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The Funding of Political Parties

Funding political parties in the UK has been a source of controversy for many years. Demand for more transparency grew during the 1990s. The *Political Parties, Elections and Referendums Act 2000* introduced national regulation, but in March 2006 it became clear that further regulation of loans to parties was also necessary, when details emerged of loans made during the general election campaign of 2005. The Electoral Commission reviewed the question of funding in 2003-4 and both the Constitutional Affairs Select Committee and Sir Hayden Phillips have published reports recently. On the publication of Sir Hayden's report on 15 March 2007, the Prime Minister backed his call for inter-party talks, designed to reach a resolution by the summer recess.

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Summary of main points

Political parties have had to turn to new sources of funding in recent years, to assist with the costs of campaigning in elections. Some public money is available, in the form of Short money and policy development grants. There are other indirect methods of public assistance, such as party political broadcasts, free post for election literature, and arguably pay and allowances for elected representatives, which may then be made available to assist the party.

Following concern during the 1990s about lack of transparency in relation to the financing of political parties and perceived growth in national campaign expenditure, the Labour Government enacted the *Political Parties, Elections and Referendums Act 2000 (PPERA)*. The main provisions were:

- Registration of parties, so that parties had to supply details of income and expenditure
- Disclosure of donations made to national parties, individual candidates and campaigning groups associated with parties
- National expenditure limits, supplementing constituency limits in force since the 19th century
- Creation of an Electoral Commission partly to oversee the new rules, but without powers of prosecution

During March 2006 it became evident that the major parties had taken out loans during the general election of 2005 which appeared to circumvent the rules in PERA. The Government introduced amendments to the *Electoral Administration Act 2006* to make it compulsory for parties to disclose loans. The police began an investigation following complaints that offences had been committed under the *Honours (Prevention of Abuse) Act 1925*. The investigation continues at the time of publication of this paper.

The Electoral Commission undertook a review of the funding of political parties, which was published in 2004. This discussed the feasibility of capping donations, to avoid the perception that large donors could unduly influence parties, and instead assisting parties with state funding. At this stage, the Commission was not prepared to recommend a cap on donations. In common with several other pressure groups and commentators, the Commission favoured measures to increase the overall level of small donations. There was only a muted response to the review, but following media attention on loans and allegations of the sale of honours, the Prime Minister announced that Sir Hayden Phillips would lead a new review, to examine the case for capping donations, state funding and increased transparency. The Constitutional Affairs Select Committee (CASC) had already begun a review in early 2006, and this published its recommendations in December 2006. Sir Hayden's final report was not published until 15 March 2007 and he acknowledged that he had not managed to achieve consensus. Sir Hayden recommended further talks among the three major parties, with some independent moderation. Building on recommendations from CASC, the review recommended:

- The status quo was no longer sustainable
- There should be a cap of £50,000 on donations
- Expenditure limits for general elections should be reduced

- An increase in public funding should be introduced, linked to measures of popular support for parties and democratic engagement
- Party funding should become more transparent
- Controls on expenditure by third parties should be increased
- The regulatory role of the Electoral Commission should be strengthened

Sir Hayden identified two main obstacles:

1. The design of a limit of donations which took account of trade union funding of the Labour party
2. The practicalities of limiting general election expenditure, particularly in marginal constituencies

Initial reaction suggested that Sir Hayden's proposals had not won universal acceptance and that further negotiations and consultations would be needed to ensure any agreement. Some commentators also argued that the details of reforms should take account of the public, as well of the needs of major political parties

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I The current framework

A. Background

Funding of political parties has been a source of controversy in the United Kingdom for many years. Library Research Paper 00/2 summarises earlier reports on the question of state funding, such as the Houghton report of 1976 and the Home Affairs Select Committee report of 1994.

Following a Labour Party manifesto commitment to require political parties to declare the sources of their donations and to ban foreign donations, on 12 November 1997, the Prime Minister extended the terms of reference of the Committee on Standards in Public Life to enable it to study the funding of political parties. Its additional terms of reference were:

To review issues in relation to the funding of political parties, and to make recommendations as to any changes in present arrangements.¹

The Committee then undertook an inquiry into *The Funding of Political Parties in the United Kingdom*.

The Committee made a number of recommendations on the disclosure and acceptance of donations, the funding of opposition parties at Westminster, expenditure limits for parties and third parties in campaigns, and the establishment of a “totally independent and authoritative Election Commission with widespread executive and investigative powers, and the right to bring cases before an election court for judgment”.²

In its response to the Committee on Standards in Public Life, the Government included a draft bill which would provide for the establishment of an Electoral Commission, enact rules on the funding of political parties, limit expenditure on campaigns and would introduce rules on the conduct of referendums.³

B. The Political Parties, Elections and Referendums Act 2000

The *Political Parties, Elections and Referendums Act 2000* (PPERA) enacted the proposals contained in the draft bill. The Act:

- established the Electoral Commission, which is independent of Government and reports directly to Parliament;
- required political parties to register with the Electoral Commission;
- set down accounting requirements for the parties;
- introduced controls on donations to parties and their members;

¹ Fifth Report of the Committee on Standards in Public Life, *The Funding of Political Parties in the United Kingdom*, October 1998, Cm 4057

² *Ibid*, pp2-3

³ Home Office, *The Funding of Political Parties in the United Kingdom: The Government's proposals for legislation in response to the Fifth Report of the Committee on Standards in Public Life*, July 1999, Cm 4413

- controlled campaign expenditure, both for parties and third parties in national election campaigns;
- set down rules for the conduct of referendums;
- amended rules on the donations received and expenses incurred in election campaigns; and
- required companies to obtain approval before making political donations.

Further details on the provisions of PPERA are discussed in three Library Research Papers that were produced in advance of the second reading of the Bill.⁴ The stated aim of the legislation was to improve public trust through increased transparency- however, some years after implementation there is disappointment that party funding is still a focus of controversy. As Professor Justin Fisher has noted, the new transparency rules encouraged further media stories about funding, and the national spending limits did not inhibit the parties' demand for money, especially as the new elections for devolved legislatures have increased the trend towards permanent campaigning.⁵ Therefore, despite the short time which has elapsed since the implementation of PPERA, demand for greater regulation is being voiced.

II Public funding

Parties in the United Kingdom are not entitled to large-scale public funding, as in many other comparable democracies. However, this section lists the various grants which are payable from public funds.

A. Policy Development Grants

Under section 12 of PPERA, the Electoral Commission was required to bring forward recommendations to introduce a scheme to make policy development grants to assist political parties with the development of policies for inclusion in any manifesto. PPERA defined both a "policy development grant" and a "registered party" as follows:

(a) "a policy development grant" is a grant to a represented registered party to assist the party with the development of policies for inclusion in any manifesto on the basis of which—

- (i) candidates authorised to stand by the party will seek to be elected at an election which is a relevant election for the purposes of Part II, or
- (ii) the party itself will seek to be so elected (in the case of such an election for which the party itself may be nominated); and

(b) a registered party is "represented" if there are at least two Members of the House of Commons belonging to the party who—

⁴ House of Commons Library, *The Political Parties, Elections and Referendums Bill – Electoral aspects [Bill 34 of 1999-2000]*, RP 00/1, 6 January 2000; House of Commons Library, *The Political Parties, Elections and Referendums Bill – Donations [Bill 34 of 1999-2000]*, RP 00/2, 7 January 2000; and House of Commons Library, *The Political Parties, Elections and Referendums Bill – Referendums and Broadcasting [Bill 34 of 1999-2000]*, RP 00/3, 7 January 2000

⁵ "Reforming party funding" November 2006 *Prospect*

- (i) have made and subscribed the oath required by the Parliamentary Oaths Act 1866 (or the corresponding affirmation), and
- (ii) are not disqualified from sitting or voting in that House.⁶

PPERA limited the total value of policy development grants to £2 million per annum, although the Act stated that “The Secretary of State may by order made with the consent of the Treasury vary the sum for the time being specified in subsection (8)”.⁷

The Elections (Policy Development Grants Scheme) Order 2002 gave effect to recommendations submitted by the Electoral Commission on the operation of the policy development grant scheme.⁸ The Order states the names of the eligible parties and specifies the way in which the £2 million is divided between them.

The rules on eligibility prevent a number of parties that have Members in the Scottish Parliament, the Northern Ireland Assembly and the European Parliament but not the United Kingdom Parliament from receiving any assistance through policy development grants. The excluded parties include the Scottish Socialist Party, the Green Party, the Alliance Party and the United Kingdom Independence Party. In addition Sinn Fein is excluded as its five Members of the United Kingdom Parliament have not made and subscribed to the oath.

In summary, £1 million of the total £2m is shared equally among the eligible parties. The different nature of party politics in England, Wales, Scotland and Northern Ireland and the size of the electorate in the four countries are reflected in the formulae used to allocate the remaining £1 million. The formula takes into account the electorate in the four countries and electoral performance but then adjusts the results in Great Britain to ensure that the Conservative, Labour and Liberal Democrat Parties get equal amounts; similarly the Northern Ireland calculation ensures that the Democratic Unionist, Social Democratic and Labour, and Ulster Unionist Parties get equal amounts. Rules 6-9 of the Schedule of the Order specify exactly how the second £1 million is to be allocated between the eligible parties.

The Constitutional Affairs Select Committee published information from the Department of Constitutional Affairs on allocations of funds in 2006-7 as follows:

Party	Allocation 2006-7
Labour Party	£457,997
Conservative and Unionist Party	£457,997
Liberal Democrats	£457,997
Scottish National Party	£162,542
Plaid Cymru	£151,984
Social Democratic and Labour Party	£155,786
Democratic Unionist Party	£155,786

⁶ *Political Parties, Elections and Referendums Act 2000*, chapter 41, s12

⁷ *Ibid*, s12

⁸ *The Elections (Policy Development Grants Scheme) Order 2002* SI 2002/224, <http://www.legislation.hmso.gov.uk/si/si2002/20020224.htm>

B. Short money

Short money – that is funding to support Opposition parties – was introduced in 1975. The current scheme is administered under a Resolution of the House of 26 May 1999. The scheme has three components:

- 1) funding to assist an opposition party in carrying out its Parliamentary business;
- 2) funding for the opposition parties' travel and associated expenses; and
- 3) funding for the running costs of the Leader of the Opposition's office.

1. Historical background

“Short money” was introduced by the Wilson Government following a commitment in the Queen's Speech of 12 March 1974:

My Ministers will consider the provision of financial assistance to enable Opposition parties more effectively to fulfil their Parliamentary functions.⁹

Edward Short fleshed out the proposal in a statement on Members' allowances in July 1974:

A more immediate need is to provide additional support for the Opposition parties in Parliament - support which they certainly require if they are to play their full part here. The then Opposition and, I believe, the whole House benefited greatly from the Rowntree scheme, but more permanent arrangements are now necessary. Following our commitment in the Queen's Speech, I have had very helpful discussions with the parties opposite. I now plan to bring firm proposals before the House in the autumn.

The main areas of support which we believe are needed are in the staffing of the Opposition Leader's and Chief Whip's offices, and in research assistance for shadow Front Bench spokesmen. The smaller parties also need staff support, but, naturally, on a smaller scale. We take the view that the parties should decide their own staffing arrangements, and I shall propose, therefore, that they be allocated funds for this purpose, borne upon the House Vote. These would be calculated by a formula based on the number of seats and votes won, the details of which I should like to discuss further, with the parties opposite after the recess.¹⁰

The Opposition welcomed the principle of the scheme and talks began between the parties. Progress was delayed by the October 1974 General Election, but Mr Short

⁹ HC Deb 12 Mar 1974 Vol 870 c47

¹⁰ HC Deb 29 July 1974 Vol 878 c32. The “Rowntree scheme” mentioned in the text refers to corporate contributions made by the Rowntree Social Services Trust Ltd to the main political parties, and particularly the Liberal Party/Social Democratic Party, in the 1970s and early 1980s. (see Michael Pinto-Duschinsky, *British Political Finance 1830-1980*, 1981, p 197ff; Michael Pinto-Duschinsky, “Trends in British Political Funding 1979-1983”, *Parliamentary Affairs*, Summer 1985, Vol 38, p336

made a further announcement on 19 December giving details of the formula to be used in the allocation of funds.¹¹ The main elements of the scheme included:

- The formula would take into account both seats in the House and votes at the last election
- there would be an upper limit in the case of the Official Opposition
- the scheme would be confined to parties having at least: two Members elected at the previous general election, or one Member elected and a minimum of 150,000 votes cast.
- the allocation of funds between the Commons and the Lords would be for parties to decide
- the amounts were maximum amounts and parties would have to account for expenditure within the limits to the House's Accounting Officer

A debate on a motion to approve the proposed scheme took place on 20 March 1975. On that day the House of Commons approved by 142 to 47 the following resolution:

