

Danny Creighton

From: FOI
Sent: 27 February 2013 15:18
To: [REDACTED]
Subject: FOI 09/13 - Correspondence with current MSPs from the beginning of 2011 to the present day (1 of 2)
Attachments: FOI 09 13 - Attachments 1 to 30.zip

Dear [REDACTED]

Our Ref: FOI 09/13

Thank you for your request under the Freedom of Information Act 2000 dated 30 January 2013.

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 in bold below followed by our response.

You have requested:

Under the Freedom of Information Act, I seek all correspondence between yourselves and current MSPs from the beginning of 2011 to the present day.

When you return the information could you group correspondence with each MSP into individual files? MSP1, MSP2, MSP3 etc. This would allow for on-running correspondence with individual MSPs to be accessed easily. To counter the group email problem, do feel free to have one file marked "sent to all current MSP's", where a single copy of each round-robin emails can be stored.

Our response is as follows:

The Commission holds 60 documents relevant to your request. All documents released have been numbered to correspond with their description below*.

*Please be aware - Due to the size of content, this email contains the first 30 documents listed below - the following 30 documents will be attached in an email following this.

Correspondence with multiple MSPs

01. Letter dated 20 April 2012 regarding filling vacancies in the Scottish Parliament.

Copied to all party leaders: Ruth Davidson MSP, Patrick Harvie MSP, Johann Lamont MSP, Willie Rennie MSP, Alex Salmond MSP.

02. Letter from John McCormick dated 23 October 2012 regarding the Commission's electoral fraud review.

Sent to all party leaders:: Ruth Davidson MSP, Patrick Harvie MSP, Johann Lamont MSP, Willie Rennie MSP, Alex Salmond MSP. Also sent to the interim Convener of the Scottish Parliament Local Government and Regeneration Committee: Kevin Stewart MSP.

03. E-mail to all MSPs dated 09 November 2012 regarding the Commission's assessment of the proposed referendum question.

04. Letter dated 09 November 2012 regarding the Commission's assessment of the proposed referendum question.

Sent to all members of the Scottish Parliament's Referendum Bill Committee: Bruce Crawford MSP, Annabelle Ewing MSP, Linda Fabiani MSP, Patricia Ferguson MSP, Rob Gibson MSP, Annabel Goldie MSP, James Kelly MSP, Stewart Maxwell MSP, Stuart McMillan MSP, Tavish Scott MSP. Also sent to the Presiding Officer: Tricia Marwick MSP

05. Letter dated 09 November 2012 regarding the Commission's assessment of the proposed referendum question.

Sent to all party leaders: Ruth Davidson MSP, Patrick Harvie MSP, Johann Lamont MSP, Willie Rennie MSP, Alex Salmond MSP.

06. E-mail dated 28 January 2013 advising of forthcoming publication of the Commission's reports on the referendum question and campaign spending limits.

Sent to all party leaders: Ruth Davidson MSP, Patrick Harvie MSP, Johann Lamont MSP, Willie Rennie MSP, Alex Salmond MSP.

07. E-mail dated 30 January 2012 to all MSPs announcing the publication of the Commission's reports on the referendum question and campaign spending limits.

08. Letter dated 30 January 2013 from Jenny Watson and John McCormick regarding the publication of the Commission's reports on the referendum question and campaign spending limits.

Sent to all party leaders: Ruth Davidson MSP, Patrick Harvie MSP, Johann Lamont MSP, Willie Rennie MSP, Alex Salmond MSP. Also sent to the Convener of the Referendum Bill Committee: Bruce Crawford MSP.

Correspondence with individual MSPs

Allan, Alasdair

09A and 09B - Email and attachment dated 19 December 2012 regarding reporting of visits.

Baillie, Jackie

10. E-mail exchange dated 29 May 2012 regarding postal voting at local government elections.

Baker, Richard

11, 12, 13 – Correspondence from May and June 2012 regarding reporting of donations..

Carlaw, Jackson

14. Letter dated 25 August 2011 regarding Scottish Conservative and Unionist Party leadership campaign.

Crawford, Bruce

15. Letter from John McCormick dated 4 July 2011 regarding the Commission's role in any referendum.

16. Letter to Jenny Watson dated 21 November 2011 regarding the Commission's report on the referendum on the UK Parliamentary Voting System.

Davidson, Ruth

17. Letter dated 05 September 2011 regarding the Scottish Conservative and Unionist Party leadership campaign.

Dugdale, Kezia

18, 19 – Correspondence dated August 2012 regarding the franchise for the independence referendum.

Fraser, Murdo

20. Letter dated 30 August 2011 regarding the Scottish Conservative and Unionist Party leadership campaign.

Goldie, Annabel

21, 22 – Correspondence dated November 2011 regarding 16 and 17 year olds voting at the independence referendum.

Grant, Rhoda

23, 24, 25 – Correspondence in March and April 2012 regarding reporting of donations.

Gray, Iain

26, 27 – Correspondence dated February 2011 regarding the timing of the count for the referendum on the UK Parliamentary Voting System.

Harvie, Patrick

28, 29, 30 – Correspondence dated February and March 2012 regarding reporting of donations.

As detailed above, please expect continuation of this response, along with further attachments in a preceding email.

