



Ministry of
JUSTICE

Party finance and expenditure in the United Kingdom

The Government's proposals



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The Government's proposals

Presented to Parliament
by the Lord Chancellor and Secretary of State for Justice
by Command of Her Majesty

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Foreword



Political parties are integral to our democratic system. They make parliamentary government possible. So when political parties are brought into disrepute, the reputation of the entire political process is tarnished. It is therefore important that action is taken to strengthen and sustain the standing of political parties within the political process in the eyes of the British public.

The Government is determined to help build higher standards of public confidence in our politics and believes that long term, fundamental reform of party finance and expenditure based on the framework put forward by Sir Hayden Phillips' independent Review would be an important step towards this.

Sir Hayden's Review identified the need for a system of comprehensive continuous controls on party expenditure to curb the spending 'arms race' which drives demand for large donations. Tackling this problem is fundamental to increasing public faith in politics and political parties. We therefore believe that tighter controls on spending by parties and candidates are imperative, alongside tighter regulation of third parties and other political actors.

As well as controlling expenditure, Sir Hayden also proposed limits on donations to political parties, suggesting a cap of £50,000 on discretionary donations from individuals and organisations in return for substantially increased state funding. The Government supports the broad approach set out by Sir Hayden Phillips' Review. We do so because we share the objective of securing a more equitable and democratic system of party funding which is – and is perceived by the public to be – fair, transparent and free from abuse. In considering the case for a cap on donations to political parties, the Government has taken account of the fact that the £50,000 figure advanced by Sir Hayden is well above the level imposed in countries that have a donation cap, and would be far beyond the reach of most citizens. For that reason we believe there is a case for considering a much lower level of donation cap.

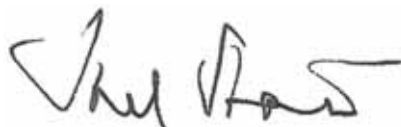
Any proposal to substantially increase state funding in response to a legal limit on private donations requires, of course, careful consideration. It would need to command the confidence of the public and it should also be broadly accepted by the wide range of individuals and organisations involved directly and indirectly in our politics.

The Government's ambition to secure fundamental reform in how political parties raise and spend money, that can better command the public's confidence, is strong and unequivocal. Yet the Government recognises that continuing differences of opinion endure on the achievement of such significant constitutional changes to the operation of our political system. We want to debate these long-term proposals and believe that fundamental constitutional change is best achieved where it is possible to build broad consensus. So while the Government will continue to advance vigorously the case for this fundamental reform, it believes that the best should not be made the enemy of the good; that it may be possible to move ahead with reform at different speeds, travelling faster where there is broad consensus, and seeking elsewhere to build that consensus where further discussions are needed.

It is essential that immediate action is taken to strengthen current regulations where there is broad support for doing so, and in particular to clamp down on the profligate spending which has driven demand for ever-greater resources and in turn given rise to public disquiet about how parties raise their funds.

I would like to place on record again my thanks to the individuals and bodies that have recently examined the issue of party finance and expenditure: Sir Hayden Phillips, the Constitutional Affairs Committee (now the Justice Committee) and the Committee on Standards in Public Life. Their work has been important in informing our approach to this complicated subject, and Sir Hayden's Review brought us very close to an agreement.

Although in the event it was not possible to reach an agreement, this White Paper demonstrates that the Government remains committed to comprehensive reform and will work to build consensus towards that end.

A handwritten signature in black ink, appearing to read 'Jack Straw', written in a cursive style.

The Rt Hon Jack Straw MP
Lord Chancellor and Secretary of State for Justice

Introduction

Many factors contribute to sustaining the legitimacy which, like any other, British parliamentary democracy must enjoy in the hearts and minds of the British people if it is to work properly. The most important, however, is the opportunity which citizens have to choose their government through free elections. In Britain, as in all mature democracies, political parties are an indispensable feature of the electoral process; they are the glue which holds the political system together. Parties offer the electorate the opportunity to decide between competing visions of Britain's future and alternative teams of political leaders to realise those visions. They also provide the vital link between the electorate and Parliament and a clear means of ensuring political accountability. None of this is possible without effective political parties.

Yet political parties are currently faced with a serious problem which, if not dealt with, threatens to undermine not only their legitimacy but the legitimacy of the wider political process. The problem is that of ensuring that parties are properly funded to carry out their roles; and that the method of funding is transparent, fair and acceptable to British citizens. This situation has arisen partly as a result of changes in the nature of the parties themselves (notably the decline in active members) but more so as a result of what might be termed the 'commercialisation' of elections.

Elections should be contests of ideas and visions but recently they have become overshadowed by a chase to raise vast sums of money. British party politics has become entrapped in what has been described as a spending 'arms race' with the two biggest parties way out in front and the smaller parties trying to keep up as best they can.

The impact of the spending 'arms race' was acknowledged by Lord Neill, who chaired the Committee on Standards in Public Life inquiry into party funding (hereafter referred to as 'the Neill Committee/Report').¹ The Neill Committee reported in 1998 and recommended tighter controls on spending, in particular at the national level, as well as greater transparency of donations. The Neill Report, which represented a positive development in terms of the regulation of party finance and expenditure, was universally welcomed and formed the basis of the Political Parties, Elections and Referendums Act 2000 (PPERA) which was passed by Parliament with all-party support. However, subsequent difficulties surrounding finance and expenditure which all parties have experienced since 1998, have led two further inquiries – one (in 2006) by the Constitutional Affairs Committee (CASC) and another (in 2006–7) headed by Sir Hayden Phillips – to conclude that the current system requires further reform. Alongside this, the Committee on Standards in Public Life (CSPL) reviewed the

¹ The Committee on Standards in Public Life, *The Funding of Political Parties in the United Kingdom*. London: The Stationery Office (1998) p.24.

operation of the Electoral Commission and recommended changes (in January 2007) to its governance and powers, which have been widely supported.

Sir Hayden Phillips endorsed the view of the CASC that PPERA had “sought to control the level of spending, but it has proved inadequate to the challenge”. The reports of both inquiries also noted that requirements designed to ensure the transparency of political donations were not strong enough. Although some of the most glaring problems in this regard were solved by the Electoral Administration Act 2006 (EAA), it was evident that more needed to be done.

Sir Hayden’s review outlined extensively the principles and framework for reform (in October 2006 and March 2007 reports), and his broad proposals (which were welcomed by all three principal parties) formed the basis for a series of inter-party talks aimed at achieving cross-party agreement based on his suggested framework. This gave rise to a series of constructive discussions which enabled Sir Hayden to produce a draft agreement based on four key pillars:

- continuous, all-encompassing expenditure limits to curtail the spending ‘arms race’, which drives the demand for large donations;
- a cap on donations to secure equity between the parties and to assure the public that money does not buy political influence;
- in return for donation caps, eligible parties would be entitled to receive increased public funding determined broadly by the levels of public support which they enjoyed; and
- reform of the Electoral Commission to strengthen its capabilities as an effective regulator.

One party declined to negotiate on the draft agreement put forward by Sir Hayden Phillips and the talks were suspended on 30 October 2007. Nonetheless, the Government has sought to continue discussions with interested parties on the basis of Sir Hayden’s draft agreement, and in the Queen’s Speech last November committed to bring forward proposals on the reform of party finance and expenditure. This White Paper fulfils that commitment.

This Paper is based on the same approach which informed the Government’s implementation of the Neill Report – the premise that a satisfactory solution to the current problem should transcend the interests of any single party and enjoy the widest possible measure of public confidence. To that end, it seeks to build on the foundations laid by Sir Hayden Phillips.

Sir Hayden Phillips was asked to consider the case for donation limits and, in that context, increasing state funding to plug the income gap that would result from this. Internationally, donation limits are a feature of some, but by no means all, arrangements for controlling the financing of political parties. Although the Neill Committee argued emphatically against the imposition of donation limits when

it considered the matter ten years ago, the issue is once again being considered within the context of the wider issues currently facing parties in relation to their finance and expenditure. It is clear that introducing donation limits in the UK would reduce parties' income, and unless there were some other source of income to plug this gap, this would create a major crisis for the operation of all parties. For that reason, Sir Hayden proposed schemes for increased state funding linked to a cap on donations (which he recommended should ultimately be set at £50,000 per annum). This White Paper considers in some detail how a system of state funding tied to donation caps could be developed.

However, the Government believes that any decision to cap the maximum level of donations to political parties alongside increased state funding must be subject to further and significant consideration. Central to this is, of course, the question of what would be an appropriate level at which to set the cap. The £50,000 figure is higher than the level of a cap imposed by other countries and a significant sum in the eyes of most people. To this extent, it arguably falls short of the type of radical step needed to help reconnect people with the political process – which is the ultimate aim of the proposals contained in this White Paper. The Government therefore believes that further consideration of donation caps should extend to a significantly lower limit.

While this White Paper advances the case for far-reaching reform, it recognises that differences of opinion endure on how such significant changes might best be achieved. The Government does not, therefore, intend to legislate in the short term to introduce Sir Hayden's proposals on donation caps, state funding or a single all-encompassing national spending limit, but will continue to advance the case for such fundamental reform within the context of further and wider discussions.

And while it may not be possible to move forward immediately with fundamental reform of party finance and expenditure, it is important to try and make improvements to the existing arrangements to help increase public confidence in the system. Therefore, in addition to reform of the Electoral Commission, for which there is already widespread support, this White Paper proposes that action should be taken to:

- make the campaign expenditure limit introduced by PPERA more effective by re-examining the schedule of qualifying expenses and, in that context, assessing the case for changing the campaign spending limit of c£20m which applies in the 365-day period before a general election;
- address unforeseen consequences flowing from PPERA which have allowed candidates to spend unlimited amounts prior to the dissolution of Parliament contrary to the intentions of the Neill Report and the views expressed by all three main parties during the passage of PPERA; and
- increase the transparency of donations to ensure that the ultimate source of donations is revealed.

The Government believes that there is widespread support among political parties and the public for immediate action on these lines, while recognising that more fundamental change must be considered in the longer term. The Government therefore remains committed to comprehensive reform, and will continue to work to advance that cause. Fundamental constitutional change is best achieved where there is a broad consensus across the political spectrum and widespread support from the public. That was the spirit in which the reforms advocated by the Neill Committee were enacted and that is what the Government will continue to seek to secure for future reforms.

Chapter 1

The current system and its context

The development of party finance rules

- 1.1 The regulation of party expenditure is a long-standing feature of the British political process, dating back to the nineteenth century and the rise of mass democracy. In what might be termed 'pre-democratic' times, concerns about political finance were associated with the infamous 'rotten boroughs' and the buying of parliamentary seats. Following the progressive expansion of the franchise during the nineteenth century those corrupt practices continued, but on a vastly expanded scale. It became much more expensive for borough-mongers to attempt to 'fix' parliamentary seats: at the 1880 general election the equivalent of around £106m at 1997 prices was spent by the parties,² despite the introduction of the secret ballot in 1872. Public concern led to the passage of reforms to the electoral system in the first half of the 1880s, including the Corrupt and Illegal Practices Prevention Act 1883 which marked the first serious attempt to establish rules on election expenditure. The Act placed strict limits on campaign expenditure at constituency level, though in practice these rules restricted almost all election spending because campaigns were then conducted primarily at a local level.
- 1.2 By the end of the nineteenth century, the public and politicians had recognised that spending too much money on politics could undermine the integrity of the political system. However, despite periodic calls for reform (including the report of the Houghton Committee³ in 1976 which recommended major changes to the system of party funding), the legal framework remained relatively unchanged. The Representation of the People Act 1983 (RPA 1983) consolidated legislation dating back to the nineteenth century, which regulated candidates' election expenses and set a maximum limit on expenditure by or on behalf of candidates at parliamentary elections. It also allowed UK citizens abroad to register to vote for a specified period.
- 1.3 The 1983 legislation did not, however, recognise the much larger role that the national political parties had come to play in parliamentary elections. Election spending was no longer concentrated at a local level as it had been in the 1880s through to the early 1950s. The advent of television as the major platform for debate contributed to the growth of national party campaign spending. Greater use of national advertising media and messages, typically through billboards and newspaper advertising, was another factor.

