

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 06 May 2010

Public Authority: The Electoral Commission
Address: Trevelyan House
Great Peter Street
London
SW1P 2HW

Summary

The complainant requested information relating to investigations carried out by the public authority into donations made to and work carried out for the Conservative Party. The public authority refused the request and cited the exemption provided by section 30(1)(a)(i) (information relating to investigations). The Commissioner concludes that this exemption was applied correctly and the public authority is not required to take any steps. However, the Commissioner also finds that the public authority failed to comply with the procedural requirements of sections 10(1), 17(1) and 17(3)(b) in its handling of the request.

The Commissioner's Role

1. The Commissioner's duty is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part 1 of the Freedom of Information Act 2000 (the "Act"). This Notice sets out his decision.

The Request

2. The complainant made the following information requests on 18 and 19 December 2008:
 - (1) *"Would you please provide me with copies of the relevant evidence on which the Commission based the findings of its*

investigations into the Midlands Industrial Council and Constituency Campaigning Services which were published in September 2007 and October 2008 respectively.

I would expect this material to include, but not necessarily be limited to, correspondence between the interested parties and submissions from witnesses, expert advice sought from third parties as well as from within the Commission and, in particular, the reports prepared by or for the Commission which set out the conclusions it reached."

- (2) *"A list of the documents which are considered exempt in previous FOIs- FOI 50/08, FOI 102/08 and/or FOI 104/08 (information held with regard to investigations into the Midlands Industrial Council and Constituency Campaigning Services) and an explanation in each case why it has been decided that they should not be made public either in their entirety or in redacted form."*
3. The public authority responded to request (1) on 18 December 2008 and referred the complainant to the response to an earlier, similar request, which had been partly refused under sections 30(1)(a) and 30(2) (information held for the purposes of investigations). The reasoning given for this part-refusal was that, whilst the investigation to which the request referred was complete by the time of the request, the public authority maintained that it would not be in the public interest to disclose information relating to this investigation.
 4. The response to request (2) was dated 9 February 2009. This request was also refused, with the exemption provided by section 30(1)(a) cited. The public authority confirmed that it believed that the public interest favoured the maintenance of the exemption due to what would be revealed about the investigation through the disclosure of a list of documents.
 5. The complainant subsequently requested an internal review of the decision to refuse his requests. The public authority responded with the outcome of the review on 25 March 2009. Whilst the wording of the internal review request suggested that the complainant wished the review to cover both of his requests, the public authority appeared to have reviewed only the refusal of request (2). The refusal under section 30(1)(a)(i) was upheld and the public authority now also introduced section 41(1) (information provided in confidence).

The Investigation

Scope of the case

6. The complainant contacted the Commissioner on 31 March 2009 and explained that he had been a member of a group which had requested the public authority to carry out the investigation referred to in the request. The complainant believed that the correspondence in which the public authority set out its conclusions was insufficiently detailed in explaining its reasoning. The complainant went on to specify the following grounds for complaint:
 - The public authority failed to abide by its statutory duty to ensure that the activities of political parties are transparent and accountable.
 - The public authority failed to comply with its duty to be transparent about its own activities.
 - The request that the public authority carry out an investigation was supported by detailed reasoning, but the public authority failed to respond in kind when setting out the conclusion to its investigation only briefly.
 - The public authority took two years to complete its investigation, raising questions as to why it took this long that had not been answered in the brief response setting out the conclusions of its investigation.
 - 'Other regulators' publish full reports.
 - In the absence of reasoning for the conclusions of the public authority, it was not possible to understand why the public authority had reached these conclusions, or to challenge these.
 - The public authority should have considered if some of the information requested could be disclosed, even if there were legitimate reasons for withholding some of it.
 - The complainant believed that the result of the investigation being that the complaint was dismissed reduced the sensitivity of the information requested.

Chronology

7. The Commissioner contacted the public authority initially on 12 October 2009. The background to the complaint was set out and the public authority was asked to respond with a copy of the withheld information and with further arguments for the exemptions cited.
8. The public authority responded with copies of the withheld information. An exchange of correspondence between the public authority and the

Commissioner followed during which the public authority provided further explanations for its refusals of the complainant's requests and background about its role and statutory powers.