- 1 That in the opinion of this House it is expedient that as from 1st January 1975 provision shall be made for financial assistance to any Opposition party in this House to assist that party in carrying out its Parliamentary business:
- 2 That for the purpose of determining the annual maxima of such assistance the following formula shall apply:-
£500 for each seat won by the party concerned plus £1 for every 200 votes cast for it at the preceding General Election, provided that the maximum payable to any party shall not exceed £150,000:
- 3 That it shall be a condition of qualification for such assistance that a party must either have at least two Members elected to the House as members of that party at the preceding General Election, or that it has one such Member and received at least 150,000 votes at that Election:
- 4 That any party wishing to claim such assistance shall make to the Accounting Officer of the House a statement of the facts on which this claim is based:
- 5 That the cost of this provision shall be borne on the House of Commons Vote:
- 6 That parties making claims under this provision shall be required to certify to the Accounting Officer of the House that the expenses in respect of which assistance is claimed have been incurred exclusively in relation to that party's Parliamentary business:
- 7 That claims under these new arrangements shall be made quarterly, and that the annual maxima shall be applicable to claims made in respect of expenses incurred during any one calendar year.¹²

The resolution backdated the scheme to 1 January 1975 and the funding formula was therefore calculated on the results of the October 1974 Election. The figures set in 1975 were periodically updated in 1978,¹³ 1980,¹⁴ 1983,¹⁵ 1985¹⁶ and 1988,¹⁷ by amending the

¹¹ HC Deb 19 Dec 1974 Vol 883 cc1823-4

¹² HC Deb 25 Mar 1975 Vol 888 cc1869-70

¹³ HC Deb 13 February 1978 cc173-204

¹⁴ HC Deb 7 August 1980 cc935-962 [adjourned], HC Deb 12 November 1980 cc509-546

¹⁵ HC Deb 8 March 1983 cc804-811

¹⁶ HC Deb 23 January 1985 cc1097-1103

¹⁷ HC Deb 21 June 1988 cc1075-1098

1975 resolution. In addition, from 1985, monthly claims were permitted;¹⁸ and, in 1987, the overall maximum that parties were entitled to was removed.¹⁹

In 1993 a new resolution was agreed (replacing the 1975 resolution (as amended)). The periodic uprating ceased and a mechanism to annually increase the seat and vote components of general funding in line with inflation was introduced. In addition, financial assistance towards travelling in relation to Parliamentary business was introduced. The resolution also switched Short Money allocations from a calendar year to a financial year basis, with effect from 1 April 1994 (transitional arrangements included a “fifteen-month year” from 1 January 1993 to 31 March 1994).²⁰

The current resolution governing Short Money was agreed on 26 May 1999 and replaced the 1993 resolution. It introduced a specific sum for the Leader of the Opposition. In addition, it increased the value of the votes and seats elements of the formula by a factor of 2.7, in the light of the report on party funding by the Committee on Standards in Public Life.²¹ Changes in the allocations of Short Money from 1997/98 are detailed in Standard Note 1663 *Short Money*. The following table summaries the amounts paid to the two largest Opposition parties:²²

<i>Allocation (£)</i>	2003-04	2004-05	2005-06	2006-07
Conservative Party	3,566,927	3,666,885	4,206,058	4,343,069
Liberal Democrats	1,210,902	1,244,856	1,536,221	1,596,867

2. House of Lords – Cranborne Money

A similar scheme, Cranborne Money, after the then Leader of the House of Lords, was introduced on 27 November 1996, to provide financial assistance for opposition parties. Funding was increased in April 1999, and since October 1999, the Convenor of the Crossbench Peers has also received assistance. In 2002, the House of Lords agreed to a further increase in assistance and to bring the administration of assistance to opposition parties and to the Convenor of the Crossbench Peers together under a single resolution. The salaries of the Leader of the Opposition and Opposition Chief Whip in the Lords, which for 2005-06 are **£69,138** and **£63,933** respectively, are also paid from public funds.

On 30 July 2002, the House of Lords agreed a resolution, which replaced the two earlier resolutions – bringing the administration of all financial assistance under the same scheme. The resolution also allowed a one-off increase above the annual inflation-linked uprating with effect from 1 April 2002.²³ In 2006/07, the amounts allocated are:

¹⁸ HC Deb 23 January 1985 cc1097-1103

¹⁹ HC Deb 26 November 1987 Vol 123 cc481-501

²⁰ HC Deb 4 November 1993 cc595-617

²¹ HC Deb 26 May 1999 cc427-429

²² Based on Evidence submitted by the Department of Constitutional Affairs HC 163 –II, para 14

²³ HL Deb 30 July 2002 Vol 638 cc817-21

Conservative Party:	£436,584
Liberal Democrats:	£217,982
Cross Bench:	£39,125

The scheme makes provision for general election years to be split into pre-election and post-election periods in order to accommodate changes of Government etc. Parties claiming Cranborne money must provide the Accounting Officer of the House of Lords (the Clerk of the Parliaments) with an auditor's certificate confirming that all expenses claimed were incurred exclusively in relation to the party's parliamentary business.

3. Financial support for Sinn Fein

Although the 1999 Resolution on Short money does not specifically state this, Short money is not available to parties whose Members have not sworn the oath, because it was introduced to offer assistance for parliamentary duties. Paragraph 1 of the original Short Money Resolution in 1975 provided that financial assistance was available to parties "to assist that party in carrying out its parliamentary business" and paragraph 6 required parties to certify "that the expenses in respect of which assistance is claimed have been incurred exclusively in relation to that party's parliamentary business". These terms are repeated in the current resolution of 26 May 1999.

However, on 8 February 2006, the House agreed to a motion that created a similar scheme solely for an opposition party "represented by Members who have chosen not to take their seats". The motion provided for "expenses wholly, exclusively and necessarily incurred for the employment of staff and related support to Members designated as that party's spokesman in relation to the party's representative business." There is no definition of "representative business" in the motion, and, the term had not been used in parliamentary procedure until this point. The terms of the motion allow Sinn Fein to use funds calculated on the same terms as Short money for different types of expenditure, such as for press and publicity and other representative functions. Other opposition parties have access to Short money to support parliamentary business only and no equivalent extension for representative work was announced for them.

Sinn Fein's allocation under the scheme for the 2006-07 year was £86,245 for the main budget and £2,136.07 for the travel budget.²⁴ Some details of the debate on the motion are included in the Library Standard Note on *Sinn Fein, allowances and access to Commons facilities*.²⁵

C. Indirect funding

As well as direct grants, parties benefit from a number of sources of indirect funding, summarised below. There have also been arguments that the cost of special advisers

²⁴ Source: House of Commons, Department of Finance and Administration

²⁵ House of Commons Library Standard Note SN/PC/1667, *Sinn Fein, allowances and access to Commons facilities*

should be considered a form of state funding of political parties, but this has not been accepted by the Government.²⁶

1. Funding to Members and other elected representatives

The issue of parliamentary allowances which might be construed as assisting incumbent MPs has been moving up the political agenda recently. In the Conservative party response to the Phillips report, Frances Maude, the party chairman said:

If there were to be local caps [on spending], those caps must not be set at a level which gives an unfair advantage to sitting MPs, who now have tens of thousands of pounds of taxpayers' money in Parliamentary allowances to spend in their constituencies."²⁷

The Constitutional Affairs Select Committee noted an increasing trend for councillors MSPs MEPs and AMs to give a suggested percentage of the allowance they receive to support the running of the party groups on the local council, the production of literature in order to communicate with voters and for local campaigns.²⁸ A number of witnesses to the Select Committee also drew attention to allowances and pay available to incumbents.²⁹

The Parliamentary Standards Commissioner, Sir Philip Mawer alluded to the difficulties of policing the use of allowances in his evidence to the Senior Salaries Review Body's review of parliamentary pay and allowances, published in February 2007.

It has hitherto proved unrealistic to seek wider agreement on where the line should be drawn between Members' activities as parliamentarians and those in a party context, given the extent to which the two are interwoven in our parliamentary system. The answer, as in the case of ACA [Additional Costs Allowance], would therefore appear to be greater clarity in what IEP [Incidental Expenses Provision] is intended to cover, and in how any recommended figure is determined. Also, a degree of tautness in the allowances might be beneficial in helping to counter criticism that, by providing the means to support promotional activity on the part of Members, it funds indirect support to their parties.

As noted earlier, the House has recently agreed in principle to a **Communications Allowance**. It may well be that this new allowance, the details of which have yet to be determined, will have implications, which SSRB would no doubt wish to take into account, for the scope and level of other allowances, in particular the IEP.³⁰

²⁶ Andrew Tyrie, *Clean Politics* March 2006. Mr Tyrie estimates that the cost of special advisers has risen from £1.8m to nearly £6m in the past decade. The Public Administration Select Committee recommended in 2001 that a separate fund be established to fund 'political' special advisers and Short money. *Special Advisers: Boon or Bane?* HC 293 2000-01. The Government did not accept the recommendation

²⁷ "Conservatives back across-the board cap on large donations" 15 March 2007 *Conservative Party News Story*

²⁸ *Constitutional Affairs Committee Party Funding* HC 163-I 2006-7

²⁹ Evidence submitted by Peter Hooper, Evidence submitted by Michael Pinto Duschinsky HC 163-II 2006-7

³⁰ HC 330 2006-7

Background on allowances available to Members is available in Library Research Paper 06/47 *Parliamentary Pay and Allowances* and in Standard Note 4192 *Parliamentary Pay and Allowances- Update*. The Conservative Andrew Mackay raised the question of allowances and incumbency following the Home Secretary's statement on Sir Hayden Phillips's report.³¹

On 28 March 2007 the House debated proposals from the Members Estimate Committee for a new Communications Allowance, designed to assist Members with expenditure incurred wholly, exclusively and necessarily in communicating with the public on parliamentary business.³² Although the Leader of the House stressed that the new allowance would not 'give incumbents an advantage over challengers',³³ concern was expressed by the Shadow Leader of the House, Teresa May, that the extra allowances would assist Members already in the House:

I would say to the Leader of the House that it is strange that he is supporting a new allowance for incumbent Members at the very time when the Government are supporting caps on local campaigning expenditure for their political opponents.³⁴

2. Party political broadcasts

As well as direct funding, political parties receive a number of subsidies in kind including party political broadcasts.

Unusually among developed states, the UK has a ban on paid political advertising on radio and television.³⁵ Political parties do not have to pay for the air time they obtain for party political broadcasts. Under section 333(1) of the *Communications Act 2003*, commercial public service TV channels and national commercial radio services must include referendum, as well as party political/party election broadcasts. Ofcom is expected to make rules for this purpose (there was previously no provision for referendums).

On 24 June 2004, Ofcom launched a consultation document entitled *Ofcom rules on party political and referendum broadcasts*.³⁶ It sought views on whether its draft rules follow the right approach to the allocation of referendum broadcasts. The consultation closed on 2 September 2004. In its summary Ofcom states:

The draft rules require that the relevant broadcasters must allocate one or more broadcasts to each organisation designated by the Electoral Commission for each referendum. In the case of a referendum across the UK, the draft rules provide that the broadcasts must be carried by every broadcaster that is now

³¹ HC Deb 15 March 2007 c477

³² See HC 319 2006-07

³³ HC Deb 28 March 2007 c1521

³⁴ HC Deb 28 March 2007 c1527

³⁵ *Broadcasting Act 1990*, s 8 See A Scott "A Monstrous and Unjustifiable Infringement? Political Broadcasting and the Broadcasting Ban on Advocacy Advertising" (2003) 66 *MLR* 224, cited in Ewing

³⁶ Ofcom, *Ofcom rules on party political and referendum broadcasts*, 24 June 2004, http://www.ofcom.org.uk/consultations/current/pp_r_bcast/ppr_bcast.pdf?a=87101

required to carry party broadcasts at a general election. In the case of referendums in the nations and regions, it is proposed that these will be carried only in relevant ITV1 regions.

In line with precedent for party broadcasts, it is expected that each broadcaster will be given scope to decide the precise allocation of broadcasts; and that Ofcom, as the regulator, should make an adjudication, in the event of any dispute between the broadcaster and party or referendum organisation.³⁷

The Electoral Commission has an advisory role in relation to party political broadcasts. It completed a review in January 2003.³⁸ In its report, the Commission made the following recommendations:

... the ban on paid political advertising should remain. Party political broadcasts offer political parties their only opportunity to present an unmediated broadcast message directly to the electorate. Surveys show that, at election time, they are among the most effective direct campaigning tools available to parties. However, the Commission argues that the current system for allocating broadcasts needs to be overhauled and made more robust and transparent. The Commission also recommended that the system should be more clearly defined in law to strengthen the argument for sustaining the ban on paid political advertising.

The Commission's key recommendations were:

- the qualification for election broadcasts should continue to be based on the number of candidates put forward;
- the number of broadcasts should continue to be related to proven electoral support;
- greater flexibility should be provided to parties on the length of broadcasts;
- that parties take a more innovative approach to the design and production of broadcasts;
- that a review is undertaken concerning PPB arrangements closer to the digital switchover.³⁹

DCMS undertook a consultation on party political broadcasts between July and October 2004 in response to the recommendations from the Electoral Commission. The Commission submitted its response to that consultation in September 2004. The consultation document and other responses to this consultation can be found on the DCMS website. At present there seems little appetite to make major changes to the rules.

