[redacted]

From: FOI
Sent: 17 January 2024 09:44
To: [redacted]
Subject: FOI 176-23 - Response

Dear [redacted],

Our Ref: FOI 176-23

Thank you for your initial email to the Electoral Commission dated 19 December 2023.

The Commission aims to respond to requests for information promptly and has done so within the statutory timeframe of twenty working days.

You amended your request on 20 December 2023 and this newer version of your request is shown below, followed by our response.

I write this request in light of the Electoral Commission's disclosure in FOI-166-23 and its response to matters addressed in FOI-173-23.

In the interests of clarity, I was the individual who asked the question in FOI-166-23; but I was not involved in asking the question in FOI-173-23, and am unaware who submitted the question.

Both of these requests address issues surrounding the failure of Labour Together to declare donations to the Electoral Commission, including the Enforcement Action taken by the Electoral Commission regarding this failure to report donations.

The disclosures in FOI-166-23 appear to show that Morgan McSweeney, the director and company secretary of Labour Together, was informed by an employee or official of the Electoral Commission, in at least December 2017, that Labour Together was a Members Association and that it had a duty to report donations. Labour Together's failure to report donations in the period between 2018 and 2020 arguably requires explanation in light of this clear advice.

The Commission's response in FOI-173-23 finds that the public interest test in releasing any preparatory or more detailed report of the Commission's investigation has been applied to refuse the release of information. In making this judgment and applying the public interest test, the Commission writes that "the information requested is not in the public domain, the information requested is in the Commission's view sensitive and significant, and no evidence appears to be put forward to suggest that the investigation was not carried out properly."

The disclosures in FOI-166-23 raises questions about the Electoral Commission's findings, in particular whether the Electoral Commission was aware, in conducting its investigation, of the clear advice given to Mr. McSweeney about the need to report.

In light of the above, I would like to request:

(a) any correspondence exchanged between Labour Together and the Electoral Commission in the period between November 2020 and the date of the Commission's Enforcement Action (presumably in or around September 2021), where such correspondence addressed Labour Together's admission as to its failures to report donations and the reasons it advanced for this failure;

In the alternative, should this not be releasable or subject to exemption, could the Commission confirm :

(b) whether Labour Together and/or any of its representatives disclosed to the Commission that Mr. McSweeney had sought and received the advice revealed in FOI-1663-23, and, if so, how it did so.

I would also like to request:

(c) A copy of the investigative report into the matter, as requested initially but denied under different circumstances in FOI-173-23

Our response is as follows:

We hold the information you have requested.

With regard to points a) and b) above, we have separately considered whether the reasoning applied in FOI-173-23 can and should be applied to the information requested. In our view this is the case and we would consider that the response to this request is the same as that set out in FOI-173-23

We note with regard to point c) above, that the request for information is the same information under FOI-173-23, and as we recently considered whether the exemptions were applicable to this material, we will not set out any further the reasons for why we cannot release the material, but refer you again to our response in that matter.

The Commission strives to be an open, transparent authority. If you are not satisfied with this response, please note that the Commission operates a review procedure, details of which can be found on the Commission website at: https://www.electoralcommission.org.uk/freedom-information/make-a-freedom-information-request.

Please also note that if you have exhausted all internal Commission review procedures and you are still not satisfied you have the right to appeal to the Information Commissioner. Details of this procedure can be found on the ICO website: https://ico.org.uk/.

Yours sincerely

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The Electoral Commission
electoralcommission.org.uk