

Our Ref FOI – 20180919-00083-1

Date: 5 November 2018

Dear Mr. Smitt,

Regarding your recent request for an Internal Review of a response you have received under the Freedom of Information Act 2000 (FOIA).

Here are the details of the response to which you are dissatisfied:-

Your request dated 18 September 2018:

Dear St Helens Metropolitan Borough Council,

Please provide emails sent by clllr d long to labour group in month of September
Yours faithfully,

henry smitt

The reply you received dated 5 October 2018:

Thank you for your request. The emails asked for relate to Labour Group business which is not data which belongs to the Council and therefore not something we can disclose.
many thanks.

Your request for a review was received on 11 October 2018 and stated:

Dear St. Helens Council,

I disagree with you although maybe address to labour colleges this was sent by cllr long in his capacity as a councillor so please provide it to hide behind the lies of you not having it is despicable do i have to refer you and the matter to the commissioner to get a response

Yours sincerely,

henry smitt

The purpose of the Internal Review process is to ensure that the response issued complies with Freedom of Information legislation and the requester has received all of the information they are entitled to in response to their request. The process does not look in to any matters associated with a particular Service.

In reviewing the response you have received I have looked at all the available evidence that is relevant to the request to make a fresh decision based on the information the Council holds.

Your original request refers to “emails sent by Cllr. D Long to labour group”. If any such emails exist the information would not belong to the Local Authority but the Labour Party, and as such you may be able to obtain this from the Labour Party directly.



St. Helens Council

Your request for an internal review states that the information was sent “in his capacity as a councillor”. As you have been previously advised the FOIA applies to Public Authorities which covers information held by the Council for its own purposes. The ICO guidance on “Information held by a public authority for the purposes of the FOIA” states:

Local authorities are public authorities for the purposes of FOIA, but individual elected members are not. Therefore, information held by councillors for their own purposes will not be covered by FOIA, but information they hold on behalf of, or as part of, the local authority will be covered.

Information created or received by a councillor but held on a local authority’s premises or computer system will be covered if it is held by the authority on its own behalf (section 3(2)(a)). It will not be covered by FOIA if it was produced by the councillor for private or political purposes and the authority is just providing storage, office space or computing facilities (i.e. the authority is not holding the information to any extent for its own purposes).

If you remain dissatisfied with the response, you have the right under Section 50 of the Freedom of Information Act to appeal against the decision by contacting the Information Commissioner, Wycliffe House, Water Lane, Wilmslow, SK9 5AF.

Regards,

Carol McDonnell
Audit Manager