

From: [FOI](#)
To: [REDACTED]
Cc: [FOI](#)
Subject: FOI 180/17 - Correspondence Director of Public Prosecutions - Response
Date: 17 January 2018 16:51:10
Attachments: [Bundle 1 - disclose - intro meeting - redacted.pdf](#)
[Bundle 2 - disclose - support changes regime - redacted.pdf](#)
[Bundle 5 - dicclose - email re exempt corres - redacted.pdf](#)

Dear [REDACTED],

Our Ref: FOI 180/17

Thank you for your email to the Electoral Commission dated 17 November 2017, received by the Commission on **Monday 20 November 2017**.

The Commission aims to respond to requests for information promptly and regrets that we have not been able to respond to your request within the 20 working day statutory deadline.

Your original request is in bold below followed by your clarification of the request which was received by the Commission on Tuesday 21 November 2017.

Will the EC also release all communication between itself and the Director for Public Prosecutions and her office.

My request includes all correspondence. My understanding is that any investigation exemption (s36) applies only to current investigations and not concluded ones.

After the receipt of your clarification the Commission applied the 20 working day extension to allow for the full consideration of the public interest test in relation to the release of the information that you requested.

Our response to your request and clarification is as follows:

We hold information you have requested.

We are disclosing to you email exchanges between the Commission and the office of the Director of Public Prosecutions during 2009 following the appointment of Jenny Watson as Chair of Commission, regarding the arrangement of an introductory meeting.

We are also disclosing a letter from the Commission to the then DPP Keir Starmer in September 2012 regarding the regulatory regime, and email exchanges relating to arranging a meeting following that letter.

Section 40(2) and (3)(a)(i) of the FOI Act

In the information we are releasing, we have redacted some of the information in the documents. Section 40(2) provides for an exemption where the information requested constitutes personal data as defined by the Data Protection Act 2000 (DPA), and where release of the information requested would breach one of the data protection principles. Some of the information contained in the requested information falls within the description of personal data as defined by section 1 of the DPA because the information relates directly to an identifiable living individual.

Release of this information would breach the first data protection principle, which states the information must be processed fairly and lawfully.

Section 36(2)(c) of the FOI Act

We are not disclosing further correspondence which we believe is exempt under section 36(2)(c) of the Act, for the following reasons:

The correspondence relates to the Commission seeking to improve its understanding of a specific decision taken by the CPS regarding a potential breach of the Representation of the People Act 1983.

There is in our view a clear need for the Commission to be able to hold discussions with law enforcement agencies as to the interpretation of the law, as well as its enforcement. There is an equally clear risk, in our view, that disclosing any details of such discussions could lead other bodies not to share information with us or agree to such discussions.

There is a further danger that disclosure would provide anyone seeking to evade the controls with details of the considerations the DPP might include in any decision.

The Commission considers that section 36(2)(c) of the Act is engaged in relation to this information. Section 36(2)(c) provides that information is exempt if in the reasonable opinion of the qualified person, disclosure of the information would, or would be likely to, prejudice the effective conduct of public affairs.

The Commission's qualified person for the purpose of this request is our Deputy Chief Executive, Carolyn Hughes and she has decided that the exemption applies in this case. This is because disclosing the correspondence could detrimentally impact upon the ability of the Commission and the DPP to share information and views in order to effectively enforce the law. In the opinion of the qualified person, section 36(2) is engaged; that disclosure would or would be likely to cause prejudice or inhibition.

Exemptions under s.36 of FOIA are subject to the public interest test, where information must be disclosed if the public interest in disclosure outweighs the public interest in maintaining the exemption. On balance, the qualified person has confirmed that the public interest falls in favour of not releasing this information.

Section 30 and 31 of the FOI Act

The Commission also holds correspondence relating to its investigation into the Conservative Party in 2016, and associated possible offences under the Representation of the People Act 1983, which was referred to at the time in a public statement by the Commission which you can read here:

<https://www.electoralcommission.org.uk/i-am-a/journalist/electoral-commission-media-centre/news-releases-donations/electoral-commission-statement-on-allegations-regarding-conservative-party-spending-return-for-2015-general-election3>

The Commission considers that the correspondence itself is exempt from disclosure under section 30 and 31 of the Act.

