

**From:** FOI </O=ELECTORAL COMMISSION/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FOI>  
**Sent:** 23 March 2017 18:37  
**To:** [REDACTED]  
**Subject:** FOI -14/17 - DUP Overspending  
**Attachments:** 10. email dated 17022017.pdf, 10. Final and Draft LTT on DUP return.pdf; 11. email dated 17022017.pdf, 12. email dated 17.02.2017.pdf; 13. email dated 20.02.2017.pdf, 14. email dated 20.02.2017.pdf, 15. email dated 20.02.2017.pdf, 16. email dated 09.03.2017.pdf, 17. email dated 09.03.2017.pdf, 18. email dated 23.02.2017.pdf, 2017-02-20-PosnerB-letter-to-DoddsN-DonaldsonJ-DUP.pdf, 1. email dated 24112016.pdf, 2. email dated 30012017.pdf, 3. email dated 30012017.pdf, 4. email dated 08022017.pdf, 5. email dated 16022017.pdf, 6. email dated 16022017.pdf, 7. email dated 17022017.pdf, 8. email dated 17022017.pdf, 9. email dated 17022017.pdf; Contents of Emails attached to response.pdf; Contents of Emails attached to response.pdf

Dear [REDACTED]

**Our Ref: FOI 14/17**

Thank you for your email to the Electoral Commission dated **23 February 2017**. Due to the nature of your enquiry, we have decided to handle this as request under the Freedom of Information Act 2000 (FOI Act).

The Commission aims to respond to requests for information promptly and has done so within the statutory timeframe of twenty working days.

Your request is in bold below followed by our response.

You have requested:

**Under Freedom of Information legislation please provide me a copy of all written correspondence and emails (sent and received), as well as memos and minutes of meetings, during the last six months (or the longest time period possible to comply with cost and time exemptions) that make reference to the publication of details on the Democratic Unionist Party's (DUP) campaign spend of over £250,000 during the EU referendum campaign.**

Our response is as follows:

**We can confirm that we do hold the information you have requested.**

Copies of these documents are attached.

Some of the information contained in these documents contains personal data which is exempt from disclosure under Section 40 of the FOI Act. These documents have been redacted prior

to release. Further explanation of the exemption is provided below.

In addition, some of the information we hold in relation to this matter contains internal legal advice. The Commission considers this information regarding this request exempt from disclosure under section 42 of the FOI Act, and we are withholding this information from release. This exemption is also explained below.

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

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.

Some of the redactions we have made relate to direct contact information of staff members and the names and contact details of junior staff members. Other personal data has been withheld as it relates to sensitive personal data of individuals. Disclosure of both types of personal data would contravene the first principle of the DPA.

The first data protection principle states that personal data shall be processed fairly and lawfully. The Commission considers that it would be unfair to release the information requested as it would be reasonably expected by those individuals

### **Section 42(1) of the FOI Act**

For the reasons set out below, the Commission considers that legal advice is exempt from disclosure under section 42 of the FOI Act, and we are withholding this information from release. Section 42(1) provides for exemption from disclosure information that is privileged under legal professional privilege. The requested information being withheld from disclosure under section 42 constitutes legal advice that informed the decision of the Commission on this matter; it is legally privileged communications and advice provided by legal advisors.

Application of this exemption is subject to the public interest test. There is a public interest in transparency and accountability. However, it is also in the public interest to safeguard the confidential nature of legally privileged communications and advice so as to allow openness in all communications between client and lawyer to ensure access to full and frank legal advice which in turn is fundamental to the administration of justice. There is an inherent and strong public interest in maintaining this privilege given it is in the public's interest to ensure openness in order to safeguard access to fully informed, realistic and frank legal advice. The maintenance of this privilege, as the Information Commissioner's Office and the courts have stated, helps ensure the administration of justice and the effective undertaking of public policy. Having carefully weighed the public interest relating to possible disclosure of the information requested under s 42(1), we are satisfied that it is not appropriate at this time to disclose the information that the Commission holds. The Commission is satisfied that maintaining the exemption outweighs the public interest in disclosure.

I trust that this information satisfies your request. The Commission strives to be an open, transparent authority.

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: <http://www.ico.gov.uk>

Yours sincerely

**Craig Westwood**  
**Director of Communications and Research**

The Electoral Commission

3 Bunhill Row

London EC1Y 8YZ

Tel: [REDACTED]

Advice and guidance email: [infoengland@electoralcommission.org.uk](mailto:infoengland@electoralcommission.org.uk)

[electoralcommission.org.uk](http://electoralcommission.org.uk)

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[REDACTED]

---

**From:** Claire Bassett  
**Sent:** 17 February 2017 15:53  
**To:** [REDACTED] Craig Westwood; Ailsa Irvine; Ann Watt; Bob Posner  
**Cc:** [REDACTED]  
**Subject:** RE: Publishing spending returns

Thanks- I think we don't need to say everything so reduced slightly- unless hear anything will send this to DUP in about 10 mins

Claire

Dear [REDACTED]

*Thank you for raising your concerns with me regarding the media reports that the Electoral Commission will be publishing the DUP's EU Referendum spending return before the Northern Ireland Assembly election.*

*The Commission has a statutory duty (s. 100 PPERA) to publish the campaigner spending returns received by registered referendum campaigners as soon as is practicable. Since receiving all of the returns from campaigners reporting expenditure over £250,000 we have been working to fulfil this obligation. At the rate of progress we are making in processing the returns so they can be made publicly available, we think that Friday 24 February is likely to be the earliest reasonably practical date on which we can publish the returns.*

*When registering with the Electoral Commission as a referendum campaigner, individuals and organisations were made aware that their spending returns would be made publicly available in due course. The timing of a poll is not a practical impediment to publication and we believe this approach is in the interests of transparency. As there is no practical impediment to publishing these returns, any delay in doing so could be considered as curbing transparency around spending at the referendum, which was a UK-wide event. It is therefore appropriate to revert to the guidance provided by the legislation on this matter.*

*I appreciate that the DUP is uniquely affected by this as the only Northern Ireland political party to register with the Electoral Commission as a referendum campaigner, however to delay publication would mean we were not complying with our statutory duty to publish as soon as is practicable.*

---

**From:** [REDACTED]  
**Sent:** 17 February 2017 15:47  
**To:** Craig Westwood; Claire Bassett; Ailsa Irvine; Ann Watt; Bob Posner  
**Cc:** [REDACTED]  
**Subject:** RE: Publishing spending returns

Here is a draft response – sending in email to save time.

Dear [REDACTED]



*Thank you for raising your concerns with me regarding the media reports that the Electoral Commission will be publishing the DUP's EU Referendum spending return before the Northern Ireland Assembly election.*

*The Commission has a statutory duty to publish the campaigner spending returns received by registered referendum campaigners as soon as is practicable. Since receiving all of the returns from campaigners reporting expenditure over £250,000 we have been working to fulfil this obligation. At the rate of progress we are making in processing the returns so they can be made publicly available, we think that Friday 24 February is likely to be the earliest reasonably practical date on which we can publish the returns. This is in line with what is asked of us in the statute (s. 100 PPERA) which is also part of our corporate key performance indicators. This timeline is also equivalent to past practice where we have published the returns as soon as they are available for publication. The time this has taken is usually in the region of eight weeks from the date returns are received, which is also the case this time.*

*When registering with the Electoral Commission as a referendum campaigner, individuals and organisations were made aware that their spending returns would be made publicly available in due course. The timing of a poll is not a practical impediment to publication and we believe this approach is in the interests of transparency. As there is no practical impediment to publishing these returns, any delay in doing so could be considered as curbing transparency around spending at the referendum, which was a UK-wide event. It is therefore appropriate to revert to the guidance provided by the legislation on this matter.*

*I appreciate that the DUP is uniquely affected by this as the only Northern Ireland political party to register with the Electoral Commission as a referendum campaigner, however to delay publication would mean we were not complying with our statutory duty to publish as soon as is practicable.*

---

**From:** [REDACTED]  
**Sent:** 17 February 2017 14:27  
**To:** Craig Westwood; Claire Bassett; Ailsa Irvine; Ann Watt; Bob Posner  
**Cc:** [REDACTED]  
**Subject:** RE: Publishing spending returns

Hi all,

Here are the LTT that we've drafted. Ann has had a chance to review and we've taken her comments on board.