2 The Committee on Standards in Public Life, *The Funding of Political Parties in the United Kingdom*. London: The Stationery Office (1998) p.24.

3 *Report of the Committee on Financial Aid to Political Parties* (also known as the 'Houghton Committee'), Cm 6601. London: HMSO (1976).

- 1.4 The escalation in party spending, and the pressure to generate the income to support it, continued. The then Constitutional Affairs Committee identified this in its December 2006 report:

“The Labour Party’s national campaign expenditure increased by more than five times in real terms between 1983 and 1997 and the Conservative Party’s by more than three times, giving rise to the argument that there was an ‘arms race’ between the parties, each under pressure not to be outspent by the other.”⁴

- 1.5 As well as lagging behind the reality of modern political party spending, the rules left fundraising largely unregulated. No requirements existed for the source of donations to parties to be declared to the public, and there was a concern about the extent to which foreign donors might be funding British political parties.

Neill and reform

- 1.6 In November 1997 the Government asked the Committee on Standards in Public Life under Lord Neill’s chairmanship (the Neill Committee) “to review issues in relation to the funding of political parties, and to make recommendations as to any changes in present arrangements”. The Committee’s 1998 report⁵ (the Neill Report) marked a watershed in the regulation of party finance and expenditure. It analysed in detail not just the adequacy of the spending framework but, with co-operation from the political parties, the way in which they were financed.
- 1.7 The Neill Committee diagnosed what it described as an ‘arms race’ between the political parties, driven by the pressure to spend:

“Without doubt the parties’ belief that elections can only be won by the expenditure (mainly on advertising) of vast sums of money has given rise to something of an arms race. This in turn has put enormous pressure on party fundraisers to devise innovative ways of attracting donations. The result has been the well-publicised, very large donations to both main political parties and also the development of strategies – such as the fundraising dinner attended by senior party figures – which together give credibility to accusations that money buys access to politicians.”⁶

4 Constitutional Affairs Committee, *Party Funding: First Report of Session 2006–07*. London: The Stationery Office (2006) paragraph 44, p.18.

5 The Committee on Standards in Public Life, *The Funding of Political Parties in the United Kingdom*. London: The Stationery Office (1998).

6 *Ibid*, paragraph S.3, p.1.

1.8 The Committee found concerns about buying influence to be largely unjustified, recording that they had found “no evidence that leads us to doubt that nearly all [wealthy donors] give generously either because they support the general aims of the party which they finance, or in order to minimise the risk of the other party attaining power”.⁷ Nonetheless, they felt that there was a compelling case for the public to know when a significant donation was made to a political party. Neill recommended that this increase in the transparency of donations to political parties should be regulated by an ‘Election Commission’. The Committee recommended no limit on the maximum amount that an individual or organisation might contribute to a political party, and no change to the law in relation to trade unions and their political funds. The Committee also concluded that donations to political parties should only come from sources with a significant connection to the United Kingdom.

1.9 In respect of spending, the Committee recognised what had long been clear: that in an era of strong nationwide parties and mass communication, it was insufficient to regulate local expenditure by candidates alone. The Committee believed that its proposals to limit national campaign expenditure would help contain the ‘arms race’:

“We believe that our proposals for disclosure of donations (in Chapter 4) and for limits on campaign expenditure (in Chapter 10), taken together, should remove the need for any cap on donations. These recommendations bring into the open and lay out for public scrutiny every donation of £5,000 and above, and should effectively contain the ‘arms race’ between the main parties, which has come to characterise the election scene and to impel the search for donations in recent years.”⁸

1.10 Crucially, the Committee worked on the explicit assumption that its proposals would reinforce the existing constituency limits on spending, and not reduce or detract from them. The Neill Report was clear on this point:

“The existing limits on candidates’ expenditure at general elections are generally accepted and have, beyond any doubt, had the effect of restraining spending at the strictly local level. Certainly no-one recommended to us that they be abolished. On the contrary, they were supported by all the main political parties and by all the individuals and organisations whose evidence bore on this topic.”⁹

1.11 The Neill Report also assumed that, in capping parties’ expenditure at £20m in the 12 months before an election, this would restrict parties to less than the amount spent by Labour and the Conservatives at the 1997 general election. Neill further recommended ‘buttressing’ the existing constituency regulations

⁷ Ibid, paragraph 4.5, p.45.

⁸ Ibid, paragraph 6.11, p.80.

⁹ Ibid, paragraph 10.7, p.111.

by setting a maximum spending limit for by-elections, and by revising the schedule detailing which items of expenditure should be reported. PPERA, however, made a more significant change, which has had the unintended effect of reducing the regulated period for constituency spending (see paragraph 1.25 below).

1.12 Virtually all of the Neill Committee's recommendations were accepted by the Government, which published a detailed response in July 1999 along with a draft Bill.¹⁰ Following this, and with cross-party agreement at Westminster, PPERA put into effect many of the measures recommended by the Committee. That Act:

- established the Electoral Commission, which had among its functions the role of monitoring compliance with the rules on both party income and spending;
- gave the Commission a power to issue annual policy development grants to assist parties in developing policy for their manifestos;
- set, for the first time, a limit on expenditure during election campaigns for national elections, applying in the 365 days before each general election and to specified categories of expenditure;
- required parties to submit detailed accounts of their expenditure at national and local level to the Commission, which in turn published this information;
- controlled expenditure by 'third parties' (not to be confused with the third largest political party);¹¹
- barred donations from individuals and bodies without a defined connection to the UK;
- required donors to provide details about themselves to the recipients of donations of more than £200; and
- for donations over £5,000 (£1,000 for donations to local party units and individuals), required full disclosure by parties to the Electoral Commission of the identity of the donors and size of the donations for inclusion on a publicly available register.

1.13 The Neill Committee and the legislation that followed it represented a step towards a more effectively regulated and transparent political system, but, viewed nearly a decade later, it is clear that PPERA did not succeed in the intended objective of ending the spending 'arms race'. Campaign expenditure

¹⁰ *The Government's proposals for legislation in response to the Fifth Report of the Committee on Standards in Public Life*, Cm 4413. London: The Stationery Office (July 1999).

¹¹ 'Third parties' are defined as people or organisations, which are not in themselves candidates or parties, but campaign in favour of or against a candidate or political party.

has evolved beyond the PPERA controls and levels of spending have continued to rise.

- 1.14 Sir Hayden Phillips' March 2007 report highlighted this in relation to the period between the 2001 and 2005 general elections:

"At the last general election the expenditure of the Conservatives and of Labour showed an increase far above the trend of rising party spending. The two largest parties spent some £90 million between them in the year of the election, and some £60 million the year before, leaving aside local expenditure."¹²

- 1.15 Although the upward trend of spending has continued, the Government believes that the light shone on party funding and finances by PPERA has been very positive. For the first time, the law required that parties declare publicly the identity of individuals and organisations donating to them, the size of donations, and how they spend their money. However, while transparency has brought greater public knowledge, the system has not addressed all the concerns which exist about the financing of political parties and increasing levels of expenditure.

Sir Hayden Phillips' review

- 1.16 In March 2006 the Prime Minister asked Sir Hayden Phillips to conduct a review of political party funding in the UK. Its full terms of reference were:

"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;
- consider the transparency of political parties' funding; and
- report to the Government by the end of December 2006 with recommendations for any changes in the current arrangements.

Sir Hayden Phillips will work closely with stakeholders including, especially, the political parties and the Electoral Commission. He has been asked to aim to produce recommendations which are as much as possible agreed between the political parties with a view to legislation as soon as Parliamentary time allows."

¹² The Review of the Funding of Political Parties, *Strengthening Democracy: Fair and Sustainable Funding of Political Parties* (March 2007) p.13.

- 1.17 The review was prompted in part by public concern about reports that significant loans provided by individuals to the principal political parties could have been linked to the award of honours. Under the PPERA regime the identities of individuals or bodies making loans did not have to be made public if the loans were borrowed at a commercial rate. This gap in the legislation has since been addressed by the EAA, which amended PPERA to require that loans should be subject to the same disclosure and permissibility rules as donations.
- 1.18 However, it was clear that problems in the system of party finance and expenditure went beyond specific questions about the transparency of loans. For this reason Sir Hayden reviewed the general regulatory regime, and expressly considered the case for further controls on donations linked to an increase in public funding for political parties.
- 1.19 Sir Hayden published an interim assessment in October 2006¹³ and his final report, *Strengthening Democracy: Fair and Sustainable Funding of Political Parties*, on 15 March 2007. The final report confirmed much of the Neill Committee's analysis, but found that, while the regulatory regime had been improved in the wake of the Neill Report, the spending 'arms race' was still underway. The pressure on parties to raise and to spend large amounts of money showed little sign of abating, with serious consequences for the political system. The report noted:
- "PPERA sought to control the level of spending, but it has proved inadequate to the challenge. Parties may be complying with the letter of the law, but not the spirit. The current approach is built around a definition of 'campaign expenditure' which is at one and the same time inadequate and excessively complicated. One expert has compared it, aptly, to building a dam in the middle of a stream."¹⁴
- 1.20 Sir Hayden proposed a further fundamental package of reforms to the system, designed to provide a platform for sustainable financing of political parties in the longer term. This would involve tighter and more comprehensive spending controls that covered the totality of party expenditure, a cap on donations – closely linked to an increase in public funding to mitigate its effects – and reform of the Electoral Commission to strengthen its regulatory capacity. All three main political parties welcomed the general principles put forward by Sir Hayden,¹⁵ and agreed to participate in talks chaired by him to discuss how these might be given practical effect.

¹³ The Review of the Funding of Political Parties, *An Interim Assessment* (October 2006).

¹⁴ The Review of the Funding of Political Parties, *Strengthening Democracy: Fair and Sustainable Funding of Political Parties* (March 2007) p.13.

¹⁵ *Official Report, House of Commons* (15 March 2007) Vol.458, cc.24WS–482.

