

22 September 2023

By email to: [REDACTED]

Dear [REDACTED]

### **OFFICIAL INFORMATION ACT REQUEST 2023/50**

On Thursday 14 September 2023 you made a request under the Official Information Act 1982 (the OIA) for the following information:

*We're trying to better understand the Electoral Commission's role in efforts to remove what it deems to be misinformation and disinformation from social media. As such, this is a request for Official Information under the Official Information Act 1982.*

*I've attached a stuff article from 3/8/23 for reference:*

*<https://www.stuff.co.nz/national/politics/132664984/analogue-politics-in-a-digital-age-how-officials-are-preparing-for-the-misinformation-wave-this-election>*

*Could you please answer the following?:*

- *For the purposes of this task, what are the Electoral Commission's definitions of disinformation and misinformation?*
  - *Do these definitions ever cover opinion, philosophical belief or other sincerely held beliefs?*
  - *Do these definitions extend in scope beyond verifiable facts and statistics?*
  - *In the event that a post is deemed misinformation or disinformation, what role does the Electoral Commission play in its removal?*
  - *How does the Electoral Commission verify that any removed posts are misinformation/disinformation, and what considerations does it make that its framework is not unduly stifling free debate?*
  - *Does the Electoral Commission track how many posts have been removed under its misinformation/disinformation removal framework?*
    - *If so, how many have been removed so far this year and in each of the previous 3 years?*

- *Does the Electoral Commission intervene on individual cases, or is this left to the discretion of the social media companies?*
- *What incentives and/or disincentives are offered to social media platforms to encourage the removal of social media posts deemed misinformation/disinformation?*
  - *How often have these incentives/disincentives been applied so far this year and in each of the last 3 years? Please provide total figures and a breakdown by social media platform.*
- *The Stuff article above states: - “Kristina Temel, the commission’s legal and policy manager, said it had established a “specific government reporting channel” with social media companies, which it would email if electoral rules were breached.”*
  - *So far this year, and in each of the previous 3 years, regarding how many cases has the Electoral Commission contacted social media companies using this channel for the purposes outlined in the article? Please provide total figures and a breakdown by social media platform.*

A response to each of these questions is outlined below.

The statutory objective of the Electoral Commission in section 4C of the Electoral Act 1993 is to administer the electoral system impartially, efficiently, effectively and in a way that-

- (a) facilitates participation in parliamentary democracy; and
- (b) promotes understanding of the electoral system and associated matters; and
- (c) maintains confidence in the administration of the electoral system.

The Electoral Commission is responsible for administering the rules in the Electoral Act. This includes responding to complaints about election advertising that appear to be in breach of the promoter statement, authorisation requirements, or the election day rules.

If we get a complaint about the rules we are responsible for administering, where practicable, we will attempt to liaise with the promoter in the first instance. If we cannot contact them, the person does not respond or does not take remedial action and we are satisfied that there is an apparent breach of the Electoral Act, we will raise that via the escalation process with the appropriate social media platform.

The Electoral Commission relies on the definitions and requirements of the Electoral Act – not definitions of disinformation and misinformation, neither of which are defined in the Electoral Act.

We raise the matter with the social media platform through the agreed escalation route and then it is up to the social media platform to make a decision. The Electoral Commission does not have any ‘take-down’ powers. Depending on the circumstances, the Commission may also refer an apparent breach of the Electoral Act to Police.

As part of our role, we provide information and education to promote understanding of the electoral system. Part of that is addressing common misconceptions, for example, we have a ‘Facts about

New Zealand elections' page on our [vote.nz](https://www.vote.nz) website and we are regularly releasing information about the election process, including videos, on our social pages.

Our focus is on information about the election process – getting enrolled, voting, the results. It is not our role to go further than that, and we do not get involved in the political debate, including the content of election advertising or personal views expressed online.

The terms of use for our own social media channels [are available on our website](#). We are a politically neutral organisation so we reserve the right to remove any comments on our channels that promotes political messages and may compromise our neutrality. We do however answer questions about enrolling and voting and the electoral process.

If we were made aware of incorrect information about the election process that was widespread, we would try to correct it by promoting the correct information on our own channels.

Alongside this work and in accordance with section 5 of the Electoral Act the Electoral Commission will escalate to the social media platforms false information being provided about the conduct of the election, specifically around enrolling and voting or the count. This could involve voter interference and fraud, offers to buy and sell votes with cash or gifts, statements that advocate or provide instructions or show explicit intent to illegally participate in a voting process, misrepresentation of dates, locations, times, and methods of voting, misrepresentation of who can vote, qualifications for voting, whether a vote will be counted, and what information or materials must be provided in order to vote. These escalations are limited to matters of verifiable fact about the conduct of the election - not the content of political or personal views, and the substance of the political debate.

As above, we raise the matter with the social media platform through the agreed escalation route and then it is up to the social media platform to make a decision. Again, the Electoral Commission does not have any 'take-down' powers in this regard.

The Electoral Commission will not otherwise escalate matters related to complaints about false or misleading content online as we do not have the mandate to do so except in the very narrow range of circumstances in section 199A of the Electoral Act, which would likely require the investigative powers of the Police to establish.

Outside of the escalation processes set out above, the Commission will not intervene in individual cases. We will make complainants aware of their ability to complain to the platform themselves if they wish to and we will also provide information on the roles of other agencies including the Advertising Standards Authority, Broadcasting Standards Authority and Media Council. We do not redirect complainants. It is up to the complainant to make a decision for themselves if they would like to make a complaint to these other agencies.

The [Protocol on communications related to the 2023 General Election process](#) outlines the roles of agencies in managing public communications for the election, including which government agencies will officially communicate with the public to support participation in the election, the approach for responding to public enquiries, and how to address misleading or inaccurate information about the General Election.

In total there have been three escalations to social media platforms through the agreed escalation route. In 2020, there were two incidents escalated. One post was removed from Facebook that contained false information and was in breach of the election day rules. Also in 2020, one matter was removed from Twitter involving a person claiming to have dual voted. In 2023 to date, one incident has been escalated via X and removed that contained false information about voting dates.

No incentives and/or disincentives are offered to social media platforms by the Electoral Commission to encourage the removal of social media posts.

In the interests of transparency, we release responses to Official Information Act requests every 3 months. We will publish this response with your personal details redacted.

You have the right under section 28(3) of the Act to make a complaint to the Ombudsman if you are not satisfied with the response to your request. Information about how to do this is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz) or by phoning 0800 802 602.

Yours sincerely



Kristina Temel  
Electoral Commission