Danny Creighton

From: FOI
Sent: 27 February 2013 15:18
To: [REDACTED]
Subject: FOI 09/13 - Correspondence with current MSPs from the beginning of 2011 to the present day (2 of 2)
Attachments: FOI 09 13 - Attachments 31 to 59.zip

Dear [REDACTED]

Continuing my previous email, please find the following 30 documents in response to your FOI request;

Lamont, John

31, 32 - Correspondence dated July 2012 regarding the assessment of the referendum question.

Lamont, Johann

33. Letter dated 4 October 2011 regarding the Scottish Labour Party leadership contest.

MacDonald, Lewis

34, 35 - Correspondence from October and November 2011 regarding the Scottish Labour Party deputy leadership contest.

Macintosh, Ken

36, 37 - Correspondence from October and November 2011 regarding the Scottish Labour Party leadership contest.

38. Letter dated 22 February 2012 regarding reporting of donations.

Malik, Hanzala

39. Letter dated 12 April 2012 regarding reporting of donations.

Marwick, Patricia

40, 41 – Letter from John McCormick dated 16 May 2011 regarding Ms Marwick's election as Presiding Officer and her reply of 09 June 2011.

Mason, John

42, 43 – Correspondence from May and June 2012 regarding public awareness at the Scottish council elections.

McArthur, Liam

44. Correspondence from February 2012 regarding reporting of donations.

McLetchie, David

45. Letter dated 17 January 2012 regarding the use of electoral registers at a referendum.

Mitchell, Margaret

46. Letter dated 28 September 2011 regarding the Scottish Conservative and Unionist Party leadership campaign.

47. Letter dated 20 December 2012 regarding the Scottish council elections.

Murray, Elaine

48. Letter dated 6 October 2011 regarding the Scottish Labour Party deputy leadership contest.

Rennie, Willie

49. Letter dated 16 May 2011 regarding the Scottish Liberal Democrat Party leadership contest.

50. E-mail dated 29 November 2012 regarding the proposed question for the independence referendum.

Salmond, Alex

51, 52 – Correspondence dated February 2011 regarding proxy voting at Scottish parliament elections.

Scott, Tavish

53, 54 – Correspondence from February 2012 regarding reporting of donations.

Stewart, David

55, 56 – Correspondence from November 2011 regarding a Commission investigation.

Sturgeon, Nicola

57. Letter from John McCormick dated 19 December 2012 regarding the costs of the referendum on the UK Parliamentary Voting System.

58. Letter from John McCormick dated 09 January 2013 to Nicola Sturgeon MSP, Deputy First Minister, regarding the Commission's comments on the initial draft franchise bill.

The detailed comments on the initial draft franchise bill referred to in document 06 are publicly available on our website at:

http://www.electoralcommission.org.uk/_data/assets/pdf_file/0003/153345/Our-comments-on-the-Referendum-Franchise-Scotland-Bill.pdf

59. Email dated 29 January 2013 regarding the publication of the Commission's reports on the referendum question and campaign spending.

While the majority of the information we hold is listed above for disclosure, some of the information we hold relevant to your request has been withheld as we consider it exempt from disclosure under Sections 30, 31 and 40 of the Act. You may also notice that we have removed some information from documents 10, 51 and 52. This is because it constitutes personal data and falls within section 40(2) and 40(3)(a)(i) of the Act. Further information on all exemptions applied is provided below.

Section 30 and 31

Section 30(1) (a) provides for exemption from disclosure 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 ongoing.

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 any person has failed to comply with the law, as provided by s31 (2) (a) of the Act.

Application of the exemption is subject to the public interest test. The Commission has a statutory duty to monitor compliance with the provisions of the PERA when conducting inquiries of this type. The public interest lies in enabling the Commission to conduct preliminary inquiries as part of its investigation powers so that it can make regulatory decisions based on a firm factual basis.

The Commission aims to be robust and fair in its regulatory decisions and we acknowledge that there is a legitimate public interest in carrying out investigations in an open and transparent way, while ensuring proper regulation of party political funding; however, there are a number of factors that must be considered and weighed in the balance.

In carrying out effective inquiries into candidate or party expenses, the Commission depends on being able to secure the co-operation of those individuals which whom we seek information. If information provided in the course of our investigation was made public under FOI, it would make those individuals reluctant to co-operate.

Furthermore disclosure of information would severely affect the Commission's ability to conduct the inquiries like this in the future. Individuals who are asked questions by the Commission may inevitably fear that information that they do provide could be made available in the public domain.

Having carefully weighed the public interest relating to possible disclosure of the information requested, 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, particularly as general information about the case has already been provided to you.

Section 40(2) and (3)(a)(i)

Some of the requested information falls within section 40(2) and 40(3)(a)(i). This applies to personal data of third parties. Section 40(2) provides for an exemption where the information requested constitutes personal data as defined by the Data Protection Act 2000 (DPA), and where release of the information requested would breach one of the data protection principles. Some of the information contained in the requested information falls within the description of personal data as defined by section 1 of the DPA because the information relates directly to an identifiable living individual. Some of the information is also sensitive personal data because it relates to the alleged commission by an individual of a criminal offence.

The first data protection principle states that personal data shall be processed fairly and lawfully. The Commission considers that it would be unfair to release the information requested because it would be reasonably expected by those individuals that such personal data would not be disclosed to the general public.

I realise that you may be disappointed by this response. 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: <http://www.ico.gov.uk>

Yours sincerely

DW Creighton

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