[LTT - DUP EU Referendum spending returns.docx](#)

There are a few lines we still need to draft but they are for the point after publication, so please bear with us while we get those firmed up.

[REDACTED]

---

**From:** Craig Westwood  
**Sent:** 17 February 2017 14:20  
**To:** Claire Bassett; Ailsa Irvine; Ann Watt; Bob Posner  
**Cc:** [REDACTED]  
**Subject:** RE: Publishing spending returns

[REDACTED] is working with [REDACTED] and [REDACTED] to finalise our approach, which will serve for press LTT, DUP response and a line to go out to the other campaigners. We'll circulate shortly.

Craig

---

**From:** Claire Bassett  
**Sent:** 17 February 2017 14:00  
**To:** Craig Westwood; Ailsa Irvine; Ann Watt; Bob Posner  
**Cc:** [REDACTED]  
**Subject:** RE: Publishing spending returns

Just checking how we are getting on with this? Not seen anything and conscious we should at least be sending holding reply if delayed?  
Thanks

---

**From:** Craig Westwood  
**Sent:** 17 February 2017 10:01  
**To:** Ailsa Irvine; Claire Bassett; Ann Watt; Bob Posner  
**Cc:** [REDACTED]  
**Subject:** RE: Publishing spending returns

Hi Ailsa,

No problem, am looping [REDACTED] in and she's going to start working on this now.

Craig

---

**From:** Ailsa Irvine  
**Sent:** 17 February 2017 09:54  
**To:** Claire Bassett; Ann Watt; Bob Posner; Craig Westwood  
**Cc:** [REDACTED]  
**Subject:** RE: Publishing spending returns

Hi Craig,

Ann and I have just spoken about all of this – I tried to call you and [REDACTED] but missed you both.

In terms of what happens next, we wanted to check our thinking and confirm who's doing what. We talked about actions for today and think we need to communicate to the various campaigners our approach to publication and then Claire can respond to the DUP referring to this. Presumably we'll then confirm this publicly and also have reactive lines to respond to any interest coming out of this.

Ann is out at EONI this morning and not back until 12noon and [REDACTED] isn't in today hence why I'm sending this, as we're hoping that someone in your team will be able to pick up preparing the lines, etc. in the first instance.

I need to pop out of the office for a bit this morning but I'm available on the mobile if it would help to talk about any of this and I'll be back at my desk by lunchtime. Let me know if there's anything you need me to do.

Thanks,  
Ailsa



**Ailsa Irvine**

**Director of Electoral Administration and Guidance**

The Electoral Commission

3 Bunhill Row

London EC1Y 8YZ

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**From:** Claire Bassett

**Sent:** 16 February 2017 17:25

**To:** Ann Watt; Bob Posner

**Cc:** Craig Westwood; Ailsa Irvine; [REDACTED]

**Subject:** RE: Publishing spending returns

Thanks Ann

Ailsa and I have discussed and will aim to get these responses out tomorrow

---

**From:** Ann Watt

**Sent:** 16 February 2017 17:22

**To:** Bob Posner

**Cc:** Claire Bassett; Craig Westwood; Ailsa Irvine; Ann Watt; [REDACTED]

**Subject:** Re: Publishing spending returns

This sounds like the right approach.

We will need several layers of comms lines:

- what we say now (already agreed and being used; we have had several inquiries)
- what we say once we have released date for (earliest) publication
- what we say once data published

[REDACTED] already has our current lines and is preparing some new lines which he will send round.

Sent from my iPhone

On 16 Feb 2017, at 15:32, Bob Posner [REDACTED] wrote:

Statutory reference - s100 PPERA

Our published [corporate plan] KPI says we aim for the 8 week period.

Bob.

---

**From:** Claire Bassett

**Sent:** 16 February 2017 15:23

**To:** Bob Posner

**Cc:** Craig Westwood; Ailsa Irvine; Ann Watt; [REDACTED]

**Subject:** RE: Publishing spending returns

Hi All

In light of this I think we have agreed the following position:

Friday 24 Feb is likely to be the earliest reasonably practical date on which we can publish the returns. This is in line with what is asked of us in the Statute (Bob can we have reference?) and past practice where we have applied this test (of the earliest reasonably practical date) and published the returns as soon as they are available to do so. The time this has taken is usually in the region of 8 weeks from the date returns are received which is also the case this time.

We have not delayed publication as, to do so would mean we are not publishing the returns at the earliest reasonably practical date. The timing of a separate election or poll is not a practical impediment to publication and we believe this approach is in the interests of transparency.

Next steps-

Are we all content with this approach? (LTT will need finessing)

We do recognise that this will raise considerable concerns from the DUP who are the only NI party effected, however they took the spending decisions in the full knowledge that we would be publishing the data and to delay publication could equally attract criticism from elsewhere. It is therefore appropriate to revert to the statutes and rules there.

Next who do we tell and when?

Need to reply to the DUP but I think we should tell all those whose returns will be published. We have agreed we will phrase this in the terms of "We anticipate that the earliest reasonably practical date for publication will be 24/2" rather than being tied to the 24/2 exactly

We will also need a wider external and internal (eg Commissioners) comms plan- for example media and other interest groups will also be actively waiting for this

In terms of immediate progress I think we need to agree the approach today and then between PFR and NI agree the comms for those who have submitted returns, including the DUP (whom I suggest we just signpost to a wider announcement) and then with Comms as well think about wider comms plan.

Thanks

Claire



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**From:** Bob Posner  
**Sent:** 16 February 2017 13:01  
**To:** Claire Bassett  
**Cc:** Craig Westwood; Ailsa Irvine; Ann Watt; [REDACTED]  
**Subject:** Publishing spending returns

Claire,

To best of [REDACTED] and my recollection the Commission has never delayed publication of returns when ready to do so. Note that if such were ready on the actual day of an election we would probably not do so on that day

Scottish Referendum we published 8 weeks and 1 day after returns received, which was the soonest reasonably practicable date.

EU Referendum if we publish on Friday 24 February that will be 8 weeks and 4 days after returns received (excludes the three public holidays).

Definitely on track for expecting to publish these returns next Friday 24 February as the soonest reasonably practicable date.

Is there anything else we need to check?

Bob.

## **The Final Draft**

### **What information will be published in the spending returns? Will any information from the returns be redacted?**

The campaign spending returns of those registered campaigners at the EU Referendum who reported spending more than £250,000 during the regulated period will be published. The Commission publishes all of the invoices for costs exceeding £200 that campaigners submit to support their spending report and a line-by-line breakdown of expenditure as reported by the campaigner. Any personal information on invoices will be redacted as is standard procedure to comply with data protection regulation.