The cost of this indirect subsidy to political parties has been estimated to be in the region of **£68m** in an election year and **£16m** in a non-election year. This is on the assumption that parties bought the equivalent advertising time at commercial rates.⁴⁰

³⁷ Ofcom, *Ofcom rules on party political and referendum broadcasts*, Summary, 24 June 2004,

http://www.ofcom.org.uk/consultations/current/pp_r_bcast/

³⁸ Electoral Commission, *Party political broadcasting: report and recommendations*, January 2003,

http://www.electoralcommission.org.uk/files/dms/Finalversion_7607-6718_E_N_S_W_.pdf

³⁹ Electoral Commission, *Party Political Broadcasting*,

<http://www.electoralcommission.org.uk/elections/partypoliticalbroadc.cfm>

3. Free postage

Public monies are used to finance the distribution of candidates' election addresses at parliamentary elections and European parliamentary elections, free of charge to the parties. The *Representation of the People Act 1983* allows free postage for one election communication to every address or elector within the relevant electoral area. The free postage allowance is also available at elections to the Scottish Parliament, National Assembly for Wales and Northern Ireland Assembly and reimbursement made to the universal service provider (Royal Mail).

It is also available for local mayoral elections and a version was used at the Greater London Authority elections in 2003. Free postage is not otherwise available for local elections apart from Northern Ireland where a scheme has been in force since 1985.

The Phillips interim report stated that the cost of free post for general elections was in the region of **£20m**.⁴¹ The Electoral Commission calculated the cost at the general election of 2001 at £17.6m, met by a reimbursement from the Treasury to the Royal Mail.⁴²

4. Free use of meeting rooms

The *Representation of the People Act 1983* also provides for candidates to have free use of public buildings – schools or any other building maintained by public money – for public meetings during campaigns for parliamentary elections, local elections, European Parliamentary elections, and by-elections. In the case of devolved elections, this provision is also available for elections to the Scottish Parliament and National Assembly for Wales, but not for Northern Ireland. The cost is likely to be minimal, given that the practice of public meetings is in decline.⁴³

5. Inheritance tax relief

This provision was introduced in the *Finance Act 1975* but is now to be found in the *Inheritance Tax Act 1984*. The relief applies to donations to political parties, with no limit on the amount of donations. The tax relief does not appear widely used, in evidence to the Committee on Standards in Public Life,⁴⁴ the Inland Revenue considered that little use had been made of the relief.

⁴⁰ *The Review of the Funding of Political Parties: An Interim Assessment* October 2006, Annex E, Sir Hayden Phillips. This report cites a calculation made by Andrew Tyrie in Electoral Commission Background Paper *the Funding of Political Parties* May 2003. The Committee on Standards in Public Life's Fifth Report calculated that during the 1997 election, the broadcasts were worth £20m to the two main parties and £16m to the Liberal Democrats (para 13.18)

⁴¹ *The Review of the Funding of Political Parties: An Interim Assessment* October 2006, Annex E, Sir Hayden Phillips

⁴² Royal Mail *Elections in the United Kingdom. Operational Requirements for Election Mail* (2004)

⁴³ See *The Funding of Political Parties: Report and Recommendations* December 2004 Electoral Commission, p94

⁴⁴ Fifth Report Committee on Standards in Public Life Cm 4057 October 1998

III Donations

The increasing dependence of all major parties on large donations to finance their activity has led to statutory regulation but also to continuing dissatisfaction with lack of transparency in the party accounts submitted to the Electoral Commission. Parties continue to spend large amounts on election campaigning, despite the national expenditure caps introduced by PPERA, and despite the long term decline in party membership. There is some controversy as to the extent to which parties are spending more at general elections, since party structures vary, and the way in which local and national spending is accounted for differs. Michael Pinto Duschinsky has argued that in fact the central campaigning costs for the two major parties were less in 2005 than in 1997 in real terms.⁴⁵ Nevertheless, most commentators would agree with the assessment in the Phillips Interim Report that the “finances of most parties are fragile”.⁴⁶ This state of affairs has led to demand for large sums of money to finance campaigns.

A. Regulation of donations

1. Regulation of donations to parties

The *Political Parties, Elections and Referendums Act 2000* (PPERA) produced a complex regulatory system for the disclosure of donations to registered political parties and to elected political representative and candidates.⁴⁷ Briefly, donations over £5,000 must be declared to the Electoral Commission as well as donations over £1,000 when made to one of the party’s accounting units (constituency party or associated body).

The Electoral Commission produce *Donations and Loans: Guidance for registered political parties in Great Britain*.⁴⁸ The summary provides an overview of the statutory requirements:

Permissibility

Donations and loans can only be accepted by a political party if they come from permissible sources. A permissible donor or lender must be one of the following:

- an individual registered in a UK electoral register (including bequests)
- a UK registered company which is incorporated within the European Union (EU) and carries on business in the UK
- a Great Britain registered political party
- a UK registered trade union
- a UK registered building society
- a UK registered limited liability partnership that carries on business in the UK
- a UK registered friendly society
- a UK based unincorporated association that carries on business or other

⁴⁵ Michael Pinto-Duschinsky “State funding for parties in a fact-free zone” 24 December 2006 *Sunday Times*

⁴⁶ *The Review of the Funding of Political Parties: an interim assessment* October 2006 p4

⁴⁷ Background to PPERA is given in three Library Research Papers, 00/1, 002, and 003, available at http://www.parliament.uk/parliamentary_publications_and_archives/research_papers/research_papers_2_000.cfm#1-20

⁴⁸ http://www.electoralcommission.org.uk/files/dms/Donationsloansguidance-Final_23192-17297_ENSW.pdf September 2006

activities in the UK

Special rules on permissibility are in effect during a European Parliamentary election for parties contesting the combined Gibraltar/South West England region. These allow the acceptance of donations from Gibraltar sources under certain conditions.

Donations

Parties must report to the Commission all donations – whether in the form of money or goods or services provided without charge or on non-commercial terms – if they exceed the reporting thresholds. Donations over £5,000 to a central party or £1,000 to one of its accounting units must be declared. Various requirements to aggregate donations below this threshold as well as aggregating loans and donations from the same source may also apply.

Parties must provide the value of the donation and the name, address and other relevant details of the donor. Parties must report any donations they have been given that were returned because the donor was unidentifiable or impermissible.

Reporting

Parties must file a report of loans and donations with the Commission on a quarterly basis within 30 days of the end of the quarter...

During a UK Parliamentary general election period, parties are required to submit weekly reports of loans and donations. Parties may exempt themselves from this requirement if they declare that they do not intend to field any candidates at the election.

Parties that have not received any reportable donations or loans are required to submit a nil return each quarter. Once a party has submitted four consecutive quarterly nil returns, they are exempt from further reporting until they have a reportable donation or loan. For the purpose of exemption, the loan and donation reports are treated separately so a party may be exempt from one type of report without being exempt from the other.

Forms to report donations and loans are available on the Commission's website (www.electoralcommission.org.uk) within the Regulatory issues/Political parties/Forms and guidance section.

This guidance has been updated to take account of the new requirements on loans in the *Electoral Administration Act 2006* (see Part IV below).

Local accounting units of parties are also obliged to record donations with the Electoral Commission, to ensure that money is not channelled from local to national sources without transparency. Donations of £1,000 have to be reported by the party nationally. Although there are provisions in PPERA to ensure that where donations are made by an individual to a third party to pass on to a party, these transactions must be recorded,⁴⁹ a Members' Association may give funds to support a political party without a requirement to name the association's members. These Associations are defined in PPERA as organisations whose members consist solely or mainly of party members, excluding the party itself, or its accounting units. Such Members' Associations are defined in PPERA as a 'regulated donee' required to register donations over £5,000 and include for example organisations affiliated to the Labour party, such as the Fabian Society and, for

⁴⁹ PPERA, 50(8) (a)

the Conservatives, the Campaign for Conservative Democracy and the Constituency Campaigning Services Board.⁵⁰

There are separate requirements for third parties (such as pressure groups or trade unions) to declare donations, should they register to participate in an election campaign.⁵¹ This is required to ensure that parties do not circumvent the transparency requirements of PPERA by benefiting from funding by associated campaigning groups.

2. Reporting and recording of donations to candidates

The Electoral Commission also give guidance on reporting and recording donations to candidates:

Candidates may only accept donations of more than £50 from **permissible donors**. Permissible donors are defined under the RPA as:

an **individual registered on a UK electoral register**

a UK registered **political party**

a UK registered **company**

a UK registered **trade union**

a UK registered **building society**

a UK registered **limited liability partnership**

a UK registered **friendly/building society**

a **UK based unincorporated association**

Candidates are prohibited from accepting donations of more than £50 other than from the above sources. Any donations of more than £50 from impermissible donors must be returned, and donations from unidentifiable donors cannot be accepted.

The RPA provides a number of examples as to what counts as a donation. These include:

any gift (including bequests) of money or other property
sponsorship

any money spent (other than by the candidate, election agent or any sub-agent) in paying any election expenses

any money, goods or services provided to the candidate or his election agent, other than on normal commercial terms

Candidates and their election agents are required to keep a record of all donations received to enable them to make a full statement of donations in their election expenses return. The statement of donations included in a candidate's election expenses return should include details of:

all accepted donations of over £50

any impermissible donations received

any donations received from unidentifiable sources⁵²

⁵⁰ PPERA, Schedule 7, para 10(2). Keith Ewing notes that very few Members Associations have declared donations of over £5,000. *The Cost of Democracy* p97 See also "Who is really paying to turn a Victorian manor into a new Tory nerve centre?" 30 September 2006 *Guardian*

⁵¹ The Electoral Commission guidance is at http://www.electoralcommission.org.uk/files/dms/Guidance-Third-Parties-Expenditure_23684-11271_E_N_S_W_.pdf

⁵² *Donations to Candidates* Electoral Commission <http://www.electoralcommission.org.uk/regulatory-issues/candglalondoncontrol.cfm> More detailed advice is available *Election expenditure and donations: guidance for candidates and agents* Electoral Commission at

Finally, holders of elected offices were required to register donations under PPERA. However, following a report from the Standards and Privileges Committee on the simplification of donation reporting requirements on 11 January 2006,⁵³ the *Electoral Administration Act 2006* was amended at Commons report stage. The new section removes the requirement for MPs to report donations to the Electoral Commission, whether those donations were received in their role as an MP or in their role as a member of a registered political party. So there will be no longer duplication between the register maintained by the Electoral Commission and that maintained by the Commissioner for Parliamentary Standards.

On introducing the new clause, the junior minister, David Cairns, explained that for technical reasons the Electoral Commission would still be required to record details of such donations on its register:

The commission will also continue to monitor compliance with the regulatory system, as set out in the 2000 Act. However, it will have no role to play on the non-reporting of donations, and the Register of Members' Interests will retain its functions on that issue. The provision will commence only when the Electoral Commission is content that the House authorities have sufficient arrangements in place to ensure that the commission can still maintain an accurate register, but we do not think that that will be a problem.⁵⁴

During Lords third reading of the bill, on 7 June 2006, further amendments were made to remove the requirement of dual reporting of donations for MPs, MEPs, Welsh Assembly Members, Welsh and English local councillors, Members of the Scottish Parliament and Scottish local councillors who are members of a political party.

B. Reporting of donations

The report on party funding from the Constitutional Affairs Select Committee (CASC) in December 2006 noted as follows:

16. Despite the requirement under PPERA 2000 that all political parties must submit annual accounts to the Electoral Commission, it has remained difficult to obtain a precise picture of the total income and expenditure of political parties. The Electoral Commission does not at present provide significant analysis of the statistics it collects. This is required, because partly the internal structures of all the main political parties incorporate a degree of local autonomy in both fundraising and spending and for the distribution of funds at the local and national level.^[29] While PPERA brought a degree of regulation, transparency and conformity to the way party accounts are laid and scrutinized, it did not alter the different historical pattern of how the main parties in the British political system have raised funds. Indeed, any proposals for further reform to the system of party funding in the UK will eventually meet the obstacle of the plethora of historical traditions and relationships in the funding of political parties in the UK.

http://www.electoralcommission.org.uk/files/dms/NEWGuidanceforcandandagentsexpanddonations_16452-10977_E_N_S_W_.pdf

⁵³ HC 807, 2005-06. Available at

<http://www.publications.parliament.uk/pa/cm200506/cmselect/cmstnprv/807/80702.htm>

⁵⁴ HC Deb 11 January 2006 Vol 441c348

17. In the period 2001-2005 the Electoral Commission reported that the main parties income figures were as indicated in the table below. [This income is made up of several sources].

