



From: John Hamill <[REDACTED]>
Subject: Re: Case Number: OIC-97611-K4F1J2
Date: 20 November 2020 at 15:07:08 GMT
To: OIC Applications Shared Mailbox <applications@oic.ie>

Hi Christopher,

I note your comment about the refund of fees. So far, this single FoI request has cost me €230 in appeal fees for documents I am entitled to and which have not yet been provided to me, now practically 4 years after I asked for them. Of this €230 sum, the majority was paid by me after the 21st August 2019 decision of the OIC that the DoES is not responsible for FoI requests to the PDST. It seems to me that it has now cost me €130 to find out that this decision was wrong. As such, the return of €50 is not much of an incentive.

Moreover, given that I have now been waiting practically 4 years for this FoI request to be dealt with correctly under the terms of the Act, withdrawing from my appeal in order to save a few weeks does not seem like much of an incentive either. As such, I would prefer not to withdraw from the request and instead I will look forward to reading the OIC decision on this matter. I hope and expect that this OIC decision will comment on the following issues, the first of which has arisen just today:

1.

In your initial correspondence to me below you have stated that the *"two records released to you on 4 September 2020 are the only records that the Department states it holds in relation to the FOI request at issue"*. However, the DoES has very obviously not conducted a proper search for the documents I sought and you now appear to accept this fact. I would be interested to discover how this discrepancy has arisen. If it is the case that *"the Department could not have carried out all reasonable steps"* then why would you suggest to me that no further documents exist and propose to me that I might withdraw my appeal?

2.

The two records released to me *"outside the terms of the Act"* by the DoES on 4th September 2020, demonstrate that multiple false statements were made to me in the original FoI response from the PDST. Moreover, as per my previous correspondence to you, it is difficult to see how these might be anything other than knowingly false statements. I will be interested to see if the OIC Decision will just ignore this and pretend it never happened.

3.

In its decision of 21st August 2019, the OIC suggest that the DoES *"should have considered transferring the relevant parts of the request to the DWEC"*. It now appears that there is acceptance of what I argued at the time, which is that the DWEC has no involvement in this issue and the DoES is in fact responsible for the FoI requests to the PDST. I would be interested to know what has changed in the DoES position that has now convinced the Department to accept this. Given the original error has cost me quite a bit of money, and a lot of time and effort ... an explanation would be appreciated.

Best Regards,
John.

On 20 Nov 2020, at 14:30, OIC Applications Shared Mailbox <applications@oic.ie> wrote:

Dear Mr Hamill,

Thank you for your email. I note your position.

We have discussed the matter internally following our receipt today of the Department's revised position. We are of the view that the decision of the Department must be annulled and the matter remitted for fresh processing, as the Department could not have carried out all reasonable steps if it made no effort to obtain relevant records based on its initial stance.

In the circumstances, I should inform you that it is your right to withdraw your application for review if you wish. Should you withdraw, the case would be closed and any fees paid refunded. Were you to withdraw and lodge a fresh request to the Department, the clock in respect of the Department's processing of the request would start immediately upon its receipt of the request.

I cannot guarantee when the decision of this Office in this case would issue if we continue to that stage of the process. Once in receipt of such a decision, the Department would also have four weeks before it would be obliged to commence processing the request (if it did not appeal our decision in the meantime).

Given the above, it seems to me that the most expedient course of action for you to take in this case would be to withdraw from this review and submit a fresh request to the Department in light of its revised position. The decision to take this course of action is entirely at your discretion.

If you decide to withdraw I will inform the Department of same. In the circumstances, I am also happy to remind the Department of the obligations that will apply, including that it should provide you with full details of the searches it conducts, should it not be able to locate all records sought by you.

Please let me know how you wish to proceed by cob Monday 23 November 2020.

Yours sincerely
Christopher Flood

Tabhair freagra ar an ríomhphost seo ach an rogha 'tabhair freagra do' a úsáid nó seol ríomhphost chuig applications@oic.ie, agus an Uimhir Thagartha á lua agat i líne ábhair an ríomhphoist.

Please respond to this email by using the reply to option or email applications@oic.ie with the Reference No. in the email Subject line.

Office of the Information Commissioner, 6 Earlsfort Terrace, Dublin 2, D02 W773 | ✉ applications@oic.ie | ☎ (+353-1) 639 5689 | www.oic.ie

----- Original Message -----

From: Hamill, John
Received: 20/11/2020
To: OIC Applications
Subject: Re: Case Number: OIC-97611-K4F1J2

Hi Christopher,

Thanks for this. I appreciate all your help with this case and I'm grateful for the progress you have made.

My preference would be not to close the case. Even if it means the fee is not refunded, I would like the conclusion to be captured in a formal decision published by the OIC.

Moreover, I am also keen to understand what steps the DoE has taken to locate records that match my original request, and if any records have been deleted by the PDST. The National Director of the PDST has already told me that the organisation routinely receives invitations from the Catholic Church to their in-service days, and there were several in-service days that match the criteria in my request. This includes events that were reported on diocesan web sites, including photographs of PDST representatives in attendance. As such, either one of two things must be true:

1.
The diocesan organisations within the Catholic Church arranged in-service days for teachers, and several representatives of the PDST just happened to independently stumble into the room entirely by coincidence.
2.
The PDST is engaging in communications with the Catholic Church in relation to publicly-funded in-service days for teachers, and then deleting all records of these interactions.

Given that the PDST has demonstrably made multiple false statements to me throughout this process and has already admitted to doing so, I would prefer to verify rather than trust with respect to these issues. I presume that the final OIC decision will not ignore the fact that multiple false statements have been made, and will not ignore the fact that it is simply not credible to report that no further communications took place between the PDST and the Catholic Church?

Best Regards,
John.



On 20 Nov 2020, at 10:43, OIC Applications Shared Mailbox <applications@oic.ie> wrote:

Dear Mr Hamill

I refer to your application for review in this case of the decision of the Department of Education and Skills (the Department) on your FOI request. I am pleased to inform you that, following my engagements with the Department in this matter, it has revised its position in this case.

The Department now accepts that the PDST is a service provider under the control of the Department. Accordingly, the Department accepts it should have released the records to you under the terms of the FOI Act. It has stated that it will do so. For the sake of clarity the two records released to you on 4 September 2020 are the only records that the Department states it holds in relation to the FOI request at issue

Please let me know if you are satisfied to settle this case on this basis. If so, I will close the case and any fees paid to this Office will be refunded to you. I would be grateful if you could let me have your response by Wednesday 25 November 2020.

Yours sincerely
Christopher Flood
Investigator

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