

Andi Ali

FOI Reference: 911872

request-702934-f8811dbc@whatdotheyknow.com

Date: 18 December 2020

Dear Andi Ali

Your Freedom of Information Request

Thank you for your email dated 27 November 2020 in which you requested an internal review of our response dated 24 November 2020. You state in your request for review the following:

"I am writing to request an internal review of Equality and Human Rights Commission's handling of my FOI request 'False complaints of Antisemitism within the Labour Party'.

Whether you chose to investigate them under your terms of reference or not is not the issue. In order to determine whether they fell under your terms of reference you would have had to examine the complaint and then make a judgement. As such you are bound to hold information on all of the questions I asked of you. As such please provide the information as you are required to do so under the law.

A full history of my FOI request and all correspondence is available on the Internet at this address:

https://www.whatdotheyknow.com/request/false_complaints_of_antisemitism"

Response Approach

I have conducted a full and impartial review which includes consideration of the information released against the information requested and a full review of the papers associated with the original application, including:

T: 020 7832 7800

E: foi@equalityhumanrights.com

Fleetbank House, 2-6 Salisbury Square
London, EC4Y 8JX

equalityhumanrights.com

1. FOI request received 30 October 2020;
2. FOI response sent 24 November 2020;
3. Activity Log;
4. Review request received 27 November 2020; and
5. EHRC's guidance for conducting FOIA Internal Reviews.

I have also read:

- the relevant sections of the Freedom of Information Act;
- ICO guidance on Interpreting and clarifying requests
- ICO guidance on Prohibitions on disclosure (section 44)
- ICO guidance on Determining whether information is held.

Response

I have considered your original request, as follows, and am of the view that it may have more than one possible interpretation:

"In your recent enquiry into Antisemitism within the Labour party, you admitted in your report that you investigated "70 complaints of Antisemitism within the party made between 2016 and 2019, but you did not investigate **others**." Many of these '**others**' included **false complaints** of Antisemitism made against one or more members of the Labour Party,

- 1) How many **false complaints** of Antisemitism did you receive during your investigation.
- 2) Why did you not investigate them?
- 3) Do you intend to investigate them.
- 4) If not, why not?"

I have reviewed the EHRC's '[Investigation into antisemitism in the Labour Party](#)' report to ascertain what you could mean by 'others' and believe there are at least two interpretations:

- (i) On page 5 of the report, it states:

"...We carried out in-depth analysis of a sample of 70 complaint investigation files. We selected 58 of these files **out of over 220 complaints identified in different sources**. The remaining 12 were put forward by the Labour Party..."

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(ii) On page 67 of the report, it states:

“...In the leaked report, there are allegations that the Labour Party’s internal review identified ‘**at least 170**’ **complaints** in the period from November 2016 to February 2018 that were not acted on, and that the total figure was likely to be higher...”

Given the multiple references to ‘other’ complaints in the report, I believe that there could have been more than one possible meaning to your request and we should have gone back to you in order to clarify which interpretation was correct. Furthermore, I believe the use of the term ‘false complaints of Antisemitism’ is unclear and requires clarification.

Even though we responded correctly to one possible objective reading, without clarifying what you meant by ‘others’ and ‘false complaints of Antisemitism’, I am unable to ascertain whether the original FOI request response outlining that the information was not held was correct or not.

As such, I am upholding your complaint.

With regards (i) above (reference to over 220 complaints), we do hold this information. As these complaints were provided to the Commission by way of representations made in relation to, or otherwise in the course of, an investigation under section 20, we are unable to disclose them. Section 6 of the Equality Act 2006 makes it a criminal offence to disclose information provided to the Commission in the course of a section 20 investigation other than in the prescribed circumstances, and accordingly the ‘Section 44 – Prohibitions on disclosure’ exemption is engaged. This is an absolute exemption and no public interest test is required.

With regards (ii) above (170 complaints in the leaked report), we were not provided with copies of the 170 complaints and are therefore unable to verify whether these are included in our 220 complaints (above). On the balance of probabilities, it is likely that we hold some but not all of the 170 complaints.

If following the review you are not content with the outcome you may apply directly to the Information Commissioner’s Office (ICO) at:

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The Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Generally the ICO will not provide a decision until you have exhausted the review process within the Equality and Human Rights Commission. If the Commission can be of any further assistance please contact us using the details provided below.

Yours sincerely

A Bennett
Senior Principal Legal

T: 020 7832 7800
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