PDST, and not just of records within the Teacher Education Section. However, the review by the more senior manager affirmed the original decision, despite the fact that the documents requested must exist within the PDST.

The FoI request that I made to the Department of Education and Skills included the following items:

2. *" All minutes from meetings, policy documents or other agreements between the PDST and representatives of the Catholic Church that were applied during the calendar year 2016,*



which relate to in-service days for religion teachers. This is to include agreements and discussions relating to the content to be presented at such in-service days; arrangements for physical premises to be used; how costs should be covered and the management of any fees paid; how such in-service days should be advertised towards schools; and what commercial products would be promoted at such in-service days (for example, from suppliers such as Veritas).

6. *A list of all in-service days for religion teachers since January 2016, which were attended both by representatives of the Catholic Church and representatives of the PDST ...”*

In their original response to this request the PDST wrote to me as follows:

“There have been no jointly arranged in-service days and representatives of the Catholic Church have not attended our in-service days in that capacity.”

I have attached this response to me from the PDST as Appendix 3, which is dated 30th January 2018. This response is not accurate or complete. On the Diocese of Kerry web site⁴, you can find details of an in-service day that was jointly attended by representatives of the Catholic Church and representatives of the PDST, during February 2016. The website of the Archdiocese of Dublin⁵, also advertises events that seem to fit my FoI request. In fact, Catholic Diocesan Advisors right across the country regularly advertise Church-hosted events, which include both representatives of the Catholic Church and representatives of the PDST. For example, I’m aware of Church-hosted events attended by the PDST, which were used to promote teaching products sold by Veritas (which is a publisher owned by the Catholic Church). I have attached these examples in Appendix 4.

Moreover, another item within the FoI request that I made to the Department of Education and Skills was as follows:

1. *All correspondence between the PDST and representatives of the Catholic Church (including emails and written correspondence) during calendar year 2016. This is to include Diocesan Advisors working with schools on behalf of the Catholic Church.*

The original response to this request from the PDST on 30th January 2018 was as follows:

“There has been no such correspondence or communication between PDST and representatives of the Catholic Church.”

It seems impossible to reconcile this response with the demonstrable fact that representatives of the PDST, and representatives of the Catholic Church, had been jointly providing in-service days for teachers, which were hosted in Catholic Church premises. I raised this discrepancy with the PDST and on 5th February 2018, I received an email response with some additional information in relation to the joint in-service days hosted by the Catholic Church and the PDST during 2016. I have attached this email in Appendix 5, in which the PDST informed me that:

⁴ <http://www.dioceseofkerry.ie/2016/03/post-primary-religious-education-in-service/>

⁵ <http://education.dublindiocese.ie/2015/11/19/2015-2016-opportunities-for-in-servicecpd/>



“From time to time we are asked by teacher professional networks (TPN) or Diocese bodies to present at their events ...”

That is, the PDST has confirmed that they receive invitations from Catholic Church Diocesan bodies to attend Church-hosted in-service days, and that they attend those events and make presentations to teachers. Details in relation to many such events are easy to discover, including photographs of those from the Catholic Church and the PDST who attended, as per Appendix 4. For example, Catholic Church representatives participating in the events can be seen to include Diocesan Advisors, and my FoI request explicitly described Diocesan Advisors as exemplar representatives of the Catholic Church. Unfortunately, despite promises from the PDST to provide additional information, the PDST subsequently refused to share any further details as they claimed not to be a public body for the purposes of the Act.

Moreover, even though the PDST accepts that they receive communications from the Catholic Church and have attended Church-hosted events during the period stipulated in my FoI request, the Department of Education and Skills has now stated in response to FOI/2018/0012 that no records exist with respect to my request. I suspect that this is because the Department has only searched their own internal records, and has not sought all such records from the PDST. I would be grateful if the OIC could clarify this point and ensure that a thorough search is completed by the Department of Education and Skills against all PDST records.

Yours Sincerely,

John Hamill.