We have already published the spending returns of those [campaigners who reported spend of less than £250,000](#) and that is available to view on the Commission's website.

**Note:** The Commission has also already published the campaign spending of two campaigners who spent over £250,000 – Mr Darren Grimes and We Are Europe – as they submitted their independently audited spending return in advance of the statutory deadline.

### **Why is the Commission publishing the DUP's return so close to the Assembly election?**

The Commission has a statutory duty under PPERA to publish the spending returns as soon as is practicable. We have previously published returns for other referendums two months after the date of the deadline for submitting returns and this publication schedule is in line with that timeline.

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## **Earlier Drafts**

### **Draft 1**

#### **What information will be published in the spending returns? Will any information from the returns be redacted?**

[Please speak to ██████████ about the answer to this – we have already published the campaigner spend of <£250k, so our answer should probably refer to this format. We do however redact some information which ██████████ can advise about.

### **Draft 2**

#### **What information will be published in the spending returns? Will any information from the returns be redacted?**

The Commission publishes all of the invoices for costs exceeding £200 that campaigners submit to support their spending report and a line-by-line breakdown of expenditure as reported by the campaigner.

Any personal information on invoices will be redacted as is standard procedure to comply with data protection regulation.

### **Draft 3**

#### **What information will be published in the spending returns? Will any information from the returns be redacted?**

The campaign spending returns of those registered campaigners at the EU Referendum who reported spending more than £250,000 during the regulated period will be published. The Commission publishes all of the invoices for costs exceeding £200 that campaigners submit to support their spending report and a line-by-line breakdown of expenditure as reported by the campaigner. Any personal information on invoices will be redacted as is standard procedure to comply with data protection regulation.

We have already published the spending returns of those [campaigners who reported spend of less than £250,000](#) and that is available to view on the Commission's website.

**Note:** The Commission has also already published the campaign spending of two campaigners who spent over £250,000 – Mr Darren Grimes and We Are Europe – as they submitted their independently audited spending return in advance of the statutory deadline.

Any personal information on invoices will be redacted as is standard procedure to comply with data protection regulation.



[REDACTED]

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**From:** Claire Bassett  
**Sent:** 17 February 2017 16:05  
**To:** [REDACTED]  
**Subject:** RE: ECom publication of EU Referendum spending returns

Dear [REDACTED]

Thank you for raising your concerns with me regarding the media reports that the Electoral Commission will be publishing the DUP's EU Referendum spending return before the Northern Ireland Assembly election.

The Commission has a statutory duty (s. 100 PPERA) to publish the campaigner spending returns received by registered referendum campaigners as soon as is practicable. Since receiving all of the returns from campaigners reporting expenditure over £250,000 we have been working to fulfil this obligation. At the rate of progress we are making in processing the returns so they can be made publicly available, we think that Friday 24 February is likely to be the earliest reasonably practical date on which we can publish the returns.

When registering with the Electoral Commission as a referendum campaigner, individuals and organisations were made aware that their spending returns would be made publicly available in due course. The timing of a poll is not a practical impediment to publication and we believe this approach is in the interests of transparency. As there is no practical impediment to publishing these returns, any delay in doing so could be considered as curbing transparency around spending at the referendum, which was a UK-wide event. It is therefore appropriate to revert to the guidance provided by the legislation on this matter.

I appreciate that the DUP is uniquely affected by this as the only Northern Ireland political party to register with the Electoral Commission as a referendum campaigner, however to delay publication would mean we were not complying with our statutory duty to publish as soon as is practicable.

Yours sincerely

Claire

**Claire Bassett**  
**Chief Executive**  
The Electoral Commission  
3 Bunhill Row  
London EC1Y 8YZ  
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**From:** [REDACTED]  
**Sent:** 16 February 2017 10:32  
**To:** Claire Bassett  
**Subject:** ElCom publication of EU Referendum spending returns

Dear Claire,

I'm the DUP's chief of staff at Westminster. I can't remember if we said hullo at Jenny Watson's leaving do in the Speaker's state apartments, but if not, well, hullo.

I've a quick query in regard to the above. We've noticed in the press various stories to the effect of, 'the EU Spending returns are soon to be published by the Electoral Commission'. Our friends in the media frequently get things wrong, not least when it comes to their coverage of hard-pressed regulators. But we'd obviously like clarity on this point please.

Therefore we'd be grateful if you could please confirm that the Electoral Commission, in accordance with both best practice and past precedent, will obviously *not* be publishing the returns during the Northern Ireland Assembly election campaign?

Yours

[REDACTED]

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[REDACTED]

DUP Chief of Staff, Westminster

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[REDACTED]

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**From:** [REDACTED]  
**Sent:** 17 February 2017 15:57  
**To:** [REDACTED]  
**Subject:** Email to campaigners

**Importance:** High

Hi [REDACTED]

Claire has signed off an email to the DUP and will send it shortly. So here is some content for the emails you will be sending to the remaining campaigners we need to contact. I'll come over when Claire has confirmed she's emailed DUP so you can start pressing send on the other emails.

Sorry for the delay in getting this to you!

*The Commission has a statutory duty (s. 100 PPERA) to publish the campaigner spending returns received by registered referendum campaigners as soon as is practicable. Since receiving all of the returns from campaigners reporting expenditure over £250,000 we have been working to fulfil this obligation. At the rate of progress we are making in processing the returns so they can be made publicly available, we think that Friday 24 February is likely to be the earliest reasonably practical date on which we can publish the returns.*

*Before we publish the returns we will be in touch again to confirm the date of publication for your information.*

[REDACTED]  
[REDACTED]  
**Senior Communications Officer**  
The Electoral Commission  
3 Bunhill Row  
London EC1Y 8YZ

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[REDACTED]

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**From:** Bob Posner  
**Sent:** 20 February 2017 12:39  
**To:** Rupert Grist; Ann Watt  
**Cc:** Ailsa Irvine; [REDACTED]; Louise Edwards; Craig Westwood; Claire Bassett  
**Subject:** RE: Submission to the Electoral Commission  
**Attachments:** Draft reply to DUP email of 20 2 2017 - rgsuggestions.docx

Thanks Rupert. I'll go with your helpful amends.

Bob.

---

**From:** Rupert Grist  
**Sent:** 20 February 2017 12:35  
**To:** Craig Westwood; Claire Bassett; Bob Posner; Ann Watt  
**Cc:** Ailsa Irvine; [REDACTED]; Louise Edwards  
**Subject:** RE: Submission to the Electoral Commission

Some suggested amends on the attached, if you thought all/any were helpful.

Rupert

**Rupert Grist**  
**Interim Head of Legal**  
The Electoral Commission  
3 Bunhill Row  
London EC1Y 8YZ

[REDACTED] [REDACTED]  
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**From:** Craig Westwood  
**Sent:** 20 February 2017 12:28  
**To:** Claire Bassett; Bob Posner; Ann Watt; Rupert Grist  
**Cc:** Ailsa Irvine; [REDACTED]; Louise Edwards  
**Subject:** RE: Submission to the Electoral Commission

Thanks Bob, likewise content.

Craig

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**From:** Claire Bassett  
**Sent:** 20 February 2017 12:21  
**To:** Bob Posner; Craig Westwood; Ann Watt; Rupert Grist  
**Cc:** Ailsa Irvine; [REDACTED] Louise Edwards  
**Subject:** RE: Submission to the Electoral Commission

Thanks- looks good to me. I wonder if we should you front up that the wrong section was referred to in my email?

