From:	FOI
To:	[redacted]
Subject:	FOI 003-19 - £100,000 donation given to the Scottish Conservatives
Date:	01 March 2019 15:02:05
Attachments:	IUC-FOI-7_Redacted.pdf IUC-FOI-1_Redacted.pdf IUC-FOI-2_Redacted.pdf IUC-FOI-3_Redacted.pdf IUC-FOI-4_Redacted.pdf IUC-FOI-5_Redacted.pdf IUC-FOI-6_Redacted.pdf

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Dear [redacted]

Our Ref: FOI 003-19

Thank you for your email to the Electoral Commission dated **09 January 2019.**

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.

This is a request for information under the Freedom of Information Act, and relates to the £100,000 donation given to the Scottish Conservatives in March 2016 - the 'Irvine Unionist Club donation'.

I would like to request the following information:

(1) All internal correspondence and communications held by the Electoral Commission that mentions, or refers to, the Irvine Unionist Club donation.

(2) All external correspondence and communications held by the Electoral Commission that mentions, or refers to, the Irvine Unionist Club donation. I expect this would include correspondence and communications between the Commission and:

- The Irvine Unionist Club
- The North Ayrshire Conservative Party
- The Scottish Conservative Party

By 'correspondence and communications', I define this as including, but not limited to, the following:

- Emails (and their attachments)
- Letters
- Invoices
- Memos
- Minutes taken during meetings
- Briefings
- Research documents
- Press clippings
- Presentation slides
- Notes taken during telephone conversations

- Drafts of reports

Our response is as follows:

We hold the information you have requested.

Please find enclosed copies of all relevant material in relation to the first part of your request.

The Commission has applied section 30 exemption to some correspondence which relates to your first request and correspondence relating to the second part of your request. The omitted correspondence relates to our investigation into the Irvine Unionist Club which we have now concluded. You can find a summary of our findings, as with all our enforcement cases, on our website here. More information on this and other exemptions applied to this request are below.

Exemptions under Section 30

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 Commission has a statutory function to secure compliance with the Political Parties, Elections and Referendums Act 2000 ("PPERA"). In discharging that function we conduct assessments and, where appropriate, investigations into potential breaches.

The public interest test

Application 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 conduct investigations and 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 our enforcement function 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 taken into account, including when deciding whether to disclose information, whilst ensuring proper regulation of political finance. It is also why we publish information about all of our cases at their conclusion.

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 others remains essential to our ability to conduct our statutory functions efficiently. As our investigatory process relies 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 (which includes assessing if an investigation should be commenced) would not be made available to the public at large. If information provided in the course of our investigation was made public it might make individuals and entities reluctant to provide information 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 carry out its statutory functions.

Decision on disclosure

Having carefully weighed the public interest relating to possible disclosure of the information requested under sections 30(1)(a)(i) of the FOI Act the Commission is satisfied that it is not appropriate at this time to disclose the information which the Commission holds.

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.

Exemptions under Section 40

You will notice that some details from the documents we are disclosing are redacted. Section 40(2) provides for an exemption where the information requested constitutes personal data as defined by the Data Protection Act 2018 (DPA), and where release of the information requested would breach one of the data protection principles. The information contained in the requested information falls within the description of personal data as defined by section 1 of the Data Protection Act 2018 (DPA) because the information relates directly to an identifiable living individual.

We have also relied upon section 40(2) in some instances in removing names and contact details of junior staff within the Electoral Commission. This is because they would not reasonably expect their information to be released.

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
FOI@electoralcommission.org.uk
electoralcommission.org.uk

Hi [redacted],

As discussed, the list of UA's that have not registered as a result of making political donations over £250k in 2016 are below (black). I have identified two (red) which did register but were not added at the time. I have now added these and republished the register on the website. This will go live once [redacted] approves them and will be on the page here: http://www.electoralcommission.org.uk/find-information-by-subject/political-parties-campaigning-and-donations/donations-and-loans-to-other-individuals-and-organisations/registers-unincorporated-associations

I believe you have already spoken to [redacted] about referring these to Enforcement.

Unincorporated Association	Amount given in 2016
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
Irvine Unionist Club Total	£100,000.00
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]

As also discussed, it might be helpful to map out a process for receiving, processing, checking and publishing UA's. Happy to input anyway I am needed on this.

Let me know if you need anything else.

Regards,
[redacted]

[redacted]
Senior Financial Reporting Adviser
Political Finance and Regulation
The Electoral Commission
3 Bunhill Row
London
EC1Y 8YZ
Tel: [redacted]
Fax: 020 7271 0665
www.electoralcommission.org.uk
www.aboutmyvote.co.uk

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Please consider the environment before printing this email.

