[redacted]

From: FOI
Sent: 09 July 2021 11:16
To: [redacted]
Subject: FOI 088-21 - Response
Attachments: FOI 088-21 - UKIP-EC - leader change correspondence_Redacted.pdf

Dear [redacted],

Our Ref: FOI-088-21

Thank you for your request under the Freedom of Information Act, dated 17 May 2021 and received by post at the Commission on 25 May 2021.

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

Your request is shown below followed by our response.

I sent you minutes of the NEC meeting dated 27th June 2020, which showed clearly that Freddie Vachha (FV) was then the legitimate Leader [of UKIP]*. But you say that the notification of Mr Vaccha's leadership, along with amendments, were non-compliant.I wish to extend my formal Freedom of Information (FoI) request, as below. Please send me copies of the following, which you have on file, electronically or otherwise:*

i) The name of the person listed by EICom previously, as the UKIP Leader.
ii) Correspondence from UKIP to EICom, contending that Hamilton is now Leader.
iii) Response(s) from EICom to UKIP, asking for evidence to support that contention.
iv) Correspondence between Elcom and UKIP during 2020, through to 2021.
v) Exchanges between EICom and UKIP relating to Mr Vaccha's nomination.
vi) Any subsequent exchanges between EICom and UKIP, regarding the leader.

As you should appreciate by now, the prescribed means of ejecting a legitimate Leader, is through a Vote of No Confidence and - since one has not been held - Vaccha clearly remained Leader.

You will appreciate that I am simply seeking evidence that EICom has carried out due diligence in verifying that those who notified you of the change were in a legitimate position to do so, which is not an unreasonable request.

Following our request for clarification, you replied on 11 June with:

Please provide under item iv): Copies of correspondence between Elcom and UKIP during 2020---through to 2021---relating to changes to the position and the name of the UKIP Leader.

Our response is as follows:

We hold some of the information you have requested.

i) The name of the person listed by EICom previously, as the UKIP Leader.
The leader registered with us prior to Mostyn Neil Hamilton was Patricia Mountain.

ii) Correspondence from UKIP to EICom, contending that Hamilton is now Leader.
Some of the information you have requested is exempt from release for reasons explained later in this letter. The information that we can disclose is attached.

iii) Response(s) from EICom to UKIP, asking for evidence to support that contention.
The legislation does not require a party to provide evidence in the manner you have described and as such we did not request this information. Accordingly, we do not hold this information.

The Political Parties, Elections and Referendums Act 2000 (PPERA) s31 requires a party to provide a notification to us to change an officer when a change occurs and that they must do so within 14 days.

PPERA schedule 4 paragraph 12 requires that the notification must include the name and home address of the new officer. Paragraph 13 requires that a notification must be authorised by the existing responsible officers (in this instance, the registered leader, nominating officer and treasurer) and the incoming officer.

We are satisfied that the notification to make Neil Hamilton the leader complied with all of these requirements and therefore we were obliged to process the change. This was not the case for the notification to make Freddy Vachha the party leader.

iv) Please provide copies of correspondence between Elcom and UKIP during 2020---through to 2021---relating to changes to the position and the name of the UKIP Leader.
The information that we can disclose is released in response to other parts of the request.

v) Exchanges between EICom and UKIP relating to Mr Vaccha's nomination.
This information is attached.

vi) Any subsequent exchanges between EICom and UKIP, regarding the leader.
This information is attached.

Please see below an explanation of why we have redacted some pieces of information and not released others:

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.

Some of the information requested is held by the Commission in relation to such an investigation. There is an ongoing investigation regarding whether or not the party complied with its obligations to notify the Commission of a change to its registered details within the required time limit.

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 will again 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 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.

Exemption: Personal information: Section 40(2) Freedom of Information Act 2000

You will notice that certain personal details have been redacted from the documents we are releasing. Section 40(2) provides exemption where the information requested constitutes personal data as defined by the Data Protection Act 2018 (DPA), and where release of the information

requests would breach one of the data protection principles. Some of the information contained in the requested information falls within the description of personal data as defined by the DPA because the information relates directly to an identifiable living individual. This includes names and contact details of individuals in some instances. The individuals in some cases are junior staff members and they would not reasonably expect their information to be released.

Not within the scope of your request

Some information has been redacted as it does not fall within the scope of your request as it relates to changes of registered details other than the leader.