---

**From:** Bob Posner  
**Sent:** 20 February 2017 11:59  
**To:** Claire Bassett; Craig Westwood; Ann Watt; Rupert Grist  
**Cc:** Ailsa Irvine; [REDACTED] Louise Edwards  
**Subject:** FW: Submission to the Electoral Commission

Draft reply to below attached. Comments welcome. I am aiming to send the reply late afternoon today or promptly tomorrow morning.

Bob.

---

**From:** DONALDSON, Jeffrey [REDACTED]  
**Sent:** 20 February 2017 08:57  
**To:** Claire Bassett  
**Cc:** DODDS, Nigel  
**Subject:** Submission to the Electoral Commission

Dear Claire,

Thank you for your email of 17 February in which you confirmed that the Electoral Commission ('the Commission') is planning to publish EU referendum campaign spending returns, if it is able to do so, [on 24 February](#), less than a week before polling day in the Northern Ireland Assembly elections. The Democratic Unionist Party ('the DUP') invites you to reconsider this decision which appears to be vitiated by two errors of law.

(1) The Commission has misdirected itself as to the nature of its duty to publish returns. In your email, you state that 'the Commission has a statutory duty (s. 100 PPERA) to publish the campaigner spending returns received by referendum campaigners as soon as is practicable.' The Commission's duty to publish returns, in the case of referendums, is imposed by section 124, not section 100, of the Political Parties, Elections and Referendums Act 2000. Furthermore, the duty is not to publish the returns as soon as practicable, but only as soon as reasonably practicable. It is settled law that an obligation to do something when 'reasonably practicable' is not contravened if there is 'just cause or excuse' not to do it in the specified time: *Wall's Meat Co Ltd v Khan* [1979] ICR 52, 56D.

Delaying the publication of the returns by a week in order to avoid interfering with the Northern Ireland Assembly elections is undoubtedly just cause for these purposes. The Commission has itself recognised that the activities of public bodies influencing voters before polling day raises a 'particular concern about fairness': The 2016 EU referendum, September 2016, pp. 3-4. This consideration applies in particular to the activities of the Commission itself, whose object is to ensure fair and impartial elections in the UK.



(2) The Commission has failed to have regard to guidance on the conduct of public bodies during the Northern Ireland Assembly election campaign. On 25 January, the Minister for the Cabinet Office and Paymaster General, the Rt Hon. Ben Gummer MP, issued guidance applicable both to the Government and to 'those working in arms length bodies' on conduct ahead of the Assembly elections: Conduct Guidance for Northern Ireland Election [on 2 March](#): Written statement - HCWS435. The Guidance took effect immediately. The Commission may lawfully depart from this guidance only where it gives 'clear reasons' for doing so: *R (Khatun) v Newham LBC* [2005] QB 37, 59C-D. No reasons for departing from the Guidance have been provided by the Commission.

The Guidance requires (at [5]) that: 'Particular care should be taken over official support, and the use of public resources, including publicity, for Ministerial or official announcements that could have a direct bearing on matters relevant to the Northern Ireland elections. In some cases it may be better to defer an announcement until after election day, provided that such a postponement would not be either wasteful of public money or detrimental to the wider UK national interest, which will include consideration of the urgency and importance of the issue. Each case should be considered on its merits.'

The Guidance also states that 'in cases of doubt, further advice should be sought from the Cabinet Office Propriety and Ethics team' (at [11]). It does not appear that the Commission in the instant case has either taken the particular care required by the Guidance or sought further advice from the Cabinet Office. Arm's length bodies such as the Commission are under a further duty to consult their sponsor department (see [25]). It is plainly appropriate that publication of the returns, which the Commission accepts would 'uniquely' affect the DUP, is postponed until after polling day to avoid an undue impact on the campaign. This would neither waste public money nor be detrimental to the wider UK national interest. Rather, it would serve the public interest in fair and impartial elections.

In the light of (i) the fact that the Commission is not under a duty to publish the returns as soon as practicable but only as soon as reasonably practicable and (ii) the provisions of the January 2017 Guidance, the Commission would not, as you suggest in your email, act unlawfully by delaying publication of the returns until after the Assembly elections. The DUP considers that the publication of politically-sensitive material in the week before polling day by the Commission would be unprecedented and undercut established rules designed to ensure public bodies do not intervene in election campaigns. Such publication would inevitably risk damaging the reputation of the Commission for impartiality and its legitimacy as a regulator in Northern Ireland.

We look forward to hearing from you.

Yours sincerely,

Rt Hon Nigel Dodds OBE MP  
Deputy Leader & Director of Elections  
Democratic Unionist Party

Rt Hon Sir Jeffrey Donaldson MP  
Chief Whip & National Campaign Director  
Democratic Unionist Party

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[REDACTED]

---

**From:** [REDACTED]  
**Sent:** 20 February 2017 17:57  
**To:** [REDACTED]  
**Subject:** RE: Submission to the Electoral Commission  
**Attachments:** 2017-02-20-PosnerB-letter-to-DoddsN-DonaldsonJ-DUP.pdf

Dear Sir Jeffrey

Thank you for your email to Claire sent earlier today. Please find attached a letter from Bob Posner, Director of Political Finance and Regulation and Legal Counsel.

Kind regards

[REDACTED]  
**Executive Assistant**  
The Electoral Commission  
3 Bunhill Row  
London EC1Y 8YZ  
[REDACTED]

---

**From:** DONALDSON, Jeffrey [REDACTED]  
**Sent:** 20 February 2017 08:57  
**To:** Claire Bassett  
**Cc:** DODDS, Nigel  
**Subject:** Submission to the Electoral Commission

Dear Claire,

Thank you for your email of 17 February in which you confirmed that the Electoral Commission ('the Commission') is planning to publish EU referendum campaign spending returns, if it is able to do so, [on 24 February](#), less than a week before polling day in the Northern Ireland Assembly elections. The Democratic Unionist Party ('the DUP') invites you to reconsider this decision which appears to be vitiated by two errors of law.

(1) The Commission has misdirected itself as to the nature of its duty to publish returns. In your email, you state that 'the Commission has a statutory duty (s. 100 PPERA) to publish the campaigner spending returns received by referendum campaigners as soon as is practicable.' The Commission's duty to publish returns, in the case of referendums, is imposed by section 124, not section 100, of the Political Parties, Elections and Referendums Act 2000. Furthermore, the duty is not to publish the returns as soon as practicable, but only as soon as reasonably practicable. It is settled law that an obligation to do something when 'reasonably practicable' is not contravened if there is 'just cause or excuse' not to do it in the specified time: *Wall's Meat Co Ltd v Khan* [1979] ICR 52, 56D.

Delaying the publication of the returns by a week in order to avoid interfering with the Northern Ireland Assembly elections is undoubtedly just cause for these purposes. The Commission has itself recognised that the activities of public bodies influencing voters before polling day raises a 'particular concern about fairness': *The 2016 EU referendum*, September 2016, pp. 3-4. This consideration applies in particular to the activities of the Commission itself, whose object is to ensure fair and impartial elections in the UK.

(2) The Commission has failed to have regard to guidance on the conduct of public bodies during the Northern Ireland Assembly election campaign. On 25 January, the Minister for the Cabinet Office and Paymaster General, the Rt Hon. Ben Gummer MP, issued guidance applicable both to the Government and to ‘those working in arms length bodies’ on conduct ahead of the Assembly elections: Conduct Guidance for Northern Ireland Election [on 2 March](#): Written statement - HCWS435. The Guidance took effect immediately. The Commission may lawfully depart from this guidance only where it gives ‘clear reasons’ for doing so: *R (Khatun) v Newham LBC* [2005] QB 37, 59C-D. No reasons for departing from the Guidance have been provided by the Commission.