Summary of what we discussed:

A UA does not need to be on the statutory register of UA's in order to make a donation. UA's need to register with us if they make political contributions over £25,000 in a calendar year.

The Scottish Conservatives are not a registered political party and they are not a registered accounting unit (local or regional party) under the Conservative and Unionist Party.

A list of all political donations made by the Irvine Unionist Club can be seen on our database on the link below. This includes a £100,000 donation made by IUC to a Conservative Party accounting unit called North Ayrshire:
http://search.electoralcommission.org.uk/?currentPage=1&rows=10&query=Irvine%20Unionist%20Club&sort=AcceptedDate&order=desc&tab=1&et=pp&et=ppm&et=tp&et=perpar&et=rd&prePoll=false&postPoll=true&optCols=CampaigningName&optCols=AccountingUnitsAsCentralParty&optCols=IsSponsorship&optCols=RegulatedDoneeType&optCols=CompanyRegistrationNumber&optCols=Postcode&optCols=NatureOfDonation&optCols=PurposeOfVisit&optCols=DonationAction&optCols=ReportedDate&optCols=IsReportedPrePoll&optCols=ReportingPeriodName&optCols=IsBequest&optCols=IsAggregation

From: [redacted]
Sent: 02 June 2017 10:58
To: [redacted]
Subject: FW: Donation

Hey [redacted] can I have your wonderful guidance on this?

From: [redacted]
Sent: 02 June 2017 10:57
To: Press
Subject: Donation

Hi,

As discussed with [redacted], I've been made aware of a £100,000 donation to the Scottish Conservatives by the Irvine Unionist Club, an unincorporated association, which does not appear on your registered donors list. I've checked your database and list and all those facts seem correct.
The contact says this would make it an illegal donation.
I'm not asking you to comment on the specific case, but…
Can I rule check – is it illegal for an unincorporated association, which is not on list of registered donors, to make a donation of the value of £100,000?

thanks

[redacted]
[redacted]
Scottish Mail on Sunday
[redacted]
[redacted]

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From: [redacted]
Sent: 02 June 2017 14:24
To: Louise Edwards; [redacted]
Cc: [redacted]
Subject: Line on Irvine Unionist Club / Unincorprated associations - please review

Hi Louise / [redacted],

I think you're both aware of a story that [redacted] is dealing with regarding the Irvine Unionist Club. We've had one enquiry from Open Democracy on that; and one from the Mail on Sunday in Scotland (blue).

Can you sign off the line? I want to make clear, given its election time, that the accounting unit has done nothing wrong (that's my assumption! They have reported the donation to us after all!).

The second story is again from Open Democracy, so have just drafted a line to give them.

[redacted]

First story:

a) According to your records, the Irvine Unionist Club paid £100,000 to the North Ayrshire Conservatives in April last year. The North Ayrshire Conservative party treasurer tells me that this money almost all went 'to the central party in Edinburgh'.

The Irvine Unionist Club doesn't appear on your register of unincorporated associations. Am I right to think that this makes this donation illegal?

b) Does it make any difference that donation was to North Ayrshire branch... rules still apply?
And what are possible consequences for Conservatives and Irvine Unionist Club from Electoral Commission perspective?

Electoral Commission spokesperson said:

"Political parties and their accounting units are legally required to report donations that they receive over a certain threshold. In this case, the accounting unit has met its obligations. As an Unincorporated Association, the donor should have applied to register with the Commission prior to making the donation. The Commission is establishing the facts before determining what further steps to take."

Ends

Second story:

The spreadsheet of gifts to UIs that appears on your website (and attached) seems to only have six entries ever, all from two people, to the same single trust. Does this mean that every other UI which has donated to a party since the 2009 election act became law in July 2009, and which has given more than £25,000 to a political party, is claiming that it hasn't had a single donation of more than £7,500? If so, has the Commission ever investigated whether this is true?

Dear X

You are referring to what is known as the unincorporated association (UA) register of gifts. The Commission updates this register as and when a Unincorporated Association notifies us of any gifts (of for the purpose of your question, donations) it has received over £7,500. I have checked with colleagues and can confirm that the current register is up to date with what we have received. *The details published on the register of unincorporated associations includes that which the Commission is required to publish by law.*

Only unincorporated associations that receive gifts (donations for the purpose of your story) above £7,500 have to report these to us.

[redacted]
Press and Public Affairs Manager
The Electoral Commission
3 Bunhill Row
London EC1Y 8YZ
Tel: [redacted]
www.electoralcommission.org.uk

Press office: 020 7271 0704
Out of office hours: 07789 920 414

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Thanks [redacted]

From: [redacted]
Sent: 03 January 2019 10:16
To: [redacted]
Subject: FW: Motion re Irvine Unionists [OFFICIAL]

Hi all

Purely for your information.

