From: FOI
To: [redacted]
Subject: FOI 010-19, FOI 017-19, FOI 018-19, FOI 019-19, FOI 020-19 and FOI 021-19 - Response
Date: 13 March 2019 14:16:42

Dear [redacted]

Our Ref: FOI 010-19, FOI 017-19, FOI 018-19, FOI 019-19, FOI 020-19, FOI 021-19

Thank you for your emails to the Electoral Commission dated **30 January** and **7 February 2019.**

In responding to you, you will see that we have aggregated a number of your requests for information together. We have done so on the basis that your requests for information relate to the same or similar topics.

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

Your requests are in bold below followed by our responses.

FOI 010-19
Please could you provide any EC correspondence mentioning or relating to "Specialized Signs", or the window graphics for Edinburgh Western (Alex Cole-Hamilton).
The time-frame required is post the 2016 Scottish Parliament election. (ie. 5-May-2016 to present)

Our response to FOI 010-19 is as follows:

We do hold some information. Some of this is in correspondence with yourself. We have not included copies of this correspondence as it should be accessible to you in copies of your own e-mails and, therefore exempted under section 21 of the Freedom of Information (FOI) Act. The exemption is explained in further detail below.

All other correspondence in relation to this request is exempted under section 30 of the FOI Act. A further explanation of this exemption is also given below.

FOI 017-19
Please could you provide any correspondence mentioning or relating to the Statement Of Individual Payment SP0246295 and it's invoice 12504.
The time-frame required is post the 2016 Scottish Parliament election.
(ie. 5-May-2016 to present).

Our response to FOI 017-19 is as follows:

We do hold some information. Some of this is in correspondence with yourself. We have not included copies of this correspondence as it should be accessible to you in copies of your own e-mails and, therefore exempted under section 21 of the FOI Act. The exemption is explained in further detail below.

We have also attached a copy of an internal e-mail relevant to this question. Some of the information in the e-mail has been redacted as it constitutes personal data and is exempt under section 40(2) of the FOI Act. The exemption is explained in further detail below.

All other correspondence in relation to this request is exempted under section 30 of the FOI Act. A further explanation of this exemption is also given below.

FOI 018-19
Please could you provide any correspondence mentioning or relating to the Statement Of Notional Expenditure NE0246321 . [£160.00]
The time-frame required is post the 2016 Scottish Parliament election.
(ie. 5-May-2016 to present)

Our response to FOI 018-19 is as follows:

We do hold some information. Some of this is in correspondence with yourself. We have not included copies of this correspondence as it should be accessible to you in copies of your own e-mails and, therefore exempted under section 21 of the FOI Act. The exemption is explained in further detail below.

All other correspondence in relation to this request is exempted under section 30 of the FOI Act. A further explanation of this exemption is also given below.

FOI 019-19
Please could you provide any correspondence mentioning or relating to the Statement Of Notional Expenditure NE0246322 . [£8,600.00]
The time-frame required is post the 2016 Scottish Parliament election.
(ie. 5-May-2016 to present)

Our response to FOI 019-19 is as follows:

We do hold some information. Some of this is in correspondence with yourself. We have not included copies of this correspondence as it should be accessible to you in copies of your own e-mails and, therefore exempted under section 21 of the FOI Act. The exemption is explained in further detail below.

We have also attached a copy of an internal e-mail relevant to this question. Some of the information in the e-mail has been redacted as it constitutes personal data and is exempt under section 40 of the FOI Act. The exemption is explained in further detail below

All other correspondence in relation to this request is exempted under section 30 of the FOI Act. A further explanation of this exemption is also given below.

FOI 020-19
Please could you provide any correspondence mentioning or relating to the Statement Of Notional Expenditure NE0246324 . [£500.00]
The time-frame required is post the 2016 Scottish Parliament election.
(ie. 5-May-2016 to present)

Our response to FOI 020-19 is as follows:

We do hold some information. Some of this is in correspondence with yourself. We have not included copies of this correspondence as it should be accessible to you in copies of your own e-mails and, therefore exempted under section 21 of the FOI Act. The exemption is explained in further detail below.

All other correspondence in relation to this request is exempted under Section 30 of the FOI Act. A further explanation of this exemption is also given below.

FOI 021-19
Please could you provide any correspondence mentioning or relating to these Statement Of Individual Payments
- SP0246409
- SP0246411
- SP0246415 (invoice 12524)
- SP0246412 (invoice 12522)
- SP0246414 (invoice 12523)
- SP0246400 (invoice 12516)
- SP0246401 (invoice 12517)
- SP0246403
The time-frame required is post the 2016 Scottish Parliament election. (ie. 5-May-2016 to present)

Our response to FOI 021-19 is as follows:

We do not hold the information you have requested.