- 1.21 The inter-party talks developed to a point where in late August 2007 Sir Hayden felt able to put to the parties a draft agreement. This proposed:
- controls on all spending by political parties throughout an electoral cycle;
 - a cap on donations;
 - a new system of public funding totalling £20–25m through pence-per-vote and incentivisation schemes, in return for a cap on donations; and
 - reform of the Electoral Commission.
- 1.22 At the fifth session of the talks held on 30 October, representatives of the Liberal Democrat and Labour parties indicated that they were prepared to negotiate on the basis of the draft agreement. The representatives of the Conservative Party said that they only saw merit in negotiation if the scope of any agreement (specifically in relation to the treatment of trade union contributions) was much wider than in Sir Hayden’s draft. Previously, Sir Hayden had stated that the basis for the inter-party talks should be that nothing was agreed until everything was agreed. Consequently, despite a broad consensus on principles and wide agreement to negotiate on practicalities, the talks were suspended on the basis that there was no prospect of complete agreement. In relation to the suspension of the talks, Sir Hayden said, “I remain convinced that an agreement to reform party funding would be in the general public interest, and I hope that all possible efforts will be made to achieve some consensus on a comprehensive package of reform.”¹⁶

The case for change

- 1.23 Sir Hayden Phillips’ Review concluded that the legislation which followed the Neill Report had not succeeded in tackling the spiralling levels of political party spending. The controls in PPERA on certain categories of spending in the period before elections represented a major development, but the objective of ensuring that party spending is proportionate and sustainable has not been fully achieved. In particular, Sir Hayden highlighted concerns that the definition of campaign spending is not sufficiently clear or comprehensive to capture all spending by parties and candidates which promotes their success at an election. He described the current regulations and guidance as complex, difficult to understand, and burdensome to implement with the ambiguities diminishing the authority of the regulations and making the regulator’s task more difficult. At the same time as the pressure to match spending by opponents has increased, the costs of campaigning have gone up, and the phenomenon of the ‘continuous campaign’ has raised levels of spending significantly between elections. The gradual decline in party membership has left parties with

¹⁶ Sir Hayden Phillips, The Inter-Party Talks on Party Funding, Press Release, www.partyfundingreview.gov.uk (30 October 2007).

fewer volunteers to help carry out campaigns. Parties have followed modern marketing trends, engaging in increasingly professional, costly and 'personalised' mass marketing exercises. All these factors have driven the demand for greater resources. Vigorous campaigns are good for democracy, but such campaigns are very costly.

- 1.24 It is clear that despite a substantial increase in spending both between and at elections, and despite the fact that the public's interest in politics in general has remained largely unchanged over three decades, voter participation in elections is unsatisfactorily low. It could be contended that without the additional spending turnout would have fallen still lower, but there is no firm evidence for this, and it is arguably more likely that the rise in spending is delivering diminishing returns. The Electoral Commission's 2004 report, *The Funding of Political Parties*, found that of those interviewees who considered themselves to be 'influenced a great deal' by election coverage on television or in newspapers, a greater number opted not to vote than did vote. Conversely, direct contact between politicians and voters was found to play a significant role in motivating people to vote.¹⁷
- 1.25 In addition to the issue of party spending at the national level, concerns have also been raised about the application of candidate spending limits. Prior to PPERA coming into force, a system of regulation of candidate spending, based initially on the 1883 legislation and subsequently consolidated into the RPA 1983, was in operation. Under this regime a practice known as 'triggering' applied. This provided that, in the case of a general election, the period of regulated spending for candidates began on the date an individual began campaigning for election as if they were a candidate of a particular party. PPERA replaced this system with one which effectively set the following uniform start dates for candidates' spending limits: the dissolution of Parliament for a general election; the dissolution of the relevant body for elections to the devolved administrations; and the publication of the notice of election for local government elections. Despite widespread agreement that PPERA should more effectively regulate campaign spending, this has actually resulted in expenditure by candidates in the period before dissolution being effectively unregulated.
- 1.26 Excessive spending remains a key problem to be solved, but there are other important concerns about the current system. Despite the rules introduced in PPERA, transparency remains an issue. The current system for disclosure of parties' incomes is not perfect. The use of loans revealed a gap in the arrangements which was subsequently addressed by legislation. But organisations can still legitimately donate to political parties across the spectrum without revealing in any real depth the source of funds for such

¹⁷ Electoral Commission, *The Funding of Political Parties: Report and Recommendations* (2004), quoting an opinion poll undertaken by MORI in 2001 and academic research based on the results of the poll (p.60, table 16).

donations. At worst such routes can be used as a device for avoiding the spirit of the legislation.

- 1.27 Concerns have also been raised about how party funding rules are enforced. There have been calls for the Electoral Commission to become a more effective and robust regulator. An effective regulator, in the first instance, needs to have the confidence of those it regulates. The bar (as in PPERA, a recommendation of Neill) on Commissioners and Commission staff having recent electoral experience has resulted in the criticism that the Commission does not have the necessary level of political awareness to fulfil its role. Concerns have also been voiced that the range of sanctions available to the Commission is not sufficiently flexible and proportionate to enable them to deter effectively and pursue breaches of the legislation.
- 1.28 In summary, public concern about the integrity of party finance corrodes trust in politics, and still exists regardless of the fact that, as Sir Hayden Phillips observed, "When compared to other jurisdictions, the British political system, taken as a whole, has been remarkably free of abuse. Examples of abuse are the exception to the general rule."¹⁸

¹⁸ The Review of the Funding of Political Parties, *An Interim Assessment* (October 2006) p.13

Chapter 2

The Electoral Commission

2.1 An effective system of party funding requires the regulator to take a consistent and robust approach. In the absence of this, political parties cannot be expected to have confidence that the regulator is discharging its responsibilities impartially and thoroughly across the system. In such a situation, public confidence in the system is likely to be compromised and democracy undermined as a result. A strong and effective regulator is therefore essential to the health of our democratic system. This chapter explains the current role and powers of the independent regulator – the Electoral Commission, considers the proposals that have been made for reform, and sets out the Government's proposals for moving forward.

The role of the Electoral Commission

2.2 The Electoral Commission was established in 2000, following a recommendation by the Neill Committee in its 1998 report.¹⁹ The Committee recommended that a dedicated body should be established to oversee the operation of the new rules on party funding and expenditure. As a result, PPERA created the Electoral Commission and gave it investigative and other powers in order to enable it to monitor the administration of the new rules on receiving and reporting donations and on expenditure, as also set out in PPERA. The legislation also imposed criminal offences and civil penalties on individuals and organisations for breaches of those rules.

2.3 The Electoral Commission's remit ranges more widely than monitoring the funding of political parties. In its White Paper in response to the Neill Report, the Government said that the new Electoral Commission would:

"have a wide-ranging remit to review electoral law and practice ... As well as being a force for modernisation of our electoral machinery, the Commission will have an important role in promoting public awareness of the democratic process and encouraging greater participation in it."²⁰

19 The Committee on Standards in Public Life, *The Funding of Political Parties in the United Kingdom*. London: The Stationery Office (1998).

20 *The Government's proposals for legislation in response to the Fifth Report of the Committee on Standards in Public Life*, Cm 4413. London: The Stationery Office (July 1999) p.9.

However, the Government emphasised that:

“the bedrock functions of the Electoral Commission ... will be those relating to the new regulatory framework for the reporting of donations to political parties, the ban on foreign donations and the controls on campaign expenditure at parliamentary and other elections.”

2.4 In short, whilst a wide remit was outlined for the Commission, its regulatory role was envisaged as its core function.

Party finance: the Commission’s duties

2.5 The Electoral Commission has a number of statutory responsibilities in relation to the regulation of party finance and expenditure. The Commission is responsible for:

- **the registration of political parties:** parties who wish to put forward a candidate for election are required to register with the Electoral Commission and provide notification of who their office holders are. Groups or individuals who do not fulfil these requirements can only describe themselves as ‘independent’ or have a blank entry against the candidate’s name on the ballot paper. The Commission has a statutory duty to maintain a series of registers, including the registers of donations, campaign expenditure, and borrowing by political parties and third-party campaigning organisations;
- **the monitoring of donations and other transactions to political parties and other political actors:** all registered political parties (excluding minor parties) and certain other individuals or organisations (e.g. donors, their agents and members’ associations) are legally required to abide by the statutory requirements for making, accepting and reporting donations. ‘Recordable’ donations must be reported to the Electoral Commission within a specified timeframe along with information about the identity of the donor.²¹ Political parties and others are required to report to the Commission all donations above £5,000 on a quarterly basis.²² The Commission’s role as regulator is to oversee the rules regulating the finances of political parties and to register all ‘recordable’ donations. Similar requirements apply to loans to and certain transactions with political parties;
- **the monitoring of campaign expenditure:** the Commission is responsible for monitoring spending on election campaigns, in line with the limits imposed by PPERA on the amount political parties and third parties can

²¹ The precise limits and reporting requirements vary according to the recipient of a donation.

²² Additional reporting requirements apply during election campaigns.

spend on campaigning at elections to the UK and European Parliaments and devolved legislatures; and

- **the fair and efficient distribution of policy development grants:** the Commission is responsible for administration of the policy development grant scheme established by PPERA. The grants are made to political parties to assist them with the development of policies for inclusion in their manifestos for election.

Party finance: the Commission's powers and the sanction regime

2.6 In support of its regulatory role, the Commission is empowered to request documentation and financial records from a limited class of regulated bodies and individuals. Under section 146 of PPERA, the Commission has 'supervisory powers' which enable it to require access to financial records and information, and to enter premises to inspect, and make copies of, documentation which is relevant to its monitoring (and other) functions. The Commission can use these powers in relation to the different classes of individuals and groups, defined in the legislation, that may receive political donations. These are:

- registered parties;
- registered third parties (people or organisations which are not themselves candidates or parties but campaign at elections);
- permitted participants (any organisation, including political parties, that wishes to spend more than £10,000 at a referendum must register with the Electoral Commission as a 'permitted participant');
- regulated donees (a member of a registered party, members' association, or the holder of a relevant elective office, whether or not a member of a registered party); and
- candidates, excluding candidates in Scottish local elections.

2.7 The Commission's power to request the production of records from recipients of donations does not extend to compelling oral evidence or statements. Nor does the Commission have powers to compel information from other bodies or individuals, such as donors to political parties. Section 146 powers only apply to the categories listed above.

2.8 Failure to comply with the rules on party funding and campaign expenditure may have one of four enforcement consequences: civil penalties, forfeiture of donations, de-registration of a political party, and prosecution for a criminal offence. The application of each of these is tied to the nature of the transgression:

- **Civil penalties:** section 147 of PPERA creates a limited range of civil penalties that can be used in relation to failure to deliver specified

documents to the Commission within statutory deadlines. The Commission does not have discretion as to the level of civil penalty which is imposed – the appropriate penalty for a particular breach is fixed in the legislation, which the Commission then collects as if it were a debt owed to it;

- **Forfeiture:** section 58 of PPERA empowers the Commission to seek a court order requiring a registered party to forfeit an amount equivalent to the value of impermissible donations which have been accepted or retained by the party in breach of the rules;
- **De-registration:** provisions in the EAA empower the Commission to de-register political parties which fail to submit their annual confirmation of registered details within six months of the relevant statutory deadline. The purpose of this provision is to enable the Commission to keep accurate records of existing political parties. It is, in effect, an administrative measure for use only as a last resort to deal with the fact that, of the 350 parties registered with the Electoral Commission in the UK, some of the smaller parties in practice may have ceased to exist; and
- **Criminal offences:** for the majority of breaches of PPERA, criminal prosecution of the registered party treasurer (or other individuals with statutory responsibilities) is the sole enforcement route. The breaches of PPERA which attract criminal sanctions are listed in schedule 20 to that Act. That schedule also lists the maximum penalties which can be imposed if someone is convicted of an offence, ranging from fines to imprisonment, depending on the type of court in which criminal proceedings are taken. To date, 29 people have been prosecuted for criminal offences under PPERA, resulting in 23 convictions. While the Commission may alert the police or the Crown Prosecution Service to the possibility that an offence has been committed following its own investigations, the Commission does not have any formal role in the decision on whether to prosecute or in any subsequent prosecution.