[redacted]

From: Andy O'Neill
Sent: 03 January 2019 09:57
To: [redacted]
Subject: RE: Motion re Irvine Unionists [OFFICIAL]

Cheers

Can you keep the guys in PFR up to speed on any further developments.

Just out of interest really.

[redacted]

ANdy

From: [redacted]
Sent: 03 January 2019 09:35
To: Andy O'Neill [redacted]
Subject: Fwd: Motion re Irvine Unionists [OFFICIAL]

FYI. This was the motion.

[redacted]
Senior Elections and Campaigners Adviser

The Electoral Commission
[redacted]

Begin forwarded message:

From: [redacted]
Date: 3 January 2019 at 09:25:00 GMT
To: [redacted]
Subject: Re: Motion re Irvine Unionists [OFFICIAL]

I've attached a Minute extract below. (Shouldn't you be off sorting out the Democratic Republic of Congo at the moment?)

[redacted]

"12. Motions

In terms of Standing Order 13, submitted:-

(1) a motion by Councillor McTiernan, seconded by Councillor McClung in the following terms:-

“North Ayrshire Council fully supports the principle of openness and accountability in terms of donations to, and funding of, political parties. As such, Council agrees that the Chief Executive should write to the Leader of the Conservative and Unionist Party Group to request him to make a statement to the next Council meeting in relation to the original source of an April 2016 donation of £100,000 received by the North Ayrshire and Arran Conservative and Unionist Association from the Irvine Unionist Club.”

On a point of order, the Depute Provost sought and received confirmation as to the competence of the motion.

As an amendment, Councillor Marshall, seconded by Councillor Ferguson moved that the Council:-

a. note that the Scottish Conservative and Unionist Party is committed to openness and transparency in all political donations; and

b. be aware of the following statement by the Scottish Conservative and Unionist Party

“The Electoral Commission has investigated the donation, and has concluded that the Trust was not exempt in terms of the 2000 Political Parties Act’s reporting requirements. The Trustees have accepted that they were at fault in failing to register the donation, and have paid the £400 fine. The Conservative Party was not investigated nor subject to any fine. The donation was not illegal.”

Following questions, debate and summing up, on a division, there voted for the amendment 8 and for the motion 10, and the motion was declared carried."

[redacted]
Committee Services Team Leader
Committee Services
North Ayrshire Council, Cunninghame House, Irvine KA12 8EE
Tel: [redacted]
Fax: [redacted]

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From: [redacted]
To: '[redacted]
[redacted]
Date: 03/01/2019 08:58
Subject: Motion re Irvine Unionists

[redacted]
Can you let me know outcome of this snp motion if submitted to Council?

Competent?

[redacted]
Senior Elections and Campaigners Adviser

The Electoral Commission
[redacted]
[redacted]
[redacted]

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Hi [redacted]

In terms of a line from the EC I can offer:

Unincorporated associations, such as the Irvine Unionist Association, must register with the Electoral Commission when they make political contributions of more than £25,000 in a calendar year and must report any relevant gifts that they have received. This ensures there is transparency about funding of political campaigning. Irvine Unionist Association failed to comply with these rules and the Electoral Commission has fined them £400.

In regard to your second question then I can confirm that the donation which took them over the £25,000 limit in 2016 was for £100,000. As you aware, this donation was correctly reported to the Commission by the Conservative Accounting Unit and was published on our online party finance database.

All the best

[redacted]

From: [redacted]
Sent: 18 September 2018 10:05
To: [redacted]
Cc: Press
Subject: Irvine Unionist Club donation

Hello,

[redacted] here from The Ferret. We are working on a story about the fine given to the Irvine Unionist Club for not notifying the EC about gifts to the Conservative Party.

Could the Electoral Commission provide a comment regarding this case?

And is the actual amount of the gift available? The last thing on the EC website was the £100,000 gift in 2016.

Kind regards,
[redacted]

--
Ferret Fact Service

[redacted]
[redacted]

theferret.scot

[redacted]

From: [redacted]
Sent: 18 September 2018 13:05
To: [redacted]
Subject: RE: Line on Irvine Unionist Club

It does make sense and is helpful!

Thanks again

[redacted]

[redacted]

From: [redacted]
Sent: Tuesday, September 18, 2018 1:01:36 PM
To: [redacted]
Subject: RE: Line on Irvine Unionist Club
You're right on the first point – the recipient met their legal obligations.

On the second then the registration would last until the end of a calendar year. In the next year they would only need to register again if they donated more than £25k for political purposes. So had the IUC registered with us at the time of the 2016 donation then that registration would have lapsed at the end of the year. They will only need to register again in the event that they donate more than £25k in a single calendar year.

