

[REDACTED]

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**From:** FOI  
**Sent:** 15 April 2021 12:52  
**To:** [REDACTED]  
**Subject:** FOI 027-21 - Response

Dear [REDACTED],

**Our Ref: FOI-027-21**

Thank you for your emails to the Electoral Commission dated 8 March 2021.

The Commission aims to respond to requests for information promptly and has done so within the statutory timeframe allowed when extending a deadline in order to consider the Public Interest Test.

Your request is shown below followed by our response.

*Please provide all correspondence between the Electoral Commission and the Compliance and Data Protection Manager of The Conservative Party concerning*

- a) Due diligence on donations to the party in relation to checking sources of funds.*
- b) Due diligence on donations accepted from donors with links to Russia, Ukraine, or the Former Soviet Union.*

*Please provide information from January 1st 2019 to date*

**Our response is as follows:**

We hold some of the information you have requested.

For clarity, we have interpreted the first part of your request as being for correspondence (letters, emails) between the Commission and the appropriate officers of the party for compliance, rather than limited to the single post you specify. We have interpreted 'due diligence on donations to the party in relation to checking sources of funds' as meaning correspondence between the Commission and the party relating to the party's due diligence in terms of verifying the source of donations.

We are not able to respond to the second part of your request specifically as the information we hold on donors, provided by the party, does not include any indication as to links to specific nations. Our response below therefore relates to the first part of your request.

The duty to establish the source of a donation, and that the donor is permissible, lies with the party.

The Commission will, from time to time, make enquiries of parties as to the checks they made on donations, whether in terms of permissibility or verifying the source. We do so in circumstances where there is some reason to seek further information than is provided in the donation report delivered by the party. In some cases these enquiries take place in the course of our compliance

checks on donation reports, but in the majority of cases such enquiries would be made during the course of an investigation where we had reasonable grounds to suspect that a donation may have been inaccurately reported.

During the time period you have specified, there has been no such correspondence with the party resulting from compliance checks.

There have been instances of enquiries being made as to the checks made on either the source or permissibility of donations in the course of investigations during the relevant time period. We are however withholding that information as it is exempt from release. The information that we are not releasing is explained below.

### **Exemption under sections 30(1) (a) (i) and 31 (1) (g)**

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"). Some of the information requested is held by the Commission in relation to one or more investigations.

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 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. The section 30 exemption applies to information that is held at any time, whether or not the investigation is on-going.

Where there is not evidence of criminal activity, or in any event, the Commission may consider civil breaches. In so far as investigations relate to other potential breaches of PERA, section 31(1)(g) exempts from disclosure information that would or would be likely to prejudice the exercise of the Commission's functions under PERA for the purposes of ascertaining whether any person has failed to comply with the law, as provided by s31(2)(a) of the FOI Act. Section 31 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 investigations such as in this matter.

Applications of the section 30 and 31 exemption 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 others 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 co-operation 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 remains essential

to our ability to conduct our statutory functions. As our investigations 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 investigation would not be made available to the public at large. If information provided in the course of our investigations was made public under the 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.

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

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:

<https://www.electoralcommission.org.uk/freedom-information/make-a-freedom-information-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 Officer

[FOI@electoralcommission.org.uk](mailto:FOI@electoralcommission.org.uk)

**The Electoral Commission**

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