The Guidance requires (at [5]) that: ‘Particular care should be taken over official support, and the use of public resources, including publicity, for Ministerial or official announcements that could have a direct bearing on matters relevant to the Northern Ireland elections. In some cases it may be better to defer an announcement until after election day, provided that such a postponement would not be either wasteful of public money or detrimental to the wider UK national interest, which will include consideration of the urgency and importance of the issue. Each case should be considered on its merits.’

The Guidance also states that ‘in cases of doubt, further advice should be sought from the Cabinet Office Propriety and Ethics team’ (at [11]). It does not appear that the Commission in the instant case has either taken the particular care required by the Guidance or sought further advice from the Cabinet Office. Arm’s length bodies such as the Commission are under a further duty to consult their sponsor department (see [25]). It is plainly appropriate that publication of the returns, which the Commission accepts would ‘uniquely’ affect the DUP, is postponed until after polling day to avoid an undue impact on the campaign. This would neither waste public money nor be detrimental to the wider UK national interest. Rather, it would serve the public interest in fair and impartial elections.

In the light of (i) the fact that the Commission is not under a duty to publish the returns as soon as practicable but only as soon as reasonably practicable and (ii) the provisions of the January 2017 Guidance, the Commission would not, as you suggest in your email, act unlawfully by delaying publication of the returns until after the Assembly elections. The DUP considers that the publication of politically-sensitive material in the week before polling day by the Commission would be unprecedented and undercut established rules designed to ensure public bodies do not intervene in election campaigns. Such publication would inevitably risk damaging the reputation of the Commission for impartiality and its legitimacy as a regulator in Northern Ireland.

We look forward to hearing from you.

Yours sincerely,

Rt Hon Nigel Dodds OBE MP  
Deputy Leader & Director of Elections  
Democratic Unionist Party

Rt Hon Sir Jeffrey Donaldson MP  
Chief Whip & National Campaign Director  
Democratic Unionist Party

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**Sent:** 20 February 2017 13:59

**To:** Louise Edwards

**Subject:** For review - EUR campaigner spending publication

Hi Louise,

We've drafted the press release and lines to take for Friday's publication of the remaining campaigner spending returns. Kay and John have had a quick review, but there are a few things about any investigations and assessments that need to be checked.

[Press Release - Over £250k campaign spend for EU referendum.docx](#)

[LTT EU Referendum over £250k spending returns release.docx](#)

Grateful if you could review and get back to me this afternoon as Bob and Craig will be reviewing afterwards.

Thanks,

**Senior Communications Officer**

The Electoral Commission

3 Bunhill Row

London EC1Y 8YZ

Tel: [REDACTED]

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 We welcome correspondence in Welsh and English



[REDACTED]

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**From:** [REDACTED]  
**Sent:** 09 March 2017 13:43  
**To:** Louise Edwards  
**Subject:** FW: DUP

---

**From:** [REDACTED]  
**Sent:** 23 February 2017 14:06  
**To:** [REDACTED]  
**Subject:** DUP

[REDACTED]

A few people have contacted me today raising similar query you made this morning. I have just sent this line to the BBC and thought it fair to also send to you:

**“There is no update to our statement of yesterday about discussions with the DUP on the issue of publishing donor information.**

**We have had contact with a number of EU referendum campaigners about their expenditure returns, including the DUP. We do not comment on the content of those discussions.”**

[REDACTED]

[REDACTED]

**Senior Officer (Communications and Electoral Administration)**  
The Electoral Commission  
Ground Floor, 4 Cromac Place  
The Gasworks  
Belfast BT7 2JB  
[REDACTED]  
Fax: 028 9031 4827  
Textphone: 18001 028 9089 4020  
[www.electoralcommission.org.uk](http://www.electoralcommission.org.uk)  
[www.aboutmyvote.co.uk](http://www.aboutmyvote.co.uk)

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**P** Please consider the environment before printing this email.

[REDACTED]

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**From:** [REDACTED]  
**Sent:** 09 March 2017 13:44  
**To:** Louise Edwards  
**Subject:** FW: Electoral Commission line

---

**From:** [REDACTED]  
**Sent:** 23 February 2017 14:00  
**To:** [REDACTED]  
**Subject:** Electoral Commission line

Hi [REDACTED]

Heres our line in response to your query:

“There is no update to our statement of yesterday about discussions with the DUP on the issue of publishing donor information. We have had contact with a number of EU referendum campaigners about their expenditure returns, including the DUP. We do not comment on the content of those discussions.”

[REDACTED]

[REDACTED]  
**Senior Officer (Communications and Electoral Administration)**  
The Electoral Commission  
Ground Floor, 4 Cromac Place  
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Belfast BT7 2JB

[REDACTED]  
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[www.aboutmyvote.co.uk](http://www.aboutmyvote.co.uk)

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**P** Please consider the environment before printing this email.

[REDACTED]

---

**From:** Craig Westwood  
**Sent:** 23 February 2017 13:38  
**To:** Ann Watt; [REDACTED] Louise Edwards; Bob Posner; [REDACTED]  
Claire Bassett; [REDACTED] Ailsa Irvine [REDACTED]  
[REDACTED]  
**Subject:** RE: BBC request - Jeffrey Donaldson

Great, works for me – thanks

---

**From:** Ann Watt  
**Sent:** 23 February 2017 13:35  
**To:** [REDACTED]; Louise Edwards; Bob Posner; [REDACTED]; [REDACTED]; Claire Bassett; [REDACTED]; Ailsa Irvine; Craig Westwood; [REDACTED]  
**Subject:** RE: BBC request - Jeffrey Donaldson

Bob and I discussed on the phone.

Revised response below:

*“There is no update to our statement of yesterday about discussions with the DUP on the issue of publishing donor information.*

*We have had contact with a number of EU referendum campaigners about their expenditure returns, including the DUP. We do not comment on the content of those discussions.”*

Please speak if you object to this response.

Ann

---

**From:** Ann Watt  
**Sent:** 23 February 2017 13:05  
**To:** [REDACTED] Louise Edwards; Bob Posner; [REDACTED]; [REDACTED]; Claire Bassett; [REDACTED]; Ailsa Irvine; Craig Westwood; [REDACTED]  
**Subject:** RE: BBC request - Jeffrey Donaldson

At the outset, I should say that there is not agreement in the NI office about this. So [REDACTED] and [REDACTED] should add their views if they wish.

My view is that I agree with [REDACTED] and Craig that we should just say that we do not comment on our ongoing discussions with parties. Otherwise we’re at risk of being asked for a running commentary on our conversations with the DUP (or indeed other parties if this sets a precedent). If we put out Bob’s line, the obvious next stage is that we’ll be asked what we are discussing with the DUP, which presumably we won’t answer.

The reason we put out a strong statement yesterday about not having conversations with the DUP was because they were saying something misleading about the Commission’s role with respect to donations to NI parties, which was implying we were potentially breaching the law. We couldn’t let that stand unchallenged. Today’s media questions are about the referendum spending return, which in my view requires a different approach.

Ann

---

**From:** [REDACTED]  
**Sent:** 23 February 2017 12:56



**To:** Louise Edwards; Bob Posner; [REDACTED] Claire Bassett; Ann Watt; [REDACTED]; Ailsa Irvine; Craig Westwood; [REDACTED]  
**Subject:** RE: BBC request - Jeffrey Donaldson

For clarity can we say "regarding the referendum expenditure return" (second bullet point below)?