	2001	2002	2003	2004	2005
Labour	£35.5m	£21.2	£26.9m	£29.3m	£35.3m[]
Conservative	£23.3m	£ 9.9m	£13.6m	£20.0m	£24.2m]
Liberal Democrats	£ 5.0m	£ 3.7m	£ 4.1m.	£ 5.1m	£8.6m[

The CASC report also noted that a lack of common accounting practices made it difficult to compile a comprehensive account of the income profiles of the political parties and recommended that the Government ensure that the Commission produce more digestible thorough and transparent indications of the private and public sources of party income.⁵⁵

The statutory requirements for the submission of accounts under PPERA are set out on the Electoral Commission website⁵⁶. This states the need for each party to develop a common format of accounts to facilitate comparisons. The statement of accounts is designed to bring together other information already available on parties' financial activities. The statement of accounts for each party are available there.⁵⁷ Although the Commission has power under section 42 of PPERA to prescribe the form and content of accounts in regulations, the Commission chose to work with the parties to agree a set of guidance notes to be followed by the parties.⁵⁸

The Interim Report from the Phillips Inquiry, published in October 2006, also produced a table of income and expenditure for political parties in 2002-2005, compiled from statements of accounts submitted to the Electoral Commission and sorted by 2005 expenditure. Again there are problems in producing comparative data, given that party structures differ and no one standard statement of accounts is produced. 2005 was an election year, where income and expenditure tend to peak, before subsiding once the electoral cycle is over. However, the advent of devolution has meant that parties are now required to fight more elections in the various constituent parts of the UK.

The Committee on Standards in Public Life (CSPL) has suggested in its report on the Commission, published in January 2007, that the Electoral Commission and the Government interpreted the duty of the Commission to monitor the extent to which

⁵⁵ *Party Funding* HC 163 2006-07 Constitutional Affairs Committee, Chapter 2

⁵⁶ at <http://www.electoralcommission.org.uk/regulatory-issues/legsoapolparty.cfm>

⁵⁷ From December 2002 and December 2003 at <http://www.electoralcommission.gov.uk/regulatory-issues/SOARCHIVE.cfm> and for December 2004 and December 2005 at <http://www.electoralcommission.gov.uk/regulatory-issues/soayearend2002.cfm> Appendix 2 of Keith Ewing's *The Cost of Democracy* sets out the annual accounts of Conservative, Labour and Liberal Democrat parties for 2004 and 2005

⁵⁸ For major parties, the notes are at http://www.electoralcommission.org.uk/files/dms/ReviewofStatementsofAccountsconspaperF_14097-10670_E_N_S_W_.pdf

parties complied with PPERA in an overly passive manner, and has recommended that the regulatory role of the Commission be strengthened.⁵⁹ The report stated:

Uncertainty over its statutory role (in PPERA) combined with a degree of timidity, has led to an administrative rather than a proactive risk-based regulatory approach. This has contributed to what the Committee regards as regulatory failure and has undermined the confidence of the public and political parties in the regulatory framework.⁶⁰

In its response to the CSPL report, the Electoral Commission has announced initiatives to strengthen its regulatory work.⁶¹

C. Sources of donations to parties

The Constitutional Affairs Committee report drew on the work of Keith Ewing and Navraj Singh Ghaleigh *Donations to Political Parties in the UK*⁶² to establish donation income for the major parties:

28. The Labour party was the largest single beneficiary of donation income, which totalled £65,980,846 during this period: 64% of this donation income was provided by trade unions. Ewing and Ghaleigh found that 37 donors provided a further 25% of the Labour party's total donation income.^[50] Given the constitutional position of the trade unions within the Labour party there is a question as to whether trade union funding should be categorized as donation or as a membership/affiliation fee. However, regardless of its classification, there has been a decline in trade union income as a proportion of the Labour party's overall income. The Lord Chancellor and Secretary of State for Constitutional Affairs, told us that donations from the trade unions currently provided 25-26% of the Labour party's total income, compared with 92% thirty years ago.^[51] However, other estimates suggested that trade union income to the Labour party still accounted for over 64% of its total donation income.^[52]

29. Historically, the Conservative party has relied on local constituency associations, individual and corporate donations for much of its income. Again, between April 2001 and May 2005, the Conservative party received a larger average of individual donations than the other parties, with high value donations (over £100,000 including aggregated donations) accounting for 43% of its donation income. A further 29% of its income came from state funding in the form of Short money and Policy Development Grants.^[53]

30. The Liberal Democrats have never received funding on the scale of the Labour and Conservative parties, but in recent years the party has received

⁵⁹ *Review of the Electoral Commission Eleventh Report* January 2007 Committee on Standards in Public Life Cm 7006, paras 2.18-2.26

⁶⁰ Ibid Executive Summary and List of Recommendations

⁶¹ "Electoral Commission sets out agenda to enforce democratic standards" 19 March 2007 *Our plans for the future* at http://www.electoralcommission.org.uk/files/dms/Our-Plans-Final_25068-18595_E_N_S_W_.pdf

⁶² *Election Law Journal* Jan 2007, Vol. 6, No. 1: 56-71 and at http://democratic.audit.anu.edu.au/papers/20060321_fin_ewing.pdf See also www.law.ed.ac.uk/file_download/publications/2_31_thecostofgivingandtaking.pdf Keith Ewing has also published this information subsequently in *The Cost of Democracy: party funding in Modern British Politics* 2007, Chapter 7

significant and regular funding from a few sources, notably the Rowntree Reform Trust. Ewing and Ghaleigh stated that until just before the 2005 General Election these sources accounted for 38% of Liberal Democrat funds, but a series of large donations from one source radically altered their income profile^[54] and, in 2005, 25% of the Liberal Democrats donation income came from these sources. Three companies accounted for more than 30% of all donation income and a further 44% of all donation income came from private sources.^[55]

31. As the figures above illustrate, a significant proportion of these donations were large donations. It was pointed out to us in private session that all organisations, whether charities, political parties or others which are engaged in fundraising, find it much more efficient and cost effective to target a few large donors, rather than to pursue a wide range of donors of small sums. This situation makes it inevitable that large donations be targeted, unless specific steps were taken to discourage this.^[56]⁶³

The trend towards large donations was also noted by the Electoral Commission in its 2003-4 report on party funding (see below). Professor Keith Ewing has produced further data on donations to political parties by donor category, including high value donations by individuals, companies and individual trade unions.⁶⁴

The Electoral Commission website gives details of the donations made each quarter⁶⁵ The most recent quarterly report was released on 26 February 2007. The Commission press notice commented:

The Commission's register of donations and loans for quarter four 2006 shows:
17 political parties received donations amounting to £11.9 million
as of 31 December, eight parties had outstanding borrowing of £60.7 million between them
£46 million of this borrowing was made up of loans (this figure is based on the original amounts borrowed and does not reflect interim repayments)⁶⁶

The BBC reported:

The Conservative Party received almost £5.29m in donations in the final quarter of last year - more than those of Labour and the Lib Dems combined. Labour attracted £2.64m - about half the Tory figure - and the Lib Dems £2.32m.⁶⁷

D. Trade union affiliations and party structure

Much of the controversy relating to a possible cap on donations is related to the impact on trade union funding of the Labour party. There are two different aspects: the payment of affiliation fees and donations from trade unions. Background to this topic is given in Library Standard Note no 597 *Trade Union political funds and levy* (11 October 2004).⁶⁸

⁶³ *Party Funding* HC 163 2006-07 paras 28-32

⁶⁴ *The Cost of Democracy: Party Funding in Modern British Politics* Keith Ewing 2007, Tables 5.5. 5.6, Tables 6.1-6.6

⁶⁵ It is available at <http://www.electoralcommission.org.uk/regulatory-issues/regdpoliticalparties.cfm>

⁶⁶ "New figures on political parties donations and borrowing" 26 February 2007 *Electoral Commission*

⁶⁷ "Tories' donations outstrip rivals" 27 February 2007 *BBC News*

⁶⁸ Available on the parliamentary intranet

Under legislation introduced in 1984, unions must ballot their members every ten years on the continuance of political funds. Individual union members can contract out of paying the political levy. Those who remain contracted-in cannot decide on the use of their individual contribution. The use of political funds (including whether to contribute to any political party) is a matter of union policy, subject to approval at the union's annual conference. Conservative party sources continue to argue that the extent of trade union funding of the Labour party leads them to expect access and influence, while the views of individual trade union members are not given due weight.⁶⁹

The Labour party's structure is unusual, in that it includes as members organisations which themselves have individual members.⁷⁰ As well as affiliated trades unions, a number of parties and societies are also affiliated, including the Co-operative party and the Fabian Society. Labour has argued that regulation of party funding should take account of its unique structure.⁷¹ Under PPERA, affiliation fees are treated as donations to a political party and are reported to the Electoral Commission; that is, payments over £1,000 at a local level and £5,000 at a national level should be reported.

The Interim report of the Phillips inquiry noted that "the latest figures for Great Britain show that approximately 10 per cent of trade union members opted out of paying a contribution to the political fund in 2006. Of the affiliated trade unions, the figure is very slightly higher. In Northern Ireland, trade union members opt in to paying these contributions... There are 201 trade unions. Of these, 29 have political funds. 17 of these unions with political funds are affiliated to the Labour party. These are estimated to supply about two thirds of the Labour party's donation income.⁷² The latest figures show the combined balance of all political funds on 31 December 2004 was £13.4 million." The Interim Report provides a flowchart illustrating how the political funds in the affiliated trade unions operate.⁷³ Professor Keith Ewing (who has been associated with the trade union movement in the debate on party funding) has calculated that, of the £82 million donated to the Labour party between 2001-2006, £51.9m was by way of affiliation fees or other donations from trade unions, accounting for 63.3 per cent of donation income.⁷⁴ However, the historic reliance on trade union funding has been declining with the fall in trade union membership.

Although the Conservative and Liberal Democrat parties do not have such a complex structure as Labour, there are other significant differences in structure. The Liberal Democrats are a federal party and separate out the accounts of the Federal Party outside Parliament from the accounts of the English party and the accounts of the POLD, the Parliamentary Office of the Liberal Democrats. The Conservatives have more local

⁶⁹ See for example, Andrew Tyrie, *Clean Politics* 2006 p3

⁷⁰ *The Cost of Democracy: party funding in modern British politics* Keith Ewing 2007, Appendix 3 sets out the structure of the Labour party in greater detail

⁷¹ As Keith Ewing has pointed out, examples of the Labour party model can be found in Australia, Ireland and New Zealand. *The Cost of Democracy: party funding in modern British politics* 2007, Chapter 2

⁷² Keith Ewing, *The Cost of Democracy* p48

⁷³ *The Review of the Funding of Political Parties: An Interim Assessment* October 2006 Annex H

⁷⁴ Keith Ewing *The Cost of Democracy* p125

accounting units (constituency party or association) than the other two major parties with 683 in all.⁷⁵

Labour party sources have expressed concern about the manner in which donors to the Conservative party have channelled funds to key marginal constituencies. Intermediary organisations, such as the Midlands Industrial Council and Bearwood Corporate Services Ltd, have made large donations at central and local level.⁷⁶ There have been suggestions that the changes made in PPERA to the triggering of candidate's expenses in a poll have led to more funding being applied at local level, before the formal declaration of candidature.⁷⁷

IV Loans

There were press reports before the last general election that political parties had been receiving funding in the form of loans rather than donations. An article in the *Guardian* on 21 April 2005 reported:

The Electoral Commission is to investigate political parties receiving secret monies in the form of private loans rather than donations, evading the need to declare them publicly. The Times newspaper today revealed that the Conservatives had received "a number" of £1m loans from wealthy supporters, which were not disclosed as donations. Electoral law states that all donations over £5,000 have to be made public. But the situation with loans is more opaque. A loan need only be disclosed if it is given on preferential terms - for example at a lower rate or over a longer term than is commercially available. In these cases, the extra interest which would have been paid on a commercial loan must be declared as a donation. A loophole exists, however, as loans given at the market rate are not considered donations - a secret and potentially substantial revenue stream if the amount lent runs into the millions.

The Tories do not dispute the factual accuracy of the story, but deny any wrongdoing...The Labour party refused to comment, beyond saying it complied with the Electoral Commission rules itself.

The Electoral Commission said it would review the issue in its statutory review of the election. This review was published on 29 March 2006 and stated that 'if a party were accepting loans that it expected to be converted to donations in order to avoid reporting requirements, the Commission would consider this to be a breach of the spirit of the controls'.⁷⁸

⁷⁵ Keith Ewing *The Cost of Democracy* p95

⁷⁶ 20 November 2005 *Sunday Times*. See evidence from Peter Bradley to Constitutional Affairs Select Committee printed in HC 163-II 2006-7, and see Standards and Privileges Committee *Conduct of Mr John Horam* HC 420 2005-6 which investigated allegations that sponsorship from Bearwood Corporate Services Ltd had not been registered in the Register of Members' Interests (although registered with the Electoral Commission)

⁷⁷ For changes in PPERA see Library Research Paper 05/65 *The Electoral Administration Bill 2005-6*, Part VIII. For arguments as to the effects, see Keith Ewing, *The Cost of Democracy* p167-8

⁷⁸ *Election 2005: Campaign Spending: The UK Parliamentary Election* March 2006 Electoral Commission, para 2.27

The issue of loans to political parties was raised again in the press when three Labour Party nominations for peerages were blocked by the House of Lords Appointments Commission and it was reported that the nominees had made loans to the party which had not been disclosed to the Commission:

The House of Lords Appointments Commission is now engaged in an unprecedented stand-off, having refused to ratify three Labour nominees for the Upper House. Downing Street, urged on by Labour Party fundraisers who fear that potential backers will be scared off by the prospect of being blocked, is in talks with the commission to try to overturn its objections. The Times has learnt that relations have been soured further because the Labour leadership failed to disclose to the commission the loan from Sir David Garrard, 67, a property developer.

