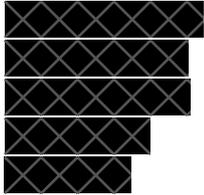


Our Reference: OIC-107608-M5G7B6

Your Reference:

7 October 2021

Mr. John Hamill



Re: Application for review under the Freedom of Information Act 2014 (the FOI Act)

Dear Mr. Hamill,

I refer to your application to the Information Commissioner for a review of the Department of Education on your FOI request dated 10 July 2020 for various records relating to PDST. Your case has been assigned to me for investigation and recommendation. Below are the material issues arising from the Department's submission, on which you are welcome to comment.

Searches for records (section 15(1)(a))

Section 15(1)(a) of the FOI Act provides for the refusal of a request where the records sought do not exist or cannot be found after all reasonable steps to ascertain their whereabouts have been taken. In such cases, the role of this Office is to review the decision of the FOI body and to decide whether that decision was justified.

This Office does not generally search for records. A review of the Department's application of section 15(1)(a) does not necessarily require a response to the various questions you have asked. This Office has no role in examining the Department's or PDST's performance of their functions in general, or in determining whether additional records should have been created or whether records that do exist should contain further information.

The Department says that it agrees a work plan with PDST at the start of each year, comprising all CPD provision relating to curriculum, teaching and learning. This includes any CPD provision that supports any curricular change affecting all teachers nationwide. PDST's advisors facilitate events in accordance with this work plan via the 21 local education centres in the country. Those education centres are responsible for the administration of the events, while PDST pays for venue hire/catering and travel and subsistence (T&S) expenses for advisors.

Individual schools may also request in-service training on specific topics from PDST. PDST may also be invited to give presentations at events such as conferences or by patron bodies, which can be responsible for a number of schools. The party inviting PDST is responsible for making

arrangements regarding venue, ensuring all teachers are present etc. The only costs borne by PDST are T&S payable to the advisor.

In relation to Religious Education (RE), the Department says that PDST has a solely curricular and methodology remit and only at post-primary level. School patrons are responsible for faith formation. The statutory RE curriculum is set by the NCCA. PDST may correspond with the Department and NCCA in relation to the curriculum. However, there were no reviews or updates of the RE curriculum in 2016.

The Department says that PDST does not correspond with Catholic Church diocesan advisors except when responding on an occasional basis to requests for curricular inputs in relation to RE. It does not make arrangements with any church for the provision of religion in-service days or around the teaching of religion in schools. The content for in-service days is agreed between the PDST/Department and the NCCA and this is delivered at all RE in-service days, regardless of the school's religious ethos. PDST does not pay the Catholic Church or diocesan advisors.

It says that, in addition, PDST says that most events are arranged by telephone. PDST records details of in-service/events at which it is requested to give presentations (i.e. date, venue, duration, and attendance), which it sets out in its annual report and which I note have been released to you. The Department says that PDST has no access to rolls, reports, minutes, records relating to arrangement of venues etc. because they are not PDST events. It seems to me that PDST may indeed have records such as copies of presentations given at requested events and T&S paid accordingly. However, in my view these are not covered by part 2 your request as it is framed because, further to the Department's submission, matters such as the content of presentations and payment of expenses etc. are not subject to discussion or agreement with the Catholic Church.

In relation to records management, the Department says that sections are responsible for the management of their own files in accordance with Department policy. Records in active use are retained on paper files, normally in filing cabinets or in open shelving in each individual section. All associated electronic records are printed and filed with the paper file. Dormant or inactive files are crated and sent to a managed warehouse in Tullamore with a detailed listing of the contents. Official records are destroyed only if there is an accompanying disposal certificate from the National Archives Office. It is not aware of records concerning 2016 having been destroyed.

Teacher Education Section (TES) holds files relating to PDST such as the annual work plan; its range of CPD support across all primary and post primary curricular areas; recruitment of teachers annually on secondment to PDST; Departmental funding; and steering committee and management meetings. Hard copy files in current use are kept in the section. Infrequently accessed files and files that are being sent to the managed warehouse are kept in a filing room.

I note that the Department's original and internal review decisions set out the electronic and hard copy file searches it says have been carried out by it and PDST, including a number of key words used by both in electronic searches. The Department confirms that searches have also been carried out of TES' electronic files using 'Le Chéile' and 'RTAI' (further to the content of records

that were located by PDST at internal review). It says that the records searched by PDST include administrator emails, the director's pc and the server. I note the internal review decision says that the Department sought to establish if, in addition to TES, the Inspectorate and Curriculum and Assessment Policy Unit held records covered by your request. The Department says the Inspectorate's position is that any records they would generate would be forwarded to TES, and that Curriculum and Assessment Policy Unit would only contact PDST via TES.

I note that you suggest further searches to be carried out e.g. using the names of those who might have contacted PDST seeking RE input. In my view, such searches go beyond the reasonable searches that the FOI Act expects bodies to carry out, particularly having regard to the Department's description of the way in which PDST would interact with churches generally.

Redacted Records

The Department redacted parts of two records the subject of its internal review decision. Its decision did not refer to any exemptions claimed or explain why details had been withheld. One such record is an email thread with the subject line "Irish Maths Teachers National Conference". I note that all details in this record concerning RE have been released (i.e. those relating to a request from the Religion Teachers' Association of Ireland for an input on Teacher Wellbeing). It seems to me that the remainder, which relates to the conference referred to in the subject line, is not covered by your request and I see no reason for the Commissioner to consider this record further.

Details have been withheld from another record which identify a Diocesan Advisor and it seems to me that the Commissioner must consider the application of the mandatory section 37 of the FOI Act in that regard. It is not relevant whether you or others generally are aware of the identity concerned.

Conclusion

Any views I set out above are not binding on the Commissioner. Any comments you wish to make in relation to the above will be taken into account by the Commissioner in making a decision in this case. The decision may also be made by a Senior Investigator. Please send me any comments by this day fortnight at the latest (i.e. on or before **21 October 2021**). If I do not hear from you by this time, the Commissioner/Senior Investigator will make a decision on your application for review in due course, based on the arguments before him/her at that time.

Yours sincerely,

Anne Lyons
Investigator