9. In addition to the citing of sections 30(1)(a)(i) and 41(1), the public authority now also introduced sections 31(1)(g) / 31(2)(a) (prejudice to the exercise by a public authority of its functions for the purpose of ascertaining whether any person has failed to comply with the law) in relation to any information that was not considered exempt by virtue of section 30(1)(a)(i), and section 40(2) (personal information) in relation to content within the information that is personal information relating to the individuals who submitted the complaint and evidence to the public authority. In relation to section 41(1) the public authority now stated that this was cited in relation only to a minority of the information in question and that it considered section 30(1)(a)(i) to be the primary exemption. The public authority also now clarified that it no longer believed section 30(2) to be engaged.

Background

10. The following is the wording of a press release issued by the public authority on 2 October 2008 about one of the investigations referred to in the request:

"The Electoral Commission has concluded its investigation of the Constituency Campaigning Services Board, trading as CCS. The Commission was investigating whether CCS was charging for its services otherwise than on commercial terms, as this would give rise to a donation to the party.

As a result of our investigation, the Commission has concluded that CCSs charged rates were comparable to commercial rates. On this basis there is no evidence that donations should have been declared by the party and the Commission has decided to take no further action.

The Electoral Commission also considered the salary arrangements for a member of staff undertaking branding and messaging services. Our view is that such costs should be paid by the party or reported by the party as a donation from CCS. The Commission has given CCS 30 days to demonstrate that the arrangements conform with these guidelines. If CCS fails to do so, we will reopen this matter."

11. The public authority has also stated that the outcome of its investigation of donations made by the Midlands Industrial Council to the Conservative Party was that these donations were permissible and were recorded correctly.

Analysis

Exemptions

Section 30

12. In response to both requests (1) and (2) the public authority has cited the exemption provided by section 30(1)(a)(i). This provides an exemption for information that was at any time held by the public authority for the purposes of an investigation that the public authority had a duty to carry out with a view to it being ascertained whether a person should be charged with an offence. This section of the Act is set out in full in the attached legal annex, as are all other legislative provisions referred to in this Notice. Consideration of this exemption is a two-stage process. First, the information must fall within the class specified in the exemption. Second, this exemption is qualified by the public interest. This means that the information must be disclosed if the public interest in the maintenance of the exemption does not outweigh the public interest in disclosure.
13. The task for the Commissioner in considering whether this exemption is engaged is to reach a conclusion on whether the information in question conforms to the class specified in section 30(1)(a)(i); that is whether it was held by the public authority at any time for the purposes of an investigation that it had a duty to conduct with a view to it being ascertained whether a person should be charged with an offence. The argument of the public authority is that this exemption is engaged as the information in question was held for the purposes of its investigation into whether the services provided to the Conservative Party by Constituency Campaign Services (CCS) should have been classed as donations and reported as such and its investigation into whether donations from Midlands Industrial Council (MIC) were permissible.
14. The Commissioner has considered first whether these investigations by the public authority are of the type described in section 30(1)(a)(i) and, secondly, whether it is accurate to characterise the information in question as having been at any time held for the purposes of those investigations. Covering first the type of investigations carried out by

