[redacted]

From: FOI
Sent: 02 July 2021 11:23
To: [redacted]
Subject: FOI 065-21 - Response

Dear [redacted],

Our Ref: FOI 065-21

Thank you for your email to the Electoral Commission dated 7 May 2021.

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 shown below followed by our response.

I am writing to you under the Freedom of Information Act 2000 to request the following information:

1. *The dates of any meetings (including but not limited to physical and remote video or telephone conference meetings) between any representatives of the Electoral Commission and any representatives of the Conservative Party between 1 March 2021 and 7 May 2021.*
2. *For each meeting in Q1 above please provide:*
    a) *The attendance lists (names and positions of attendees)*
    b) *A copy of correspondence inviting attendees to the meeting*
    c) *A copy of the minutes or any related notes made during the meeting*
    d) *A copy of any supporting material circulated or discussed at the meeting*

If you need to redact information, please specify what information is exempt, why and any other relevant details. I understand that any time taken in redacting exempt information cannot be included in the cost of fulfilling this request.

Following correspondence from us asking you to consider limiting the scope of your request (to ensure it kept within the time-limit of compliance) you provided this additional information (31 May 2021):

I am happy to narrow my request to any meetings involving any of the following Conservative Party figures:

Alan Mabbutt
Darren Mott
Ben Elliott
Amanda Milling
Caroline Preston
Iain Carter

And on 9 June 2021 you narrowed the scope further to:

Limit the request to political finance.

Our response is as follows:

We hold some of the information you have requested.

One meeting took place within the scope of your request, by video conference, on 20 April 2021. Attendees were Daniel Adamson, Head of Monitoring and Enforcement for the Commission, Alan Mabbutt, Registered Treasurer of the Conservative and Unionist Party, and a member of Mr Mabbutt's staff. We are not disclosing the name of that person, as it constitutes personal data of that person and is exempt from release in response to a freedom of information request under section 40(2) of the Freedom of Information Act 2000 and we cannot lawfully disclose it.

The meeting was arranged by telephone and we do not therefore hold any correspondence relating to invitations. The Commission did not produce and does not hold any minutes or notes of the meeting. No supporting material was circulated prior to or at the meeting. Material discussed at the meeting was subsequently provided to the Commission by the party. We consider that information to be exempt from disclosure for the reasons set out below.

Exemption: Investigations and proceedings: Section 30(1)(a)(i) Freedom of Information Act 2000

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").

Section 30(1)(a)(i) of the Freedom of Information Act 2000 (FOI) provides an exemption from disclosure for 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.

The information requested is held by the Commission in relation to such an investigation.

Public interest test

Application of the section 30 exemption is subject to the public interest test. There are a number of factors that must be weighed in the balance to consider whether the public interest in applying the exemption outweighs the public interest in disclosure.

Public interest factors in favour of disclosure

The Commission recognises that with regard to the disclosure of information generally, there should be a presumption in favour of disclosure. We also recognise that there is a general public interest in promoting transparency, accountability, public understanding and involvement in the democratic process. Flowing from that general public interest, there is a legitimate public interest in our carrying out investigations in an open and transparent way, and in promoting public understanding of the decisions we make as a regulator.

Public interest factors in favour of applying the exemption

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.

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 individuals and entities 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.

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.

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. For that reason we make public the outcome of all of our investigations. In doing so we carefully consider the public interest in promoting understanding of our decisions.

Balance of the public interest

In assessing where the public interest balance lies in section 30(1) case relevant matters include:

(a) the stage a particular investigation or prosecution has reached;

(b) whether and to what extent the information is already in the public domain;

(c) the significance or sensitivity of the information requested; and

(d) whether there is any evidence that an investigation or prosecution has not been carried out properly which may be disclosed by the information.

In this case the investigation is ongoing. The information requested is not in the public domain, the information requested is in the Commission's view sensitive and significant, and no evidence appears to be put forward to suggest that the investigation is not being carried out properly. All of these factors add weight to the public interest in maintaining the exemption in the Commission's view.

The Commission considers that the balance of public interest in this case lies on the one hand in carrying out investigations in an open and transparent way, and in promoting public understanding of the decisions we make as a regulator; and on the other in our ability to conduct investigations effectively in future, as well as on our wider regulatory work.

The Commission considers that the 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 is met by the fact that we will also make public the outcome. We will consider carefully the appropriate level of detail to disclose at that time to meet both our regulatory objectives and the public interest in promoting understanding of our decisions.

The Commission does not consider that disclosure of specific evidence in this case would add to any significant degree to public understanding of our decisions. In addition, we consider it likely

that disclosure could lead to a significant impact on the voluntary cooperation of organisations and individuals involved in this case, and others regulated by the Commission, with a consequent impact on our ability to conduct investigations effectively in future, as well as on our wider regulatory work.

Having carefully weighed the public interest relating to possible disclosure of the information requested under Section 30(1)(a)(i), the Commission is 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.

Exemption: Law enforcement: Section 31(1)(g) Freedom of Information Act 2000

Section 31(1)(g) 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 s31(2)(a) of the FOI Act.

For the same reasons set out above in relation to s.30, the Commission is satisfied that the information requested would likely prejudice the exercise of the Commission's functions under PPERA to conduct investigations into potential breaches of the reporting requirements.

Further, again for the same reasons set out above in respect of s.30, the Commission is satisfied that in this case the public interest in preventing that prejudice outweighs the public interest in disclosure.

The Commission therefore considers the information you have requested and which we hold to be exempt from disclosure under section 31 to the extent that it not exempt under section 30.

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

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The Electoral Commission
electoralcommission.org.uk