

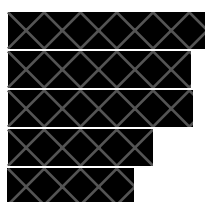


Our Reference: OIC-120832-Q8Y3K0

Department's Reference: DES-FOI-2022-0032

19 May 2022

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 decision of the Department of Education and Skills (the Department) in regard to your FOI request dated 31 January 2022 for the following:

1. All emails during the calendar year 2016 between the PDST and any email address from a list of email domains provided by you, and
2. Details of any expenses paid by the PDST in relation to attendance of PDST representatives at Catholic Church premises during 2016.

I wish to inform you that I intend to recommend that the Senior Investigator exercise the discretion available to him under section 22(9)(b) of the FOI Act to discontinue our review of **Part 1 of your request** in accordance with section 22(9)(a)(iii) of the Act. That section provides that the Senior Investigator may discontinue a review where he considers that the matter to which the application relates is, has been or will be, the subject of another review under this section.

It appears to me that the records you are seeking in part 1 of your request in this case are the same records, or a subset of those records, that you sought in Part 1 of your request to the Department dated 10 July 2020, in which you sought *“all correspondence between the PDST and representatives of the Catholic Church (including emails and written correspondence) during the calendar year 2016. This is to include Diocesan Advisors working with schools on behalf of the Catholic Church”*. As you are aware, this Office previously reviewed the Department's decision on your request of 10 July 2020 (case OIC-107608-M5G7B6) and the Senior Investigator issued her decision to you in that case on 31 January 2022.

I note that in its decision dated 25 February 2022, the Department refused Part 1 of your request of 31 January 2022 under sections 15(1)(i) and 15(1)(a) of the FOI Act. The Department said that the searches already carried out for the purposes of your previous request would have identified the records that you are seeking in this request and that any records identified have already been released to you. The Department referred to the decision of the Senior Investigator in case OIC-107608-M5G7B6 which found that section 15(1)(a) of the Act applies.

In case OIC-107608, the Senior Investigator considered your arguments that proper searches had not been carried out. In her decision in that case, the Senior Investigator decided the Department was justified in refusing access to further records covered by the request on the basis that they do not exist or cannot be found after all reasonable steps to ascertain their whereabouts have been taken.

In your application to this Office, you refer to the searches undertaken by the Department in relation to your previous request on this matter and you note this Office's decision in that regard. You explain that you subsequently submitted your new FOI request to the Department with a new set of search terms.

It appears to me that the issue in both of these cases is whether the Department has undertaken all reasonable steps to ascertain the whereabouts of the records you requested. While I appreciate you may not have been satisfied with the searches undertaken by the Department in regard to your previous request on this matter, I note that the Senior Investigator did not think it reasonable to direct the Department to carry out further searches suggested by you in that case. In the circumstances, I am satisfied that this Office previously reviewed the question concerning the adequacy of the searches carried out by the Department.

In light of the above, I am satisfied that your application to this Office seeking a review of the Department's decision in regard to Part 1 of your request dated 31 January 2022 was the subject of our previous review in case OIC-107608. Therefore, I intend to recommend that the Commissioner exercise his discretion under section 22(9)(b) of the Act to discontinue his review in regard to that part of your request under section 22(9)(a)(iii). Should my recommendation be accepted, we will continue our review of Part 2 of your request in relation to the records of expenses you sought.

You are now invited to make any submissions you wish on the matter before I make my recommendation to the Senior Investigator, which should be received by this Office no later than **2 June 2022**. Any submissions you make will be taken into consideration before a final decision is made on the review. Please note that if no response is received from you by this date, the case will be forwarded to the Senior Investigator with a recommendation that our review of Part 1 of your request be discontinued.

Yours sincerely,

Richard Crowley  
Office of the Information Commissioner

