



# Decision Notice 050/2024

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## Acts and allegations concerning named charities

**Authority: Office of the Scottish Charity Regulator**

**Case Ref: 202201135**

### Summary

The Applicant asked the Authority for information relating to specified hate crimes or incidents and false sexual abuse allegations at three named charities. The Authority informed the Applicant it did not hold the information. The Commissioner investigated and was satisfied the Authority did not hold the information requested.

### Background

1. On 21 July 2022, the Applicant made a request for information to the Authority. They asked for;

“Any and all information detailing acts of – ableist hatred. Including hatred of intellectual or mental disability as well as physical disability. Ageism, anti-Catholic sectarianism, racism, including antisemitic racism. Biphobia, homophobia, lesbophobia, and transphobia.

Including acts of false accusation of child or adult sexual abuse concerning or said to be committed by, or at, the following three charities;

- (a) Stop it Now (The Lucy Faithful Foundation)
- (b) Zero Tolerance
- (c) The NSPCC

Between 7 July 2019 and 7 July 2022.”

2. The Authority did not respond to the request.
3. On 7 September 2022 the Applicant wrote to the Authority, requesting a review. The Applicant explained that they were dissatisfied with the Authority’s response because it

referred to a previous FOI request they had made, which was similar but which had covered a different time period. The Applicant required the Authority to provide them with the information they had asked for in this current request, covering the time period 7 July 2019 to 7 July 2022.

4. The Authority notified the Applicant of the outcome of its review on 6 October 2022. The Authority issued a notice, under section 17(1) of FOISA, that it did not hold the information. It explained that it had not received any information about the acts detailed in the request in terms of the three named charities. The Authority also advised the Applicant that two of the named charities are registered with the Charity Commission for England and Wales (CCEW) and it suggested they redirect their request.
5. On 12 October 2022, the Applicant wrote to the Commissioner, applying for a decision in terms of section 47(1) of FOISA. The Applicant challenged the Authority's reliance on section 17(1) of FOISA and asked the Commissioner to establish that the Authority did not hold the information they had requested.

## **Investigation**

6. The Commissioner determined that the application complied with section 47(2) of FOISA and that he had the power to carry out an investigation.
7. On 2 November 2022, and in line with section 49(3)(a) of FOISA, the Commissioner gave the Authority notice of the application in writing and invited its comments.
8. The case was subsequently allocated to an investigating officer.

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

9. The Commissioner has considered all of the submissions made to him by the Applicant and the Authority.

### ***Section 17(1) – Notice that information is not held***

10. 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.
11. The information to be given is that held by the authority at the time the request is received, as defined in section 1(4) of FOISA. 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.
12. 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.

13. The Commissioner also considers, 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 recorded information is actually held by the public authority (or was, at the time it received the request).

#### *The Authority's submissions*

14. The Authority described the searches it had carried out in relation to the request, including details of the individual tasked with carrying out the searches.
15. The Authority explained that an initial search was carried out to establish that the named organisations were registered charities, and then searches were carried out for the date range 7 July 2019 to 7 July 2022 using key words stated in the request. The searches sought files, folders, documents and emails held in the Authority's Objective EDRM system.
16. The Authority submitted, that for completeness, it also carried out the searches with an expanded date criterion of the full calendar year from 1 January 2019 to 31 December 2022. The Authority noted that this expanded search did not identify any items, other than the documents arising from the handling of the request.
17. The Authority explained that it carried out further searches using the charity name and/or the registered charity number for each of the named charities. The Authority noted that these searches returned a small number of results, but that none of those returns were within the scope of the request.

#### *The Applicant's submissions*

18. The Applicant submitted that false accusations of sexual abuse have ruined lives and they wanted the Commissioner to verify whether the Authority's response was factual. They argued that if the Commissioner found that information was held, it should be disclosed, in the public interest.

#### *The Commissioner's view*

19. Given the explanations and submissions provided, the Commissioner accepts that the Authority took adequate and proportionate steps in the circumstances to establish if the information was held and he is satisfied that it does not (and did not, on receipt of the request) hold the information requested by the Applicant.
20. The Commissioner therefore concludes that the Authority was correct to give the Applicant notice, in terms of section 17(1) of FOISA, that it did not hold the information requested.

## **Decision**

The Commissioner finds that the Authority complied with Part 1 of the Freedom of Information (Scotland) Act 2002 in responding to the information request made by the Applicant.

## **Appeal**

Should either the Applicant or the Authority 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.

**David Hamilton**  
**Scottish Information Commissioner**

**3rd April 2024**