The Electoral Commission

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Sent via email: [redacted]

21 December 2023

Dear [redacted],

Internal review of FOI request FOI 158-23

Thank you for your email to FOI@electoralcommssion.org.uk of 29 November 2023 seeking an internal review of your request for information, reference number FOI 158-23.

In seeking an internal review you made the following comments:

It might be helpful to say that I seek an Internal Review only in the context of response, or lack of it, relating to the 2016 referendum ballot paper.

…

Had the Commission offered a categoric assurance that the factual deficiencies I identified in the visual appearance of the 2016 ballot paper would never again appear, that would have been the end of the matter but denial of objective fact is an exacerbating factor and given the potential importance of this issue, it is not a matter I should allow to drop.

My concern in simple terms is that the Commission has never disclosed how the visual appearance of this particular ballot paper came into being: whether or not it started life outside the Commission, who in the Commission devised its unique visual format and how it got to be internally approved.

An earlier Chair disclosed that the visual format was never tested in public. So core information remains missing, the Commission has used exemptions, and although the earlier key protagonists are no longer with the Commission, it was extremely poorly handled.

Yes, it is true that the quantity of correspondence is extensive but the core question has never been answered.

The key may lie - I do not know - in documents relating to Andrew Scallan of 15 and 16 February 2016 and heavily redacted in FOI 59/16.

I am not remotely interested in commercial relationships with printers and for the purpose of my very simple core concern I have never explored any details regarding the Welsh language version of the ballot paper.

Unfortunately, the letter of 24 August 2017 (again written by someone who appears no longer to be at the Commission) is mostly an irrelevant distraction. It is also, as I have demonstrated in detail, factually incorrect: it is not true that The layout of the EU Referendum ballot paper was consistent with the design of the ballot paper for [named referendums]. The layout of neither ballot paper was as exceptionable as the EU referendum. The Scotland referendum ballot paper looked ok to me. The one on the voting system slightly less so - it would have been better if YES and NO had been vertically aligned in the middle of the box as in the Scotland referendum - but it is simply untrue to allege that the EU ballot paper followed the same template. But I have not been seeking or wishing to swap advocacy: I have been asking for disclosure of relevant fact in what is manifestly a context giving rise to legitimate concern.

I have reviewed the response to your original request, including discussing with colleagues who were involved in preparing the original response and reviewing the material considered as part of that process. I am satisfied that the original response considered whether any new information could be available in addition to that which has already been released to you. In my view it was reasonable to conclude that no new information is held by the Commission, and I am therefore also satisfied that it was correct to apply the relevant exemption under section 21 of the Freedom of Information Act 2000.

Although it falls outside the scope of the internal review process which I have undertaken, I can advise that you could submit a new request for unredacted copies of the emails that you have highlighted in your internal review request. It may be helpful for any new request to be written as specifically as possible, rather than a broad request for information.

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

Tom Hawthorn
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