

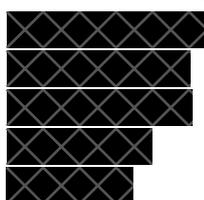


An Coimisinéir Faisnéise  
Information Commissioner

Our Reference: OIC-120832-Q8Y3K0  
Department's Reference: DES-FOI-2022-0032

5 July 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) on your FOI request dated 31 January 2022 for the following:

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

I am writing to inform you that I have decided to exercise the discretion available to me under section 22(9)(b) of the FOI Act to discontinue part 1 of your application for review under section 22(9)(a)(iii) of the Act. In accordance with section 22(9)(a)(iii), I may discontinue an application for review where I consider that the matter to which the application relates has been the subject of a previous review.

I note that Mr Crowley of this Office wrote to you on 19 May 2022 and informed you of his view 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 which was the subject of a review by this Office in case OIC-107608. As you know, we issued a decision following our review in that case on 31 January 2022.

In the case in question, having considered your arguments that proper searches had not been carried out, the Senior Investigator found that the Department was justified in refusing access to further records covered by the request on the ground that the Department had taken all reasonable steps to ascertain their whereabouts. In her decision in OIC-107608, the Senior Investigator said *“I see no reason to question the Department further in relation to its submission or to direct that further searches be carried out. In particular, I am satisfied that the searches described in the decisions and the Department’s submission, including the key words chosen for electronic searches, are reasonable steps for the purposes of section 15(1)(a) in this case. As to the various further searches suggested by the applicant, it seems to me that this and the other suggested searches are exhaustive steps, rather than the reasonable steps that are contemplated by section 15(1)(a) of the FOI Act. Accordingly, I do not think it reasonable to direct the Department to carry out these further searches.”*

In your current application, I note that you expressed your dissatisfaction with the search terms used by the Department in case OIC-107608 and that you subsequently submitted a new FOI request with a new set of search terms. In your application, you claimed that there is absolutely no basis to assume that the records returned from the search terms used by the Department in the previous case would be the same as those returned by the entirely new search terms that you listed in the present case.

In your replies to Mr Crowley’s letter of 19 May 2022, you said that the records you are seeking as part of your current request are those that match a specific set of search terms against a specific set of email accounts. You said that the previous request did not involve a search using any of those terms.

As Mr Crowley noted in his letter to you, 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.

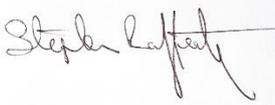
Having considered the nature of your replies to Mr Crowley, it seems to me that you are effectively challenging the adequacy of the searches undertaken by the Department in case OIC-107608, and, in-turn, the finding by this Office that the Department had undertaken all reasonable steps to locate the records.

While you contend that additional records may be located by using the different search terms prescribed by you in your request of 31 January 2022, as noted above, this Office previously found your suggestion that additional searches be undertaken, *“are exhaustive steps, rather than the reasonable steps that are contemplated by section 15(1)(a) of the FOI Act”*. We do not generally expect FOI bodies to carry out extensive or indefinite general searches for records simply because an applicant asserts that more records should or might exist, or rejects an FOI body's explanation of why a record does not exist. The test in section 15(1)(a) is whether searches have been reasonable. I am satisfied that this Office previously reviewed the question concerning the adequacy of the searches carried out by the Department.

Accordingly, I see no basis for conducting a further review in respect of the same records, or a subset of those records, in circumstances where the adequacy of the searches undertaken by the Department was already considered in the earlier review. I find, therefore, that the matter to which this review relates has been the subject of review in case OIC-107608 and in the exercise of my discretion under section 22(9)(b), I discontinue our review of part 1 of your request pursuant to the provisions of section 22(9)(a)(iii) of the Act.

Please note we will continue our review in regard to part 2 of your request and will be in contact with you in due course about that part of your application for review.

Yours sincerely,

A handwritten signature in black ink, reading "Stephen Rafferty", is positioned above a horizontal line. The signature is written in a cursive style.

Stephen Rafferty  
Senior Investigator