From: FOI
To: [redacted]
Subject: FOI 164/18 - Correspondence between the EC and Police/NCA - response
Date: 11 February 2019 13:00:38

Dear [redacted],

Our Ref: FOI 164/18

Thank you for your email to the Electoral Commission dated **24 October 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. **Under the provisions of the Freedom of Information Act, could I please request any correspondence between the Commission and the Metropolitan Police/NCA regarding offences that may have been committed during the EU referendum?**

2. **This should include, but not be limited to, the period from May to the present day.**

Our response is as follows:

We hold the information you have requested.

However, the information you have requested is exempt from disclosure under Section 23 and Section 36 of the FOI Act 2000.

Section 23 of the FOI Act

Section 23 of FOIA provides an exemption for information that was provided by, or relates to, a security body. The term 'relates to' is interpreted broadly. The section lists those bodies covered by the exemption, and the list includes the National Crime Agency. The Commission is satisfied that some of the information you have requested relates to the NCA.

Section 23 is as an absolute exemption and therefore does not require us to complete the public interest test.

Section 36 of the FOI Act

We consider that section 36(2)(b)(ii) and (2)(c) of FOIA is engaged in relation to the requested information as far as it relates to the Metropolitan Police Service. Section 36 provides that information is exempt if in the reasonable opinion of the qualified person, disclosure of the information would, or would be likely to, prejudice the effective conduct of public affairs.

The information you have requested relates to communications between the Commission and a law enforcement agency. Section 36(2)(b)(ii) applies where in the reasonable opinion of a qualified person, disclosure of the information would,

or would be likely to, inhibit the free and frank exchange of views for the purposes of deliberation.

There is a clear need for the Commission to be able to hold discussions and exchange views with law enforcement agencies. There is an equally clear risk that disclosing any details of such discussions could lead this and other law enforcement bodies not to share information with us or agree to such discussions or exchange of views in the future, thus inhibiting the free and frank exchange of views.

The Commission's qualified person for the purpose of this request is our Chief Executive, Bob Posner, and he has decided that the exemption applies in this case. This is because the information you have requested involves the exchange of information and views as to law enforcement matters.

Exemptions under s.36 of FOIA are subject to the public interest test, where information must be disclosed if the public interest in disclosure outweighs the public interest in maintaining the exemption. On balance, the qualified person has confirmed that the public interest falls in favour of not releasing this information.

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]
Access to Information Officer (FOI and DPA)

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