Section 30(1)(a) of the Act provides for exemption from disclosure information which has been held at any time by a public authority for the purpose of any investigation which the authority has a duty to conduct with a view to it being ascertained whether a person should be charged with an offence. Under PPERA the Commission has a statutory function to conduct investigations, and inquiries as part of its function, into potential breaches of party and election funding rules including breaches where there has been a failure to submit proper statement of accounts.

It is the case that some of the information you request is held for the purposes of this function.

The section 30 exemption applies to information held at any time, whether or not the investigation is ongoing.

Additionally, section 31(1)(g) exempts from disclosure information that would or would be likely to prejudice the exercise of the Commission's functions under PPERA for the purposes of ascertaining whether any person has failed to comply with the law, as provided by section 31 (2)(a) of the Act. Section 31 applies only to the extent that the information is not exempt under section 30. The Commission considers for the reasons discussed above in section 30 and below, that disclosure of the details of the correspondence would prejudice the exercise of the Commission's statutory functions and its ability to conduct inquiries such as this.

Application of sections 30 and 31 exemptions are both subject to the public interest test. The Commission has a statutory duty to monitor compliance with the provisions of the PPERA when conducting inquiries of this type. The public interest lies in enabling the Commission to liaise with other regulators or law enforcement agencies so that it can make effective regulatory decisions.

The Commission aims to be robust and fair in its regulatory decisions and we acknowledge that there is a legitimate public interest in carrying out investigations in an open and transparent way, while ensuring proper regulation of party political funding; however, there are a number of factors that must be considered and weighed in the balance.

In carrying out effective inquiries the Commission depends on being able to secure the co-operation of those organisations with whom we share information. If information provided in the course of our investigation was made public under FOI, it would make those organisations less likely to share information.

Having carefully weighed the public interest relating to possible disclosure of the information requested, we are satisfied that it is not appropriate at this time to disclose the information which the Commission holds. The Commission is satisfied that maintaining exemptions Section 30(1)(a) and section 31(1)(g) outweighs the public interest in disclosure.

Finally, a letter we wrote to the Commissioner of the Metropolitan Police Service on 15 April 2016, and which was copied to the DPP and therefore may fall within the scope of your request, is available to view on our website here:
https://www.electoralcommission.org.uk/_data/assets/pdf_file/0018/219303/Bassett-C-to-MPS-CPS-re-Tower-Hamlets-allegations-2016-4-15.pdf

I trust that this information satisfies your request. The Commission strives to be an open, transparent authority, but in some circumstances we cannot responsibly release requested information, and we ask for your understanding in this regard.

If you are not satisfied with this response, please note that the Commission operates a review procedure, details of which can be found on the Commission website at: <http://www.electoralcommission.org.uk/about-us/freedom-of-information-requests/how-do-i-make-an-foi-request>

Please also note that if you have exhausted all internal Commission review procedures and you are still not satisfied you have the right to appeal to the Information Commissioner. Details of this procedure can be found on the ICO website: <https://ico.org.uk/>

Yours sincerely,


Information Management Adviser

The Electoral Commission
3 Bunhill Row
London EC1Y 8YZ
electoralcommission.org.uk
yourvotematters.co.uk

[Twitter](#) | [Facebook](#) | [Blog](#)

From: [REDACTED]
Sent: 23 January 2009 12:19
To: [REDACTED]
Subject: RE: Meeting with Jenny Watson, new Chair of the Electoral Commission, and Keir Starmer

Thanks for letting me know - I look forward to hearing from you.
[REDACTED]

From: [REDACTED]
Sent: 23 January 2009 11:19
To: [REDACTED]; privateoffice
Subject: RE: Meeting with Jenny Watson, new Chair of the Electoral Commission, and Keir Starmer
Importance: High

[REDACTED],
Unfortunately Mr Starmer is now unable to do this time as he is required to give evidence at a committee. I will be in touch to rearrange.