The Commission strives to be an open, transparent authority and I trust that this information satisfies your request. 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

The Electoral Commission
electoralcommission.org.uk

---------- Original Message ----------
From: Partyreg
Received: 30/09/2020 12:15
To: Ian Garbutt; Mostyn Neil Hamilton
Cc: [redacted]
Subject: UK Independence Party (UKIP) GB CCM:0462310

Dear Ian Garbutt,

Thank you for your notification to change the registered details for your party which we received on 22 September 2020. We have now processed the following changes:

Position	Outgoing officer	Incoming officer	Post/Home address	Email	Telephone
Leader	Patricia Ann Mountain	Mostyn NeilHamilton	[redacted]	[redacted]	[redacted]
Treasurer	Mostyn Neil Hamilton	Mr Ian Garbutt	[redacted]	[redacted]	[redacted]

Please notify us immediately if the amended details do not appear as you had intended.

You must notify us **within 14 days** of changes to the named leader, treasurer, nominating officer, and campaigns officer or additional officer (if applicable) for the party if caused by the death or termination of the appointment of that officer. For other changes, such as changes to officer home addresses or the party's headquarters address, you must notify us **within 28 days**. Failing to update the party's registered details where they are not correct by the relevant deadline is a contravention of PPERA which may result in a fine. You can read our Enforcement Policy here.

For new treasurers

The Political Parties, Elections & Referendums Act (PPERA) 2000 imposes a number of controls and responsibilities on registered political parties, particularly in respect of donations, regulated transactions (loans) and campaign expenditure. I have included a welcome pack regarding your obligations to us.

You can find guidance for candidates for specific elections on our website.

Your party's annual confirmation of registered details

Now that the party's registered details have been updated, you may also wish to submit your party's annual confirmation of its registered details. **The party's confirmation for its current financial year, along with the fee of £25, is due to be delivered by 07 January 2021. Should the party fail to deliver a confirmation along with the required fee by the deadline, we are required in law to remove the party from the register.**

The easiest way to remain a registered party is by using PEF online. You can find instructions on how to do this here.



Yours sincerely,

[redacted]

The Electoral Commission
electoralcommission.org.uk

---------- Original Message ----------
From: Partyreg
Received: 11/09/2020 13:17
To: [redacted]
Subject: RE: UKIP - change of leader [redacted] CCM:0288187

Dear [redacted],

The 'Change details' option is not available as it has been previously selected – [redacted].

As you have suggested, you simply need to add an officer and follow the other steps after that.

Kind regards,

[redacted]

The Electoral Commission
electoralcommission.org.uk

From: [redacted]
Sent: 11 September 2020 13:02
To: Partyreg <Partyreg@electoralcommission.org.uk>
Subject: RE: UKIP - change of leader [redacted] CCM:0288187

Dear [redacted]

I am following instructions to PEF Online. I have selected 'View Details' but there is no 'Change Details' option. There is however an 'Abort changes' button.

Do I need to 'Abort changes' before I can continue?

Or

do I just need to select 'Party Officers' and 'add officer' and continue....

I have left you a telephone message. Please advise.

Kind regards

[redacted]

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Please contact the sender if you believe you have received this email in error.

From: Partyreg <Partyreg@electoralcommission.org.uk>
Sent: 09 September 2020 15:55
To: [redacted] Ben Walker [redacted]
Subject: RE: UKIP - change of leader [redacted] CCM:0288187

Dear [redacted] and Ben,

I spoke to [redacted] earlier about your change of leader. We discussed making the change of leader via our PEF Online system, using our instructions. Please note that this change must be made separately for the party in NI and GB. Making the change via our system will allow your officers to authorise the notification remotely with no need to sign paper work or provide any of this to us by post.

[redacted] – [redacted] If these are finalised, then you can simply complete the change of leader in tandem with these and submit them at the same time.

Proposed change of name, descriptions, and emblem
We have received various applications from the party to change a number of its details. As discussed, we cannot currently proceed with these applications, because your new leader has signed the forms and that change of leader has not yet been properly made so the other forms he has signed are not compliant until that change is finalised.

I note that you have made these as a number of separate forms – I strongly recommend that you submit these to us by PEF Online once the officer change has been finalised, submitted and processed by the Commission. This is particularly the case for the emblem as it will ensure that you are providing us the highest quality version of the image.

[redacted]

[redacted]

[redacted]

Enforcement consideration
The legal requirement is that a party must provide a compliant notification to the Commission within 14 days of the change occurring. Please note that we have referred this matter to our enforcement team for consideration in line with our enforcement policy.

We are aware that the party leader was elected on 22 June and that we did not receive a notification from the party until 2 August, which was incomplete. Where we are yet to receive a compliant notification from the party in relation to its change of leader we advise that you provide this notification as a matter of urgency.

Kind regards,

[redacted]

The Electoral Commission
electoralcommission.org.uk

From: Partyreg
Sent: 04 September 2020 18:44
To: [redacted] 'Ben Walker [redacted]
Subject: RE: Urgent: UKIP - change of leader [redacted] CCM:0288187

Dear Ben,

We have received your amended change of leader notification.