- the public authority, section 30(1)(a)(i) requires that the public authority must have had a duty to carry out the investigation and that this investigation was conducted with a view to it being established whether a person should be charged with an offence.
15. The public authority has referred to the Political Parties, Elections and Referendum Act 2000 (PPERA) and has stated that section 145 of that Act imposes a duty to carry out the investigations in question. Section 145 of PERA provides that the public authority has the general function of monitoring compliance with Parts III to VII of that Act. The public authority has stated that its investigations relating to CCS and MIC were carried out with a view to establishing if offences had been committed under sections 54(7), 65(3) and 65(4) of PERA. These sections of that Act are included in the attached legal annex.
 16. The public authority has acknowledged that it would not itself bring any charges against any person. Instead, having carried out its investigation, if it believed that an offence had been committed a referral would be made to either the police or the Crown Prosecution Service which would then bring any charge. As to what effect this has on the question of whether the exemption is engaged, the Commissioner notes that section 30(1)(a)(i) refers only to an investigation with a view to it being ascertained whether a person should be charged with an offence; this wording gives no suggestion that it is essential that charges are brought by the same public authority that carried out the investigation. The view of the Commissioner is, therefore, that the fact that the public authority would not itself bring any charge does not prevent this exemption being engaged here.
 17. On the basis of the wording of sections 54(7), 65(3), 65(4) and 145 of PERA, the Commissioner accepts that the investigations carried out by the public authority and referred to in the request were of the type described in section 30(1)(a)(i). Turning to whether it is accurate to characterise the information in question as having been held for the purposes of those investigations, the Commissioner has considered the content of this information when reaching a conclusion on this point.
 18. The information falling within the scope of request (1) consists of correspondence between officials within the public authority and between the public authority and third parties, records of the progress of the investigations and records of evidence gathered during the investigations. On the basis of the content of this information, the Commissioner considers it clear that it was held by the public authority for the purposes of its investigations into MIC and CCS.

19. The information falling within the scope of request (2) is in the form of indexes listing the documents that are held that relate to the investigations. Whilst it is less clearly the case that this information was held for the purposes of the investigations carried out by the public authority than the information falling within the scope of request (1), the Commissioner considers it reasonable to accept that the public authority would have prepared an index of the voluminous information falling within the scope of request (1) to assist in the investigation. On this basis, the Commissioner accepts that the information falling within the scope of request (2) was held by the public authority for the purposes of its investigations into MIC and CCS. He also notes that the information in the indexes does reveal a certain amount about the content of the documents themselves.
20. The Commissioner has concluded that the investigations carried out by the public authority are within the class specified in section 30(1)(a)(i) and that the information identified by the public authority as falling within the scope of the complainant's requests can be accurately characterised as having been held for the purposes of these investigations. The exemption provided by section 30(1)(a)(i) is, therefore, engaged.

The public interest

21. Having concluded that the exemption is engaged, it is necessary to go on to consider the balance of the public interest. In reaching a conclusion on the balance of the public interest in this case the Commissioner has taken into account the content of the information in question and the arguments advanced by the complainant and public authority, as well as the general public interest in favour of disclosure on the basis of improving the transparency and openness of the public authority.
22. Whilst section 30(1)(a)(i) is a class-based exemption and so prejudice is not relevant when considering whether it is engaged, consideration should be given when analysing the balance of the public interest to protecting the ability of public authorities to carry out investigations of the kind specified in this exemption. To this end the Commissioner has taken into account the following factors when considering whether the investigatory process may be harmed through disclosure:
 - the stage of the investigation at the time of the request;
 - whether and to what extent the information has already been released into the public domain;
 - the significance of the information to the investigation; and
 - the age of the information.

23. Covering these factors first, as well as any others that suggest that prejudice to investigations may result through disclosure, the complainant provided to the Commissioner correspondence from the public authority in which it sets out the conclusions to its investigations. In relation to MIC this correspondence is dated 14 September 2007 and the correspondence relating to CCS is dated 2 October 2008. The public authority also issued a press release dated 2 October 2008 stating that the CCS investigation was complete. The investigations were, therefore, complete at the time of the requests.
24. That the investigations were complete at the time of the request means that harm to the specific investigations through disclosure on the basis that they were ongoing at the time of the request is not a factor that carries weight in favour of maintenance of the exemption in this case. However, if it is the case that there was a possibility at the time of the request that these investigations could be reopened, the possibility of harm to a reopened investigation would be relevant.
25. The Commissioner is aware of no evidence that would suggest that there was a realistic possibility of these investigations being reopened. Whilst the press release relating to the CCS investigation notes that the investigation would be reopened if the Conservative Party did not take a specified step, it also notes that this step was to be taken within 30 days of the date of that press release. Those thirty days elapsed prior to the date of the request and the Commissioner has been provided with no evidence that the investigation was reopened and so assumes that the Conservative Party abided by this condition. On the basis that no evidence has been provided to the Commissioner suggesting that there was a realistic possibility of these investigations being reopened, the possibility of harm to a reopened investigation is not a factor that carries weight here.
26. On the issue of whether and to what extent the information in question has already been disclosed into the public domain, the public authority has argued that the public interest has been satisfied through information about these investigations that it has disclosed in response to previous information requests. The public authority has also argued that its press release of 2 October 2008 served the public interest. The suggestion of the public authority is not, however, that large parts of the information withheld in response to the complainant's request have been disclosed previously. Instead, it appears to be suggesting that the public interest has been served through the limited disclosures that have taken place and that disclosure of the full content of the information in question is, as a result, not necessary. The Commissioner is not aware of any evidence that the information in