Regards,

[REDACTED] | Diary Secretary to the Director & Chief Executive
Private Office | Crown Prosecution Service
50 Ludgate Hill, London, EC4M 7EX

[REDACTED]
www.cps.gov.uk



From: [REDACTED]
Sent: 12 January 2009 17:39
To: privateoffice
Subject: RE: Meeting with Jenny Watson, new Chair of the Electoral Commission, and Keir Starmer

Thanks. It will be Jenny Watson (our Chair) and Bob Posner (Legal Counsel). I think an hour would be sufficient, but if you are pressed for time 45mins

From: [REDACTED] **On Behalf Of** privateoffice
Sent: 12 January 2009 17:23
To: [REDACTED]
Subject: RE: Meeting with Jenny Watson, new Chair of the Electoral Commission, and Keir Starmer

Our address is: 50 Ludgate Hill, London, EC4M 7EX.

Could I have the names of those attending? How long would you like to meeting to take?

Kind Regards,
[REDACTED]

From: [REDACTED]
Sent: 12 January 2009 17:18
To: privateoffice
Subject: RE: Meeting with Jenny Watson, new Chair of the Electoral Commission, and Keir Starmer

Dear [REDACTED]

Many thanks for getting back to me. Could we go for 12pm on 5 February please. Jenny will be accompanied by Bob Posner.

I would be grateful if you could let me know your office address so I know where to send them.

Best wishes

[REDACTED]

From: [REDACTED] **On Behalf Of** privateoffice
Sent: 12 January 2009 14:53
To: [REDACTED]
Subject: RE: Meeting with Jenny Watson, new Chair of the Electoral Commission, and Keir Starmer

Dear [REDACTED]

Sorry for the delay in getting back to you.

The Director's diary is extremely busy for January so unfortunately I won't be able to fit in a meeting before the end. However, he is free on the following days:

2 February between 9am – 3pm
5 February between 12pm – 2pm
17 February between 1pm – 3pm

Please let me know as soon as possible if any of these times are suitable.

Kind Regards,

[REDACTED]
Private Office

From: [REDACTED]
Sent: 08 January 2009 16:27
To: privateoffice
Subject: Meeting with Jenny Watson, new Chair of the Electoral Commission, and Keir Starmer

Dear [REDACTED]

Jenny Watson has just taken over from Sam Younger as Chair of the Electoral Commission. Jenny was wondering if it might be possible to arrange a meeting with Mr Starmer for her to introduce herself in her new role as our two organisations do have contact with each other.

Jenny asked if this ideally could be arranged before the end of January, but I appreciate Mr Starmer's diary is probably very busy. My contact details are below so feel free to get in touch.

Kind regards

[REDACTED]
[REDACTED]
Executive PA to the Chair and Chief Executive
The Electoral Commission
Trevelyan House
Great Peter Street

London SW1P 2HW

www.electoralcommission.org.uk

www.aboutmyvote.co.uk

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From: [REDACTED]
Sent: 03 July 2009 16:13
To: [REDACTED]
Subject: RE: Meeting between Jenny Watson, Chair of the Electoral Commission, and Keir Starmer

[REDACTED]
I managed to get hold of Jenny and she is happy to move to a 9am start.
Beyond a general introduction Jenny is looking to establish a good working relationship and talk around the future of regulation/prosecution in the difficult area of regulation of party funding.
Best wishes
[REDACTED]

From: [REDACTED]
Sent: 03 July 2009 12:00
To: [REDACTED]
Subject: RE: Meeting between Jenny Watson, Chair of the Electoral Commission, and Keir Starmer

[REDACTED]
Further to our telephone call, I would be grateful if we could re-arrange this meeting to 9am – 9.50am on 7 July as the Director is speaking at a conference that starts at 10am. The Director will be joined by Simon Clements, the Head of Special Crime Division.

