

Mr Rod Cooke
By email only
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Charity Commission
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T: 0300 065 1710

Your ref: FS50688404
Our ref: 255749/282935
Date: 17 August 2016

Dear Mr Cooke

Freedom of Information 2000 (FOIA)

FS50688404

We refer to your letter dated 31 March 2017 which was sent to the Commission seeking information under the Freedom of Information Act 2000 (the Act.) You were seeking copies of “all correspondence, emails, texts, memos, records of telephone calls and any other communications between the Charity Commission and the trustees of Ellingham United Charities (255749) and trustees of the Sand and Gravel Allotment Charity. The dates in question are from December 1 2016 until April 30 2017” (the Request).

The Commission responded to your Request on 28 April and then as a decision review on 13 June. On both occasions the Commission withheld the information within the scope of your Request.

You will be aware that you have submitted an appeal against the Commission’s decision to withhold information in relation to your Request to the Information Commissioners Office (ICO) and, as a consequence of the re-examination that has been required by this process, the Commission has considered again whether the information in scope should continue to be withheld.

The Commission’s position, for the purpose of this response, remains that there is no information that meets the Request in relation to Ellingham United Charities.

Insofar as the Sand and Gravel Allotment Charity (282935) is concerned there is information that meets your Request and comprises an email dated 28 February 2017 sent by the Commission to the trustees of this Charity (the Email).

Having reconsidered the contents of the Email the Commission has reached the conclusion that it was incorrect to rely upon S31 of the Act to withhold the contents of the Email in full.

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The Commission has reached a decision that the majority of the information should be disclosed and a copy of the Email is attached to this letter. We have also reached the conclusion that part of the Email should continue to be withheld because some of the information meets the definition of personal data. This information should be withheld as the absolute exemption contained in S40 (2)¹ of the Act is applicable. This exemption was not relied upon when the Commission wrote to you on 28 April and 13 June and we apologise for this. We also apologise for the delay in sending through the information you requested.

The Commission has noticed that there is an error in the Email as the Subject line begins “In confidence: FAO; The Trustees of Sand and Gravel Allotment Charity...” The use of this phrase is incorrect as there is no confidential information within the Email narrative. The likelihood is that this phrase was used in error.

We have sent a copy of this letter and the enclosure to the ICO under your reference FS50688404. You will hear from the ICO in due course.

Yours sincerely

Mrs Jane Lake
Jane.Lake@charitycommission.gsi.gov.uk

¹ **Section 40(1) and (2) of the Act**

S40 (1) Any information to which a request for information relates is exempt information if it constitutes personal data of which the applicant is the data subject.

(2) Any information to which a request for information relates is also exempt information if—

- (a) it constitutes personal data which do not fall within subsection (1), and
(b) either the first or the second condition below is satisfied.