The case for change

The CSPL's review of the Commission

2.9 The Government welcomed the decision in 2006 of the CSPL to undertake a review of the Electoral Commission's effectiveness in fulfilling its wide-ranging statutory duties, six years after it was created on the basis of an earlier CSPL report.

2.10 The CSPL published its Eleventh Inquiry Report, *Review of the Electoral Commission*, in January 2007.²³ The CSPL concluded that, in the main, the

²³ The Committee on Standards in Public Life, *Review of the Electoral Commission*, Cm 7006. London: The Stationery Office (January 2007).

Commission had been effective in its administration of the regulations on party finance and expenditure – that is, the collection and publication of information for the use of parties and the public. However, the Committee concluded that the Commission had been less successful in acting as a proactive regulator of party funding in a manner that would inspire public confidence.

2.11 The principal theme of the Report was that the Commission’s mandate should be refocused on its core functions as a regulator – both of party funding and campaign expenditure, and of standards of electoral administration. On the framework of sanctions available to the Commission as a regulator of party finances, the CSPL considered that:

“the only sanctions the Electoral Commission has if parties do not comply with the legislation is to name and shame or, if the offence is sufficiently serious, to refer the matter to the Crown Prosecution Service (CPS) for a criminal prosecution.”²⁴

2.12 The CSPL recommended a number of measures to enhance the Commission’s effectiveness in investigating and applying sanctions for breaches of the rules on party funding and campaign expenditure:

- amendment of PPERA to place a duty on the Electoral Commission to investigate proactively allegations or suspicions of failures to comply with the regulatory framework, and to make it clear that the Commission has a regulatory, rather than monitoring, function;
- establishment of a new compliance unit within the Commission to take prompt, proactive and competent investigative action on party funding and campaign expenditure;
- amendment of PPERA to put in place a new system of administrative financial penalties, with an appropriate appeal mechanism, that could be applied by the Commission in response to failures to comply with the regulatory framework; and
- provision of timely advice to parties on areas of concern or uncertainty about the practical interpretation of the relevant legislation.

2.13 This approach was intended to supplement the existing criminal sanctions that would continue to apply for the most serious breaches of the law. The Commission’s response to the CSPL, published in March 2007, said that it “would welcome consideration by the Government of additional financial penalties for non-compliance” as part of a menu of flexible sanctions. The Commission added that such a regime would “bring benefits, including the

²⁴ Ibid, paragraph 2.48, p.35.

opportunity to apply a range of sanctioning options in response to the needs of the particular case and underlying offence.”²⁵

2.14 The CSPL also looked at the Commission’s governance arrangements, and specifically considered the competence and experience that the Commissioners would need for the Commission to deliver its regulatory functions effectively. The CSPL found that some of the parties were not confident about the Commissioners’ experience of the political process, elections and political finances over the previous five years. The Commission itself expressed concern about its lack of engagement with MPs and politicians more widely. The Committee concluded that “establishing confidence between Commissioners and those they regulate is essential for the Commission’s future governance arrangements.”²⁶ The CSPL went on to make a number of recommendations in this area directed at ensuring that both Commissioners and staff could have more recent experience of political activity than is permitted under the present rules. The Committee recommended that:

- the current ban on employing individuals at the Electoral Commission who have been politically active over the previous ten years should be reduced to one year. For senior management and regional electoral officers, the length of the ban should be reduced to five years;
- the total number of Commissioners (including the Chair) should be increased to ten; and
- the current restrictions on who may become an Electoral Commissioner should be revised to enable the appointment of individuals with recent experience of the political process (from the three main political parties and one of the smaller parties in the House of Commons).

Other reviews

2.15 Both the CASC report, *Party Funding*, published on 13 December 2006,²⁷ and Sir Hayden Phillips’ March 2007 Report on the future of political party funding²⁸ also recommended reform of the Commission. Both reports highlighted a need for the Commission to become a more effective and robust regulator. The CASC recommended change to the Electoral Commission “to help it become an effective watchdog with appropriate powers of enforcement.” The Committee also shared the CSPL’s view that greater political experience was needed in the Commission, recommending that “the provisions in PPERA should be

25 *The Electoral Commission response to the recommendations of the eleventh report of the Committee on Standards in Public Life* (July 2007) p.4.

26 The Committee on Standards in Public Life, *Review of the Electoral Commission*, Cm 7006. London: The Stationery Office (January 2007) paragraph 3.27, p.58.

27 Constitutional Affairs Committee, *Party Funding: First Report of Session 2006–07*. London: The Stationery Office (2006).

28 The Review of the Funding of Political Parties, *Strengthening Democracy: Fair and Sustainable Funding of Political Parties* (March 2007).

changed to allow a minority of Commissioners to be people with practical past experience of politics from across the political spectrum.”²⁹

2.16 Sir Hayden Phillips endorsed much of the CSPL’s analysis. He recommended that:

- the Commission should have a statutory duty to investigate breaches which seem to be systemic or serious;
- the Commission should have access to a wider range of sanctions to penalise breaches on the basis that “A more comprehensive graduated system of fines would provide a more effective deterrent”;³⁰
- the Commission should have a greater role in helping parties to comply by providing guidance on interpreting the rules, in order to reduce confusion and prevent inadvertent breaches, in light of recent evidence suggesting that “The great majority of party officials and volunteers want to comply with those rules and would benefit not just from clear written guidance but also from advice on the interpretation of the rules”;³¹
- four individuals (from the three main parties and one minor party) with experience of politics should be allowed to serve as Electoral Commissioners; and
- if there were to be an increase in public funding of parties, expenditure of this money should be subject to public audit (which should be undertaken by the Commission).

2.17 Most recently, the Public Administration Select Committee, in its report *Propriety and Peerages*,³² noted that:

“There is now a striking consensus behind the need to make the Electoral Commission into a more effective, proactive regulator. We add our voice to that consensus. The Government is currently considering what steps to take next. One of these steps might need to be changes to legislation to give new powers to the Commission.”

The Government’s proposals for reform

2.18 A strong and effective Electoral Commission is vital to democracy. The case for significant change to the role, powers and composition of the Electoral

²⁹ Constitutional Affairs Committee, *Party Funding: First Report of Session 2006–07*. London: The Stationery Office (2006) paragraph 64, p.25.

³⁰ The Review of the Funding of Political Parties, *Strengthening Democracy: Fair and Sustainable Funding of Political Parties* (March 2007), p.22.

³¹ *Ibid*, p. 21.

³² Public Administration Select Committee, *Propriety and Peerages: Second Report of Session 2007–08*. London: The Stationery Office (December 2007) paragraph 99, p.34.

Commission to enable it to become a more effective regulator of political party finances is clear. There is widespread consensus on the need for that change.

- 2.19 The Government said in its response to the CSPL Report on the Electoral Commission that it supports the majority of the CSPL's recommendations for changes to the Commission's role, powers and governance. Many of these recommendations are echoed or foreshadowed by the CASC and Phillips Review reports. In particular, the Government agrees with the views expressed in both the CSPL and Phillips reports that, in addition to collection and publication of information, and to providing clear guidance, an effective regulator must be both disposed and equipped to conduct swift and thorough investigations where it suspects that a breach of the rules has occurred. The Government also agrees that for the Commission to be effective and command the confidence of both the parties and the public, it needs to have access to an appropriate and readily understood range of sanctions to tackle and deter breaches.
- 2.20 The Commission will need to have the necessary organisational capacity to overcome the future challenges that it will face as an independent regulator. Both the CSPL and Sir Hayden Phillips recommended that the Electoral Commission should bring more specific expertise to this area of its work, including greater engagement with forensic accountants, auditors, trained investigators and lawyers. The Government welcomes the Commission's recognition of the need for it to make changes to its approach to the regulation of party funding, and acknowledges the steps which the Commission has already taken. These have been to:
- intervene more rigorously where parties have not observed the rules;
 - ensure that statutory rules on permissible donations are followed, by adopting a more proactive approach to monitoring campaign spending, including 'on the ground' intelligence gathering;
 - improve the advice and guidance offered by the Commission to parties so that they are in no doubt about what the statutory rules require them to do; and
 - employ individuals with skills in the key areas of audit, investigation and enforcement, and completely restructure its party and elections team.
- 2.21 The Government welcomes this commitment to change on the part of the Commission. However, the Government agrees with the following sources that more needs to be done in relation to the Commission's governance. The CSPL, Phillips and CASC reports all said that the Electoral Commission would benefit from direct experience of individuals with political backgrounds. The Government supports the principle of providing for a minority of Commissioners to have recent experience of political life and believes that such a measure would improve the overall effectiveness of the Commission –

provided that such appointees bring their political experience to bear in a non-partisan manner and do not act as representatives or delegates of the parties with which they have been associated.

Next steps

2.22 The Government intends to take steps, including through legislation, to make the necessary changes to the Commission's powers, remit and governance to enable it to become a more focused and effective regulator. The Government's proposals to amend PPERA are as follows:

- i. to clarify the Commission's role as an effective regulator of party funding and campaign expenditure, with the ability to provide advice and assistance to help parties and candidates comply with the spirit as well as the letter of the law, and to ensure a consistent approach to the law. While the final responsibility for compliance should remain with the parties themselves, parties should be able to expect to receive advice and assistance (including through the Commission's technical systems, such as those through which parties file reports) that are relevant to the specific circumstances they face and that help them to understand what they need to do in order to comply. This clarification of the Commission's role is intended to reflect a greater recognition that party funding rules are complex and that those charged with compliance are often volunteers who may lack financial skills;
- ii. to provide the Commission with a widened range of sanctions and investigatory powers to enable it to become a more robust regulator. The Commission's powers to obtain information would be extended to allow it to require the production of information from relevant individuals not currently covered by the PPERA powers where it is appropriate to do so – for example, in relation to donors. This would need to be accompanied by appropriate checks on the use of the power;
- iii. to reduce the current bar which prevents individuals being appointed as Electoral Commissioners if they have been engaged in political activity from a period of ten years to a period of five years;³³
- iv. in line with the CSPL's recommendation, to disapply the bar on past political activity for four Commissioner posts, to allow the appointment of a minority of Commissioners with recent experience of political life from the three main parties, and one of the smaller parties (with two or more representatives in the House of Commons). As the CSPL intended, these Commissioners would not act as party representatives but would use their political experience to help enhance the Commission's effectiveness and credibility in the eyes of the parties and the public. The recruitment and

³³ Including for the Chair of the Commission.

selection process for all Commissioners would remain a matter for the Speaker's Committee; and the Government would consult with the Speaker and the parties on how best to legislate to enable these appointments;

- v. to increase the overall number of Commissioners to ten, and to ensure that Commissioners with recent political experience will be in a minority on the Commission; and
- vi. to reduce the current prohibition on the hiring of staff who have held office in a political party, made a reportable donation or been in paid employment in a party within the last ten years. The restriction would be revised to one year for all staff except the Chief Executive, who would be subject to a five-year restriction.

The Commission's responsibilities for electoral boundaries

2.23 The CSPL also considered the Electoral Commission's responsibilities for setting electoral boundaries. The CSPL recommended that:

- the Electoral Commission should no longer have any involvement in electoral boundary matters and the provision in PPERA to allow the transfer of boundary-setting functions to the Commission should be repealed; and that
- the Boundary Committee for England should become a separate independent body in line with local government boundary commissions in the rest of the UK.³⁴

2.24 In its response, the Government accepted the CSPL's recommendation that the current (but unimplemented) provision in PPERA to allow the transfer of boundary-setting functions to the Electoral Commission should be repealed. The Government also accepted that responsibility for the Boundary Committee for England³⁵ should be removed from the Electoral Commission. These changes will require primary legislation, and the Government is considering how best to give effect to this. The Government also agrees with the CSPL that it would be appropriate to review the current legislation in relation to the conduct of parliamentary boundary work. Details of the review will be announced in due course.