The body, set up by Tony Blair in 2000 to vet all Lords nominees so that they meet "the highest standards of propriety", requires all political parties to declare any financial arrangements that are relevant to peerage nominations.

The Labour Party circumvented electoral law which states that anyone who gives £5,000 or more has to be identified. As the money from Sir David was in the form of a loan, at an unspecified rate of interest, but below that charged by high street banks, it is regarded as a commercial transaction and therefore does not have to be declared. In a statement to The Times, the commission said of the Garrard loan: "In vetting for propriety the commission would expect to be briefed on any relationship that could be seen to influence an individual's recommendation."⁷⁹

For further information about the allocation of honours see Library Standard Note 2832 *The Honours System*.

The *Financial Times* reported on 13 March 2006 that the Electoral Commission had again stated that it would comment on the issue when its report on the general election was published but added that the Commission's chairman, Sam Younger, 'believed the practice was against the spirit of the disclosure rules.'⁸⁰

On 14 March 2006 the *Times* reported that the Liberal Democrats had accepted loans before the last election but that the names of the lenders had been disclosed in their return to the Electoral Commission.⁸¹

The controversy intensified on 15 March 2006 when the Labour Party treasurer, Jack Dromey, said that neither he, nor the chairman of the Labour Party's National Executive Committee, were aware of any loans made to the party before the general election by the three businessmen who had been nominated for peerages, Chai Patel, Brian Townsley and Sir David Garrard:

"Loans were taken out in secret in 2005. The elected chairman [Sir Jeremy Beecham] and I, as the treasurer, knew nothing about it. That was absolutely

⁷⁹ Lords nominees are blocked in Labour loan row, *Times*, 10 March 2006

⁸⁰ Elections watchdog could seek stricter laws on donations, *Financial Times*, 13 March 2006

⁸¹ Lib Dems accept six-figure loans from supporters, *Times*, 14 March 2006

wrong. It should never happen. I intend to get to the bottom of what did happen," said Mr Dromey.....he gave a pledge to ensure that the National Executive Committee of the Labour Party and the new general secretary Peter Watt would "put right those wrongs".⁸²

The following day the Labour Party announced that it would declare all future commercial loans and the Prime Minister announced that an independent figure would be appointed to start talks between the parties on party funding.⁸³ On 18 March the *Times* reported that the Conservative Party had secured loans of at least £20 million:

The Tory party averted one of the most serious financial plights in its history by securing secret loans of at least £20 million from rich benefactors...Conservative Central Office this week ordered its MPs not to go on the attack over the controversy. The sheer scale of its loans, amassed in the run-up to last year's general election, explains why. Details of the loans, but not the lenders, will be contained in the party's annual report, which will be published in the summer. They will gloss over a deficit of about £12 million last year, one of the biggest on record for the Tory party. Michael Howard plunged the party deep into debt by spending £ 17 million on the election campaign in addition to the £14 million annual running costs last year when it raised just under £ 20 million in conventional donations. The loans, secured by Jonathan Marland, the Tory party treasurer, were spread among a dozen supporters. Lord Ashcroft, the former Tory party treasurer, has declared loans of £ 3.5 million. The *Times* disclosed last year that Lord Laidlaw of Rothiemay, who sold his conference events company last year for £ 768 million, was a second big lender. The Tory party was unable or unwilling yesterday to disclose the identities of the lenders or whether any of them had been, or would be, nominated for peerages.⁸⁴

The *Times* reported on 20 March 2006 that 'it is now clear that in the dash to spend up to the legal limit of £20 million, both main parties accepted huge soft loans to fund the most expensive election in British history.'⁸⁵ Adding that the Prime Minister had overturned the Labour party's policy of refusing such loans the *Times* put forward reasons for this change of policy:

The first was evidence that both the Conservatives and the Liberal Democrats were already circumventing rules introduced in 2001 that every donor of more than £5,000 should have their name published. This did not apply to loans.

The second was that banks and other City institutions would not agree to any further commercial loans because the party's finances were too precarious. There was another key pressure driving the change of policy: donors who were fed up with media attention and wanted the anonymity brought by a "commercial loan".⁸⁶

On 20 March 2006 Lord Falconer announced that the Government intended to legislate to make it compulsory for all political parties to disclose any loans they receive and that

⁸² Labour treasurer claims he did not know of party loans, *Independent*, 16 March 2006

⁸³ Blair battles to shake off sleaze claims, *Financial Times*, 17 March 2006

⁸⁴ Loans to Tory party dwarf the £ 14m lent to Labour, *Times*, 18 March 2006

⁸⁵ Blair bypassed committee to accept secret election loans, *Times*, 20 March 2006

⁸⁶ *ibid*

this would be done by moving amendments to the *Electoral Administration Bill* currently before the House of Lords. The next day the Labour Party named the twelve businessmen who had given the party almost £14 million in loans before the last election.⁸⁷

The Electoral Commission sent a letter to all the registered treasurers of the main political parties on 21 March 2006 asking them to ensure they were entirely satisfied that any loans that the party had received and not so far reported were on fully commercial terms and that they involved no benefit to the party which should have been declared and had not been declared.⁸⁸ Responses to the letter may be found on the Commission website (see below).

The Public Administration Select Committee (PASC) announced on 15 March 2006 that it would conduct a short inquiry into whether the scrutiny system for honours and political peerages was working.⁸⁹ Subsequently it issued a special report on 27 March 2006 which stated that to avoid any risk of prejudicing future court proceedings, the Committee would delay the taking of oral evidence.⁹⁰ A police investigation had begun, following allegations from the SNP and Plaid Cymru that an offence had been committed. The Third Special Report from PASC gives further details:

2. On 21 March it was announced that the Metropolitan Police were to conduct an inquiry into allegations that offences had been committed under the Honours (Prevention of Abuses) Act 1925. Last week, Deputy Assistant Commissioner John Yates contacted our chairman to urge that our inquiry be postponed, because "many of the individuals that you wished to hear evidence from may be the very people that could be central to our criminal inquiry, either as witnesses or suspects." Today (Monday 27 March), he sent a letter amplifying the police's concerns. He suggested that corruption charges could also be involved. This evening, we met him to discuss the implications of continuing the inquiry.⁹¹

The Electoral Commission subsequently announced on 6 April 2006 the suspension of their enquiry into loans. Further details are set out in a special page on their website.⁹²

A. The Electoral Administration Act 2006

In his announcement on 20 March 2006 that the Government intended to move amendments to the *Electoral Administration Bill*, Lord Falconer said:

This issue affects all political parties and I hope that the Government, political parties and the Electoral Commission will be able to work constructively together to find a solution which allows for transparency and fairness. My intention is to

⁸⁷ Labour seeks to damp down scandal by naming sources of £13.9m loans, *Guardian*, 21 March 2006

⁸⁸ Available at

http://www.electoralcommission.org.uk/files/dms/LoansLetter20306_20312-14948_E_N_S_W_.pdf

⁸⁹ "PASC to probe scrutiny of political honours" PASC PN 15 March 2006. Further information on the honours system is given in Library Standard Note no 2832 *Honours*

⁹⁰ HC 1020 2005-6

⁹¹ HC 1020 2005-6

⁹² <http://www.electoralcommission.gov.uk/regulatory-issues/loans.cfm>

achieve as great a transparency for loans made to political parties as applies to donations under the regime in the *Political Parties, Elections and Referendums Act 2000*.⁹³

A written ministerial statement was issued on 27 April giving further details about the amendments.⁹⁴ Lord Falconer said that the amendments made provision for loans to political parties ‘to be governed by a similar regime of transparency and permissibility to that set out for donations to parties in the *Political Parties, Elections and Referendums Act 2000*.’ The main features of the scheme are as follows:

1. Details of all loans to a political party of over £5,000 (and thereafter each additional £1,000 from the same lender) will be required to be reported to the Electoral Commission.
2. The reports are to be made at quarterly intervals, and weekly during the period before a general election.
3. A party would only be permitted to take out loans from the same sources as are permitted to donate to a political party.
4. Details of all loans existing at the time that the provisions come into force will have to be reported to ensure full transparency, but loans existing at that date would not be subject to the permissibility requirements.

The amendment provides for the provisions to be brought into force by order. The Government consider it important that the new regime should be brought into force as soon as possible and will seek to take steps to ensure that that is the case.⁹⁵

In an interview with the *Independent* on the same day Lord Falconer said he was acting ahead of the Phillips inquiry in an attempt to rebuild trust in the system of party funding.⁹⁶ The new clause on the regulation of loans and related transactions was added to the Bill on 8 May 2006 in Committee (on Recommitment) in the House of Lords.⁹⁷

B. Further developments

A full chronology is given in Library Standard Note 3960 *Loans to Political Parties*. Media interest in the cash for honours investigation increased dramatically with the arrest and questioning of Lord Levy, the Labour Party’s fundraiser, on 12 July 2006.⁹⁸

Michael Howard, the former leader of the Conservative Party, was interviewed by police investigating nominations for peerages on 23 October 2006.⁹⁹ The *Daily Telegraph*

⁹³ HL Deb 20 March 2006 c12

⁹⁴ HC Deb 27 April 2006 c51WS

⁹⁵ *ibid*

⁹⁶ Parties forced to disclose all loans in wake of cash for honours affair, *Independent*, 27 April 2006

⁹⁷ HL Deb 8 May 2006 Vol 681 c733-66

⁹⁸ Arrest brings ‘cash for honours’ row to No 10’s doorstep, *Times*, 13 July 2006

⁹⁹ Howard questioned by police, *Daily Telegraph*, 24 October 2006

disclosed that the treasurers of the Conservative Party raised £4 million in loans in 2003 and £16 million in loans to fund the 2005 general election.¹⁰⁰ Lord Rennard, the Liberal Democrats' Chief Executive, was interviewed by City of London police regarding a £2.4million political donation received from the company of Michael Brown on 21 November.¹⁰¹

On 16 November 2006, the Public Administration Select Committee (PASC) published a letter from John Yates, Temporary Assistant Commissioner, updating the Committee on the progress of the investigation into possible breaches of the *Honours (Prevention of Abuse) Act 1925* and PPERA 2000. Yates said that his team had conducted 90 interviews to date and that the final stages of the investigation had been reached: he hoped to forward the file to the Crown Prosecution Service in January 2007.¹⁰² The PASC received a further letter from Mr Yates on 9 March 2007 in which he stated that the investigation was on-going and there was no target date for completion.¹⁰³

Media interest intensified when the Prime Minister was interviewed by police at 10 Downing Street 14 December 2006 in relation to the 'cash for honours inquiry'¹⁰⁴ and when Ruth Turner, the director of government relations at Downing Street, was arrested under caution and bailed without charge after questioning on 19 January 2007.¹⁰⁵ Further questioning of the Prime Minister,¹⁰⁶ Lord Levy and Ruth Turner¹⁰⁷ continued, with no indication of when the investigation would conclude.

The publicity about loans to parties highlighted the continuing need of parties to secure new sources of funding. This Paper reviews the most recent three reviews of the issue, and summarises the recommendations made.

V The Electoral Commission Review of Party Funding

In May 2003, the Electoral Commission announced a review of the funding of political parties. It published a paper inviting views on the funding of political parties and the capping of political donations.¹⁰⁸ It described the scope and objectives of the review:

Scope of the review

Our review will focus largely on those parties which have elected representatives above local government level. Nonetheless the exercise will also examine the

¹⁰⁰ Lord Levy 'got the idea for secret loans from the Conservatives', *Daily Telegraph*, 10 November 2006

¹⁰¹ "Detectives interview Lib Dem chief over £2.4m party donation", *Times*, 21 November 2006

¹⁰² Available at

http://www.parliament.uk/parliamentary_committees/public_administration_select_committee/pasc0607p_n01.cfm

¹⁰³ Letter to the Committee from LC Yates 9 March 2007

<http://www.parliament.uk/documents/upload/LetterACYates9Mar2007.pdf>

¹⁰⁴ "Blair Questioned by police over loans for peerages", *Times*, 15 December 2006

¹⁰⁵ "Top Blair aide arrested over 'cash for honours'", *Independent*, 20 January 2007

¹⁰⁶ "How the interview was kept secret for six days", *Independent*, 2 February 2007

¹⁰⁷ "No 10 aide questioned for third time over cash-for-honours", *Financial Times*, 22 February 2007

¹⁰⁸ Electoral Commission, *The funding of political parties*, Issues Paper, May 2003.

issues relating to smaller parties seeking to establish themselves as major players.

The project will not examine the operation of the donation control regime which is the subject of a separate Commission review focusing on the PPERA.

Objectives

The principal objectives of our review are to:

- Examine and seek to build on previous reviews of the funding of political parties.
- Establish the extent of current public subvention to political parties within the UK.
- Examine the various main methods in use in other countries for providing support to political parties with an assessment of the perceived benefits and disadvantages from different viewpoints.
- Determine whether or not there is a case for increased public subvention and, if so, what form it should take.
- Consider the case for capping political donations, particularly in the light of any extension of public funding.
- Produce recommendations.

