

Sent via email: [REDACTED]

15 August 2022

Dear [REDACTED],

Internal review of FOI request FOI 053-22

Thank you for your email to FOI@electoralcommssion.org.uk of 19 July 2022 seeking an internal review of your request for information, reference number **FOI 053-22**

In seeking an internal review you made the following comments:

This is a request for review of the information below. It seems my request has been interpreted partly as me wishing to see copies of my own correspondence. Let me assure you this is not the case, as I both remember writing those emails and I have my own copies in my email archive, which can be accessed almost instantly.

My request for "all correspondence relating to the handling of Croydon Council's mayoral and local elections" did of course include correspondence from any relevant officials, including those from Croydon Council, the Electoral Commission and anybody else involved in looking at how the counts were handled.

I can't see why this has not been included in what I thought was a clear and straightforward request. Please provide this information in full.

For guidance, I am still interested in details that may explain, for example, why the RO decided on a private venue where the count could be repeatedly interrupted, or details about the costs of multiple interruptions, which may have been discussed in any handling review.

Our response

With regards to your comments about being sent copies of your own correspondence, I should explain that all Freedom of Information (FOI) requests are assigned to the most appropriate Commission team to respond, and that the requestors' details are not disclosed; as per FOI requirements. The team who wrote the response were, therefore, unaware that the documents they were disclosing were copies of those originating from you.

I have reviewed the detail provided as part of the initial request, including further discussions with the lead team, and have concluded that one piece of additional correspondence was in scope and should have been considered for disclosure. I

apologise that this was not identified previously – this was a result of how the team defined the request itself.

This additional piece of correspondence is a summary of a conversation held between the Commission and the elections team at the local authority in question.

The Information contained in this document is exempt under section 41 of the FOI Act which provides an exemption when the information requested was provided to the Commission in confidence. There are two components to the exemption:

1. The information must have been obtained by the Commission from another person. A person may be an individual, a company, a local authority or any other “legal entity”.
2. Disclosure of the information would give rise to an actionable breach of confidence.

The document in question contains information which was shared with us in confidence and we consider that disclosure could give rise to an actionable breach. As such we consider that the section 41 exemption applies.

Section 41 is an absolute exemption and therefore no consideration of the public interest test under FOI is required. However, the duty of confidence contains an analogous, inherent public interest test, which must be considered in order to decide if the information is exempt.

When information is provided to us in this way, it encourages the free and frank exchange of information from others to the Commission.

If we were to release such information it would make individuals and entities reluctant to co-operate and may prejudice interactions with them as well as others in the future. This would in turn impact on the type, timeliness, and quality of information provided to the Commission. It could prevent exchange of relevant information in the future and prevent exchange of relevant information in effect of hindering our ability to conduct our statutory functions.

I have completed this review because I am a member of the Electoral Commission’s management team and I was not previously involved in the original response to your request.

If you remain dissatisfied with our response, you can appeal to the Information Commissioner at: The ICO, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. For further details about the appeal procedure please visit www.ico.org.uk.

Yours sincerely

Rhydian Thomas
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electoralcommission.org.uk