³⁴ The Committee on Standards in Public Life, *Review of the Electoral Commission*, Cm 7006. London: The Stationery Office (January 2007) recommendations R17 and R18, p.45.

³⁵ The Boundary Committee for England is responsible for reviewing the structure, boundaries and electoral arrangements of local government in England.

2.25 The Government proposes, however, to make one immediate change in this area. In recommending that the Commission should have a minority of Commissioners with recent political experience, the CSPL was clear that those individuals should not be engaged in boundary work. It is the Government's intention that the legislation to allow the appointment of Electoral Commissioners with recent political experience would also bar those individuals from involvement in any aspect of the Commission's work concerning electoral boundaries while it retained those responsibilities.

Chapter 3

Reducing spending by political parties

- 3.1 The driving force behind political parties' desire to raise money is the need to spend it on campaigning. All electoral systems require parties to campaign to ensure that their policies are understood and to maximise the likelihood of their candidates being elected. Whilst campaigning is essential, for reasons of fairness and to prevent excessive spending there must be limits on how much can be spent at elections. This has been a long-standing principle underpinning the operation of the democratic system within the UK.

Historical perspective

- 3.2 Legislation to prevent excessive spending by candidates at elections has been in place since the passage of the Corrupt and Illegal Practices Prevention Act 1883 (1883 Act), which was part of a series of attempts to improve conduct at elections. The legislation in essence remained the same, bar minor amendment of the 1883 Act by the Representation of the People Act 1949 and consolidation into the RPA 1983, until PPERA introduced controls on national party spending in 2000.
- 3.3 As mentioned in Chapter 1, at the last general election before the 1883 Act, in 1880, approximately £106m at 1997 prices was spent. Spending levels were high, despite the introduction of the secret ballot in 1872 which meant that campaigners were no longer able to ascertain whether their expenditure resulted in particular voters supporting their candidate. Hansard's record of the Commons debate on the 1883 Bill summarises Baron de Ferrieres' comments:

"The last general election cost about £3m. Speaking broadly, out of that £3m, £1m went into the pockets of lawyers and the hangers-on of their offices. Then £1.5m might be put down as having gone in irregular practices, that was to say, not so much in direct bribery, as in treating, and in conveyances, watchers, boardmen, and other items of that kind. Of this £1.5m he believed that the great bulk returned into the pockets of the publicans. The result of his calculation was, that of the £3m, only one-sixth, or £500,000 was spent in a legitimate manner."³⁶

³⁶ *Official Report, House of Commons* (4 June 1883) c.1672.

3.4 In the House of Lords the Earl of Northbrook commented:

“Not only could it be said that corrupt practices had increased, but the expenditure incurred at the last election was excessive. The expenditure was not only detrimental to the public interest by deterring persons who would have been excellent representatives of constituencies in the House of Commons from standing for election, but also had the effect of accustoming those engaged in elections to consider that an election was simply an affair of money, and thus leading to corrupt practices.”³⁷

3.5 At the time of the 1883 Act, campaign expenditure by national political parties was, according to the Neill Committee, “virtually non-existent” and candidates were responsible for almost all election expenditure.³⁸ Therefore, when the 1883 Act imposed limits on candidates’ expenditure, these were intended not just to regulate what we now tend to regard as a discrete category of expenditure, but to capture all election spending.

3.6 A court judgment in 1952 changed that view of the legislation.³⁹ The judge in the case ruled that the 1883 Act should only be interpreted as regulating spending by or on behalf of individual candidates in individual constituencies, and not spending on generalised political campaigning at elections.⁴⁰ The Neill Committee commented that the 1952 decision “effectively turned what was understood to be a blanket limitation on the great bulk of all campaign spending into a limitation focused specifically and narrowly on local spending.”⁴¹

3.7 The 1952 decision allowed more national campaigning, which, together with the development of political parties as national organisations, led to the significant growth of spending at a national level. Spending by candidates is now a small part of overall election spending. The Neill Committee estimated it comprised only 10% of election expenditure in 1997, compared with 98% in 1880.⁴² One of the reasons for that shift was the lack of regulation, prior to PPERA, of spending at a national level.

³⁷ *Official Report, House of Lords* (16 August 1883) c.697.

³⁸ The Committee on Standards in Public Life, *The Funding of Political Parties in the United Kingdom*. London: The Stationery Office (1998) paragraph 10.3, p.110.

³⁹ *Tronoh Mines Ltd* had taken out an advertisement in a national newspaper shortly before the 1951 general election, criticising the then Labour Government. It was generally thought that such spending would be illegal on the basis that it was incurred for the purpose of promoting a candidate (i.e. all candidates other than Labour ones) and had not been authorised by a candidate or agent, contrary to the 1883 Acts. However, the judge ruled that such spending was allowable.

⁴⁰ *R v Tronoh Mines* (1952) 1 All E.R. 697.

⁴¹ The Committee on Standards in Public Life, *The Funding of Political Parties in the United Kingdom*. London: The Stationery Office (1998) paragraph 10.19, p.115.

⁴² *Ibid*, paragraph 10.16, p.114.

3.8 The Neill Committee stated that “Without doubt the parties’ belief that elections can only be won by the expenditure (mainly on advertising) of vast sums of money has given rise to something of an arms race.”⁴³ The Neill Committee went on to criticise this ‘arms race’, describing it as “a struggle between the two major parties to maximise income for electoral purposes”,⁴⁴ and commenting that:

“This entails the risk that a cynical public will come to believe that the result of an election can be bought by extravagant electioneering expenditure. A further undesirable consequence of the arms-race culture is the excessive amount of time and energy which the party leaders have to devote to fundraising activities.”⁴⁵

More recently, the Constitutional Affairs Committee confirmed the Neill Committee’s identification of an ‘arms race’:

“The Labour Party’s national campaign expenditure increased by more than five times in real terms between 1983 and 1997 and the Conservative Party’s by more than three times, giving rise to the argument that there was an ‘arms race’ between the parties, each under pressure not to be outspent by the other.”⁴⁶

3.9 To deal with the issue of national party spending, the Neill Committee recommended spending limits for national parties at general elections and elections to the devolved administrations. The Committee’s intention was that two sets of spending limits would ensure that all campaign expenditure, whether by parties or by candidates, would be regulated.

The current system for regulating spending by national parties

3.10 The Government introduced the limits recommended by the Neill Committee in PPERA in 2000. The Act also prescribed the amounts that could be spent on certain campaigning activities within a regulated period for elections to the UK Parliament, the devolved administrations and the European Parliament.

Spending limits

3.11 The regulated period for spending at elections to the UK Parliament is the 365 days before the date of the poll and, broadly speaking, there is a limit of

⁴³ Ibid, paragraph S.3, p.1.

⁴⁴ Ibid, paragraph 1.28, p.20.

⁴⁵ Ibid, paragraph 1.28, p.20.

⁴⁶ Constitutional Affairs Committee, *Party Funding: First Report of Session 2006-07*. London: The Stationery Office (2006) paragraph 44, p.18.

£30,000 per constituency or seat contested. (This limit is separate from, and additional to, the amount permitted per general election candidate during the election period itself – see below.) There were 659 seats to be contested at the 2001 general election, giving a maximum spending limit of £19.77m for a party contesting all the seats in the UK. The number of seats was reduced to 646 seats at the 2005 general election, giving a total possible spending limit of £19.38m. Since, in practice, the three largest political parties in Great Britain rarely contest the 18 seats in Northern Ireland, their limit at the 2005 general election was approximately £18.84m.

- 3.12 In Great Britain, once parties fall below a certain limit in the number of seats they contest, the expenditure limit remains the same.⁴⁷ A party contesting fewer than 27 seats in England (regardless of whether this is one seat or 26 seats) would have an expenditure limit of £810,000, that is, the limit for contesting 27 seats. In Scotland the limit is frozen at the level for contesting four seats, and in Wales it is equivalent to contesting two seats.
- 3.13 At elections to the devolved administrations and to the European Parliament, the regulated period is the four months before the date of poll. The spending limits for these elections are set out in the table below.

Election	Limit per constituency	Limit per region	Maximum limit if all seats are contested
National Assembly for Wales	£10,000	£40,000	£600,000
Northern Ireland Assembly	£17,000	See note ⁴⁸ below	£306,000
Scottish Parliament	£12,000	£80,000	£1,516,000
European Parliament	£45,000 ⁴⁹		£3,375,000 ⁵⁰

Regulated activities

- 3.14 The spending limit applies to the activities set out in schedule 8 of PPERA, where the activities take place during the 365 days before the election date and are aimed at promoting the electoral success of a party and its candidates, or damaging the prospects of another party and its candidates. These activities are:

- party political broadcasts;

⁴⁷ There is no equivalent provision for Northern Ireland.

⁴⁸ Candidates for the Northern Ireland Assembly stand only in constituencies – there are no regional representatives as in Scotland and Wales.

⁴⁹ The European Parliament spending limit is £45,000 multiplied by the number of MEPs to be returned in each region a party contests.

⁵⁰ This is the maximum spending limit for a party that contests all regions except Northern Ireland. The limit for a party contesting only Northern Ireland is £135,000.

- advertising of any nature (whatever the medium used);
- unsolicited material addressed to electors;
- any manifesto or other document setting out the party's policies;
- market research or canvassing conducted for the purpose of ascertaining polling intentions;
- the provision of any services or facilities in connection with press conferences or other dealings with the media;
- transport (by any means) of persons to any place or places with a view to obtaining publicity in connection with an election campaign; and
- rallies and other events, including public meetings (but not annual or other party conferences) organised so as to obtain publicity in connection with an election campaign or for other purposes connected with an election campaign.

Schedule 8 of PPERA also lists categories of spending which do not count towards the limit:

- newsletters that include information about candidates in a particular area;
- unsolicited material addressed to party members;
- expenses for property, services or facilities that are met by public funds;
- remuneration or allowances for staff; and
- travel and accommodation paid for from an individual's own resources.

Criticism of the current system

3.15 The Constitutional Affairs Committee summarised current views on how well national spending limits are working:

“With an increase in the frequency of elections within the United Kingdom, the current definitions of campaign periods for spending regulation periods are outdated and allow a range of activities outside those periods, which, although within legal definitions, do not reflect the spirit of the law.”⁵¹

3.16 Some of the key problems that have been identified with the current system are:

- it is not known at the time money is spent whether the limits for general elections have started to apply, as the 365-day period is counted back from the date of the poll;

⁵¹ Constitutional Affairs Committee, *Party Funding: First Report of Session 2006–07*. London: The Stationery Office (2006) paragraph 87, p.31.

- outside of the regulated time period, parties can spend any amount they wish on campaigning; and
- within the regulated period, parties can spend unlimited amounts on activities not covered by the statutory definition of 'campaigning'.