You mentioned in your email back in January that this will be an introductory meeting, if there are any issues that Jenny or Bob would like to discuss I would be grateful if you could let me know as soon as possible.

Thank you,

[REDACTED]
Private Office

From: [REDACTED] **On Behalf Of** privateoffice
Sent: 13 May 2009 15:46
To: [REDACTED]
Subject: RE: Meeting between Jenny Watson, Chair of the Electoral Commission, and Keir Starmer

Thank you. It is in the diary

From: [REDACTED]
Sent: 13 May 2009 15:39
To: privateoffice
Subject: RE: Meeting between Jenny Watson, Chair of the Electoral Commission, and Keir Starmer

Can I go for 9.30 in that case

From: [REDACTED] **On Behalf Of** privateoffice
Sent: 13 May 2009 15:36

To: [REDACTED]

Subject: RE: Meeting between Jenny Watson, Chair of the Electoral Commission, and Keir Starmer

Sorry I worded my email wrong. I meant to say that it the Director can only do up to 10.30am. He can do from 9am – 10.30am on 7 July.

From: [REDACTED]

Sent: 13 May 2009 15:21

To: privateoffice

Subject: RE: Meeting between Jenny Watson, Chair of the Electoral Commission, and Keir Starmer

[REDACTED]

Could we go fro 7 July at 10.30 please. Jenny will be accompanied by Bob Posner our Legal Counsel, and are happy to come to your offices.

Many thanks

From: [REDACTED]

On Behalf Of privateoffice

Sent: 13 May 2009 14:25

To: [REDACTED]

Subject: RE: Meeting between Jenny Watson, Chair of the Electoral Commission, and Keir Starmer

[REDACTED]

The Director can do 6 July, 7 July (but only 10.30am), 16 July and 21 July (but only 9 -10.30 and 3 – 5)

From: [REDACTED]

Sent: 12 May 2009 13:16

To: privateoffice

Subject: Meeting between Jenny Watson, Chair of the Electoral Commission, and Keir Starmer

Dear [REDACTED]

We had a meeting in the diary for early February for Jenny Watson, Chair of the Electoral Commission, to meet with Mr Starmer but this was unfortunately cancelled as Mr Starmer was required to give evidence at a committee.

Jenny is still very keen to meet with Mr Starmer, and I was wondering if it would be possible to find a new date.

Some possible dates from Jenny's diary are below

17 June - between 9 and 12

30 June between 9 and 11

6 July between 2 and 5

7 July between 9 and 11

15 July between 9 and 11 and 3 and 5

16 July between 2 and 5

21 July between 9 and 12 and 3 and 5

22 July between 9 and 12

I look forward to hearing from you.

Best wishes

[REDACTED]
Executive PA to the Chair and Chief Executive
The Electoral Commission
Trevelyan House
Great Peter Street
London SW1P 2HW

[REDACTED]
www.electoralcommission.org.uk
www.aboutmyvote.co.uk

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The Electoral Commission

Keir Starmer QC
Director of Public Prosecution
The Crown Prosecution Service
Rose Court
2 Southwark Bridge
London SE1 9HS

10 September 2012

Dear Keir

Some time ago we had a useful discussion of areas of overlap between our respective organisations. There continues to be an active agenda on electoral and constitutional reform, including political party and election finance and I would find it useful to repeat this. There are a number of areas it would be helpful for us to discuss.

A major change in electoral law currently being worked through is the introduction of **Individual Electoral Registration**. The detailed regulation which sets out how this will be implemented is currently being developed and will be key to enabling Electoral Registration Officers, police and prosecutors to effectively deter, detect, investigate and prosecute where necessary. We are keen to ensure that the CPS is involved in this debate, as the regulation needs to ensure that successful prosecutions for fraudulent registration can be brought in the future. This change may also have an impact on your work relating to economic fraud.

