

Decision Notice 068/2021

False allegations of child sex abuse against Scots Catholic priests

Applicant: The Applicant

Public authority: Scottish Children's Reporter Administrator

Case Ref: 202001536



Scottish Information
Commissioner

Summary

The SCRA was asked about false allegations of child sex abuse against Scots Catholic priests. The SCRA told the Applicant it did not hold information falling within the scope of their request.

Following an investigation, the Commissioner was satisfied that the SCRA did not hold the information.

Relevant statutory provisions

Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1) and (4) (General entitlement); 17(1) (Notice that information is not held)

The full text of the statutory provisions cited above is reproduced in Appendix 1 to this decision. The Appendix forms part of this decision.

Background

1. On 21 September 2020, the Applicant made a request for information to the Scottish Children's Reporter Administrator (the SCRA). The information requested was:
 - A) A full count and disclosure of all cases brought before the reporter regarding children ages 0 - 15 years of age reported for the criminal offence of making a false allegation of sexual abuse against a Catholic priest in Scotland between 10/3/2015 - 14/9/2020.
 - B) A full count and disclosure of all complaints raised against the reporter by any Catholic priest in Scotland detailing the reporter made a false allegation of child sexual abuse against them between 10/3/2015 - 14/9/2020 of its own initiative or on behalf of a child.
 - C) A full count and disclosure of all cases brought before the reporter regarding children ages 0 - 15 years of age being put up to committing the criminal offence of making a false allegation of sexual abuse against a Catholic priest in Scotland by any adult 16 + between 10/3/2015 - 14/9/2020.
2. The SCRA responded on 1 October 2020. It notified the Applicant, in terms of section 17(1) of FOISA, it did not hold any of the information requested. (The SCRA told the Applicant that children had been referred to the SCRA for falsely accusing a person of a crime. However, having checked, none of the cases fell within the scope of the request A.)
3. On 3 October 2020, the Applicant wrote to the SCRA, requesting a review of its decision for all parts of the request. The Applicant specifically asked the SCRA to check the records held for part A) thoroughly to verify whether the victim of the false allegation was a Catholic or if the false accusers themselves were motivated by sectarianism in anyway.
4. The SCRA notified the Applicant of the outcome of its review on 20 October 2020. It confirmed that it did not hold information for any parts of the request. The SCRA provided the Applicant with some details about the information held in relation to false allegations by children, but confirmed that none made any reference to sectarianism and the SCRA were not informed that any of the falsely accused were Catholic.

5. On 17 December 2020, the Applicant wrote to the Commissioner, applying for a decision in terms of section 47(1) of FOISA. The Applicant stated they were dissatisfied with the outcome of the SCRA's review.

Investigation

6. The application was accepted as valid. The Commissioner confirmed that the Applicant made a request for information to a Scottish public authority and asked the authority to review its response to that request before applying to him for a decision.
7. On 25 January 2021, the SCRA was notified in writing that the Applicant had made a valid application. The case was allocated to an investigating officer.
8. Section 49(3)(a) of FOISA requires the Commissioner to give public authorities an opportunity to provide comments on an application. On 8 April 2021, the SCRA was invited to comment on the application and to answer specific questions, focussing on the steps it had taken to identify and locate any information falling within the scope of the requests.
9. The SCRA responded on 13 April 2021. It maintained that it did not hold any information falling within the scope of the request.

Commissioner's analysis and findings

10. In coming to a decision on this matter, the Commissioner considered all of the relevant submissions, or parts of submissions, made to him by both the Applicant and the SCRA. He is satisfied that no matter of relevance has been overlooked
11. Section 1(1) of FOISA provides that a person who requests information from a Scottish public authority which holds it is entitled to be given that information by the authority, subject to qualifications which, by virtue of section 1(6) of FOISA, allow Scottish public authorities to withhold information or charge a fee for it. The qualifications contained in section 1(6) are not applicable in this case.
12. The information to be given is that held by the authority at the time the request is received, as defined in section 1(4). This is not necessarily to be equated with information an applicant believes the authority should hold. If no such information is held by the authority, section 17(1) of FOISA requires it to give the applicant notice in writing to that effect.

The SCRA's submissions

13. In its submissions to the Commissioner, the SCRA confirmed it did not hold the information requested by the Applicant.
14. The SCRA explained that, following receipt of the request, a list of referrals received since 10/03/2015 where the offence was "falsely accusing (named) person of a crime" was requested.
15. The SCRA explained that the information it did hold about the false allegations had been checked thoroughly. These case files were considered in detail, including the examination of police reports. No information was identified as falling in scope. There were no mentions in any of the files that the referrals (and false accusations) were related to Catholics, Catholic priests or sectarianism. There was no mention at all of Catholics, Catholic priests or sectarianism in these case files.

16. As part of the review process, the same records were identified, but, having reconsidered the contents, the SCRA again concluded that the information did not fall within the scope of the request.
17. The SCRA's Complaints Log for each year from 2015 to 2020 (to 1st October) was also searched to see if any complaints related to false accusations of sexual abuse were held; none were identified.
18. The SCRA submitted that there were no further searches that could have been done.

The Commissioner's findings

19. The standard of proof to determine whether a Scottish public authority holds information is the civil standard of the balance of probabilities. In determining where the balance lies, the Commissioner must first of all consider the interpretation and scope of the request and thereafter the quality, thoroughness and results of the searches carried out by the public authority. He must also consider, where appropriate, any reason offered by the public authority to explain why it does not hold the information. Ultimately, however, the Commissioner's role is to determine what relevant information is actually held by the public authority (or was, at the time it received the request).
20. Having considered the submissions from both parties, and the terms of the request, the Commissioner accepts that the SCRA interpreted the Applicant's request reasonably and took adequate, proportionate steps in the circumstances to establish whether it held information covered by the request. Given the explanations and other submissions provided, he is satisfied that the SCRA does not hold the information requested by the Applicant.

Decision

The Commissioner finds that Scottish Children's Reporter Administrator complied with Part 1 of the Freedom of Information (Scotland) Act 2002 in dealing with the Applicant's request.

Appeal

Should either the Applicant or the SCRA wish to appeal against this decision, they have the right to appeal to the Court of Session on a point of law only. Any such appeal must be made within 42 days after the date of intimation of this decision.

Margaret Keyse
Head of Enforcement

5 May 2021

Appendix 1: Relevant statutory provisions

Freedom of Information (Scotland) Act 2002

1 General entitlement

- (1) A person who requests information from a Scottish public authority which holds it is entitled to be given it by the authority.

...

- (4) The information to be given by the authority is that held by it at the time the request is received, except that, subject to subsection (5), any amendment or deletion which would have been made, regardless of the receipt of the request, between that time and the time it gives the information may be made before the information is given.

...

17 Notice that information is not held

- (1) Where-
- (a) a Scottish public authority receives a request which would require it either-
 - (i) to comply with section 1(1); or
 - (ii) to determine any question arising by virtue of paragraph (a) or (b) of section 2(1),

if it held the information to which the request relates; but

- (b) the authority does not hold that information,

it must, within the time allowed by or by virtue of section 10 for complying with the request, give the applicant notice in writing that it does not hold it.

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