However, this notification is still not compliant. That is because the signatures from the other registered officers are dated from the original notification (26 and 28 June) and therefore cannot have authorised the changes that are marked as 20 August. Where it is clear that the officers of the party have not authorised the details of the notification we are not able to accept it.

I appreciate this matter has been ongoing for a significant period of time and that there have been significant delays to this matter where the party has provided these notifications by post and our limited access to our office facilities. I strongly recommend that you make these changes by PEF Online.

I would advise that [redacted] contact me earlier next week to discuss how to facilitate making the change using our online system. I can be contacted at this email address or by phone – [redacted].

Kind regards,

[redacted]

The Electoral Commission
electoralcommission.org.uk

---------- Original Message ----------
From: [redacted]
Received: 25/08/2020 23:45
To: Partyreg
Cc: [redacted]
Subject: Amended RP4

Dear Party Registrations Team,
Please find attached an amended RP4 as requested that now includes an additional page listing the Leaders correct home address.
This form was originally sent in hard copy using Royal Mail and delivered to you on 14/07/20.
Can you please action this as soon as possible so your records are correct.
Kind regards,

Ben Walker
National Party Chairman

From: Ben Walker [redacted]
Sent: 02 September 2020 23:21
To: PEF Inbox <pef@electoralcommission.org.uk>
Subject: Fwd: Amended RP4

Ben Walker
UKIP National Party Chairman

This e-mail is confidential to the intended recipient. If you have received it in error, please notify the sender and delete it from your system. Any unauthorised use, disclosure, or copying is not permitted. This e-mail has been checked for viruses, but no liability is accepted for any damage caused by any virus transmitted by this e-mail.

From: Ben Walker
Sent: Wednesday, September 2, 2020 9:29:27 PM
To: Partyreg <Partyreg@electoralcommission.org.uk>
Cc: [redacted]
Subject: FW: Amended RP4

Please refer to the email below and it's attachment.

Please also confirm receipt.

Ben Walker
National Party Chairman

From: Ben Walker
Sent: 25 August 2020 23:46
To: Partyreg <Partyreg@electoralcommission.org.uk>
Cc: [redacted]
Subject: Amended RP4

Dear Party Registrations Team,

Please find attached an amended RP4 as requested that now includes an additional page listing the Leaders correct home address.

This form was originally sent in hard copy using Royal Mail and delivered to you on 14/07/20.

Can you please action this as soon as possible so your records are correct.

Kind regards,

Ben Walker
National Party Chairman

From: Partyreg
Sent: 19 August 2020 19:28
To: [redacted]
Subject: RE: Urgent: UKIP - change of leader [redacted]CCM:0288187

Dear [redacted]

It appears that blank changes were submitted for the GB party – this means that application was submitted to us for changes but that contained no changes.

We have processed the amendments in NI and have now clear the application for GB. You will now be able to begin the process of changing your party leader. This application must be authorised by all officers of the party via our system.

Kind regards,

[redacted]

The Electoral Commission
electoralcommission.org.uk

From: [redacted]
Sent: 13 August 2020 09:08
To: PEF Inbox <pef@electoralcommission.org.uk>
Subject: UKIP - URGENT

Good morning

[redacted]

[redacted]

Many thanks

Kind regards
[redacted]

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From: [redacted]
Sent: 05 August 2020 16:00
To: Partyreg <Partyreg@electoralcommission.org.uk>
Cc: Ben Walker [redacted]
Subject: UKIP

Dear[redacted]

I have recently logged on to the Electoral Commission website but I don't appear to have a *View details* tab available to select on UK Independence Party (GB) although this option is available on the UK Independence Party (NI) section.

Can you help please?

Kind regards

[redacted]

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Please contact the sender if you believe you have received this email in error.

From: Ben Walker [redacted]
Sent: 04 August 2020 06:34
To: Partyreg <Partyreg@electoralcommission.org.uk>; [redacted] Robert Stephenson: National Nominating Officer [redacted]
Cc: [redacted]
Subject: Re: Urgent: UKIP - change of leader [redacted] CCM:0288187

Dear [redacted]

Thank you for your email and guidance.

I fully understand that due to current working practices you're not able to fully access the offices at present which is why there is an issue in receiving/processing mail.

I will ensure that these forms are completed using the PEF online system via the authorised Party Officer and all future submissions are carried out in this way. Obviously we will update our AU's to enable these submissions.

Please disregard any previous emails on this matter.

I'm really grateful for your offer of help and will of course come to you if required.

Kind regards,

Ben Walker
UKIP National Party Chairman

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From: [redacted]
Sent: 03 August 2020 21:00
To: Partyreg <Partyreg@electoralcommission.org.uk>; Ben Walker [redacted] Robert Stephenson: National Nominating Officer [redacted]
Subject: Re: Urgent: UKIP - change of leader [redacted] CCM:0288187

Dear [redacted], others,

Thank you for your email.