question has been disclosed to any significant degree and so does not believe that any factor that suggests that harm to the investigatory process could result through disclosure would be reduced in weight as a result.

27. Turning to the significance of the information to the investigation, if it were the case that the information in question, whilst related to the investigation, was of no particular significance to it, this would reduce the likelihood of harm occurring to the investigatory process through the disclosure of this information. The broad scope of request (1) means it is clear that information falling within the scope of this request is of central significance to the investigation. It is less clear that the information falling within the scope of request (2) was of similar significance to the investigation, however. Whilst undoubtedly useful as a tool to navigate through the information and of some sensitivity given what this reveals about the content of the documents it indexes, the Commissioner believes that this is of less significance to the investigation than the information falling within the scope of request (1). The likelihood of harm through disclosure of information of significance to the investigation is a factor of greater weight in relation to the information falling within the scope of request (1) than in relation to that falling within the scope of request (2).
28. When considering the age of the information, the cogent date is that upon which the request was made. In this case the requests were made only shortly after the conclusion of the CCS investigation and approximately one year after the conclusion of the MIC investigation. The information in question had, therefore, been recorded recently prior to the date of the request and so the Commissioner does not believe that any harm to the investigatory process that could be said to be likely to result through disclosure of the information in question here would be reduced to any significant extent through the passage of time between the recording of this information and the making of the request.
29. Turning to other factors that suggest that harm relevant to the process described in section 30(1)(a)(i) may result through disclosure, the public authority has made the point that it can only compel information and cooperation in relation to its investigations from certain organisations and only in certain circumstances. It states that due to these restrictions on the powers granted to it by PPERA to oblige the subjects of investigations to cooperate with investigations and to provide information, it could not have compelled information or cooperation from CCS or MIC. The ability of the public authority to carry out investigative functions therefore relies, at least in part, on being able to secure the cooperation of organisations within the scope

- of its investigations. The public authority has argued that disclosure of the information in this case would lead to a concern on the part of those who are within the scope of future investigations by the public authority and will make it more difficult for the public authority to secure cooperation with its investigations and this will in turn prejudice the ability of the public authority to carry out its investigative functions.
30. As to the weight that the Commissioner affords the issue of harm to the investigatory process as a factor in favour of maintenance of the exemption, he recognises the validity of the argument from the public authority about the importance of it being able to secure cooperation with its investigations and accepts that there is at least some likelihood of it becoming more difficult to secure such cooperation if the parties from whom cooperation is sought are concerned that information recording the investigation may be disclosed into the public domain. The Commissioner considers that this is a factor of significant weight in favour of maintenance of the exemption.
 31. As to the weight of the other factors concerning harm relevant to section 30(1)(a)(i), the Commissioner has recognised that the information falling within the scope of request (1) is of central significance to the investigation, that there is no evidence suggesting that any significant portion of the information in question has been disclosed previously and that the information was recorded recently prior to the date of the requests. The Commissioner considers that these factors combined are of weight in favour of maintenance of the exemption, and that these factors carry greater weight in relation to the information falling within the scope of request (1) than to the information falling within the scope of request (2).
 32. The grounds for complaint specified by the complainant are given above at paragraph 6. The complainant believed that, the initial complaints having been set out in detail, the public authority should have provided more detailed justification of its reasoning for not upholding these complaints. The complainant believed that the public authority had failed to comply with its general duty to be open, and that it was not possible to effectively challenge its conclusion without being aware of the reasoning for this. The complainant also believed that the sensitivity of the information was reduced due to the complaints having not been upheld and that the public authority should have considered if some information could be disclosed, even if it maintained that parts of this information could not be disclosed.
 33. As to the merit of these arguments, the Commissioner notes that the public authority has disclosed comparatively little information into the

