

From: [FOI](#)
To: [REDACTED]
Subject: FOI 205/18 - Response
Date: 25 January 2019 13:32:37

Dear [REDACTED]

Our Ref: FOI 205/18

Thank you for your email to the Electoral Commission dated **18 December 2018**.

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

Your request is in bold below followed by our response.

On 18 December 2018, the Electoral Commission issued a statement saying that it had imposed a £500 fine of the Liberal Democrats for failing to deliver an accurate spending return for the 2016 Scottish Parliament election.

- 1. Please supply all information held by the Commission in relation to this specific investigation.**
- 2. This should include, but not be limited to, all reports, analyses, spreadsheets and correspondence, both internal and between the Commission, the party and individual politicians.**
- 3. It should also include all information related to the potential implications of the failure in relation to the LibDem campaign in Edinburgh Western at the 2016 election, and whether the candidate spending limit was breached in that constituency by Alex Cole-Hamilton and/or his agent.**
- 4. In order to fulfil this request as cheaply and efficiently as possible, it is suggested that copies of original files are released in PDF format.**

Our response is as follows:

We hold the information you have requested.

The information you have requested is exempt from disclosure under section (30) (1)(a)(i) of the Freedom of Information Act 2000. This is because the information held in relation to these matters form part of an investigation.

Exemption under section 30 of the Freedom of Information (FOI) Act

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 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 public interest test

Applications of the section 30 exemption is subject to a 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 third parties 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. It is also why we publish the outcome of all of our regulatory cases, including the offences considered, the finding, and any sanction imposed. We believe it is crucial that the public are aware of our regulatory investigations and the outcome. We do not consider that the disclosure of documents or other information from investigations adds significantly to the public's understanding of the investigations or the outcomes.

In carrying out effective inquiries the Commission depends on being able to secure the cooperation 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 and other enforcement agencies 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.

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 investigation was made public under the FOI 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.

Decision on disclosure

Having carefully weighed the public interest relating to possible disclosure of the information requested, the Commission is satisfied that in line with section 30(1)(a) (i) of the FOI Act it is not appropriate at this time to disclose the information which

the Commission holds.

We do not consider that the disclosure of documents or other information from investigations adds to the public's understanding of the investigations or the outcomes to the extent that it outweighs the need for information obtained to be treated as confidential in order to conduct investigations effectively.

We consider that disclosure of the information you have requested would prejudice the exercise of the Commission's statutory functions and its ability to conduct investigation such as in this matter, and is satisfied that maintaining the exemption outweighs the public interest in disclosure.

You may be interested to know that we publish details of concluded investigations on our website. You can find details of closed investigations [here](#).

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,

[REDACTED]

[REDACTED]

Access to Information Officer (FOI and DPA)

The Electoral Commission

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