

Our Reference: 160177

3 August 2016

Mr Kenneth Foxe

Dublin 7

Dear Mr Foxe,

I refer to your application for a review of the decision made by the Houses of the Oireachtas Service (the Service) to refuse your request under the Freedom of Information Act 2014 (the FOI Act) for access to "copies of all receipts/invoices held by the Oireachtas in relation to the 2014 audit of expenses conducted by Mazars" and "copies of all receipts/expenses submitted for review by the members chosen for the 2014 audit."

The purpose of this letter is to inform you that I am exercising the discretion available to me to discontinue the review in this case under section 22(9)(a)(iii) of the FOI Act. That section provides that I may discontinue a review if I consider that the matter to which the application relates is, has been, or will be, the subject of another review.

As you know, the Commissioner previously reviewed a decision of the Service to refuse a request you submitted for access to records of a type that are identical to those sought in this case (Case 150073 refers). In that case, he found that the Service was justified in refusing your request under section 42(1) of the Act on the ground that the receipts and invoices sought are, or relate to, the private papers of the members within the meaning of Part 10 of the Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013.

It seems to me that the purpose of section 22(9)(a)(iii) is to afford this Office the discretion to discontinue a review in order to avoid the necessity of conducting multiple reviews where the matter to which the application for review relates is, has been, or will be, the subject of another review. I note from your submission of 2 June 2016 that you are opposed to the review being discontinued on a number of grounds. However, none of those grounds alter the fact that the Commissioner has previously found that the Service was justified in refusing your request for access to copies of receipts/invoices held by the Oireachtas in relation to an audit of expenses conducted by Mazars and copies of all receipts/expenses submitted for review by the members chosen for the audit under section 42(1) of the Act. In my view, none of the grounds outlined would result in the Commissioner reversing that decision.

I should add that I do not accept that the grounds cited by the Service for refusing your more recent request are significantly different to the grounds cited for refusing your original request. In this case, the Service relied upon section 42(1) in refusing access, a decision that was upheld by the Commissioner in the previous review. The fact that the Service may have relied upon additional grounds for refusing your more recent request (section 42(k)) does not alter the fact that the Commissioner found section 42(1) to apply to such records. Consequently, if I was to proceed with the review in this case, I am satisfied that I would be reviewing a decision on a matter that has already been the subject of an earlier review.

In all of the circumstances, I am satisfied that this is an appropriate case in which I should exercise my discretion to discontinue the review. Therefore, having carefully considered the matter and the details of your recent submission in particular, and in the exercise of my discretion under section 22(9)(b), I discontinue this review pursuant to the provisions of section 22(9)(a)(iii) of the FOI Act.

Yours sincerely,

Stephen Rafferty
Senior Investigator