public domain about its conclusions. Whilst it has argued that the public interest has been satisfied through the information that it has disclosed, the Commissioner notes that the large majority of the content of the information in question here has not been disclosed previously. He also believes that disclosure of the information in question would provide greater understanding about the steps taken by the public authority to investigate these complaints and about the reasoning for the conclusions reached by the public authority. Disclosure would also, as suggested by the complainant, assist with any attempt to challenge the conclusions of the public authority. The public authority suggested that disclosure would add little to public understanding of its investigation into CCS and MIC, or of its work generally. On the basis of the content of the information the Commissioner does not agree with this and considers the improvement in transparency in relation to both this investigation and in relation to the work of the public authority in general to be a valid public interest factor in favour of disclosure of substantial weight.

34. As noted above, the complainant has also argued that the public authority should have considered if it would have been possible to disclose some of the information in question and that the conclusion of the public authority to not uphold the complaints means that the sensitivity of this information is reduced. On this point the Commissioner would stress that the exemption is engaged in relation to all of the information held by the public authority that falls within the scope of the requests. Also, the Commissioner does not believe the weight of the public interest factors relating to harm to the investigatory process of the public authority to be reduced as a result of the outcome of the investigations being that the complaints were not upheld.
35. The conclusion of the Commissioner is that the public interest in the maintenance of the exemption outweighs the public interest in disclosure. Whilst the Commissioner has recognised significant arguments in favour of disclosure on the basis that the content of the information would add to public knowledge and understanding about this investigation, particularly given the lack of detail provided by the public authority in explanation for the conclusions to its investigations, the Commissioner considers that these are outweighed by the public interest in protecting the process described in the exemption. It is in the public interest to enable the public authority to carry out its functions effectively and the Commissioner is persuaded, particularly by the fact that the powers of the public authority to compel production of information and cooperation from those it investigates are limited, that disclosure could prejudice the ability of the public authority to do this.

Procedural Requirements

Sections 10 and 17

36. The response to request (1) referred the complainant to the response to a previous, similar, request, rather than setting out why the exemption cited was believed to apply specifically in relation to the complainant's request. In so doing, the public authority failed to comply with any of the requirements of sections 17(1) or 17(3)(b).
37. The public authority failed to comply with request (2) within 20 working days of receipt of the request and, in so doing, did not comply with the requirements of sections 10(1), in failing to confirm or deny within 20 working days of receipt of the request whether relevant information was held, and 17(1) in failing to provide a refusal notice within 20 working days of receipt.
38. The public authority introduced the exemptions provided by sections 31(1)(g) / 31(2)(a) and 40(2) during the Commissioner's investigation. In failing to cite these exemptions within twenty working days of receipt of the request, the public authority did not comply with section 17(1).

The Decision

39. The Commissioner's decision is that the public authority dealt with the requests for information in accordance with the Act in that the exemption provided by section 30(1)(a)(i) was applied correctly. However, the Commissioner also finds that the public authority failed to comply with the requirements of sections 10(1), 17(1) and 17(3)(b) in its handling of the request.

Right of Appeal

40. Either party has the right to appeal against this Decision Notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
Arnhem House,
31, Waterloo Way,
LEICESTER,
LE1 8DJ

Tel: 0845 600 0877

Fax: 0116 249 4253

Email: informationtribunal@tribunals.gsi.gov.uk.

Website: www.informationtribunal.gov.uk

If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.

Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this Decision Notice is sent.

Dated the 6th day of May 2010

Signed

**Anne Jones
Assistant Commissioner**

**Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**

Legal Annex

Freedom of Information Act 2000

Section 10

Section 10(1) provides that –

“Subject to subsections (2) and (3), a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt.”