On 1 March 2004, the Commission began the final stage of the consultation, hearing evidence from political parties, trade unions, major donors, think tanks and others. Hearings took place in London, Belfast, Edinburgh, Manchester, and Cardiff. The hearings were open to the public and included evidence from the Labour Party, Conservative Party and the Liberal Democrats, and other parties and bodies including major individual donors. The Commission also organised a public debate at the House of Commons, with contributions from Andrew Tyrie MP and Tom Watson MP.¹⁰⁹

Sam Younger, the chairman of the Electoral Commission expressed a “personal view” that “big donations to parties should be capped at perhaps £10,000. However, he accepted that would mean increasing state funding for politics”.¹¹⁰

A. Submissions to the Review

The Independent reported on the evidence that political parties gave to the Electoral Commission’s review:

Labour called yesterday for Britain’s political parties to receive millions of pounds of state funding but tried to reassure the trade unions that the plan would not weaken their historic links with the party.

Labour was giving evidence to an inquiry into political funding being held by the Electoral Commission, which will issue a report on the issue this summer. Tony Blair has been converted to the idea of taxpayer funding for parties but fears it will be unpopular. He hopes the commission will provide cover for the move, which

¹⁰⁹ Electoral Commission News Release, “Parties and donors prepare to give evidence on funding of political parties”, 26 February 2004, <http://www.electoralcommission.org.uk/media-centre/newsreleasereviews.cfm/news/291>

¹¹⁰ Tom Baldwin, “Electoral referee keeping his eye on the ball”, *The Times*, 24 April 2004

would make Labour less dependent on big donations from millionaire backers....

..

Chris Lennie, Labour's deputy general secretary, told the commission that the party opposed "wholesale state funding" but said there was a case for further public support on top of existing aid such as free postage at elections and political broadcasts. The money could be used for education and training for candidates, policy development, complying with new legislation and communicating with party supporters. It would not fund advertising campaigns.

Labour believed there was a case for support for the operations in parliament of the governing party, along the lines of the "Short money" given to the opposition parties, he said. Labour is not proposing a figure, but it could run to several million pounds.

Labour would oppose changes that threatened its historic relationship with the unions, such as a "cap" on donations, which the commission is considering, Mr Lennie said. "They are constitutionally written into the party rules at all levels," he said...

Gavin Barwell, Tory director of operations, told the commission that public funding would be a "retrograde step". "There is no support for an extension of state funding," he said.

Stuart Wheeler, founder of the IG spread betting group, a major donor to the Tories, opposed a cap on gifts to parties but called for big donors to make a public declaration on a register similar to the one that records MPs' interests.

Lord Rennard, the Liberal Democrats' chief executive, argued that donations should be capped to prevent wealthy donors buying influence. "It is wrong that millions of pounds can buy millions of votes." His party wants to see state funding financed by a 10 per cent cut in the Government's pounds 200m-a-year advertising budget.¹¹¹

B. Other debate

Whilst the Electoral Commission's review was underway arguments for and against increased public funding of political parties surfaced in parliamentary questions.¹¹² and a Westminster Hall debate. On 21 July 2004, Matthew Taylor, a Liberal Democrat, opened a debate there on the funding of political parties. He expressed concern that extreme parties could legitimately receive large amounts of money from individual donors. He called for limits on donations with linked match funding.¹¹³

Speaking for the Conservative Party, Jonathan Djanogly argued that:

¹¹¹ Andrew Grice, "Labour backs limited public funding for political parties", *The Independent*, 3 March 2004

¹¹² HC Deb 13 January 2004 cc662-663; HC Deb 27 April 2004 c747; Matthew Taylor reiterated his arguments in an article in *Parliamentary Affairs*: Matthew Taylor, "Can funding reform stir the party animal?", *Parliamentary Affairs*, Vol 58, No 3, July 2005, pp621-626

¹¹³ HC Deb 21 July 2004 c66WH

... we do not accept that the Government can justify spending even more public money on politicians, when political parties already receive significant public money, as hon. Members have made clear. ... I suggest that increasing the dependence and reliance of political parties on the state could further distance politicians from the electorate because of the ending of the need to contact people to seek non-state funding.

There is no great public demand for an increase in state funding for political parties or for restricting the amount of private donations. In fact, the opposite is true. I am confident that the taxpayer's view is that public money would be put to better use by investing it in our public services rather than our politicians.¹¹⁴

In responding to the debate, Christopher Leslie, a junior minister, commented that the Electoral Commission's enquiry was ongoing and that the Government needed "to wait and see what the commission's views are".¹¹⁵

C. Recommendations

The Electoral Commission published a report and recommendations in December 2004.¹¹⁶ As well as covering its principal objectives, it reviewed the income and expenditure of all parties represented in the House of Commons. It also examined the national and candidate spending limits but these subjects are not treated in depth in this paper.

The principal recommendations were as follows:

- A reduction in the national spending limit for a Westminster general election from £20m to £15m
- A significant increase in candidate spending limits to encourage more activity at the local level, with an increase in transparency
- No cap on donations for the moment, but if caps were introduced, the level of £10,000 per donor per year would be appropriate
- A modest expansion of the policy development grant scheme to £3m, and eligibility extended to all parties with two seats or more in the European Parliament or the devolved assemblies/parliaments
- A system of income tax relief for donations to eligible political parties up to the value of £200, with an equivalent scheme for non-taxpayers
- An extension of the free post system to local elections
- An acceptance that any further significant increase in public funding would be contingent on acceptance of a cap on donations.¹¹⁷

The Electoral Commission reviewed the operation of the registration of donations provided for in PPERA. It found that between 2001 and 2003, the vast majority of

¹¹⁴ HC Deb 21 July 2004 c81WH-82WH

¹¹⁵ HC Deb 21 July 2004 c87WH

¹¹⁶ Electoral Commission, *The funding of political parties*, December 2004, http://www.electoralcommission.org.uk/files/dms/partyfundingFINALproofs_15301-11394_ENSW.pdf

¹¹⁷ *Ibid*, *Executive Summary*

donations were under £25,000 but accounted for between 25 per cent and 30 per cent of the value of donations.¹¹⁸ The Commission also considered the impact of the various suggested caps on the total value of donations the parties would have received between 2001 and 2003, if the limits had been in place:

... Between 2001 and 2003 the total value of cash donations, noncash donations and donations from exempt trusts was just under £68m. Had donations been capped at £5,000 during this period, political parties would have had to reject 3,002 donations totalling just under £60m, leaving just under £8m in reported donation income.

A similar situation would have arisen had a capping threshold been set at £10,000. Under this scenario, 2,940 donations totalling almost £56m would have been disallowed, leaving the parties with approximately £12m in reported donation income.

If the capping threshold were set even higher at £50,000 political parties would, between 2001 and 2003, have refused 2,747 donations worth £46m in total. The total amount received by parties in donations would have been almost £22m.¹¹⁹

It reviewed the arguments for and against a limit (or cap) on donations. The arguments in favour of such a cap included:

- “it would be the most effective method of removing the perception or suspicion that private interests can buy influence over party or Government policy”;
- the “current system provided the main beneficiaries ... with an unfair advantage over the competitors which distorted the competition”; and
- if a cap were combined with a system of match funding or tax relief, parties would be encouraged to expand their support base.¹²⁰

Arguments against limits included:

- “allowing individuals to make unlimited donations and political parties to compete freely for them is a sign of a healthy democracy”;
- restrictions could lead to elaborate forms of evasion – e.g. one donor making donations via friends etc.; and
- constitutional or membership structures of political parties could be adversely affected.¹²¹

¹¹⁸ Ibid paras 5.14-5.32

¹¹⁹ Electoral Commission, *The funding of political parties*, December 2004, paras 5.51-5.53

¹²⁰ Ibid, paras 5.34-5.36

¹²¹ Ibid, December 2004, paras 5.38-5.43

Respondents to the Electoral Commission's consultation, who proposed a cap, suggested a range of limits. Some called for caps of £5,000; others for caps of between £5,000 and £10,000; and, in the case of the Liberal Democrats, a cap of £50,000.¹²² A cap on the size of donations at £5,000 had previously been recommended by the IPPR when it examined party funding in 2002.¹²³

The Electoral Commission also referred to proposals for new forms of funding, including match funding. This term refers to schemes where the state contributes a sum of money to a political party in proportion to the size of a donation made by a private citizen.¹²⁴ A number of organisations have advocating experiments in match funding in the UK.¹²⁵ The Electoral Commission preferred tax relief schemes to match funding, because of match funding was more administratively complex.

Reaction to the Electoral Commission's review was very muted. The Government did not produce a formal response. In the House of Lords, on 24 January 2005, Lord Beaumont of Whitley, the sole representative of the Green Party at Westminster, asked whether the Government intended to implement the Electoral Commission's recommendation to increase the extent of policy development grants. Baroness Ashton of Upholland, a minister in the Department for Constitutional Affairs replied that:

My Lords, the Government have recently received the Electoral Commission's report on the funding of political parties and are carefully considering its recommendations. We are not yet in a position to make any firm decision on particular recommendations.¹²⁶

More recently, Professor Keith Ewing expressed scepticism about the value of increasing local limits on expenditure, arguing that this might merely allow central parties to channel expenditure towards the constituencies.¹²⁷

VI Review by the Constitutional Affairs Committee

The Constitutional Affairs Select Committee (CASC) began its inquiry in early 2006, before the announcement of the Phillips inquiry and the press reports about loans in March 2006.¹²⁸ The Committee published its findings in December 2006.¹²⁹

The evidence to the report presented the views of the political parties, and of individual Members and pressure groups. The Committee examined developments in Canada, Germany and the US, designed to stabilise funding arrangements for the political parties. With regard to the UK, the Committee found that the increased cost of campaigning had

¹²² Electoral Commission, *The funding of political parties*, December 2004, para 5.47

¹²³ Matt Cain and Matthew Taylor, *Keeping it clean: the way forward for state funding of political parties*, IPPR, 2002, p7 and p21

¹²⁴ Electoral Commission *The funding of political parties* December 2004 para 6.45-

¹²⁵ See for example *Unlock Democracy's Party Funding- Supporting the Grass Roots* 2007 at <http://www.unlockdemocracy.org.uk/?p=715>

¹²⁶ HL Deb 24 January 2005 c1000

¹²⁷ Keith Ewing *The Cost of Democracy* pp168-9

¹²⁸ "Committee announces new inquiry into party funding" DCA Select Committee 23 March 2006

¹²⁹ *Party Funding* Constitutional Affairs Committee HC 163 2006-7

placed strain on parties, which were suffering from a fall in membership. Large donors offered most in terms of easing the financial burden, but provoked public unease. Increased transparency through PPERA had not restored faith in the political system, but had instead fuelled public concern.

The Committee produced a unanimous report, but in some areas of detail it was non-specific; the report concluded that national expenditure limits should be reduced and that expenditure should be capped over a five year election period to take account of constant campaigning. It wrestled with the issue of a cap on donations, given the issue of trade union links to the Labour Party, concluding that a binding but voluntary limit should be agreed between the parties in the context of a discussion of alternative funding, including state funding. The Committee recommended that any extension of state funding would need to be accompanied by robust regulation and be focused towards the local level. The means by which it was distributed should encourage recruitment and be fair between existing parties and non-entrants. So there was a measure of support for a matched funding scheme. The Committee produced a plan for a phased change as follows:

154. We recommend that within a stronger and more robust regulatory framework there be a package of changes to the system of party funding to include: an overall cap on spending, both at local and national level; greater transparency about the sources of all elements of party funding; a voluntarily agreed binding framework for the limiting of all large donations leading to an increase in state funding for political parties. We agree that the aim of reform should be to strengthen the political parties, and that no party should be financially disadvantaged by any changes that are introduced.

155. We acknowledge that all of the elements of the package we propose cannot be achieved immediately. We therefore recommend a two staged approach: a lower national cap on spending alongside a voluntarily agreed binding framework for a limit on donations should be pursued immediately. A combined matched funding and tax relief scheme should also be introduced with immediate effect in order to encourage small donations. The first stage would give parties time to adjust before more radical changes, including further extensions of state funding for political parties, are introduced. This package would not only provide a stable route for parties, but also a transparent and sustainable funding regime which could also be acceptable to the public.¹³⁰

The Government did not respond immediately to the overall recommendations of the report, since it was awaiting the final Phillips report.

VII Phillips review of the funding of political parties

A. The announcement of the review

The Prime Minister announced on 16 March 2006 that there would be a review of the funding of political parties. This followed some days of media speculation about loans

¹³⁰ Ibid paras 154-55

made to political parties. Sir Hayden Phillips has been appointed to conduct the review and the terms of reference were announced on 20 March 2006:

To conduct a review of the funding of political parties.

In particular:

- To examine the case for state funding of political parties including whether it should be enhanced in return for a cap on the size of donations;
- To consider the transparency of political parties' funding;
- And; to report to the government by the end of December 2006 with recommendations for any changes in the current arrangements.

