The Electoral Commission

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Sent via email: [redacted]

16 August 2023

Dear [redacted]

Internal review of FOI request FOI 074-23

Thank you for your email to FOI@electoralcommssion.org.uk of 19 July 2023 seeking an internal review of your request for information, reference number FOI 074-23.

In seeking an internal review you made the following comments:

Thank you for your reply but I would like an internal review please.

To begin with, the application of sections 21 and 22 here seems completely nonsensical and makes a mockery of the legislation.

Regarding section 21, the information I've requested is not already published. Indeed that's apparently the reason you then try to use section 22 to say it is going to be published at a future date. But then your arguments for engaging section 36 suggest you don't think it should be published at all.

Your corporate plan indicates a "renewed focus" on equality, diversity and inclusion and at the same time says the commission is providing value for money. Taxpayers have a right to scrutinise your approach to equality, diversity and inclusion more closely, against your duty to provide value for money and your assurance that you are doing so.

Outcome of your internal review:

I have considered the points you have raised in asking for a review of the previous decision.

Given the nature of the requested information, a discussion paper for the Commission Board, I believe that the crucial exemption is that under section 36 (section 36(2)(b)(i) and (ii) of the Freedom of Information Act 2000) regarding the provision of advice as well as the free and frank exchange of views. I am satisfied with the original decision that the exemption can be applied, including in reference to the public interest test.

Section 36 would not be relevant in two areas, which is where the exemptions under sections 21 and 22 were applied:

- Information which can be reasonably accessed (section 21) – the paper outlines aspects of our Equality and Diversity strategy which is already in the public domain and is published on our website.

- Information which we intend to put in the public domain (section 22) – the paper contains some information which is planned for inclusion in future publications including in updates to our EDI strategy and in our annual report for 2022/23.

For the section 22 exemption I am again content that the public interest test has been applied correctly and that this information is most appropriately released to the planned timetable and when it is complete.

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

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