Section 17

Section 17(1) provides that -

“A public authority which, in relation to any request for information, is to any extent relying on a claim that any provision of Part II relating to the duty to confirm or deny is relevant to the request or on a claim that information is exempt information must, within the time for complying with section 1(1), give the applicant a notice which -

- (a) states that fact,
- (b) specifies the exemption in question, and
- (c) states (if that would not otherwise be apparent) why the exemption applies.”

Section 17(3) provides that -

“A public authority which, in relation to any request for information, is to any extent relying on a claim that subsection (1)(b) or (2)(b) of section 2 applies must, either in the notice under subsection (1) or in a separate notice given within such time as is reasonable in the circumstances, state the reasons for claiming -

- (a) that, in all the circumstances of the case, the public interest in maintaining the exclusion of the duty to confirm or deny outweighs the public interest in disclosing whether the authority holds the information, or
- (b) that, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.”

Section 30

Section 30(1) provides that –

“Information held by a public authority is exempt information if it has at any time been held by the authority for the purposes of-

- (a) any investigation which the public authority has a duty to conduct with a view to it being ascertained-
- (i) whether a person should be charged with an offence, or
- (ii) whether a person charged with an offence is guilty of it”

Political Parties, Elections and Referendum Act 2000

Section 54

“54 Permissible donors

(1) A donation received by a registered party must not be accepted by the party if—

- (a) the person by whom the donation would be made is not, at the time of its receipt by the party, a permissible donor; or
- (b) the party is (whether because the donation is given anonymously or by reason of any deception or concealment or otherwise) unable to ascertain the identity of that person.

(2) For the purposes of this Part the following are permissible donors—

- (a) an individual registered in an electoral register;
- (b) a company—
 - (i) registered under the [1985 c. 6.] Companies Act 1985 or the [S.I. 1986/1032 (N.I. 6).] Companies (Northern Ireland) Order 1986, and
 - (ii) incorporated within the United Kingdom or another member State, which carries on business in the United Kingdom;
- (c) a registered party;
- (d) a trade union entered in the list kept under the [1992 c. 52.] Trade Union and Labour Relations (Consolidation) Act 1992 or the [S.I. 1992/807 (N.I.5).] Industrial Relations (Northern Ireland) Order 1992;
- (e) a building society (within the meaning of the [1986 c. 53.] Building Societies Act 1986);
- (f) a limited liability partnership registered under the [2000 c. 12.] Limited Liability Partnerships Act 2000, or any corresponding

enactment in force in Northern Ireland, which carries on business in the United Kingdom;

(g) a friendly society registered under the [1974 c. 46.] Friendly Societies Act 1974 or a society registered (or deemed to be registered) under the [1965 c. 12.] Industrial and Provident Societies Act 1965 or the [1969 c. 24.] Industrial and Provident Societies Act (Northern Ireland) 1969; and

(h) any unincorporated association of two or more persons which does not fall within any of the preceding paragraphs but which carries on business or other activities wholly or mainly in the United Kingdom and whose main office is there.

(3) In relation to a donation in the form of a bequest subsection (2)(a) shall be read as referring to an individual who was, at any time within the period of five years ending with the date of his death, registered in an electoral register.

(4) Where any person ("the principal donor") causes an amount ("the principal donation") to be received by a registered party by way of a donation—

(a) on behalf of himself and one or more other persons, or

(b) on behalf of two or more other persons,

then for the purposes of this Part each individual contribution by a person falling within paragraph (a) or (b) of more than £200 shall be treated as if it were a separate donation received from that person.

(5) In relation to each such separate donation, the principal donor must ensure that, at the time when the principal donation is received by the party, the party is given—

(a) (except in the case of a donation which the principal donor is treated as making) all such details in respect of the person treated as making the donation as are required by virtue of paragraph 2 of Schedule 6 to be given in respect of the donor of a recordable donation; and

(b) (in any case) all such details in respect of the donation as are required by virtue of paragraph 4 of Schedule 6 to be given in respect of a recordable donation.