On **electoral integrity**, we are undertaking a review focusing on potential vulnerabilities within the UK electoral system and identifying changes that may be needed to improve public confidence and trust that there is no undue influence in the way our elections work. This is timely in the light of the change to individual electoral registration since this may shift the attention of those who do wish to commit electoral fraud to other areas of the electoral system which are still trust based. The review will aim to achieve consensus about the best balance between ensuring the integrity and accessibility of the electoral process in the UK and will consider issues such as the need for ID to be produced at polling stations. We intend to publish this review in time for legislation to be brought forward during the life time of this Parliament and would again welcome input from the CPS to this project since your experience particularly of considering and

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3 Bunhill Row
London EC1Y 8YZ

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taking forward electoral fraud cases is an important consideration in understanding possible changes to the legislative framework.

More broadly on electoral matters, we proposed and the England and Wales Law Commission agreed, in co-operation with the Northern Ireland and Scotland Law Commissions, to commence a project on **electoral law reform**. We support bringing together the numerous statutes and secondary legislation into a more coherent statutory framework. A simpler, more modern legislative framework would have considerable benefits for all those involved in administering elections, those standing for election and, most importantly, those wishing to cast their vote. We also believe that a simpler framework would be more cost effective to administer.

Problems with the current legislative framework include the number of laws in this area, the outdated nature of some of these laws, inconsistencies between different elections, and legislation which is at times ambiguous or imposes undue administrative burdens in its implementation. The Law Commission(s) have now published a consultation paper on the proposed scope of the paper. We have responded, overall welcoming its content. If, after this scoping phase, there is agreement to move to a substantive project, the Law Commission(s) aim to produce a detailed consultation paper after the May 2014 elections and finalise substantive law reform recommendations in mid-2015. There would then be a further review. If both the Law Commission(s) and Government decide to continue with the project, the Law Commission(s) aim to publish a final report and bill(s) in early 2017.

We hope that you will feel able to express in principle support for the need for reform and the review not least because we note that the Law Commission(s) have identified electoral criminal offences as an area needing substantive law reform consideration. We think this has merit and would also welcome an early Crown Prosecution Service perspective on this.

Separately, when we last met we discussed then proposals for new investigative powers and a range of flexible sanctions for **breaches under the Political parties Elections and Referendums Act 2000**. Those proposals have since become a reality under a now implemented regime introduced by the Political Parties and Elections Act 2009. We now have appropriate investigative powers and a range of flexible sanctions we can impose for most breaches of PPERA whilst keeping the ability to address non-compliance through advice and guidance or refer matters to the police or prosecutors for possible criminal prosecution.

The Electoral Commission

I know my staff are keen to update your team on our thinking about how the operation of this new regulatory regime is working in practice, including in terms of the criminal/civil inter-action and possible future improvements.

I would welcome the opportunity to discuss these issues with you and my office will contact yours to see if a meeting can be arranged.

With best wishes as ever,



Jenny Watson
Chair

From: [REDACTED]
Sent: 29 October 2012 11:25
To: [REDACTED]
Subject: RE: Possibility of arranging a meeting between Jenny Watson and Keir Starmer

Dear [REDACTED]

Sorry for the delay in getting back to you - I've only just got back from a couple of weeks leave. If Mr Starmer still has some time on 14 November Jenny is available between 9.30 and 12.30 or 3-4.

Best wishes
[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: 18 October 2012 13:00
To: [REDACTED]
Subject: RE: Possibility of arranging a meeting between Jenny Watson and Keir Starmer

Dear [REDACTED]

Unfortunately the Director will no longer be able to meet with Jenny on Monday, 12 November. He does have some availability on Wednesday, 14 November. Please could you let me know whether this is convenient for Jenny.

Kind regards,

[REDACTED] Diary Secretary

Director of Public Prosecutions

Private Office | Crown Prosecution Service HQ

Rose Court, 2 Southwark Bridge, London, SE1 9HS

[REDACTED]
www.cps.gov.uk

-----Original Message-----

From: [REDACTED]
Sent: 04 October 2012 17:05
To: [REDACTED]
Subject: RE: Possibility of arranging a meeting between Jenny Watson and Keir Starmer

Dear [REDACTED]

Thanks very much. Next week will be fine.