---

**From:** Louise Edwards  
**Sent:** 23 February 2017 12:46  
**To:** Bob Posner; [REDACTED] Claire Bassett; Ann Watt; [REDACTED]; Ailsa Irvine; Craig Westwood; [REDACTED]  
**Subject:** RE: BBC request - Jeffrey Donaldson

I also favour a middle approach. We should prepare for the inevitable FOI afterwards though.

---

**From:** Bob Posner  
**Sent:** 23 February 2017 12:43  
**To:** [REDACTED] Claire Bassett; Ann Watt; [REDACTED] Ailsa Irvine; Craig Westwood; [REDACTED]  
[REDACTED]; [REDACTED] Louise Edwards  
**Subject:** RE: BBC request - Jeffrey Donaldson

I would prefer a middle route. That is we say in response:

- Jeffrey Donaldson (or the DUP) have not made contact with the Electoral Commission since we issued our statement yesterday afternoon.
- Jeffrey Donaldson had been in contact with the Electoral Commission regarding the referendum return
- 17 February 2017
- We will not go into the nature of specific discussions.

Bob.

---

**From:** [REDACTED]  
**Sent:** 23 February 2017 12:40  
**To:** [REDACTED]; Claire Bassett; Bob Posner; Ann Watt; [REDACTED]; Ailsa Irvine; Craig Westwood; [REDACTED]  
[REDACTED] Louise Edwards  
**Subject:** RE: BBC request - Jeffrey Donaldson

Thanks [REDACTED]

Just to flag I watched the Nolan Show last night and they read our statement. Nelson McCausland was quite emphatic that Jeffrey Donaldson had been in touch with us.

---

**From:** [REDACTED]  
**Sent:** 23 February 2017 12:36  
**To:** [REDACTED] Claire Bassett; Bob Posner; Ann Watt; [REDACTED]; Ailsa Irvine; Craig Westwood; [REDACTED]  
[REDACTED]; Louise Edwards  
**Subject:** RE: BBC request - Jeffrey Donaldson

Hi [REDACTED], I'll see what others say, but in the past, when we have been asked about what discussions we have had with parties, we have said that it's important as the regulator that parties are able to contact us in confidence and so we cannot confirm what specific discussions we have with a party. We have on-going dialogue with a range of parties on a number of different topics.

I appreciate that the circumstances are unique here, but I think once we start saying yes or no to something, we'll get follow up questions over the next few days...

---

**From:** [REDACTED]  
**Sent:** 23 February 2017 12:29  
**To:** Claire Bassett; Bob Posner; Ann Watt; [REDACTED]; Ailsa Irvine; Craig Westwood; [REDACTED]  
[REDACTED] Louise Edwards  
**Subject:** BBC request - Jeffrey Donaldson

Hi all

The BBC and Irish News have been in touch asking for an update on the statement we sent yesterday. Both have asked:

- Has Jeffrey Donaldson (or the DUP) made contact with the Electoral Commission since we issued our statement yesterday afternoon?

In addition the BBC have asked:

- On the Nolan Show last night Nelson McCausland said Jeffrey Donaldson had been in contact with the Electoral Commission regarding the referendum return – is this the case?
- If so, when did this happen?

I suspect Nelson McCausland was referring to the communication we had earlier in the week. As such are we content to confirm that the DUP were in contact regarding the date of publication of the referendum return?

Rt Hon Nigel Dodds OBE MP  
Deputy Leader & Director of Elections, Democratic Unionist Party

Rt Hon Sir Jeffrey Donaldson MP  
Chief Whip & National Campaign Director, Democratic Unionist Party

20 February 2017

Dear Sirs

I refer to your email of 20 February to Claire Bassett the Commission's Chief Executive, which has been passed to me for reply.

We did mistakenly refer to s.100 of the Political Parties, Elections and Referendums Act 2000 (PPERA) in Claire's email of 17 February. But there is no disagreement that s.124 PERA is the relevant section of the Act to consider, and that the duty on the Commission is to publish these returns "as soon as reasonably practicable". I set out sub-section one:

- (1) Where the Commission receive any return under section 120 they shall—*  
*(a) as soon as reasonably practicable after receiving the return, make a copy of the return and of the documents accompanying it available for public inspection; and*  
*(b) keep any such copy available for public inspection for the period for which the return or other document is kept by them.*

You invite the Commission to delay the publication of the returns by a week so they are not published before the Northern Ireland Assembly elections. Your concern is such would prejudice the fairness of those elections.

You make submissions in your email on the Commission's above statutory duty and in that regard draw attention to a 1978 employment law case from the Court of Appeal. There are many cases on the meaning of 'as soon as reasonably practicable', a term often used in legislation or contracts. The courts consistently interpret the term 'as soon as reasonably practicable' in context and dependent on the facts.

The Commission is an independent public body that reports direct to Parliament. It is not part of Government and does not report to a Minister. The guidance issued on 25 January 2017 by the Minister for the Cabinet Office and Paymaster General, the Rt Hon. Ben Gummer MP is not applicable to the Commission. I would add that in any

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event, we are aware of such guidance and nothing in it suggests that a public body should not proceed in accordance with its statutory duties. For the reasons set out in Claire's email of 17 February and further explained by me below, we consider delaying publication of the campaigner spending returns for the referendum on the UK's membership of the EU, would not be excusable or in accordance with s.124 PPERA.

You refer to the Commission's own approach and objectives. The Commission has a long established, consistent and considered approach to publishing election or referendum spending returns information as soon as reasonably practicable after receiving the returns. As Claire wrote in her email of 17 February we have been working to fulfil this obligation since receiving the returns from campaigners reporting expenditure over £250,000. This involves initial checking of the completeness or otherwise of the returns (which have to include all required information and supporting receipts), liaising as appropriate with the respective campaigners in that regard, and the proper redaction from publication of certain information under data protection requirements. We anticipate that all of the returns we have received, which we may or may not be satisfied are complete, and including that of your party will be ready for publication this Friday 24 February, that being likely to be the earliest reasonably practical date on which we can publish the returns.

We are satisfied that in doing this we will be meeting our statutory duty under s124 PPERA. In reaching a decision to publish we have considered the timing of the forthcoming poll in Northern Ireland. We have not in the past regarded delaying publication in the lead up to elections as justified or excusable. We consider our objective of transparency for voters of political finance is consistent with the holding of fair elections.

Whilst you would prefer the Commission to delay publication, this is not an option that the Commission would regard as open to it in the context and facts of this matter.

We regret that on this occasion it has not been possible to reach agreement, but trust the correspondence helpfully sets out the Commission's reasoning for its approach in the matter you raise.

Yours sincerely



Bob Posner

Director of Political Finance and Regulation & Legal Counsel

---

**From:** [REDACTED]  
**Sent:** 24 November 2016 15:11  
**To:** [REDACTED]  
**Subject:** RE: Press request, Democratic Unionist Party expenses

External Sender

Hi [REDACTED]

On Tuesday (29<sup>th</sup>) we will be publishing the spending returns of campaigners who spent under £250k at the EU Referendum. Campaigners who spent over £250k at the referendum are required to submit their spending return to us by 23 December. We intend to publish these in February.

At the end of September we published the DUPs spending return at the May 2016 Northern Ireland Assembly election. [You can view the party return here](#)

The DUP latest annual statement of accounts are also available to [view on our website](#) – however this is for 2015.