Sir Hayden Phillips worked closely with stakeholders including, especially, the political parties and the Electoral Commission. He was asked to aim to produce recommendations as much as possible agreed between the political parties with a view to legislation as soon as Parliamentary time allowed.¹³¹

Oliver Heald, Conservative shadow spokesman on Constitutional Affairs, welcomed the review but queried why the Electoral Commission was not undertaking it:

An inquiry was inevitable, given the revelations of the past few days, and we are happy to give our full co-operation to Sir Hayden. However, why is he undertaking the review and not the Electoral Commission? It seems inexplicable. The Government set up the Commission to oversee such matters. The Minister knows that the Commission has produced a report already on the funding of political parties and it has a credibility on the issue that, frankly speaking, no political or civil servant is likely to match.¹³²

B. The views of the parties

The Conservatives published proposals to reform the way in which political parties are funded on 20 March 2006. These were summarised in an accompanying press release:

- A cap on donations from individuals, trade unions, corporations and institutions set initially at £50,000. This will end parties' reliance on a small number of large donations and address concerns about donations buying honours or influencing policy
- Tax relief on donations of up to £3,000;
- A ban on all forms of loans to parties, except from financial institutions on fully commercial terms, should be imposed. The Electoral Commission must oversee these to ensure that they cannot become disguised donations;
- Additional state funding based on the number of votes a party received at the previous General Election;

¹³¹ Lord Falconer's letter to the leaders of all political parties represented at Westminster, 20 March 2006

¹³² HC Deb 20 March 2006 Vol 444c23

- Off-setting reductions in the cost of politics by reducing the spending on General Election campaigns from £20m to £15m. We also offer a number of further proposals for reducing the cost further;
- And substantially reforming the honours system and appointments to the House of Lords.¹³³

These proposals were set out in full in a pamphlet entitled *Clean Politics* by the Conservative MP Andrew Tyrie who had been given a brief from David Cameron to develop policy on party funding¹³⁴ The Conservative party issued proposals in 'green paper' format which call for a cap on party political donations set initially at £50,000 a year and subsequently an end to all corporate, institutional and trade union donations.¹³⁵ The proposals marked a break from previous Conservative thinking on party funding, which had been hostile to a cap on donations and to direct state funding. However press reaction was dominated by the continuing controversy over the identity of those offering loans to the major political parties (see below). Some commentators argued that the Conservative party had become less dependent on a few large donors than the Labour party and so could afford to become more radical in their proposals.¹³⁶

The Labour party did not accept the Conservative proposals on capping donations. Commentators remarked on the difficulty this presented in connection with the historic party ties with the trades union movement. According to the Phillips review, 29 unions currently have political funds, of which 17 are affiliated to the Labour party.¹³⁷

The Labour Party later gave evidence to the Constitutional Affairs Select Committee enquiry in which it expressed support for lower limits on election spending, lower caps on individual donations, respect for the internal membership structures of political parties and a new Foundation for Democracy which would be responsible for managing core funding and project funding to political parties.¹³⁸ UNISON's evidence to the Select Committee argued that donations and trade union affiliation fees were separate issues and should not be confused.¹³⁹ Professor Keith Ewing argued that it would be unfair for large unions such as UNISON to affiliate only on the same basis as a small union.¹⁴⁰ The pressure group Unlock Democracy have more recently suggested that the affiliation system be reformed to create a more direct relationship between union member and Labour party for those individuals who desire one.¹⁴¹

The Leader of the House of Commons, Jack Straw, who has responsibility for developing Government policy on party funding, gave a lecture to the Fabian Society in June 2006 in

¹³³ Available at http://www.conservatives.com/tile.do?def=news.story.page&obj_id=128657

¹³⁴ *Clean Politics* 20 March 2006 at <http://www.conservatives.com/pdf/cleaninguppolitics.pdf>

¹³⁵ *The Conservative Party's proposals for the funding of political parties* A paper by Andrew Tyrie with a foreword by David Cameron March 2006

¹³⁶ "Labour rejects calls for £50,000 cap on donations" 24 September 2006 *Sunday Times*

¹³⁷ *The Review of the Funding of Political Parties: An Interim Assessment* October 2006

¹³⁸ Evidence submitted by Ian McCartney, Labour Party Chair and Minister without Portfolio, HC 163-II 2006-7

¹³⁹ Evidence submitted by UNISON HC 163-II 2006-7

¹⁴⁰ *The Funding of Political Parties-The Trade Union Case for Reform* 2006 Trade Union and Labour Party Liaison Organisation

¹⁴¹ *Preserving the Link: Promoting Transparency* Unlock Democracy January 2007 at <http://www.unlockdemocracy.org.uk/wp-content/uploads/2007/01/tureport.pdf>

which he argued that the priority was reducing election expenditure rather than a cap on donations.¹⁴² This has been a consistent Labour theme in relation to proposals to cap donations.¹⁴³

The Liberal Democrats also called for a cap on donations.¹⁴⁴ The evidence from Sir Menzies Campbell to the Select Committee reiterated arguments made in the party's evidence to the Electoral Commission review in 2003-4, in favour of a limited extension of state funding, lower national campaign limits and investigation of tax concession schemes.

C. The views of the public

The Phillips review team organised an on-line forum and online Q and A webchat before the publication of the Interim Review, which revealed mixed views on state funding and caps on donations. The Electoral Commission report of December 2004 contained research which found an instinctive hostility towards the idea of political parties being funded by taxpayers' money but more acceptance of the concept following more exploration of the issues.¹⁴⁵ Opponents of state funding, such as the campaign website www.nopublicfunding.org.uk, point to opinion polls showing that 76 per cent of people believe that the parties deserve less or no access to public money when they are informed of the amounts parties receive already. This website argues that parties waste money on expensive advertising billboards and media advisers and that any state funding for policy development would simply displace the work of think tanks.¹⁴⁶

But supporters of state funding claim the public would support state funding in order to tackle issues of trust. An ICM survey for Unlock Democracy and the Joseph Rowntree Reform Trust, published on 15 March 2007, found that 50 per cent agreed and 42 per cent disagreed with the idea of a limited extension of state funding if it were coupled with limits on donations and spending.¹⁴⁷

D. The Interim Review

In October 2006 the Phillips enquiry issued an Interim Assessment which set out the main issues, without indicating a preferred solution.¹⁴⁸ The second part of the Assessment set out background and analytical information. There were press reports that Sir Hayden was seeking to reach agreement between the two major parties,

¹⁴² "The future for democracy- politics in a spectator society" 28 June 2006 Fabian Society at http://www.fabian-society.org.uk/press_office/news_latest_all.asp?pressid=558

¹⁴³ For a critique of the fairness of expenditure caps, see Jane Marriott "Alarmist or Relaxed? Election Expenditure Limits and Free Speech" in *Public Law* Winter 2005

¹⁴⁴ "Party funding review only part of the solution- Campbell" *Liberal Democrats* 20 March 2006

¹⁴⁵ *The Funding of Political Parties* December 2004 Electoral Commission

¹⁴⁶

¹⁴⁷ "Is there any hope of agreement on the future of party funding?" 15 March 2007 *Independent*. See <http://www.unlockdemocracy.org.uk/?p=718>

¹⁴⁸ http://www.partyfundingreview.gov.uk/files/Part_1.pdf

whereby a donation cap of £50,000 would be accepted, in return for lower expenditure limits at national level.¹⁴⁹

The final report from the Phillips enquiry was delayed. On 19 December 2006 Sir Hayden issued a statement:

The Review of the Funding of Political Parties - Statement by Sir Hayden Phillips

I was appointed to review the funding of political parties by the Prime Minister in March of this year. I have consulted widely and received a wide range of views from members of the public, both directly to the Review, and through other organisations, such as the Electoral Commission. I have met all the parties represented in the devolved administrations, the European Parliament and Westminster that have requested a meeting. In October, I published an [Interim Assessment](#) to set out what I regarded as the main issues and potential areas of reform.

In meeting the parties I have been exploring the potential for achieving a consensus between them on the best way forward, as set out in the [Terms of Reference](#) given to me by the Prime Minister. I strongly believe that it is in the public interest, and the interests of the parties themselves, for there to be a general agreement on reforming party political funding.¹⁵⁰

The *Guardian* reported in December 2006 that the Prime Minister was preparing to support proposals from the Phillips review to require union members to vote annually on donations to the Labour party, but there was substantial opposition within the Labour movement generally.¹⁵¹

Press reports in advance of the official release of the report on 16 March 2007 indicated that the parties had not reached agreement on caps on donations.¹⁵² There has also been speculation that the Conservative party finances have improved considerably in the last year,¹⁵³ and that this party would resist lower expenditure limits for constituency spending.¹⁵⁴

VIII Proposals for change- the final Phillips report

The Phillips report was published on 15 March 2007.¹⁵⁵ Its summary set out a series of points which it saw as a basis for agreement for further negotiation between the three major parties and noted the two remaining obstacles as follows:

Basis for an agreement

¹⁴⁹ "Labour urges voluntary cap on donations, enforceable by fines" 12 January 2007 *Guardian*; "Parties resist call for funding cap" 11 March 2007 *Sunday Times*

¹⁵⁰ "Review of the funding of political parties- a statement from Sir Hayden Phillips 19 December 2006 at <http://www.partyfundingreview.gov.uk/htms/news.htm>

¹⁵¹ "Blair supports plan to weaken unions' grip on party, MPs told" 12 December 2006 *Guardian*

¹⁵² "Parties resist call for funding cap" 11 March 2007 *Sunday Times*

¹⁵³ "Tories have built £21m war chest to fight an election" 11 January 2007 *Daily Telegraph*

¹⁵⁴ "Blair pledges to keep union link via funding" 8 January 2007 *Financial Times*

¹⁵⁵ *Strengthening Democracy: Fair and Sustainable Funding for Political Parties* at http://www.partyfundingreview.gov.uk/files/strengthening_democracy.pdf

Over the last year it has become clear that many of the elements of a possible agreement are now to hand. I will state them briefly here and will then describe them more fully in the main body of the report:

- (i) The status quo, in which there are no caps on donations, is unsustainable and therefore donations to parties should be limited.
- (ii) Restrictions on donations should be buttressed by measures to prevent breaches of the new regulations.
- (iii) Expenditure on general election campaigns has progressively grown and should now be reduced.
- (iv) Controls on expenditure by all third parties should be strengthened.
- (v) The price of a fairer, more stable system of party political financing may be some increase in public funding of political parties.
- (vi) Any increase in public funding should be linked to a recognised measure, or measures, of popular support, and should encourage greater democratic engagement.
- (vii) The public should have access to better, clearer information on the sources of party income.
- (viii) A new funding settlement will present the regulator with fresh challenges. The Electoral Commission must have the powers, the capacity and the practical experience needed to fulfil its new role.

I do not claim that these eight points command universal support, nor that every detail of each has been resolved. Indeed, I am conscious that Parliament has the final say on the issues raised in my report: they cannot be determined in isolation by an independent review, nor even by discussions between the parties. But I believe there is agreement between the largest parties on the principle of each of the main points and they are consonant with the recommendations of the CASC and of the CSPL. And I feel confident that the public argument in favour of party funding reform, including some additional public funding, can and should be won. But the country will only be persuaded if political parties are able to reach a comprehensive agreement. The eight points fall short of that test, but a wider agreement, which has seemed out of reach for so long, may now be possible.

Remaining obstacles

There are two principal remaining obstacles. Neither is insoluble but the possible solutions pose uncomfortable challenges for the largest parties.

The first concerns the design of a limit on donations. A uniform limit, applied to all sources of funding abruptly and without discrimination, would present the Labour Party with serious difficulties. Unless change is handled sensibly it could also intrude on the relationship between the trade unions and the Labour Party. Our political parties have come from different origins and, as voluntary organisations, have each evolved independently. In seeking a comprehensive solution we should be mindful of this and I acknowledge that parties will need time to adjust to new regulations. In Chapter 3, I explain how this might be done. A neat and tidy solution imposed hastily will not deliver the fair, sustainable system we all seek.

If the first obstacle is about income, the second is about expenditure. Spending by parties, especially in election years, has grown very substantially. The attempt to curb campaign expenditure in the Political

Parties, Elections and Referendums Act 2000 (PPERA) has not worked as intended. The main parties' own judgement is that some of their spending may not be value for money. And there has been concern about the level of spending in marginal constituencies often well before an election is likely to be called.