Hope that all makes sense

[redacted]

From: [redacted]
Sent: 18 September 2018 12:55
To: [redacted]
Subject: RE: Line on Irvine Unionist Club

Great, thanks – so the issue was the Irvine group wasn't registered with the commission at the time it made the donation, but it was correctly reported by the recipient?

Is the Irvine association required now to registered with the commission or is that dependent on their future donations?

[redacted]
Sent from Mail for Windows 10

From: [redacted]@electoralcommission.org.uk>
Sent: Tuesday, September 18, 2018 12:52:05 PM
To: [redacted]
Subject: RE: Line on Irvine Unionist Club

Hi [redacted]

I can confirm that the donation which took them over the £25,000 limit was for £100,000 in 2016. As you aware, this donation was correctly reported to the Commission by the Conservative Accounting Unit and was published on our online party finance database.

Cheers

[redacted]

From: [redacted]>
Sent: 18 September 2018 12:46
To: [redacted]@electoralcommission.org.uk>
Subject: RE: Line on Irvine Unionist Club

Thanks [redacted] – I've read reports it was linked to a £100,000 donation in 2016, which I can see on the commission database as a donation the Irvine Unionist Club made, it's the most recent and the only one more than £25,000 in a year.

But it was just to double-check that's the relevant one.

Thanks

[redacted]

Sent from Mail for Windows 10

From: [redacted]@electoralcommission.org.uk>
Sent: Tuesday, September 18, 2018 12:42:06 PM
To: [redacted]
Subject: Line on Irvine Unionist Club

Hi [redacted]

I believe you are looking for a line from the Commission on the Irvine Unionist Club. Our line is:

Unincorporated associations, such as the Irvine Unionist Club, must register with the Electoral Commission when they make political contributions of more than £25,000 in a calendar year and must report any relevant gifts that they have received. This ensures there is transparency about funding of political campaigning. Irvine Unionist Club failed to comply with these rules and the Electoral Commission has fined them £400.

Cheers

[redacted]

[redacted]
Senior Officer – Communication

The Electoral Commission
0131 225 [redacted]
electoralcommission.org.uk

Press office: [redacted]
Press out of hours: [redacted]

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[redacted]

From: [redacted]
Sent: 06 June 2017 16:45
To: [redacted]'
Subject: RE: Query

Hi [redacted]

That works as quote still stands. Just for completeness it is:

Electoral Commission spokesperson said:

"Political parties and their accounting units are legally required to report donations that they receive over a certain threshold. In this case, the accounting unit has met its obligations. As an Unincorporated Association, the donor should have applied to register with the Commission when making the donation. The Commission is establishing the facts before determining what further steps to take."

Cheers

[redacted]

[redacted]
Senior Officer - Scotland
The Electoral Commission
Lothian Chambers
59-63 George IV Bridge
Edinburgh, EH1 1RN
Tel: 0131 225 [redacted]
Fax: 0131 225 0205
Textphone: 18001 0131 225 0204
www.electoralcommission.org.uk
www.aboutmyvote.co.uk

From: [redacted]
Sent: 06 June 2017 16:16
To: [redacted]
Subject: Re: Query

Sure. I can grab your quote from OD.
[redacted]

SNP candidate Pete Wishart said: "This raises very serious questions for Ruth Davidson.

"Voters will be left wondering where this money came from – and why the Tories would accept such a large donation that clearly breached Electoral Commission rules.

“Those rules are in place for good reason – they are there to make sure election campaigns are fair and are not unduly influenced.

“And it is essential that the public know exactly where major donations of political cash come from.

“Ruth Davidson must urgently provide answers over this dark money donation.”

On 6 June 2017 at 16:14, [redacted]@electoralcommission.org.uk> wrote:

Hi [redacted]

Will dig out the line asap but don’t think it has changed since what we said to open democracy.

In the interim is there any chance if pinging over what the SNP have said (just so I can check for accuracy).

Ta

[redacted]

[redacted]

Senior Officer - Scotland

The Electoral Commission

Lothian Chambers

59-63 George IV Bridge

Edinburgh, EH1 1RN

Tel: 0131 225 [redacted]

Fax: 0131 225 0205

Textphone: 18001 0131 225 0204

www.electoralcommission.org.uk

www.aboutmyvote.co.uk

From: [redacted]]
Sent: 06 June 2017 16:01
To: [redacted]
Subject: Query

Hi [redacted]

Do you guys have a comment on the Open Democracy story about the Irvine Unionist Club donation to the Conservatives? Is there an investigation ongoing? The SNP have sent me a release on it.

[redacted]

--

[redacted]

[redacted]

Daily Record

[redacted]

[redacted]

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