

[REDACTED]

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**From:** FOI  
**Sent:** 01 November 2023 16:28  
**To:** [REDACTED]  
**Subject:** FOI 125-23 - Response

Dear [REDACTED],

**Our Ref: FOI-125-23**

Thank you for your email to the Electoral Commission dated 14 August 2023 and received by the Commission on 15 August 2023.

The Commission aims to respond to requests for information promptly and regrets that it has not done so within the statutory timeframe. The delay is a result of the high volume of Freedom of Information (FOI) requests received following the public announcement of the cyber-attack on 8 August 2023.

Your request is shown below followed by our response.

*With regard the hacking intrusion commencing in August 2021 but only recently publicly acknowledged by yourselves, and since I was registered to vote between 2014 and 2022 and am therefore a potential victim of your lax security, I should like to know ( a) how many times your systems had been accessed during the period, (b) if there was any evidence that your email system had been accessed in any way, (c) what the control systems are that the attackers supposedly had access to and (d) what steps (without further compromising your security) are/have been taken to prevent further incursions by unauthorised third parties.*

**Our response is as follows**

We hold the information you have requested.

Some of your questions are partly answered in a Frequently Asked Questions (FAQ) section of our website specifically relating to the cyber-attack. Please use this [link](#) which explains what happened, what kind of information was accessible, our risk assessment of the breach, what we know about those responsible for the attack, when and how we found out about the attack, and the steps we then took.

Providing you with a link to information on our website in response to your request for information is permitted by section 21 of the FOI Act which removes the need to provide information in our response if it is reasonably accessible to an applicant by other means.

Additional details about the particular systems that were accessed and the steps taken to prevent future data breaches is exempt from disclosure under sections 31(1)(a) and (g) of the FOI Act.

**Section 31(1)(a) of the FOI Act**

Section 31(1)(a) exempts from disclosure information that would, or would be likely to, prejudice the prevention or detection of crime.

Particular details about the systems that were accessed and the steps taken to prevent future data breaches is sensitive information that could indicate to third parties how the breach happened. Disclosing this information could prejudice the security of our systems and potentially the security of similar systems used by other public bodies. Disclosure at this time would be likely to prejudice the prevention and detection of similar cyber-attacks on the Commission's systems or those of other public bodies.

### **Section 31(1)(g) of the FOI Act**

Section 31(1)(g) provides an exemption where disclosure:

*“would, or would be likely to, prejudice...the exercise by any public authority of its functions for any of the purposes specified in subsection (2).”*

In this case the relevant purposes specified in subsection (2) are:

*“(a) the purpose of ascertaining whether any person has failed to comply with the law...  
(c) the purpose of ascertaining whether circumstances which would justify regulatory action in pursuance of any enactment exist or may arise...”*

The Information Commissioner's Office's investigation into the cyber-attack at the Electoral Commission is still ongoing. To release at this stage details of the systems that were accessed and the steps taken to prevent future data breaches would, or would be likely to, prejudice the Information Commissioner's Office's ability to conduct and conclude its investigation in a timely, fair and confidential manner.

### **Public Interest Test**

Section 31 is not an absolute exemption which means that the Commission must consider the public interest arguments in favour of both disclosure and those against.

The Electoral Commission recognises that there is an inherent public interest in transparency and accountability in relation to the procedures and decision making of public authorities.

In this case, the public interest factors in disclosing the information are:

- Increased transparency about the cause of the breach;
- Increased transparency about how the Commission has dealt with the data breach;
- Increased transparency about how the Commission has engaged with other public bodies and the ICO investigation in relation to the breach.

The public interest factors in withholding the information are:

- Preventing the commission of future crimes against public bodies;
- Maintaining the ICO's ability to conduct investigations in a timely, fair and confidential manner;
- Enabling public bodies to engage with each other and with the ICO following data breaches without fear that information will be made public prematurely, or as appropriate, at all.

Having considered these factors, we are satisfied that on balance, the public interest in disclosure is outweighed at this stage by the public interest in favour of maintaining the exemption.

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](http://electoralcommission.org.uk)