- 3.17 According to Sir Hayden Phillips, "At the last [2005] general election the expenditure of the Conservatives and of Labour showed an increase far above the trend of rising party spending. The two largest parties spent some £90m between them in the year of the election, and some £60m the year before, leaving aside local expenditure."⁵²
- 3.18 The Neill Committee obtained estimates from the political parties of the total amount they spent on campaigning at the 1997 election, including local expenditure. This was in the region of £60m.⁵³ While this figure is not directly comparable with the figures quoted above due to changes in the way the data was collected, there has clearly been a significant increase in the amount spent at elections since 1997. Sir Hayden Phillips described this increase as "excessive" and "not in the public interest",⁵⁴ and concluded that the attempt in PPERA to control parties' spending had been only partially successful.
- 3.19 PPERA lists the types of expenditure currently caught within the spending limit (summarised above): categories include advertising, the cost of producing party political broadcasts, rallies and public meetings. But some costs are not covered, even if they are directly related to campaigning. Sir Hayden Phillips commented on the complexity of rules governing what is included in the spending limits:

"Party staff do not count towards spending limits, even if they are permanently engaged in campaigning. Spending on websites, or on policy research for the manifesto, does count if it takes place in the regulated period. All these ambiguities diminish the authority of the regulations and make the regulator's task far more difficult."⁵⁵

Sir Hayden Phillips' proposals

- 3.20 In October 2007 Sir Hayden Phillips published the draft agreement which he had put to the parties involved in the inter-party talks in August 2007 (see Annex 2). The draft agreement was based upon the options that the three parties represented in the talks believed were feasible. It was intended that

⁵² The Review of the Funding of Political Parties, *Strengthening Democracy: Fair and Sustainable Funding of Political Parties* (March 2007) p.13.

⁵³ The Committee on Standards in Public Life, *The Funding of Political Parties in the United Kingdom*. London: The Stationery Office (1998) paragraph 10.16, p.114.

⁵⁴ The Review of the Funding of Political Parties, *Strengthening Democracy: Fair and Sustainable Funding of Political Parties* (March 2007) p.13.

⁵⁵ *Ibid*, p.14.

the political parties would discuss the draft agreement in more detail, but such considered discussion did not take place. The talks were suspended at the end of October 2007 without the parties having reached an agreement.

Activities to be regulated

- 3.21 Given the problems with the definition of 'campaign expenditure' under the existing regime, Sir Hayden proposed to move to a system where the spending limit is not restricted to particular types of activity or to such a narrow time period. He argued that the majority of parties' expenditure in one form or another is in practice primarily directed towards electoral success regardless of when it takes place, and so all such activity should be included within the limit. Moreover, the limit should not be constrained by an arbitrary time period. Sir Hayden said in his March 2007 report that "As campaigning is continuous, it would be logical for the limits on campaign spending to apply on a continuous basis as well."⁵⁶
- 3.22 Sir Hayden Phillips proposed to identify areas which were not related to campaign expenditure and exclude them from counting towards the limit. All spending would count towards the limit unless the legislation stated otherwise. Such an approach would recognise that almost any action taken by a political party is designed to some extent to help that party win elections. It would remove the need to make any artificial distinction between regulated campaign spending and unregulated non-campaign spending.
- 3.23 Sir Hayden Phillips identified a few areas which are clearly not campaigning activities and are contenders for exclusion from wider spending limits. These are:
- contributions to party employees' pension funds to make up for past shortfalls;
 - interest on debt and repayments of debt;
 - legal expenses;
 - costs of compliance with electoral law;
 - expenditure on trading activities and income generation;
 - accounting units' expenditure on social functions for members of the party; and
 - intra-party transfers.
- 3.24 If legislation were to be passed on this basis, it would need to be clear about which activities would be regulated, especially when an activity could have more than one purpose – for example, a social activity that also raised funds

⁵⁶ Ibid, p.13.

for the party. It might therefore be desirable to include trading activities and income generation within the limit on the basis that campaigning may well be, at least in part, the reason for raising income.

Level of new spending limits

3.25 As outlined above, current restrictions on parties' spending apply only in the 365-day period before a general election. Sir Hayden Phillips recommended setting a limit for the whole of a parliament in line with the level of spending which took place in the run up to the 2001 general election. He therefore envisaged a cut in spending over the life of a parliament in the order of £20m in comparison with the amounts spent before the 2005 poll. Sir Hayden Phillips recommended a limit over a full parliament of 61 months of £150m, comprising 'ongoing' costs of £130m and a 'general election premium' of £20m. This limit would cover all expenditure during the lifetime of a parliament at Westminster, except the excluded activities set out above, expenditure by accounting units spending less than £40,000, and individual candidates' spending at all elections. The limit would be 'pro-rated', so that if a parliament lasted less than its full term, the maximum spending permitted would be reduced by the corresponding fraction of the 'ongoing expenditure' element. For example, a four-year (48-month) parliamentary term would result in a spending limit of £122.3m $[(£130m \times 48/61) + £20m]$.

Spending by different parts of a party

3.26 Currently regional and local party groups can register as accounting units and run their own accounts separately from the central party. Although the central party should already be aggregating accounting units' expenditure on campaigning and counting it towards the national overall limit, the broader definition of campaign spending proposed by Sir Hayden Phillips would put greater pressure on parties to keep track of spending by dispersed parts of their organisation. The central party would be expected to exercise accordingly some degree of control over accounting units to ensure that overall the limit was not exceeded.

3.27 It is an important principle that any change to the regulation of parties' income and expenditure should not unfairly penalise any one party. All parties will have evolved differently over time, and any proposals should be structured so that they do not interfere unevenly or excessively with the parties' constitutions and organisation. Sir Hayden Phillips said, "I have no doubt that the final approach should respect the distinct structures, traditions and constitutions of our political parties."⁵⁷

⁵⁷ Ibid, p.10.

3.28 The proposal put forward by Sir Hayden Phillips might present some difficulties for parties whose local associations have a great deal of autonomy under their current structures and constitutions. To deal with this concern, Sir Hayden Phillips proposed that while all campaign spending would count towards a single limit, it would be left to the central party and accounting units to agree together how much of the limit each component part of the party could spend. If a party wished, the accounting units could report their campaign spending separately – the key thing was that spending by all accounting units and the central party combined should not exceed the single limit.

Accounting units exemption

3.29 Sir Hayden proposed that expenditure by accounting units that spend less than £40,000 in any one calendar year should not count towards the party's overall limit. Spending on campaigning by some accounting units is quite minimal and this recommendation was intended to avoid requiring them to follow excessive compliance processes which were not justified by the level of expenditure. Such excessive procedural requirements would also increase the workload of the Electoral Commission and in turn increase the costs to the taxpayer of enforcement.

3.30 In order to ensure that the overall limit would be effective in controlling expenditure, Sir Hayden also proposed that such potential exemptions would apply only to accounting units that cover at least a complete Westminster constituency or a larger geographical area.

3.31 The Electoral Commission has made regulations which disapply the requirement to submit annual accounts to accounting units with income and expenditure of less than £25,000. It could therefore be argued that retaining a level of £25,000 as the threshold (i.e. over which an accounting unit's expenditure would count towards a party's total) would be more consistent with the current treatment of accounting units set out in PPERA. This would be lower than the £40,000 per annum limit recommended by Sir Hayden Phillips, but as the £25,000 limit is already in use for related purposes, it may be sensible to align this exemption with it. However, any exclusion should not allow large amounts of spending to go unregulated, in a way which would be contrary to the intention of the provision (that is, to ensure a proportionate approach).

Candidate spending

3.32 Sir Hayden Phillips also recommended that the controls on spending by candidates should continue, albeit with a widened definition of what falls to be counted as expenditure. He suggested that the cost of direct mailing and the cost of phone bank activity should be apportioned and included when a particular constituency is targeted. Under Sir Hayden Phillips' proposals,

spending by candidates would not count towards the overall limit for the parliamentary cycle.

By-elections

- 3.33 Sir Hayden recommended that the current limit for spending at by-elections of £100,000 should be maintained.

The Government's view

- 3.34 The Government broadly supports the approach recommended by Sir Hayden Phillips for a more effective spending limit – including a wider scope in terms of the length of the period regulated and the types of spending that count.
- 3.35 However, there remain some concerns about these proposals, including whether the expenditure limit suggested by Sir Hayden should be set at a lower level and how it should be regulated over a parliament. It is inevitable that a large proportion of spending over a normal four to five-year parliament will take place in the closing months of that parliament, running up to a general election. That was the reason for the Neill Committee's proposal for limits on spending in the final 12 months of a parliament. If the only limit set was one for the whole of a parliament, with parties having complete discretion about when exactly to spend during the course of the parliament, there is a serious risk that this would have an unintended result: the effective limit on parties' spending in the final 12 months could in practice be much higher than now, with parties 'saving up' until the final year of the parliament. There would appear to be a strong incentive for a party to do this, and it is therefore hard to see how a single limit for a parliament would restrain spending at elections. A potential refinement of Sir Hayden Phillips' proposals might therefore be to complement the parliamentary cycle limits with annual limits, so, for example, no more than a set amount could be spent in any one period of 12 months.
- 3.36 Notwithstanding this, a more comprehensive limit on party spending, which was not restricted to the 365 days prior to an election, would deal with the changing nature of British politics and in particular the fact that campaigning is not limited to the period immediately preceding an election.

Further proposals

- 3.37 The changes to controls on party spending proposed by Sir Hayden Phillips would mark a fundamental reform of the existing regulatory system. The Government hopes that in the long term, cross-party agreement can be reached for comprehensive spending controls along these lines.

- 3.38 In the short term, however, there should be widespread support for immediate action to tighten some of the existing limits on party spending, including:
- making the campaign expenditure limit introduced by PPERA more effective by re-examining the schedule of qualifying expenses and, in that context, assessing the case for changing the £20m cap;
 - the re-introduction of 'triggering' for candidates at general elections; and
 - a four-month period for expenses limits for candidates at devolved administration elections.

Parties' campaign spending

- 3.39 At the next general election, the number of seats will be slightly increased to 650, giving a total potential party spending limit of £19.5m.⁵⁸ If a party contested all 632 seats in Great Britain at the next general election, excluding the 18 seats in Northern Ireland, the maximum that a political party could spend in the 365 days prior to a general election would be £18.96m. The figure in Northern Ireland would be £540,000.
- 3.40 Some feel that the current national campaign expenditure limit is too high, and that it should be reduced. The Electoral Commission, in its 2004 report, *The Funding of Political Parties*, proposed that the limit be set at £15m,⁵⁹ and that candidates' limits should be increased to stimulate activity at a local level, an issue which is considered later in this chapter.
- 3.41 The Government believes that there might be a case for a change in the existing £20m PPERA campaign spending limit, in the context of an examination of the list of qualifying expenses. A limit of £15m, which was proposed by the Electoral Commission and has been supported by some of the parties, would be achieved by reducing the limit per constituency by £7,000 to £23,000. This would mean that the maximum that a party contesting all seats in the UK could spend at the next election would be £14.95m. A party fielding candidates for all seats in Great Britain would have a limit of £14.536m, and the limit for a party campaigning solely in Northern Ireland would be £414,000.
- 3.42 The Electoral Commission recommended that a similar rebalancing of national party and candidate spending limits should take place for elections to the devolved administrations. In other words, the amount which can be spent by national parties should be reduced and the amount that can be spent by candidates increased. The maximum expenditure limits for parties contesting devolved elections are currently: £1.516m for elections to the

⁵⁸ Owing to boundary changes, the number of seats has changed since the 2005 general election, when there were 646 overall, with 628 of those in Great Britain and 18 in Northern Ireland. Four more seats have been created in England.

⁵⁹ Electoral Commission, *The Funding of Political Parties: Report and Recommendations* (2004) p.61.

