

[REDACTED]

From: FOI
Sent: 12 May 2023 09:37
To: [REDACTED]
Subject: FOI 034-23 - Response

Dear [REDACTED],

Our Ref: FOI-034-23

Thank you for your email to the Electoral Commission.

The Commission aims to respond to requests for information promptly and has done so within the statutory timeframe of twenty working days.

Your request is shown below followed by our response.

Are you able to provide me with a copy of the constitution and financial scheme submitted with the Ossett Borough Independents application you are currently consulting on?

Our response is as follows:

We hold the information you have requested; however, it is exempt from disclosure.

Exemption: 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 the Political Parties, Elections and Referendums Act 2000 (PPERA) for the purposes of ascertaining whether circumstances which would justify regulatory action in pursuance of any enactment, as provided by s31(2)(c) of the FOI Act.

The Commission administers a registration function, as set out by the PERA. The information you have requested is currently under consideration as to whether the party in question will be registered, or the application rejected. Disclosure of a document currently under consideration as part of our registration function would in our view be likely to prejudice the exercise of that function, which involves deciding between two regulatory actions in pursuance of the Political Parties Elections and Referendums Act 2000.

Public interest test

Application of the section 31 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.

The factors we have considered are set out below.

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 promoting public understanding of the decisions we make as a regulator.

The Commission aims to be robust and fair in its regulatory decisions. 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 have made public through our website that an application has been received, and made available the descriptions and emblems that the party seeks to register. We do this so that the public can provide comments and views on those specific parts of the application, because views on whether any of these are likely to cause confusion, one of the statutory tests, are relevant factors which we take into account. No such factors apply to a proposed constitution.

We will also make public our decision on this application, and if it is registered the party's registered details will be published. Although we do not publish constitutions we will, if asked, disclose the constitution of a registered party.

Public interest factors in favour of applying the exemption

The public interest also lies in enabling the Commission to conduct its regulatory functions effectively and efficiently.

Disclosure of a constitution (and the Commission discloses information on its website to the public, not just to the particular requester) under consideration may in our view lead to public debate and speculation unhelpful to the decision making process. It may also create confusion for the public as to whether the party is in fact registered or not, or as to what is in fact the correct constitution of the party, should it be registered. The constitution we currently hold may be rejected, or we may make recommendations for changes to be made to it in order for it to be compliant.

Releasing this information whilst we are making a decision could also create a controversial precedent on the release of information or impair the Commission's ability to obtain information in the future which in turn may adversely affect the Electoral Commission's proper functioning.

Balance of the public interest

We consider that the balance of public interest in this case lies on the one hand in carrying out our regulatory functions 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 our regulatory work effectively and efficiently, in a way that gives the public clarity as to the status of an application.

We consider that the public interest in carrying out our regulatory functions in an open and transparent way, and in promoting public understanding of the decisions we make as a regulator was met in part by our publishing through our website that an application had been received, and making available the descriptions and emblems that the party seeks to register, and will be further met by the fact that we will also make public the outcome of our consideration.

We do not consider that disclosure of the specific constitution in this case would add to any degree to carrying out our regulatory functions in an open and transparent way, and in promoting public understanding of the decisions we make as a regulator.

Having carefully weighed the public interest relating to possible disclosure of the information requested under Section 31(1)(g) and we are 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.

Details of party registration decisions are provided on our [website](#). If the Ossett Borough Independents' registration is approved, you can re-submit your request for their constitution and financial scheme.

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: <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

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The Electoral Commission
electoralcommission.org.uk