The Electoral Commission

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By email: [redacted]

30 April 2025

Dear [redacted]

Re: Internal review request FOI 137-24

Thank you for your email of 28 February 2025 requesting an internal review of our response to FOI 137-24. I have undertaken this review because I am a member of the Electoral Commission's Senior Leadership Team, and I was not previously involved in the original response to your request.

In your request you have cited the use of three exemptions in our response to FOI 137-24. I have considered each of these as follows:

Section 38 exemption
You state that the disclosure of information relating to the hotel, dining and travel information of Members of Parliament is already subject to public inspection and that an individual motivated by malice could already obtain this information. You also state that this information would not reveal information about the current travel arrangements of Members of Parliament.

In applying the section 38 exemption we considered that complying with the request would or would be likely to endanger anyone's physical or mental health or safety.

When preparing returns for supply on request or public inspection, Returning Officers, are still expected to redact addresses of individuals who have made donations to candidates and contact their Data Protection Officer for advice on redactions.

I agree that it would be open to the Commission to redact these individual specific elements to facilitate wider disclosure, and it, therefore, should not have been used a as a blanket argument for refusal of the request.

However, the concern that complying with the request would or would be likely to endanger anyone's physical or mental health or safety would remain when considering redactions.

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Section 14 exemption
You state the Commission did not contact you before applying a section 14 exemption to see if you were willing to submit a less burdensome request.

I have sought clarification on this, and it has been confirmed to me that no contact was made with you before applying this exemption. I apologise that this did not happen.

I note that you have offered to narrow your request to 30 candidates who were all visited by the Labour Party Battlebus during the general election. This is now being considered as a new FOI request and the response to it is not within the scope of this review.

While I agree that the Commission should have contacted you for clarification, I uphold our use of section 14 as complying with the original request would have been disproportionately burdensome to the Commission.

As noted in detail in our original response, the requested information is a substantial volume of documents which would require collation, individual review and redaction.

Section 21 exemption
You state that the information requested in FOI137-24 is not reasonably accessible by other means. You also highlight ICO guidance which states “You still need to consider whether a hypothetical member of the general public can realistically and easily access the information”.

I have sought clarification on this and it has been confirmed to me that consideration was given to this. As this information is publicly available to the general public, via the Returning Officer, this exemption was applied.

I would also draw your attention to Section 21(2)(b). This allows for an exemption where there is a legal obligation to make a copy of the requested information available to members of the public under other legislation. In this case the Returning Officer is legally obliged to provide copies of the requested information.

I note that you provide addition information regarding public interest considerations. However, Section 21 is an absolute exemption. Given that we were satisfied that the information is accessible, via another access regime, we did not need to consider the public interest balance. In my view, this exemption was correctly used, and as such I have not considered this additional information.

While I would uphold that section 21 is applicable when considering the release of the candidate spending returns under the Act, I acknowledge your assertion that the sum of the information requested in this instance is not “reasonable accessible, due to the likely “excessive charges”.

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In the specific instance of your current request, the same volume of information that calls into question the application of section 21 equally necessitates considering the request as vexatious under 14(1) due to unreasonable administrative burden on the Commission in preparing these materials for release due to the necessary considerations of sections 38 and 40(2) (personal data).

Again, I uphold that section 21 is generally applicable when considering the release of candidate spending returns, but in this instance, and only considering the scope of this request, I only uphold that you should consider the request refused as vexatious on the grounds of being disproportionately burdensome on the Commission under section 14(1).

As previously stated, you should expect to receive acknowledgment of your refined request after receiving this response. Youl will have an opportunity to further refine the wording of this new request, if you so wish.

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

Cahir Hughes
Head of Electoral Commission, Northern Ireland