

From: FOI
To: [REDACTED]
Subject: FOI 137/18 - RPA 1983 s63 offence - Response
Date: 07 September 2018 11:34:00

Dear [REDACTED]

Our Ref: FOI 137/18

Thank you for your email to the Electoral Commission dated **27 August 2018**.

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.

- 1. I would like to know the number of convictions, prosecutions and police cautions for the RPA 1983 s63 offence of "Breach of Official Duty" since the Act came into force known to the Commission, including the election involved (with the local authority or constituency), the date and any details held of the offence/alleged offence.**

Our response is as follows:

We hold some of the information you have requested.

The Commission has no record of convictions or prosecutions in relation to section 63 of the Representation of the People Act 1983. Our data, provided by individual police forces around the UK, indicates one police caution in relation to this offence, in 2011, in West Yorkshire.

It is important to note however that the 1983 Act has existed in various forms for many years, and the Commission, as you are probably aware, has existed only since 2001. The Commission has not sought, for various reasons, to create a retrospective record of offences or prosecutions prior to its existence.

Therefore, whilst the Commission can confirm that the above is an accurate record of the information we hold, we cannot confirm whether convictions, prosecutions, or cautions have occurred historically. It is possible that the Crown Prosecution Service may have older records. It may be that only individual police forces hold records of any police cautions.

Since 2010 the Commission has collated the data provided by individual police forces around the UK to produce a report of allegations of electoral fraud, and the outcomes. You can see the most recent report here:

https://www.electoralcommission.org.uk/_data/assets/pdf_file/0006/239973/Fraud-allegations-data-report-2017.pdf

We also published a data set alongside the report:

<https://www.electoralcommission.org.uk/find-information-by-subject/electoral-fraud/data-and-analysis>

You will see that the table shows that there were three allegations relating to the

section 63 offence, all related to the UK Parliamentary General Election in the London Borough of Tower Hamlets (Cases 11, 14 and 15 of the table). Following investigation by the Metropolitan Police they were closed as no further action as no offence was found.

Our fraud reports and data sets from previous years, going back to the 2010 elections (and including the caution in 2011 referred to above), can be found by the respective links at the foot of our Electoral Fraud Responsibilities data and analysis page at:

<https://www.electoralcommission.org.uk/find-information-by-subject/electoral-fraud/data-and-analysis>

You will see that there have been allegations of an offence under section 63 on a number of occasions.

It may also be helpful to point out that other offences, not specific to elections, exist in relation to the conduct of public officials, for example 'Misconduct in a Public Office' (often called 'misfeasance in a public office') which may be prosecuted as an alternative to the section 63 offence in some circumstances. We are aware that a poll clerk in Derby was convicted of this offence in 2013, in relation to criminal intent by an appointed election official to subvert the electoral process. You can read more on the CPS website here:

<http://blog.cps.gov.uk/2013/07/five-convicted-over-derby-local-election-fraud.html>

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,



Access to Information Officer (FOI and DPA)

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