[redacted]

From: FOI
Sent: 04 March 2024 17:04
To: [redacted]
Subject: FOI 001-24 - Response

Dear [redacted],

Our Ref: FOI 001-24

Thank you for your email to the Electoral Commission dated 6 January 2024 and received by the Commission on 8 January 2024.

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

Your request is shown below followed by our response.

Please provide all communications to and from the SNP from January 1st last year onwards on the £15,000 of loans provided by Peter Murrell to the SNP in 2018.

On 9 January 2024 you made an additional request for information and we advised you we would be combining it with this first request. You asked:

Please provide all communications to and from Police Scotland from January 1st 2023 onwards on the issue of loans to the SNP by Peter Murrell.

Our response is as follows:

We hold the information you have requested.

We will not be disclosing the requested information under the following two exemptions:

1. **Exemption: Investigations and proceedings: Section 30(1)(a)(i) Freedom of Information (FOI) Act 2000**

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 FOI Act 2000 provides an exemption from disclosure for 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 section 30 exemption applies to information that is held at any time, whether or not the investigation is on-going.

We are not disclosing information where it is held by the Commission in relation to such investigations.

Application of the section 30 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 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 others to the Commission without which the Commission could not perform its statutory functions.

In carrying out effective inquiries the Commission depends on being able to secure the co-operation 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 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.

If information provided in the course of our investigations was made public under the 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.

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 political finance.

The Commission considers that the balance of public interest in this case lies on the one hand in carrying out investigations in an open and transparent way by promoting public understanding of the decisions we make as a regulator; and on the other in our ability to conduct investigations effectively in future, as well as on our wider regulatory work.

The Commission does not consider that disclosure of communications in these cases would add to any significant degree to public understanding of our decisions. We consider it likely that disclosure could lead to a significant impact on the voluntary cooperation of organisations and individuals and others regulated by the Commission, with a consequent impact on our ability to conduct investigations effectively in future, as well as on our wider regulatory work.

The Commission considers that the 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 is met by the fact that we make public the outcome of those investigations.

Having carefully weighed the public interest relating to possible disclosure of the information requested under Section 30(1)(a)(i), the Commission is 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.

2. **Exemption: Law enforcement: 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 PPERA for the purposes of ascertaining whether any person has failed to comply with the law, as provided by s31(2)(a) of the FOI Act.

For the same reasons set out above in relation to section 30, the Commission is satisfied that the information requested would likely prejudice the exercise of the Commission's functions under PPERA to conduct investigations into potential breaches of the reporting requirements.

The Commission is satisfied that in this case the public interest in preventing that prejudice outweighs the public interest in disclosure. The Commission therefore considers the information you have requested and which we hold to be exempt from disclosure under section 31 to the extent that it not exempt under section 30.

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