Scottish Parliament; £600,000 for elections to the National Assembly for Wales; and £306,000 for elections to the Northern Ireland Assembly. While the Government has some sympathy with the principle behind this suggestion, it does not believe that the limits are currently high enough to cause concern about excessive spending, and so does not believe that these limits for parties should be reduced.

- 3.43 The Government intends to assess the case for changing the level of the campaign spending limit in the context of revising the list of qualifying expenses. This is set out in schedule 8 of PPERA and has been summarised at paragraph 3.14. The Government believes that the current list of qualifying expenses is out of date, has too many omissions and in some cases is unclear. We will therefore bring forward proposals to update and clarify the list of qualifying expenses, and consult with the Electoral Commission and political parties on this.

Controls on candidates' spending at general elections

- 3.44 The Government believes that the current regulation of candidates' spending is not entirely effective, and that legislative change is necessary.

The situation prior to the 2001 general election: 'triggering'

- 3.45 Before the 2001 general election, candidate spending was regulated by the Corrupt and Illegal Practices Prevention Act 1883, as restated by the Representation of the People Act 1983. In accordance with these Acts, the limit on candidate spending effectively commenced, regardless of whether a person had been formally nominated or declared as a candidate, when he or she triggered spending limits by promoting him/herself for election as the candidate of a particular party. This was informally known as 'triggering', in that a candidate's spending limit began not at a specified time in advance of an election but when he or she 'triggered' it by, in general terms, behaving like a candidate for election.
- 3.46 This system led to uncertainty and the use of various artificial devices in order to postpone the triggering of the limits. For example, a person selected by his/her party as a candidate for an election often labelled him/herself as a 'prospective parliamentary candidate' or sometimes as a 'party spokesperson' in order to avoid identifying him/herself as a 'candidate', and therefore someone whose campaign was subject to the spending limit. Such practices were not uncommon among candidates warned by their agents of the perils of triggering the limits. But overall, despite the imprecision of the rules and their varying interpretation across the country, there is no doubt that they had a dampening effect on parties' expenditure locally well before the formal general election period. This was one of the reasons why the Neill Committee saw its reforms of

the spending regime as 'buttressing' the existing controls (i.e. 'triggering'), not supplanting them. The Neill Committee said

"the view is now widely held that the existing spending limits, which are in effect local spending limits, should be buttressed by the imposition, in one form or another, of limits on the national expenditure of political parties and politically motivated individuals and bodies."⁶⁰

Concerns regarding the current legislation

- 3.47 PPERA introduced a new limitation which means that expenditure counts towards candidate spending limits from the point of dissolution of Parliament for a general election⁶¹ – unless formal nomination or declaration of the candidate takes place after dissolution, in which case spending limits start then. In contrast to the previous system (where the onset of the spending limit was not linked to a date but 'triggered' by the behaviour of the candidate), this means that money spent on promoting the electoral prospects of a candidate before dissolution is not restricted.
- 3.48 During the passage of PPERA through Parliament, concern was expressed that the replacement of the 1883/1983 triggering provisions by controls on spending only during the election period would lead to a significant growth in unregulated local expenditure. An amendment to deal with this risk was moved at Lords Report stage by the opposition peer Lord Mackay of Ardbrecknish. This was resisted at the time by the Government on the grounds that the proposed PPERA provisions were already designed to ensure that when election expenditure was incurred before the dissolution of Parliament but the resulting resources were used after dissolution, such expenditure would count towards the candidate's limit. However, this did not deal with expenditure which was incurred, and the resources used, before dissolution by a person who later became a candidate. Such expenditure was therefore largely unregulated. Since the changes to the regime made by PPERA, concern has been voiced that unregulated expenditure of this sort has occurred on a significant scale.
- 3.49 With the benefit of hindsight, it is now clear that the measures in PPERA had the consequence, wholly unforeseen by any of the parties, of a rise in local spending before the regulated period. The loss of the 1883/1983 regime had the unintended effect that excessive election spending at a local level was no longer suppressed.

60 The Committee on Standards in Public Life, *The Funding of Political Parties in the United Kingdom*. London: The Stationery Office (1998) paragraph 10.21, p.115.

61 Or from dissolution of the relevant body for elections to the devolved administrations, or publication of the notice of election for local government elections.

Electoral Commission proposals

- 3.50 The Electoral Commission, in its 2003 report *Political Parties, Elections and Referendums Act 2000: Recommendations for change*, noted that “some parties have complained that the effect of the amendment [in PPERA] is to render candidates’ expenses limits meaningless”.⁶² While noting that others welcomed the clarity the change had brought, the Commission recommended that candidates’ spending limits should apply for the four months leading up to the poll (rather than from the date of dissolution which can be as few as 20 working days in advance of a general election).
- 3.51 The Government included this proposal in the Electoral Administration Bill, which was introduced in the House of Commons on 11 October 2005.⁶³ Consideration by Parliament, however, revealed deep concerns about such a measure. These focused primarily on the fact that it would rarely be possible to be certain about the date of a general election four months before it was held, as an election need only be called roughly one month in advance. Such a measure would significantly increase the burden on candidates and their agents, who would have to be careful about what they spent in case a snap election were called. In light of this, it was felt that the four-month period would increase confusion.
- 3.52 In Committee stage in the House of Commons, David Heath MP, spokesman for the Liberal Democrats, said:

“there is a clear difference between a parliamentary election and other elections for which the term is set. We do not know when there will be a general election, so knowing the four months that precedes it requires a degree of prescience that most of us do not have. We do not know when to start the clock running and, more importantly, neither do our constituency parties ...

“To have control of all election-related expenditure over a period of four months before a general election implies that an agent must be in place for that period. How could an agent legally have control of expenses when that person may not have been appointed, or have any notion that they are to be appointed as agent? How could they control expenditure for a period four months before a date that they do not know? It would mean that agents would have to be in place all year round, every year, controlling every item of expenditure that might be related to an election, just in case a general election is called. That would be a very onerous task. Every party, in every

⁶² Electoral Commission, *Political Parties, Elections and Referendums Act 2000: Recommendations for Change* (2003) paragraph 5.7, p.30.

⁶³ *Official Report, House of Commons* (11 October 2005) Vol. 437, c.169.

constituency in the country, would have to have an agent in place on a permanent basis, checking the expenditure.”⁶⁴

3.53 These views were echoed on all sides of the House. In replying for the Government, the then Minister of State for Constitutional Affairs, the Rt Hon Harriet Harman MP, gave an undertaking that the Government “will not impose a solution that does not have wide support.”⁶⁵ The Government therefore withdrew the measure at Report stage in the House of Lords,⁶⁶ and asked Sir Hayden Phillips to consider the issue in his Review of the Funding of Political Parties. This move was supported by the opposition parties.

Revisiting the principle of ‘triggering’

3.54 Sir Hayden Phillips outlined concerns about the current system for limiting candidates’ spending in his March 2007 report. He stressed the need for a more comprehensive regulation of all spending, and specifically noted that “most of the time local spending is unlimited.”⁶⁷

3.55 Given the experiences of the last seven years, the Government now believes that there is broad consensus that candidates’ expenditure should be regulated for a longer time period in line with the Electoral Commission’s recommendation. One option available would be to return to a system based on candidates ‘triggering’ limits on spending at a general election, similar or identical to the system prior to PPERA.

3.56 The 1998 Neill Report arrived at the following conclusion in relation to the system of ‘triggering’ which then regulated spending by candidates:

“The existing limits on candidates’ expenditure at general elections are generally accepted and have, beyond any doubt, had the effect of restraining spending at the strictly local level. Certainly no-one recommended to us that they be abolished. On the contrary, they were supported by all the main political parties and by all the individuals and organisations whose evidence bore on this topic.”⁶⁸

3.57 Re-introducing triggering could work alongside the proposals put forward by Sir Hayden Phillips for controlling national spending by political parties. Sir Hayden Phillips’ proposals assumed retention of the existing restrictions on spending by candidates. Triggering would provide more clarity about which types of expenditure would count towards the local spending limit for candidates and

64 *Official Report, House of Commons* (17 November 2005) Vol. 439, c.91.

65 *Ibid*, c.98.

66 *Official Report, House of Lords* (15 May 2006) Vol. 682, c.69.

67 *The Review of the Funding of Political Parties, Strengthening Democracy: Fair and Sustainable Funding of Political Parties* (March 2007) p.15.

68 *The Committee on Standards in Public Life, The Funding of Political Parties in the United Kingdom*. London: The Stationery Office (1998) paragraph 10.7, p.111.

which would count towards the national limit on overall expenditure by parties. The Government will consider whether provision to re-introduce triggering could be brought into effect so as to avoid pre-emption: for example, to capture expenditure incurred on or after the date of second reading of a Bill, pending subsequent Parliamentary approval of its passage. Alongside the re-introduction of triggering, the Government proposes to give the Electoral Commission a new power to issue guidance about when, and the circumstances in which, candidate spending limits are triggered. This would help to avoid some of the uncertainty associated with the implementation of the previous version of the regime.

- 3.58 As a general principle, the Government believes that all expenditure aimed at influencing an election result should be controlled, either as party campaign expenditure or as candidates' election expenses. The Neill Committee found that the definition of candidates' election expenses was outdated – for example, it contained reference to telegrams. It recommended that revision of the definitions should not be a one-off occurrence, but should take place on a regular basis. The Government will examine whether the current definitions reflect modern developments in campaigning and properly capture what parties and candidates are spending at elections. It will also assess whether there is clarity over which expenses count towards the party campaign limit and which expenses count towards a candidate's campaign limit.

Controls on candidates' spending at devolved administration elections

- 3.59 While Westminster parliaments do not have fixed terms, different circumstances apply for the devolved administrations. The Scottish Parliament, the Northern Ireland Assembly and the National Assembly for Wales all have fixed terms, so the date of ordinary elections to them is known well in advance. For these elections, a fixed time period for candidates' election expenditure with a specific start date could be used. This would appear to be preferable to either the current system, as it would extend the time period regulated, or the 1883/1983 system, since it would provide a clear start date for the regulated period. It is worth noting that during the discussion of the clause relating to the four-month period in the Electoral Administration Bill, there was support for the introduction of a four-month period for fixed-term elections. David Heath MP said "a four-month period for election expenses running before a fixed-term election is fine, because everybody knows where they stand."⁶⁹
- 3.60 The Government is sympathetic to the idea that, in line with the Electoral Commission's 2003 recommendation, the regulated period for candidates' election expenses at devolved administration elections should be four months. The problems surrounding the lack of clarity of the start date in the case of

⁶⁹ *Official Report, House of Commons* (25 October 2005) Vol. 438, c.216.

general elections would not apply, and there would be benefits for candidates, agents and the regulator in setting a clear start date for candidates' election expenses.

- 3.61 Similar changes could be made for local government elections in England, Wales and Northern Ireland, either returning to a system similar to that which existed before 2000, or moving to a fixed time period.⁷⁰ However, the Government has not seen any evidence that a problem exists at this level, and so the best option appears to be to keep the current system at present.

Conclusion

- 3.62 It is widely agreed that perceived 'excessive' spending by political parties is a cause of public concern. The Government agrees that spending should be strictly and effectively regulated. An updating and therefore broadening of the definition of campaign spending together with consideration of an alteration of the limits reflecting this reassessment will go some way to tackling the 'arms race' in election spending. A re-introduction of a system of more effective controls of candidate spending will also help tackle the problem of ever-increasing spending at the local level. Further, the Government believes that the package of proposals for comprehensive spending limits put forward by Sir Hayden Phillips is worthy of consideration. In due course, the Government hopes that all parties will be able to support a package based on these proposals, complemented as necessary by additional annual limits to address the concern outlined above about the risk of higher levels of spending in the year before a general election. The need for all-encompassing continuous controls seems clear.