Exemptions under Section 21

This exemption applies if the information requested is already accessible to the requester by other means. As the information that we are exempting is e-mails between yourself and Commission staff, we deem that to be reasonably accessible to you, by the means identified per response.

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 communicate with others 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 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 take into account, including when deciding whether to disclose information, whilst ensuring proper regulation of political finance.

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

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. Part of 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]
Access to Information Officer (FOI and DPA)

The Electoral Commission
FOI@electoralcommission.org.uk
electoralcommission.org.uk

From: [redacted]
To: [redacted]
Cc: [redacted]
Subject: RE: Investigation - A057703 - Liberal Democrats - 2016 Scottish Parliament Election campaign spending
Date: 19 December 2018 13:39:35

Hi [redacted],
Just to let you know that [redacted] and I are working on a draft response.
[redacted]

From: [redacted]
Sent: 18 December 2018 14:54
To: [redacted]
Cc: [redacted]
Subject: RE: Investigation - A057703 - Liberal Democrats - 2016 Scottish Parliament Election campaign spending

Hi [redacted]
I think the first question *might* relate to the PEF online expenditure item reference – am copying in [redacted] in case he can help on this.
Am guessing the investigation report is covered by an FOI exemption?
[redacted]

From: [redacted]
Sent: 18 December 2018 14:48
To: [redacted] <[redacted]@electoralcommission.org.uk>; [redacted] <[redacted]@electoralcommission.org.uk>; [redacted] <[redacted]@electoralcommission.org.uk>
Subject: FW: Investigation - A057703 - Liberal Democrats - 2016 Scottish Parliament Election campaign spending

Hi,
Please see below. The first question in particular is something I don't know the details of. Is this something you might be able to help with please [redacted]?
Thanks
[redacted]

From: [redacted] <[redacted]>
Sent: 18 December 2018 14:10
To: [redacted] <[redacted]@electoralcommission.org.uk>
Subject: Re: Investigation - A057703 - Liberal Democrats - 2016 Scottish Parliament Election campaign spending

Thanks for your reply, two initial further questions please.

1. What is the ECRef code of the "other items" that the missing £1,949.27 was "incorrectly aggregated" with?
(ie. "NE0246322")

2. Is it possible to see a copy of your investigation report please? (or would this required a FOI request?)

Thanks
[redacted]

On 18/12/2018 13:53, [redacted] wrote:

Dear [redacted],
Thank you for your email. We do sometimes produce a more detailed investigation report where this will further our enforcement objectives. In respect of this particular matter, it was not considered to be in the public interest to do so.
As you are aware, the Electoral Commission was investigating the Liberal Democrat spending return from the 2016 Scottish Parliament election. We have no powers to investigate the candidate's spending return.
As part of this investigation we requested and received further information from the Liberal Democrats in relation to their spending in Edinburgh Western constituency at the 2016 Scottish Parliament election.
We found ten items of expenditure which had been incorrectly aggregated with other items. These items totalled £1,949.27
On the basis of the evidence we considered we are satisfied that there were no breaches in respect of the apportionment of spending in respect of the party's campaign expenditure return.
Yours sincerely,

[redacted]
Senior Investigator
The Electoral Commission
0207 271 [redacted]
electoralcommission.org.uk

From: [redacted]
Sent: 18 December 2018 12:56
To: [redacted]
Subject: Re: Investigation - A057703 - Liberal Democrats - 2016 Scottish Parliament Election campaign spending

On 17/12/2018 10:14, [redacted] wrote:

> I write to inform you that our sanctions process has concluded and today we will be publishing the outcome of our investigation on our website.

Thanks for the update.

Can you provide a link to the investigation report please?

I have looked at your website and all I can find is the "Journalist" summary table.
https://www.electoralcommission.org.uk/i-am-a/journalist/electoral-commission-media-centre/party-and-election-finance-to-keep/monthly-update-concluded-investigations5

Thanks
[redacted]

[redacted]

From: [redacted]
Sent: 25 April 2017 13:22
To: [redacted]
Subject: RE: Party spending returns - Item SP0246295 requires p.2 of invoice

Hi [redacted]

[redacted] and I have just discussed and were wondering how long it would actually take to run the 'publishing script' to get the invoice online? If it could be done today then the preference would be to have it on PEF online for the purposes of transparency but if it would take longer than that then we would just supply the pdf copy by e-mail as we need to respond to him by close of play.

Grateful for your guidance on this.