Phillips's recommendation for a cap on donations over £50,000 acknowledged that agreement had not been reached on the treatment of trade union affiliations:

In seeking a possible solution, much will turn on the treatment of the decisions by individual trade union members to pay money to the party to which their union affiliates. In my view these payments may be regarded as individual donations for the purposes of the new limit if, and only if, the decisions reached are clearly transparent and it is possible to trace payments back to identifiable individuals.² If this can be agreed, I believe this would be a reasonable outcome. But I accept that my view on these payments is still in contention and the parties will need to return to this issue before a comprehensive solution is reached. (In my calculations of the impact of my proposals on the parties, I have assumed that the Labour Party will continue to benefit from the payment by individual members of affiliation fees through trade unions. If this assumption is not made, the financial impact on the Labour Party would be greater, and the financial calculations in this report would have to be reconsidered.)¹⁵⁶

The report also indicated areas where differences of opinion remained over limiting election expenditure:

To reach a lasting agreement, there needs to be a focused discussion on four key issues: the period over which spending should be limited; the categories of spending which should be limited; the geographical scope of the limits on spending; and, in the light of the nature of an agreed scheme, the amount by which spending should be reduced.¹⁵⁷

The report also advocated an increase in the amount of state funding received by political parties. The report considered that this should be by:

1. a scheme, where the amount of funding received by a political party is directly linked to the votes received. Phillips proposed eligible parties should receive 50p each year for every vote cast for them in the most recent general election, and 25p for every vote cast for them in the most recent elections for the devolved administrations in Scotland and Wales and for the European Parliament.
2. a matched funding scheme where eligible parties would be invited to establish a registered subscriber scheme, primarily using the internet, through which any voter could subscribe a minimum of £5 to support the party. Each subscription would be matched with £5 of public funding.

¹⁵⁶ Ibid Chapter 3 *Limiting Donations*

¹⁵⁷ Ibid Chapter 4 *Limits on Spending*

However, no such schemes should be introduced until three conditions had been met. These were:

First, that it is only granted if there is agreement on an overall reform package;
second, that parties should be required to demonstrate that additional public funding has assisted in meeting desirable public objectives such as policy research and development and better engagement with the electorate (outside election periods);
and third, that the cost is limited (later in this report I argue that an overall cost of around £20–25 million a year would be justifiable).¹⁵⁸

Phillips argued that the most sensible way forward would be for the three major parties to reach agreement on the reform package, whilst accepting that this could appear that only 'insiders' were involved:

I am conscious that some will question whether the final push towards an agreement should be restricted to the three largest parties. This is an important challenge and I do not dismiss it lightly. But we need now to have a process which forces the issue to a conclusion – and three-party talks seem to me to be the mechanism through which we are most likely to secure that outcome. The party leaders will wish to consider how best to ensure that the public can be confident in the outcome and how best to reassure the smaller parties that their interests will be safeguarded. That end might be served if the three parties were to agree to independent oversight of the talks.¹⁵⁹

Sir Hayden noted that independent oversight would be needed to assist the inter-party talks in order to ensure public confidence.¹⁶⁰

The report acknowledged and reinforced many of the conclusions of the CASC report, as well as the conclusions of the Committee on Standards in Public Life with respect to the Electoral Commission. Phillips recommended in particular a restructuring of the Commission:

It would be irresponsible if I did not identify clearly the scale of the task now facing the Commission. To make progress on the agenda I have described, the Commission will need the management capacity to tackle a radical change programme. A reformed Commission will have a new ethos, a new structure, new competences and a new relationship with the parties. To help it make the transition successful, I would recommend that it drops some functions which are tangential to its new purpose. For example, I agree with the CSPL's recommendation that the Commission should no longer undertake its public engagement work (CSPL 2007, recommendation 22). And I recommend that it identifies partners who can provide some of the additional capacity that it now needs.

¹⁵⁸ Ibid *Introduction and Summary*

¹⁵⁹ Ibid *Introduction and Summary*

¹⁶⁰ Ibid *Letter to Prime Minister*

A. Initial reactions

The Conservative Party welcomed the report. The party chairman, Francis Maude, stated that the ball was in Labour's court; the Conservatives would accept national caps on expenditure and agreed that there should be no extension of public funding without a comprehensive agreement.¹⁶¹

During the statement by Jack Straw on 15 March, Theresa May, for the Opposition, welcomed the report, but focused on reforms to trade union funding of political parties. David Heath, for the Liberal Democrats, gave a general welcome to the principles of the report. Angus MacNeil of the SNP stated that the interparty talks should not be confined to the three major parties.¹⁶² Jack Straw drew attention to the written ministerial statement issued by the Prime Minister which said that there "was now the basis for a new agreement on the funding and expenditure of political parties...I have asked my RT Hon Friend the Leader of the House of Commons to lead the negotiations for the Labour Party." The statement believed that the talks should conclude before the summer recess.¹⁶³ Mr Straw also expressed support for the recommendation from the DCA select committee for a voluntary arrangement by parties to cap donations.¹⁶⁴

Press reaction was muted. A number of commentators saw the report as good intentioned, but doubted that radical change could result.¹⁶⁵ Michael White, writing in the *Guardian*, commented:

It would suit the Tories to have unions block Phillips. His package would also provide performance-related ("pence per vote") increases in public funding but only if there is a cap on donations and spending, local as well as national. Lord Moneybags Ashcroft, who pumps huge sums into targeted marginals, is not so keen on that.

Labour resents attacks on the union link which Thatcherite reforms made clean and open, more than it did her own shady fundraising. Yet it was Labour's own Political Parties, Elections and Referendums Act 2000 which capped election spending but fatally left open the loans loophole.

The Tories spotted the loophole first, but it is Mr Blair whom John Yates is stalking. The consequences are felt everywhere.

Sir Hayden is too polite to tell Mr Cameron that, if he plays for short-term advantage, sleaze will return to haunt him. But he could always ask John Major.¹⁶⁶

A source from the trade union movement expressed concern about the proposals:

"He seems to be suggesting that affiliation fees will be excluded but other kinds of donations will be affected by a GBP 50,000 cap. It is a contradiction," said Tony

¹⁶¹ "Conservatives back across-the board cap on large donations" 15 March 2007 *Conservative Party News Story*

¹⁶² HC Deb 15 March 2007 c478-9

¹⁶³ HC Deb 15 March 2007 c24WS

¹⁶⁴ HC Deb 15 March 2007 c468

¹⁶⁵ Peter Riddell "Put the parties on-stage and book your seats for rare political theatre" 16 March 2006 *Times*; "Parties split over reform of their funding" 16 March 2007 *Financial Times*

¹⁶⁶ "Tories look for weak spot" 16 March 2007 *Guardian*

Dubbins, an Amicus official who chairs the liaison group linking unions with Labour.¹⁶⁷

There was media hostility towards the prospect of state funding.¹⁶⁸ Some suggested that the Phillips enquiry itself had been misguided. For example, Matthew Norman, writing in the *Independent*:

However, only when we find the Prime Minister welcoming the report, saying, “It shows very clearly that there is now the basis for a new agreement blah blah blah”, do we realise what a hopeless waste of time all this has been, and suspect what an unsatisfactory compromise will emerge when Sir Hayden has passed another few months coaxing and cajoling him and David Cameron into a deal.¹⁶⁹

Peter Facey, of the pressure group, Unlock Democracy, said:

“Politicians should resist the temptation to start cherry picking Sir Hayden Phillips report. The sticks that Sir Hayden is likely to propose will be significantly more popular than the carrots. The Government, in particular, should resist the temptation to push through its own reforms: the public overwhelmingly favours a more consensual, cross-party approach.”¹⁷⁰

In the debate on the new communications allowance, Sir George Young, chairman of the Standards and Privileges Select Committee, commented that the introduction of the allowance could inhibit acceptances of the Phillips proposals:

There is another reason why I believe it injudicious to proceed at this moment. As various hon. Members have noted, a fortnight ago Sir Haydn Phillips published his recommendations on party funding, with no agreement having been reached between the parties. There are a number of outstanding issues, one of which is a proposal for a new cap—one that does not exist at present—on what can be spent locally by a political party. That is of particular relevance where that local party is challenging an incumbent, and I quote what the hon. Member for Sunderland, South (Mr. Mullin) said in our earlier debate:

“Were I a candidate for Parliament running against an incumbent who was using public funds to publish and distribute what looks to most people like campaign literature, I would be mightily upset.”—[*Official Report*, 1 November 2006; Vol. 451,c. 350.]

At the very moment that the Government are seeking consensus with the Opposition parties on a new limit on what a prospective candidate can spend, they are also proposing to increase what the incumbent can spend without having to raise the money. The Leader of the House must realise that what is being proposed today will make it more difficult to secure the consensus on party funding that I know he wants.¹⁷¹

¹⁶⁷ “Taxpayers may give parties GBP 25m a year in funding revolution” 16 March 2007 *Scotsman*

¹⁶⁸ Simon Heffer “Money for politicians?: give it to the doctors” 16 March 2007 *Telegraph*; “State funding not the solution” 16 March 2007 *Scotsman*

¹⁶⁹ “Nothing succeeds like lack of success” 16 March 2007 *Independent*

¹⁷⁰ “Public would support increased public funding – with strings attached” 15 March 2007 *Unlock Democracy* at <http://www.unlockdemocracy.org.uk/?p=718>

¹⁷¹ HC Deb 29 March 2007 c1546

IX Northern Ireland

Although PPERA bans foreign donations, section 70 allows the Secretary of State for Northern Ireland, among other things, to alter the categories of permissible donors, detailed in section 54 of the Act, for Northern Ireland. Through the *Political Parties, Elections and Referendums Act 2000 (Disapplication of Part IV for Northern Ireland Parties, etc) Order 2001*,¹⁷² the Secretary of State disapplied the rules on donations received by parties in Northern Ireland for four years.

In a Written Ministerial Statement on 6 May 2004, John Spellar, then Minister of State in the Northern Ireland Office announced that:

After consulting with the Northern Ireland political parties, political parties in Ireland, the Northern Ireland Affairs Committee and the Electoral Commission, and taking into consideration the changed political landscape since the Order was first made, the Government are now minded to let the current Order expire in February 2005.¹⁷³

However, on 18 November 2004, John Spellar announced that the Government intended to disapply the rules for a further two years. In that time legislation that reflected the different position of Northern Ireland but was more closely aligned to the arrangements in the rest of the United Kingdom would be brought forward:

The Government have now concluded in the light of lengthy consultations with the parties and the Irish Government that it would not be appropriate to move away from the current disapplication as soon as next February, and that the current arrangements should be extended for a further two years. It is clear that concerns about intimidation remain across the community. And there is a range of complex technical issues that will need to be fully worked through with the Irish Government before we are in a position to legislate in a way that takes account of the particular role of the Irish Republic in the political life of Northern Ireland. The Northern Ireland parties will also need some time to adjust to any new arrangements.

This will take some time and require detailed discussions with the political parties, the Irish Government and the Electoral Commission. However, the Government are determined that there should be a move to greater transparency in the political donation arrangements in Northern Ireland. The Government have no wish to return to Parliament to seek any further extensions of this disapplication. So I have today invited the parties formally to submit to me by the end of March 2005 proposals for a reformed system.¹⁷⁴

A draft *Political Parties, Elections and Referendums Act 2000 (Disapplication of Part IV for Northern Ireland Parties, etc) Order 2005*, was laid on 20 December 2004 and approved in the House of Lords on 31 January 2005, and in the House of Commons on 7

¹⁷² The *Political Parties, Elections and Referendums Act 2000 (Disapplication of Part IV for Northern Ireland Parties, etc) Order 2001*, SI 2001/446

¹⁷³ HC Deb 6 May 2004 c84WS

¹⁷⁴ HC Deb 18 November 2004 c104WS

February 2005.¹⁷⁵ The Order disappplied Part IV of PPERA to political parties in Northern Ireland for a further two years.¹⁷⁶

In August 2005, the Northern Ireland Office published a consultation paper on *Political Donations in Northern Ireland*.¹⁷⁷ The Northern Ireland Office outlined the background to the disapplication of Part IV of PPERA in Northern Ireland but confirmed that once the Order had expired, the Government “was inclined ... to introduce a scheme which brought the rules applying in Northern Ireland closer to the framework applied by the Political Parties, Elections and Referendums Act in Great Britain”.¹⁷⁸

The *Northern Ireland (Miscellaneous Provisions) Act 2006* extended the existing disapplication of Part 4 of PPERA to the end of October 2007, in preparation for a new regime whereby information provided by parties to the Electoral Commission would be held on a confidential basis although the Commission would be empowered to verify that donations were permissible. If a party refused to return an impermissible donation both the party and the donor would be named. These varied provisions would apply for three years but the Secretary of State was given a power to extend it by order by up to two years at a time. From October 2010 the full PPERA provisions would apply to Northern Ireland. Irish citizens would continue to be eligible as donors, despite the general prohibition on foreign donors in PPERA,” in recognition of the special place Ireland occupies in the political life of Northern Ireland.”¹⁷⁹

Sir Hayden Phillips noted in his final report that he had interpreted his terms of reference to include the whole of the United Kingdom, but in writing his report he had taken the view that it would be inappropriate to include Northern Ireland within its scope, given the different regulations.¹⁸⁰

¹⁷⁵ HL Deb 31 January 2005 cc56-63; HC Deb 7 February 2005 c1318

¹⁷⁶ SI 2005/299

¹⁷⁷ Northern Ireland Office, *Political Donations in Northern Ireland*, August 2005, http://www.nio.gov.uk/political_donations_in_northern_ireland_-_consultation_paper.pdf

¹⁷⁸ Northern Ireland Office, *Political Donations in Northern Ireland*, August 2005, para 12

¹⁷⁹ Cited in *Explanatory Note to the Northern Ireland (Miscellaneous Provisions) Act 2006*

¹⁸⁰ *Review of the Funding of Political Parties*, Note on Scope of this review, p6