(6) Where—

(a) any person ("the agent") causes an amount to be received by a registered party by way of a donation on behalf of another person ("the donor"), and

(b) the amount of that donation is more than £200,

the agent must ensure that, at the time when the donation is received by the party, the party is given all such details in respect of the donor as are required by virtue of paragraph 2 of Schedule 6 to be given in respect of the donor of a recordable donation.

(7) A person commits an offence if, without reasonable excuse, he fails to comply with subsection (5) or (6).

(8) In this section "electoral register" means any of the following—

(a) a register of parliamentary or local government electors maintained under section 9 of the Representation of the [1983 c. 2.] People Act 1983;

(b) a register of relevant citizens of the European Union prepared under Part III of the European Parliamentary Elections (Changes to the [S.I. 1994/342.] Franchise and Qualifications of Representatives) Regulations 1994; or

(c) a register of peers prepared under regulations under section 3 of the Representation of the [1985 c. 50.] People Act 1985."

Section 65

"65 Submission of donation reports to Commission

(1) A donation report under section 62 shall be delivered to the Commission by the treasurer of the party in question within the period of 30 days beginning with the end of the reporting period to which it relates.

(2) A donation report under section 63 shall be delivered to the Commission by the treasurer of the party in question—

(a) within the period of 7 days beginning with the end of the reporting period to which it relates; or

(b) (if that is not possible in the case of any party to which section 63(1) applies by virtue of section 64(5)) within the period of 7 days beginning with the first day on which the party has a candidate at the election in question.

(3) The treasurer of a registered party commits an offence if he fails to comply with the requirements of subsection (1) or (2) in relation to a donation report.

(4) The treasurer of a registered party also commits an offence if he delivers a donation report to the Commission which does not comply with any requirements of this Part as regards the recording of donations in such a report.

(5) Where a person is charged with an offence under this section, it shall be a defence to prove that he took all reasonable steps, and

exercised all due diligence, to ensure that any such requirements were complied with in relation to donations received by the party during the relevant reporting period.

(6) Where the court is satisfied, on an application made by the Commission, that any failure to comply with any such requirements in relation to any donation to a registered party was attributable to an intention on the part of any person to conceal the existence or true amount of the donation, the court may order the forfeiture by the party of an amount equal to the value of the donation.

(7) The following provisions, namely—

- (a) subsections (3) to (5) of section 58, and
- (b) sections 59 and 60,

shall apply for the purposes, or in connection with the operation, of subsection (6) above as they apply for the purposes, or in connection with the operation, of section 58.

(8) Section 64(9) applies for the purposes of this section."

Section 145

"145 General function of Commission with respect to monitoring compliance with controls imposed by the Act etc

(1) The Commission shall have the general function of monitoring compliance with—

- (a) the restrictions and other requirements imposed by or by virtue of Parts III to VII; and
- (b) the restrictions and other requirements imposed by other enactments in relation to—
 - (i) election expenses incurred by or on behalf of candidates at elections, or
 - (ii) donations to such candidates or their election agents.

(2) Subsection (1)(b) does not apply in relation to local government elections in Scotland unless and to the extent that the Scottish Ministers by order so provide.

(3) For the purposes of subsection (2), the reference in subsection (1)(b) to any enactment shall include a reference to any enactment comprised in or in an instrument made under an Act of the Scottish Parliament.

(4) Section 156(5) shall apply to an order made by the Scottish Ministers under subsection (2) as it applies to an order made by the Secretary of State under this Act and the reference in that section to

enactments shall include a reference to any enactment comprised in or in an instrument made under an Act of the Scottish Parliament.

(5) The power of the Scottish Ministers to make an order under subsection (2) shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the Scottish Parliament.

(6) The Scottish Ministers shall reimburse the Commission for any expenditure incurred by them which is attributable to the exercise of any function conferred by virtue of an order made under subsection (2).

(7) In this section and sections 146 and 148—

“election” means a relevant election for the purposes of Part II;

“election agent” includes a sub-agent.”