[redacted]

[redacted] **- 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 [redacted]
www.electoralcommission.org.uk
www.aboutmyvote.co.uk

From: [redacted]
Sent: 24 April 2017 17:25
To: [redacted]
Subject: RE: Party spending returns - Item SP0246295 requires p.2 of invoice

[redacted]
Can we have a quick chat in the morning about this?
Thanks
[redacted]

From: [redacted]
Sent: 24 April 2017 16:10
To: [redacted]
Cc: [redacted]
Subject: RE: Party spending returns - Item SP0246295 requires p.2 of invoice

That's fine – I can just send him the invoice. But that does mean that if he challenges the Lib Dems over the invoice then it would be clear that we had sent it to him rather than he had got it from the PEF online. Is that an issue?

[redacted] **- Scotland**

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www.electoralcommission.org.uk
www.aboutmyvote.co.uk

From: [redacted]
Sent: 24 April 2017 16:03
To: [redacted]
Cc: [redacted]
Subject: RE: Party spending returns - Item SP0246295 requires p.2 of invoice

No, the invoice is not on PEF Online.

We would have to run a publishing script to do that – as it is such a small thing I Imagine we will update once we run publishing for one of the scheduled publications coming up.

[redacted] – What do you think?

From: [redacted]
Sent: 24 April 2017 16:01
To: [redacted]
Cc: [redacted]
Subject: RE: Party spending returns - Item SP0246295 requires p.2 of invoice

Thanks [redacted]

Is the full invoice now on pef online?

Cheers

[redacted]

[redacted] **- Scotland**
The Electoral Commission
Lothian Chambers
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Tel: 0131 225 [redacted]
Fax: 0131 225 0205
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www.electoralcommission.org.uk
www.aboutmyvote.co.uk

From: [redacted]
Sent: 24 April 2017 15:52
To: [redacted]

Cc: [redacted]
Subject: RE: Party spending returns - Item SP0246295 requires p.2 of invoice

Hi [redacted]

Sorry about the delay. The response to the splitting query is:

Dear [redacted]

Our guidance on splitting and apportioning spending states that – *"In all cases, you should make an honest assessment, based on the facts, of the proportion of the cost that can be fairly attributed to your campaign spending."*

You can look at the guidance we provide here.

The party is not required to give an explanation for the apportionment that you have noticed but must make a declaration that the expenditure return is complete and correct to the best of their knowledge. It is an offence to make a false declaration knowingly or recklessly.

If you have any information to suggest that there may have been a breach of the rules and you would like to make an allegation, then you can visit our website where information on how to do so is clear.

Kind regards

I have attached a copy of the invoice requested

[redacted]

From: [redacted]
Sent: 24 April 2017 12:04
To: [redacted]
Cc: [redacted]
Subject: FW: Party spending returns - Item SP0246295 requires p.2 of invoice

And this one…

[redacted] **- 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 [redacted]
www.electoralcommission.org.uk
www.aboutmyvote.co.uk

From: [redacted]
Sent: 04 April 2017 11:45
To: [redacted]
Subject: RE: Party spending returns - Item SP0246295 requires p.2 of invoice

[redacted]
Please follow up with [redacted].
Thanks

[redacted]

From: [redacted]
Sent: 23 March 2017 13:25
To: [redacted]
Cc: [redacted]
Subject: FW: Party spending returns - Item SP0246295 requires p.2 of invoice

Hi [redacted]

Did we ever get the second page of the invoice from the Lib Dems as requested?

Thanks

[redacted]

[redacted] **- Scotland**
The Electoral Commission
Lothian Chambers
59-63 George IV Bridge
Edinburgh, EH1 1RN
Tel: 0131 225 [redacted]
Fax: 0131 225 0205
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www.aboutmyvote.co.uk

From: [redacted] [mailto:[redacted]]
Sent: 20 March 2017 17:32
To: [redacted]
Subject: Re: Party spending returns - Item SP0246295 requires p.2 of invoice

On 21/12/2016 12:22, [redacted] wrote:

> Dear [redacted]
>
> I have now heard back from the Compliance Team who have informed me that they have requested the second page of the invoice you have identified. I'll let you know when this is received and online for view.

[redacted]
have the LibDems provided p.2 of this invoice yet?

Nearly 6 months have past since this omission by the LibDems was first pointed out, and visibility of the full invoice requested.

Any update appreciated please.
Thanks
[redacted]

On 29/09/2016 17:19, [redacted] wrote:

Can we request visibility of page 2 of this invoice please? (I presume it should be available)
http://search.electoralcommission.org.uk/Api/Spending/Invoices/12504

http://search.electoralcommission.org.uk/English/Spending/SP0246295