Hope this is helpful and I'll make sure you get copy of press release on Tuesday.

[REDACTED]  
[REDACTED]  
**Senior Officer (Communications and Electoral Administration)**

The Electoral Commission  
Ground Floor, 4 Cromac Place  
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**From:** [REDACTED]  
**Sent:** 24 November 2016 14:34  
**To:** Press  
**Subject:** Press request, Democratic Unionist Party expenses

Hi,

I hope you're well. I was wondering if you could please send/ attach a copy of the Democratic Unionist Party's expenses during the recent EU referendum campaign? As well as the DUP's spending accounts more generally for 2016?

In addition, I was wondering if you could please confirm where the expense for this Metro advert was recorded by the DUP, and whether commission has received any complaints or taken any action regarding it?

Many thanks,

[REDACTED]

[REDACTED]  
*Social Affairs Correspondent*  
*The Independent*

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[REDACTED]

---

**From:** [REDACTED]  
**Sent:** 30 January 2017 11:30  
**To:** [REDACTED] Ann Watt  
**Cc:** [REDACTED]  
**Subject:** RE: DUP and referendum spending/donations

Thanks both, I'll make the wording changes.

On the other questions:

Because the referendum treated everywhere as one constituency, and campaigners did not need to declare the location of their spending, there's no geographical breakdown of spending that we could extract for publication. You could in some cases extrapolate from the supplier that the spending wasn't spent in NI, e.g. spending on Evening Standard advertising is going to have been spent in London. However, it's not necessarily the case that this marries up perfectly – for example, you could hire a Cardiff based designer to put together your leaflets for NI.

Thanks  
[REDACTED]

---

**From:** [REDACTED]  
**Sent:** 30 January 2017 10:14  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** FW: DUP and referendum spending/donations

Hi [REDACTED]

Had a look at this and also shared with Ann – see her comments below.

[REDACTED]

---

**From:** Ann Watt  
**Sent:** 30 January 2017 09:59  
**To:** [REDACTED]  
**Subject:** RE: DUP and referendum spending/donations

Thanks

See suggestion below in red in the email text – insert "geographical" since we do break down the total spend in other ways ie into categories of spend.

Also in the draft in the two paras from "If you spend more than £10,000..." onwards, I assume [REDACTED] is quoting our guidance. He should preface this section with "Our guidance for the EU referendum stated..." (or something similar) since otherwise it reads strangely.

Two questions for [REDACTED] – will someone be able to work out from viewing the invoices where the money was spent? eg if the invoice is from a GB media outlet then it wasn't spent in NI. Or will that detail be redacted on the invoices?

- is there any discretion in whether we publish the data broken down geographically? Has the Commission made a policy decision not to publish any geographical breakdown, or is it a legal position? I'm just wondering what we will do if we are pushed on this issue, or if there is a FoI request for a geographical breakdown.

Ann

---

**From:** [REDACTED]  
**Sent:** 27 January 2017 18:41  
**To:** Ann Watt  
**Subject:** Fwd: DUP and referendum spending/donations

FYI

Sent from my iPhone

Begin forwarded message:

From: [REDACTED]  
Date: 27 January 2017 17:00:45 (GMT)  
To: [REDACTED]  
Subject: DUP and referendum spending/donations

Hi both – further to a query from [REDACTED] of Open Democracy, I have drafted the below – please let me know if you have any comments or amendments (and [REDACTED] can you let me know a date for the bit in yellow). Ideally, I'd like to go back to him by end of the day on Monday if possible.

His questions:

1. Will we be able to see a breakdown of where the DUP spent their referendum spending, i.e. in parts of the UK other than NI?
2. Will their donations be published?

Thanks  
[REDACTED]

Dear [REDACTED]

We spoke on Friday when you had some questions about the DUP and their referendum spending and donations.

You asked firstly about whether spending returns would show a breakdown of spending at national or regional levels. The UK and Gibraltar was treated as one constituency for the referendum, so there is no breakdown of **geographical** spending in the return in that way.

You will be able to see itemised breakdowns of their spending. As an example, you can look at the returns we have [already published](#) for those campaigners that spent under £250,000 (you can use the search bar to filter by specific campaigners).

You also asked about publication of spending and donations.

If you spend more than £10,000 campaigning during the referendum period you must report your campaign spending to us in your campaign spending return.

Your spending return must include the following:

- records of your spending
- invoices and receipts for any payment over £200
- a declaration from the 'responsible person' to say that the return is complete and correct

We aim to publish the spending returns for those campaigners that report spending over £250,000 **[by xxxxxxxxxxxx]**

UK registered political parties who are not minor parties do not submit pre-poll reports or report donations after the referendum but instead report these in their normal quarterly reporting.

Under the Political Parties, Elections and Referendums Act 2000 (PPERA), registered political parties must make a return to us within 30 days of the end of each quarter. Currently, the law requires us to keep donations reported to us by Northern Ireland registered parties confidential. There is more information about the reporting requirements in Northern Ireland in our guidance [here](#).

If we can be of any further assistance, please don't hesitate to contact us on [pef@electoralcommission.org.uk](mailto:pef@electoralcommission.org.uk), or by phone on 0333 103 1928.

Kind regards,

**Financial Reporting Officer**  
**Party Finance and Regulation**  
The Electoral Commission  
3 Bunhill Row  
London  
EC1Y 8YZ  
Tel: [REDACTED]  
Fax: 020 7271 0665



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## PEF Inbox

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**From:** [REDACTED]  
**Sent:** 30 January 2017 16:28  
**To:** [REDACTED]  
**Subject:** Referendum spending/donations

Dear Adam,

We spoke on Friday when you had some questions about the DUP and their referendum spending and donations.

You asked firstly about whether spending returns would show a breakdown of spending at national or regional levels. The UK and Gibraltar was treated as one constituency for the referendum, so there is no geographical breakdown of spending in the return in that way.

You will be able to see itemised breakdowns of campaigners' spending. As an example, you can look at the returns we have [already published](#) for those campaigners that spent under £250,000 (you can use the search bar to filter by specific campaigners).

You also asked about publication of spending and donations.

Our referendum guidance states:

*If you spend more than £10,000 campaigning during the referendum period you must report your campaign spending to us in your campaign spending return.*

*Your spending return must include the following:*

- *records of your spending*
- *invoices and receipts for any payment over £200*
- *a declaration from the 'responsible person' to say that the return is complete and correct*

We aim to publish the spending returns for those campaigners that report spending over £250,000 by mid-February.

UK registered political parties who are not minor parties do not submit pre-poll reports or report donations after the referendum but instead report these in their normal quarterly reporting.

Under the Political Parties, Elections and Referendums Act 2000 (PPERA), registered political parties must make a return to us within 30 days of the end of each quarter. Currently, the law requires us to keep donations reported to us by Northern Ireland registered parties confidential. There is more information about the reporting requirements in Northern Ireland in our guidance [here](#).

I hope that is helpful. If we can be of any further assistance, please don't hesitate to contact us on [pef@electoralcommission.org.uk](mailto:pef@electoralcommission.org.uk), or by phone on 0333 103 1928.