Kind regards,

[REDACTED] Diary Secretary

Director of Public Prosecutions

Private Office | Crown Prosecution Service HQ

Rose Court, 2 Southwark Bridge, London, SE1 9HS

[REDACTED]
www.cps.gov.uk

-----Original Message-----

From: [REDACTED]

Sent: 04 October 2012 17:04

To: [REDACTED]

Subject: RE: Possibility of arranging a meeting between Jenny Watson and Keir Starmer

Dear [REDACTED]

Thanks for getting back to me. 12 November is still fine - so Jenny will see you at 4. She might want to bring one or two other staff members with her, but if it is OK with you I will confirm names and job titles next week once Jenny is back in the office.

Best wishes

-----Original Message-----

From: [REDACTED]

Sent: 04 October 2012 11:07

To: [REDACTED]

Subject: RE: Possibility of arranging a meeting between Jenny Watson and Keir Starmer

Dear [REDACTED]

Apologies for the delay in getting back to you. The Director would like to accept the offer of a meeting and from the dates below, is available on 12 November at 4pm. Please let me know if this is still a suitable date.

Kind regards,

[REDACTED]
Director of Public Prosecutions

Private Office | Crown Prosecution Service HQ
Rose Court, 2 Southwark Bridge, London, SE1 9HS

[REDACTED]
www.cps.gov.uk

-----Original Message-----

From: Katharine Sparrow [REDACTED]
Sent: 27 September 2012 11:30
To: privateoffice
Subject: Possibility of arranging a meeting between Jenny Watson and Keir Starmer

Dear Mr Starmer

I am following up on Jenny Watson's recent letter to you (10 September) where she updated you on the Commission's agenda on electoral and constitutional reform and how this crosses with your areas of work. Jenny would welcome the opportunity to discuss these issues with you and was hoping we might be able to arrange a meeting.

I appreciate your diary is probably very busy and we would try and be as flexible as possible. In case it helps, below are some dates that currently work for Jenny

- 24 October - anytime
- 29 October - between 2 and 5
- 30 October - anytime
- 31 October - between 10 and 11.30; or between 2.30 and 5.30
- 6 November - between 3.30 and 5
- 12 November - between 2 and 5
- 26 November - between 2 and 5

I look forward to hearing from your office.

[REDACTED]
[REDACTED]
Executive PA to the Chair and Chief Executive
The Electoral Commission
3 Bunhill Row
London EC1Y 8YZ
[REDACTED]

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From: Bob Posner
Sent: 09 May 2016 16:09
To: Louise Footner; Louise Edwards
Cc: [REDACTED]
Subject: FW: Letter from the Director of Public Prosecutions
Attachments: 090516 Letter to Bob Posner.pdf

For info.

From: [REDACTED]
Sent: 09 May 2016 16:05
To: [REDACTED]
Subject: FW: Letter from the Director of Public Prosecutions

Dear [REDACTED]

Thank you for the letter to Mr Posner from Alison Saunders.

I will ensure the letter is passed to him this afternoon.

Kind regards
[REDACTED]

From: [REDACTED]
Sent: 09 May 2016 15:38
To: [REDACTED]
Subject: Letter from the Director of Public Prosecutions

Dear [REDACTED]

Please find attached a letter for the attention of Mr Posner from the Director of Public Prosecutions.

I would be grateful if you could acknowledge receipt.

Kind regards,

[REDACTED]
Diary Secretary to Alison Saunders, Director of Public Prosecutions

Crown Prosecution Service HQ | 9th Floor, Rose Court | 2 Southwark Bridge, London SE1 9HS | DX 154263 Southwark 12

@: asia.schuler@cps.gsi.gov.uk
W: www.cps.gov.uk
[REDACTED]



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