> I note in the attached form for the change of leader, no home address has been provided
> for the new officer, which is a legal requirement, and the form is therefore not compliant
> I would strongly recommend that the change be completed using our PEF Online system
> so that this change can be made as soon as possible.

[redacted]

I am sure any error was inadvertent and an oversight. We are a largely new team doing our best.

[redacted] home address is, and has been since [redacted]
[redacted]

I have no access to the PEF Online system for the party, but I imagine one of the current officers must have.

If this is not the case, please provide the Party Treasurer, whose details are on file with you, with the required log-in information. Thank you.

Best,

From: Partyreg
Sent: 03 August 2020 14:57
To: 'Ben Walker' [redacted] Robert Stephenson: National Nominating Officer [redacted]
Cc: Campaign [redacted]
Subject: RE: Urgent: UKIP - change of leader [redacted] CCM:0288187

Dear Ben,

Thank you for your email.

I can confirm that we have not received either form and they therefore have not been processed by us. Any changes to the party details will be confirmed by us in writing by email.

We have been requesting that parties make any changes to their details using our PEF Online system as we currently have very limited access to our offices and are experiencing significant delays in receiving post. This is the same procedure we have in place for parties financial returns. If we are not able to receive a notification we may deem that it has not been provided.

I note in the attached form for the change of leader, no home address has been provided for the new officer, which is a legal requirement, and the form is therefore not compliant. I would strongly recommend that the change be completed using our PEF Online system so that this change can be made as soon as possible. You will be able to update your party HQ details at the same time.

[redacted]

I am happy to provide guidance on this matter if required.

Yours sincerely,

[redacted]

The Electoral Commission
electoralcommission.org.uk

From: Ben Walker [redacted]
Sent: 02 August 2020 08:12
To: Partyreg <Partyreg@electoralcommission.org.uk>; [redacted] Robert Stephenson: National Nominating Officer [redacted]
Cc: [redacted]
Subject: RE: Urgent: UKIP - change of leader [redacted] CCM:0288187

Dear [redacted],

Please find attached a copy of the Change of Leader form along with its Proof of Posting to you (13/07/20).

We also sent a change of Registered Party Address form on a different date which also seems to have gone un-actioned from looking at your website.

Can you please confirm you have updated our address to the following:

United Kingdom Independence Party
Henleaze Business Centre
13 Harbury Road
Henleaze
Bristol
BS9 4PN

TEL: [redacted]

Please do not hesitate to contact me if you require anything further.

Kind regards,

Ben Walker
National Party Chairman

From: Partyreg <Partyreg@electoralcommission.org.uk>
Sent: 31 July 2020 14:19
To: [redacted] Robert Stephenson: National Nominating Officer [redacted]
Cc: Ben Walker [redacted]
Subject: Urgent: UKIP - change of leader [redacted] CCM:0288187
Importance: High

Dear all,

Please respond to this email urgently with an update on the below matters by **midday Monday 3 August**. I will be in the officer until close of business today, any correspondence sent over the weekend will be received on Monday.

Change of leader
We are aware from media reports and changes to your website that Freddy Vachha became the party leader in June.

As we have made you aware in our previous emails, there is a legal requirement for the party to provide a notification to change an officer within 14 days of the termination of appointment of that officer. Any such change must be authorised by all currently registered and incoming officers.

If we do not receive a notification within 14 days we will consider this against our enforcement policy. We have not received any correspondence from you on this matter or responses to our previous emails of 9 and 15 July raising this issue. Please respond as a matter of urgency.

[redacted]

Yours sincerely,

[redacted]

The Electoral Commission
electoralcommission.org.uk

---------- Original Message ----------
From: Partyreg
Received: 15/07/2020 13:56
To: [redacted] Mostyn Neil Hamilton; [redacted]; Robert Stephenson
Cc: [redacted]
Subject: RE: Reported change of leader CCM:0462157

Dear all,

Following on from my email of 09 July. Could the party please provide an update on the leader change?

If you are having issues on PEF online, please do not hesitate to contact me.

Yours sincerely,

[redacted]

The Electoral Commission
electoralcommission.org.uk

From: Partyreg
Sent: 09 July 2020 18:30
To: [redacted]
Cc: [redacted]
Subject: Reported change of leader

Dear Moyston,

[redacted]

[redacted]

We are aware of reports that your party leader has changed.

The legislation requires that the party provide a notification of the change of officer within 14 days of the termination of the appointment of that officer. To make such a change, you will need to submit an application via PEF Online. You can find instructions on how to complete this here.

The application must be authorised by all current officers, including the outgoing officer.

If you have any questions about this, or any issues with the application, please contact me.

Kind regards,

[redacted]

The Electoral Commission
electoralcommission.org.uk