Kind regards,

**Financial Reporting Officer**  
**Party Finance and Regulation**

The Electoral Commission

3 Bunhill Row

London

EC1Y 8YZ

Tel:

Fax: 020 7271 0665

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[REDACTED]

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**From:** [REDACTED]  
**Sent:** 09 March 2017 13:49  
**To:** Louise Edwards  
**Subject:** FW: DUP - referendum returns

---

**From:** [REDACTED]  
**Sent:** 08 February 2017 10:02  
**To:** Craig Westwood; [REDACTED]; [REDACTED]; Bob Posner; Louise Edwards; Ann Watt; [REDACTED]  
**Subject:** DUP - referendum returns

Hi all

I've been asked by three different journalists since yesterday afternoon when are we publishing the DUPs referendum return. Although we have never provided a date we had originally said "In the New Year" when we published the under £250k and then "next month" when asked in January. However we have never committed to a date and I have told journalists who are interested that I will let them know in advance once we have a final date agreed.

Do we know yet if we will be in a position to publish the over £250k returns before the election on 2 March? If not this will probably raise a few eyebrows here about why so it would be useful to have a line explaining what is happening and our duty on publishing.

Thanks

[REDACTED]  
[REDACTED]  
**Senior Officer (Communications and Electoral Administration)**  
The Electoral Commission  
Ground Floor, 4 Cromac Place  
The Gasworks  
Belfast BT7 2JB  
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Textphone: 18001 028 9089 4020  
[www.electoralcommission.org.uk](http://www.electoralcommission.org.uk)  
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**Ann Watt**

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**From:** Ann Watt [redacted]  
**Sent:** 08 March 2017 10:00  
**To:** Louise Edwards  
**Subject:** Fwd: Publication of EU referendum returns above £250k

I think this may be the email Claire means

Sent from my iPhone

Begin forwarded message:

**From:** Ann Watt [redacted]  
**Date:** 16 February 2017 at 10:27:21 GMT  
**To:** Executive Team [redacted]  
**Cc:** Louise Edwards <[redacted]>  
<[redacted]>  
**Subject:** Publication of EU referendum returns above £250k

All – we need to be aware that there may be a strong push-back from the DUP (and possibly others) about our plans to publish the EU referendum spending returns on Friday 24 February, given that it is six days before the NI Assembly election. We expect the DUP to say that the Commission choosing this timing could have an unfair influence on the outcome of the NI election, given that there is likely to be significant media interest in the information we publish and the implications of it (see for example this [Open Democracy article](#), which has already put many of the jigsaw pieces in place). The wider context of this is the back-drop to the election in Northern Ireland, and the focus of much of the other NI parties' campaigns on claims about the DUP lacking transparency in its role in the RHI scheme.

We have already been asked by the DUP for Claire's contact details as they are considering writing to the Commission about the publication of the EU referendum spending returns.

Obviously we would be challenged from the opposite direction if we postponed the publication of these returns until after the NI election. So my point is only that we need to have our eyes open about the likely challenge when we publish on Friday 24<sup>th</sup>.

Ann

**Ann Watt**  
**Head of Electoral Commission, Northern Ireland**  
Ground Floor, 4 Cromac Place  
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Belfast BT7 2JB  
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[REDACTED]

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**From:** [REDACTED]  
**Sent:** 16 February 2017 14:24  
**To:** [REDACTED]  
**Subject:** FW: ElCom publication of EU Referendum spending returns

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**From:** Ann Watt  
**Sent:** 16 February 2017 11:31  
**To:** [REDACTED]  
**Subject:** FW: ElCom publication of EU Referendum spending returns

[For info, as expected](#)

---

**From:** Claire Bassett  
**Sent:** 16 February 2017 11:28  
**To:** Ann Watt; Ailsa Irvine; Bob Posner  
**Subject:** FW: ElCom publication of EU Referendum spending returns

[This links to your email Ann...](#)

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**From:** [REDACTED]  
**Sent:** 16 February 2017 10:32  
**To:** Claire Bassett  
**Subject:** ElCom publication of EU Referendum spending returns

Dear Claire,

I'm the DUP's chief of staff at Westminster. I can't remember if we said hullo at Jenny Watson's leaving do in the Speaker's state apartments, but if not, well, hullo.

I've a quick query in regard to the above. We've noticed in the press various stories to the effect of, 'the EU Spending returns are soon to be published by the Electoral Commission'. Our friends in the media frequently get things wrong, not least when it comes to their coverage of hard-pressed regulators. But we'd obviously like clarity on this point please.

Therefore we'd be grateful if you could please confirm that the Electoral Commission, in accordance with both best practice and past precedent, will obviously *not* be publishing the returns during the Northern Ireland Assembly election campaign?

Yours

[REDACTED]

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[REDACTED]

DUP Chief of Staff, Westminster

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[REDACTED]

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**From:** [REDACTED]  
**Sent:** 17 February 2017 11:05  
**To:** [REDACTED]  
**Subject:** FW: Handling of queries following publication of Referendum Spending returns

[REDACTED]

I've just been told the lead in London will be [REDACTED]

Sorry for the hassle

[REDACTED]

---

**From:** [REDACTED]  
**Sent:** 17 February 2017 10:50  
**To:** [REDACTED]  
**Cc:** Ann Watt  
**Subject:** Handling of queries following publication of Referendum Spending returns

Hi [REDACTED]

We understand that the Commission is planning to publish the over £250K Referendum spending returns next Friday 24 February.

We know there will be considerable interest in all the returns generally however we expect there will be particular interest in the DUP's return, specifically the source of the donations used to fund their campaign. In the event that callers come through to your team with queries (rather than comms/ NI office) I think it would be helpful to remind the team that we cannot disclose anything about donations reported to us by Northern Ireland political parties and to refer any calls about the DUP return to [REDACTED] in the first instance [REDACTED] or the media team [REDACTED]

Regards

[REDACTED]  
[REDACTED]  
**Senior Officer (Political Parties Liaison)**

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[REDACTED]

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**From:** [REDACTED]  
**Sent:** 09 March 2017 13:32  
**To:** Louise Edwards  
**Subject:** FW: EU Ref over £250k

---

**From:** [REDACTED]  
**Sent:** 17 January 2017 12:34  
**To:** [REDACTED]  
**Co:** [REDACTED] Ann Watt; Craig Westwood  
**Subject:** EU Ref over £250k

Hi [REDACTED]

We just discussed at RIG the over £250k publication on 16 Feb for the EU ref, noting that this would include the DUP return. We agreed the election should not delay publication, but can you make a note to yourself when the op note is going out to share this with [REDACTED] and they can ensure that relevant people in NI are aware this is coming.

Thanks

[REDACTED]

**Head of Media and Public Affairs**

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**From:** [REDACTED]  
**Sent:** 17 February 2017 13:21  
**To:** [REDACTED]  
**Subject:** FW: LTT - DUP EU Ref spending returns  
**Importance:** High

Hi [REDACTED]

Would you mind casting your eye over these lines to take on the DUP's EU Ref spending returns? [REDACTED] has had a look already as obviously no one in the London press office has expertise on this area but she's flagged one question for your attention.

[LTT - DUP EU Referendums spending returns.docx](#)

Thanks  
[REDACTED]  
[REDACTED]

**Senior Communications Officer**

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**CONTENTS OF ATTACHMENTS INCLUDED IN RESPONSE TO FOI 14/17 RESPONSE**

<b>No</b>	<b>Date</b>
1	24/11/2016
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3	30/01/217
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5	16/02/2017
6	16/02/2017
7	17/02/2017
8	17/02/2017
9	17/02/2017
10	17/02/2017
11	17/02/2017
12	17/02/2017
13	20/02/2017
13 a.	20-02-20 PosnerB-letter-to-DoddsN-DonaldsonJ-DUP
14	20/02/2017
15	20/02/2017
16	09/03/2017
17	09/03/2017
18	09/03/2017

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