From: FOI
Sent: 02 May 2018 16:28
To: [redacted]
Subject: FOI 053/18 Britain Stronger Correspondence Response

Our Ref: FOI 053/18

Dear [redacted],

Thank you for your email to the Electoral Commission dated **27 March 2018**, received by the Commission on **28 March 2018.**

The Commission aims to respond to requests for information promptly and apologises that on this occasion it has not done so within the statutory timeframe of twenty working days.

Your request is in bold below followed by our response.

Please could you provide me with the following if you have any of this information following any investigations you have made:

- any correspondence between Britain Stronger in Europe and Lord David Sainsbury in regards to donations both to the official campaigns and any permitted participants.

- any correspondence between DDB UK Limited members of staff and Britain Stronger in Europe members of staff.

- any correspondence between Tomboy Films and Britain Stronger in Europe members of staff.

- any correspondence between Virgin Management Limited members of staff and Britain Stronger in Europe members of staff.

- any correspondence between OMD Manning Gottlieb and Britain Stronger in Europe members of staff.

- any correspondence between Lucy Fisher (of Britain Stronger in Europe) and DDB UK Limited.

- please could you send me the assessment documents for the following the work done in response to Priti Patel's letter 'Further to our letter dated 8 January 2018 we have now completed an assessment into your complaint about Britain Stronger in Europe (BSiE) and other 'remain' campaigners in the 2016 EU referendum.'

Our response is as follows:

We hold some of the information that you have requested.

We do not hold any correspondence between the organisations and individuals that you outline in your request.

Exemptions under sections 30(1)(a)(i), 31(1)(g), 31(1)(a) and 31(1)(b) of the Freedom of Information Act 2000 (FOI)

The Commission has a statutory function to conduct investigations into potential breaches of the reporting requirements in Political Parties, Elections and Referendums Act 2000 ("PPERA"). The information you have requested concerns an assessment into The In Campaign ltd, campaigning as Britain Stronger in Europe ("BSiE"), and potential offences pursuant to section 118(2) and 122(4) of PPERA.

The outcome of this assessment has been published in an assessment decision letter sent to Rt Hon Priti Patel MP which is available on our website. The scope of the assessment and reasons for reaching our conclusion is set out in that letter.

As stated within the letter, the Commission determined that, following our assessment of the available evidence, there were no reasonable grounds to suspect that BSiE committed the alleged offences.

Section 30(1)(a)(i) of the Freedom of Information Act 2000 (FOI) provides for exemption from disclosure of information which has been held at any time by a public authority for the purpose of any investigatory process. This can include an assessment of the case, which the authority has a duty to conduct with a view to it being ascertained whether a person should be charged with an offence. This assessment is now closed. However, section 30 exemption applies to information that is held at any time (regardless if the assessment is on-going or not). In this case it was necessary to consider the failure to comply with PPERA in order to reach a view whether a person or persons should be charged with a criminal offence.

Where there is no evidence of criminal activity, or in any event, the Commission may consider civil breaches of PPERA. In so far as the assessment related to other potential breaches of PPERA, section 31(1)(g) of the FOI Act 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 FOI Act). Section 31 of the FOI Act applies only to the extent that the information is not exempt under section 30.

The Commission considers that disclosure of the information you have requested would prejudice the exercise of the Commission's statutory functions and its ability to conduct assessment such as in this matter.

The Commission also considers that the information you have requested is exempt under section 31(1)(a) of the FOI Act, prejudice to the prevention or detection or crime, and section 31(1)(b), prejudice to the apprehension or prosecution of offenders.

Applications of the section 30 and 31 exemptions are both subject to the public interest test. There are a number of factors that must be considered and weighed in the balance. The factors we have considered are set out below.

The public interest lies in enabling the Commission to undertake inquiries as part of its investigation powers so that it can make regulatory decisions based on a firm factual basis and to gather such evidence and facts on a confidential basis. It is in the public interest to maintain this confidentiality, as it encourages the free and frank exchange of information from third parties to the Commission without which the Commission could not perform its statutory functions.

The Commission aims to be robust and fair in its regulatory decisions. We acknowledge that there is a legitimate public interest in carrying out assessments in an open and transparent way, and in promoting public understanding of the decisions we make as a regulator. These are matters we acknowledge and take into account, including when deciding whether to disclose information, whilst ensuring proper regulation of party political funding.

In carrying out effective inquiries the Commission depends on being able to secure the cooperation of those individuals and entities from whom we seek information. Whilst the Commission has powers to require information, the co-operation of the regulated community and other enforcement agencies remains essential to our ability to conduct our statutory functions. As our assessments rely on gathering evidence from these organisations it is clearly in the public interest that we maintain their co-operation and avoid releasing information that could prevent exchange of relevant information in the future and have the effect of hindering our ability to conduct our statutory functions.

Those individuals and entities had, and continue to have, a reasonable expectation that information provided in the course of the assessment would not be made available to the public at large. If information provided in the course of our assessment was made public under the FOI Act, it would make individuals and entities reluctant to co-operate and may prejudice interactions with them as well as others in the future. This would in turn impact on the type, timeliness, and quality of information provided to the Commission during its assessments which would prejudice the Commission's ability to conduct its statutory functions. The fact that the assessment has been closed does not affect the relevance of this.

Having carefully weighed the public interest relating to possible disclosure of the information requested under Sections 30(1)(a)(i), 31(1)(g), 31(1)(a) and 31(1)(b) of the FOI Act 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 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, 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,

[redacted]
Information, Knowledge and Systems Manager
The Electoral Commission
3 Bunhill Row
London EC1Y 8YZ
FOI@electoralcommission.org.uk
electoralcommission.org.uk
yourvotematters.co.uk

Twitter | **Facebook** | **Blog**