From: FOI
To: [redacted]
Subject: FOI 111/18 Email LE to DC Vote Leave - Request
Date: 15 August 2018 11:36:07
Attachments: image001.png

Dear [redacted]

Our Ref: FOI 111/18

Thank you for your email to the Electoral Commission dated **17 July 2018.**

The Commission aims to respond to requests for information promptly and regrets that on this occasion we have not done so.

Your request is in bold below followed by our response.

1. **I would like to make a freedom of information request. Part of an email is quoted on the Guido Fawkes website. (https://order-order.com/2018/07/17/electoral-commission-email-reveals-they-refused-to-speak-to-vote-leave-officials/)**

> We have not spoken to your clients as part of that investigation because we are satisfied we have sufficient evidence to draw conclusions without speaking to them.

It is reported to be from "Louise Edwards, the Tory-hating Electoral Commission boss, to lawyers for the Vote Leave officials". Could you please release the whole of the email to provide context to the quotation.

Our response is as follows:

We hold the information you have requested. However, the information requested above is exempt under the Freedom of Information (FOI) Act as per below.

Exemption under section 30 and 31 of the Freedom of Information (FOI) Act

In line with the Political Parties, Elections and Referendums Act 2000 ("PPERA"), the Commission has a statutory function to conduct investigations into potential breaches of electoral law.

According to section 30(1)(a)(i) of the Freedom of Information Act 2000 (FOI), information that the Commission holds may be exempt from disclosure if it has been held at any time for the purposes of an 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.

Section 31(1)(a) of the FOI Act stipulates that information does not have to be disclosed if it might prejudice the prevention or detection of crime.

A further exemption from disclosure can be found in section 31(1)(b) of the FOI

Act, where information which would prejudice the apprehension or prosecution of offenders is exempt.

Where there is no evidence of criminal activity, or in any other circumstances, the Commission may consider civil breaches under PPERA. If the investigation relates 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 affect the Commission's ability to carry out its functions under PPERA for the purposes of finding out whether someone 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 public interest test

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 investigations 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 investigations rely on gathering evidence from these individuals and 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 organisations had, and continue to have, a reasonable expectation that information provided in the course of the investigation would not be made available to the public at large. If information provided in the course of our investigation 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 investigations which would prejudice the Commission's ability to conduct its statutory functions.

Decision on disclosure

Having carefully weighed the public interest relating to possible disclosure of the information requested under sections 30(1)(a)(i), 31(1)(a), 31(1)(b) and 31(1)(g) of the FOI Act, the Commission is satisfied that it is not appropriate at this time to disclose the information which the Commission holds.

We consider that disclosure of the information you have requested would prejudice the Commission's ability to carry out its statutory functions and to conduct future investigations. Disclosure of this information could also limit the prevention or detection of crime and/or the prosecution of offenders.

We are therefore 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]

[redacted]
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