

# Decision Notice 057/2021

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## False allegations of child sex abuse against Catholic priests

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**Applicant: The Applicant**

**Public authority: Scottish Parliamentary Corporate Body**

**Case Ref: 202001556**



Scottish Information  
Commissioner

## Summary

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

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

## Relevant statutory provisions

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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

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1. The Scottish Parliamentary Corporate Body (SPCB) is responsible for the administration of the Scottish Parliament.
2. On 15 September 2020, the Applicant made a request for information to the SPCB. The information requested was:
  - A) A full disclosure of any and all sectarian motivated false allegations of child sexual abuse raised against any Catholic priest by any persons 0 -15 years of age at the Parliament or the Scottish Youth Parliament between 10/3/2015 -14/9/2020.
  - B) A full disclosure of any and all sectarian motivated false allegations of child sexual abuse raised against any Catholic priest by any MSP of the Parliament between 10/3/2015 -14/9/2020.
  - C) A full disclosure of any and all sectarian motivated false allegations of child sexual abuse raised against any Catholic priest by any adult at the Parliament or Scottish Youth Parliament other than an MSP, on behalf of a child 0 - 15 between the dates of 10/3/2015 - 14/9/2020.
3. The Applicant confirmed they did not wish to know the names of the children who had made the false allegations or of the priests who had been falsely accused.
4. The SPCB responded on 5 October 2020. It notified the Applicant, in terms of section 17(1) of FOISA, that it did not hold the information requested. It noted that any such allegations made direct to MSPs would be held by their individual offices and not held centrally by the Scottish Parliament or SPCB. The SPCB also explained that the Scottish Youth Parliament was a separate organisation and provided contact details for this organisation.
5. On 9 November 2020, the Applicant wrote to the SPCB, requesting a review of its decision.
6. The SPCB notified the Applicant of the outcome of its review on 30 November 2020. It confirmed that it did not hold the information.

7. On 22 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 SPCB's review.

## **Investigation**

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8. 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.
9. On 28 January 2021, the SPCB was notified in writing that the Applicant had made a valid application. The case was allocated to an investigating officer.
10. 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 SPCB 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 request.
11. The SPCB responded on 21 April 2021. It maintained that it did not hold any information falling within the scope of the request.

## **Commissioner's analysis and findings**

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12. 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 SPCB. He is satisfied that no matter of relevance has been overlooked
13. 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.
14. 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.
15. The Commissioner notes the submissions provided by the Applicant, in which they explain why they believe SPCB may hold the requested information.

### *The SPCB's submissions*

16. In its submissions to the Commissioner, the SPCB confirmed that it did not hold the information requested by the Applicant.
17. The SPCB explained that it contacted its Head of Public Information and Outreach Services and the Human Resources Office to check if the requested information was held. These departments were considered most likely to hold information of the type requested because they are the points at which complaints are directed or where HR matters are considered. These offices conducted key word searches relevant to the information sought and confirmed no information was held.

18. The SPCB confirmed that it also conducted key word searches on its shared network drive for all searchable documents held by all Scottish Parliamentary Service offices to check for any information held corporately covered by the request using the following terms: “sectarian”, “false allegation”, “child abuse”, “child sexual abuse” and “catholic priest”. No information was located covered by the request.
19. Following receipt of the request for review, two individuals not previously involved in the request were asked to consider the request again. These individuals considered the request afresh. They asked the same offices as previously contacted to double check if any information had been overlooked or if any new information was now held covered by the request that was not available previously. Key word searches were also conducted. No information was identified as falling within scope of the request.
20. The SPCB submitted that the above searches were considered the appropriate steps to take to locate any information covered by the request. This process is consistent with the standard steps taken when any freedom of information request is received.

### *The Commissioner’s findings*

21. 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).
22. In this case, the Applicant is seeking information that is recorded by virtue of the sectarian motivation and falseness of the allegation. The Commissioner accepts that the request can only be interpreted as a request for recorded information regarding sexual abuse allegations that were not only recorded as being sectarian in motivation, but also as being false.
23. Having considered all relevant submissions, the Commissioner is satisfied that there would be no reasonable expectation of the SPCB holding information on the sectarian motivation, or falseness, of any allegations. In this regard, he has considered the outcomes of the searches undertaken by the SPCB in response to the requests.
24. The Commissioner also notes the explanation given to the Applicant by the SPCB as to why it would not hold information relating to allegations made direct to MSPs or to the Scottish Youth Parliament.
25. Having considered the submissions from both parties, and the terms of the request, the Commissioner accepts that the SPCB 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 SPCB does not hold the information requested by the Applicant.

## **Decision**

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

## **Appeal**

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Should either the Applicant or the SPCB 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**

**28 April 2021**

## Appendix 1: Relevant statutory provisions

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### 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.

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- (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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