Spending by third-party campaigning organisations

- 3.63 Political parties and candidates are not the only entities that campaign at elections. Individuals and organisations also campaign separately from political parties, often on a single issue. These are called 'third parties' in PPERA, and should not be confused with bodies that are involved with political parties, such as those who make donations or form an association made up of party members. The latter are addressed in Chapter 4.
- 3.64 Third-party campaigning organisations are regulated in a similar way to political parties. Third parties that spend over £10,000 in an election period must register with the Electoral Commission. They are subject to the same rules for receiving donations, declaring donations and providing accounts as

⁷⁰ While the registration and funding of political parties is a reserved matter, policy on and conduct of local elections in Scotland are the responsibility of the Scottish Parliament under the Scotland Act 1998.

political parties. The maximum amounts third parties may spend on national campaigning at each election are set out in the table below.⁷¹

Election	Regulated period (ends with the date of the poll)	Controlled expenditure limit			
		England	Scotland	Wales	Northern Ireland
Westminster	365 days	£793,500	£108,000	£60,000	£27,000
Scottish Parliament	4 months	N/A	£75,800	N/A	N/A
National Assembly for Wales	4 months	N/A	N/A	£30,000	N/A
Northern Ireland Assembly	4 months	N/A	N/A	N/A	£15,300
European Parliament	4 months	£159,750	£18,000	£11,259	£6,750

- 3.65 Third parties may not carry out campaigning on behalf of a candidate or party or which is in practice authorised by that candidate or party. Any authorised campaigning of this sort should count towards the limit on spending by the political party itself.
- 3.66 Greater controls on spending by political parties will help reduce the pressure on parties to spend money but may also result in an increase in campaigning by third parties. The US experience of campaigning by third parties provides a pertinent example of what can happen if campaigning by third parties increases. More detail is provided in the box below.
- 3.67 Sir Hayden Phillips stated in his March 2007 report that "Political parties should remain the primary agents of campaigning, not third parties."⁷² The Government agrees with this principle and believes that it is important that third-party expenditure is effectively controlled.
- 3.68 Regulation of the existing requirements will be key to ensuring that third parties do not campaign on behalf of candidates or parties without authorisation, and that any such authorised campaigning counts towards the party's spending limit. The new investigatory powers and sanctions proposed for the Electoral Commission will help to achieve this.

⁷¹ Third parties can spend a maximum of £500 campaigning in support of or against particular candidates.

⁷² The Review of the Funding of Political Parties, *Strengthening Democracy: Fair and Sustainable Funding of Political Parties* (March 2007) p.11.

- 3.69 Third parties exist outside of elections and carry out other roles. It would be excessive to limit the amount they can spend on activities that are completely unrelated to elections or political campaigning. For this reason, the system proposed by Sir Hayden Phillips should not be extended to third parties, as Sir Hayden himself recognised.
- 3.70 The Government will retain the existing system for regulating third-party campaigning organisations. However, in taking forward any wider package of reforms to election spending, the Government will consider carefully the likely impact on the activities and spending of third-party organisations and, if necessary, bring forward proposals which build on the current system.

Third-party campaigning: the US experience

It is difficult to draw comparisons with other countries about how third-party spending at elections should be regulated, given the differences in culture, electoral systems, legislation and regulation. However, some cases provide a salutary lesson. In the US, third-party spending at elections takes place to a much higher degree than in the UK. This stems in part from the Supreme Court's *Buckley v. Valeo* ruling (1976) which stated that limits on expenditure were unconstitutional as they went against the First Amendment right of free speech in the US Constitution. In addition, the cost of campaigning at elections in the US is vastly higher than in the UK, partly as a result of the prohibition on bought advertising time on UK television (offset to a degree by free party election broadcasts). In the US, campaigners are able to buy advertising time on television, and, indeed, are compelled to in order to compete effectively: this pushes costs up significantly. The cap on donations to candidates interacts with the absence of a limit on expenditure to provide an incentive for third parties to campaign, as neither their income nor expenditure are subject to limits.

Of great concern in the US is the influence of '527' groups. Named after the section of the Internal Revenue Code which provides tax-exempt status to organisations defined as political, expenditure by these groups takes place outside of, and is not commissioned by, the official campaigns. During the 2004 presidential election in the US, numerous 527s were set up to support both President Bush and Senator Kerry, spending \$425m.⁷² This amount is likely to be surpassed in the 2008 election as a result of a June 2007 Supreme Court ruling which lifted a ban on broadcast messages from independent groups within 30 days of a primary or caucus.⁷³

⁷³ Congressional Research Service, The Library of Congress, *CRS Issue Brief for Congress, Campaign Finance* (4 May 2006) p.8.

⁷⁴ US Supreme Court, *Federal Election Commission v. Wisconsin Right to Life, Inc.* (25 June 2007).

Chapter 4

A donation cap and public funding

4.1 The pressure on parties to spend money plainly drives the demands on them to raise money. Clearly, a major part of the solution to that problem lies in cutting spending and making the limits stick. But beyond spending limits there have also been calls for caps on the amount of money that can be donated to political parties. This was considered by the Neill Committee in 1998, the Electoral Commission in 2004, the Constitutional Affairs Committee in 2006 and Sir Hayden Phillips in 2007, as well as by a significant number of think tanks and academics throughout this period. Some argued that caps on donations were necessary to tackle the perception that money could buy political influence.⁷⁵ This perception is unfair to the numerous political donors who give financial support to a party for the very noble reason that they identify with the values and principles it espouses. For such individuals, donations are an extension of the subscription fees that hundreds of thousands of citizens make to political parties every year. Nonetheless, the fact that there is some public concern about the potential for donors to gain undue influence has made the issue of donation caps a live one.

Assessing the case for a cap on donations

4.2 The Neill Committee felt that transparency alongside controls on spending would be sufficient. It explicitly opposed donation caps, saying:

“we do not recommend that a limit should be introduced on the amount which an individual or an institution may contribute to a political party. We believe that our proposals for disclosure of donations and for limits on campaign expenditure, taken together, should remove the need for any cap on donations.”⁷⁶

The Committee expressed concern that donors would be strongly tempted to avoid the cap by giving through friends and relatives or subsidiary companies. It concluded: “the panoply of rules and bureaucracy which we believe would be required to enforce such a system would not be justified by the purpose of the cap.”⁷⁷

75 See the Constitutional Affairs Committee, *Party Funding: First Report of Session 2006–07*. London: The Stationery Office (2006) p.35 for a summary of opinion polling, and Electoral Commission/Ipsos MORI (2006) *Public Perspectives: The Future of Party Funding in the UK* for qualitative research findings.

76 The Committee on Standards in Public Life, *The Funding of Political Parties in the United Kingdom*. London: The Stationery Office (1998). p.80.

77 *Ibid*, p.80.

- 4.3 The Labour and Conservative parties both supported this approach at the time. Liberal Democrat amendments to the Bill that became PERA to establish donation caps were rejected.⁷⁸ The Electoral Commission also advised against donation caps in its 2004 review: "While we are not in principle opposed to the introduction of a donation cap, we do not believe that such a major departure from the existing system would now be sensible."⁷⁹
- 4.4 In March 2006, Sir Hayden Phillips was asked to review the case for a cap on donations in return for increased public funding. Assessing the situation since the Neill Committee and Electoral Commission reviews, he observed that "It would be unrealistic to expect further controls on donations alone to restore public confidence, but the evident public disquiet proves a clear mandate for change."⁸⁰ He concluded that "The status quo, in which there are no caps on donations, is unsustainable and therefore donations to parties should be limited."⁸¹ He went on to emphasise the need for effective enforcement of a cap on donations: "Restrictions on donations should be buttressed by measures to prevent breaches of the new regulations."⁸² The Constitutional Affairs Committee reached a similar conclusion and called for "a voluntarily agreed binding framework for the limiting of all large donations".⁸³
- 4.5 These reviews recognised that a cap on donations would have financial effects on political parties and might contribute to increasing financial instability. The Constitutional Affairs Committee expressed the parties' current level of stability in stark terms:

"The present system of party financing in the UK is unstable. Unless this instability is addressed, it is likely that dependence on large donations, and consequent negative impact on public confidence in the system, will increase."⁸⁴

Political parties' central role in our democratic system makes it important that they remain viable, and any changes to party funding regulations should not give an unfair advantage to one party at the expense of another. As a result, there must be a relationship between donations and public funding. Any reforms to party finance must not destabilise existing political parties, nor prevent new parties from forming. Proposals which risk doing so would not be viable.

⁷⁸ *Official Report, House of Lords* (12 October 2000) Vol. 617, cc.589–595.

⁷⁹ Electoral Commission, *The Funding of Political Parties: Report and Recommendations* (2004) p.87.

⁸⁰ The Review of the Funding of Political Parties, *Strengthening Democracy: Fair and Sustainable Funding of Political Parties* (March 2007) p.9.

⁸¹ *Ibid* p.2.

⁸² *Ibid*.

⁸³ Constitutional Affairs Committee, *Party Funding: First Report of Session 2006–07*. London: The Stationery Office (2006) paragraph 154, p.54.

⁸⁴ *Ibid*, p.3.

Existing public funding

- 4.6 Any consideration of extending public funding must begin by recognising the financial support parties already receive from public funds. The principle of public funding of political parties is not new. In the nineteenth century, £10,000 of 'Secret Service' money – worth around £900,000 today – was paid to the Chief Whip of the party in office for him to use at his discretion. This practice was abolished in 1886.
- 4.7 In the modern era, parties receive public funding through a range of routes to fund specific areas of their activity. Short Money was introduced in 1975 to assist the main opposition parties in carrying out their parliamentary business, establishing the principle that public money may be used to support the activities of political parties. Short Money is available to opposition parties who have two or more sitting MPs, or who have one sitting MP and received at least 150,000 votes at the previous general election. The scheme was expanded in 1993 to support the travel and associated expenses of the opposition parties' spokespeople in relation to parliamentary business. In 1999 the scheme was extended again to provide support for the office of the Leader of the Official Opposition and the amount paid in Short Money was increased by a factor of 2.7. In 2007/8 the Conservative Party received £4.5m and the Liberal Democrats £1.67m of Short Money.⁸⁵
- 4.8 A similar scheme, known as 'Cranborne Money', was introduced in 1996 to support the activities of the opposition parties in the House of Lords. For 2007/8 the Conservatives have been allocated £457,540, the Liberal Democrats £228,445 and the Convenor of the Crossbench Peers £41,003.⁸⁶ More recently, PPERA introduced policy development grants, which provide an annual total of £2m to be divided between parties with two or more sitting MPs at Westminster.
- 4.9 However, the most substantial support to political parties from public funds comes through the benefits in kind they receive through free party political broadcasts and free election postage. According to Andrew Tyrie MP, this equates to around £121m in a general election year.⁸⁷

The link between public funds and a cap on donations

- 4.10 Both Sir Hayden Phillips and the Constitutional Affairs Committee concluded that limiting donations to political parties from private sources would require a corresponding increase in financial support from public funds.

⁸⁵ House of Commons Library, *Short Money*, SN/PC/1663(24 May 2007) p.3.

⁸⁶ *Ibid*, p.9.

⁸⁷ Andrew Tyrie MP, *Clean Politics* (2006) p.36.

The Constitutional Affairs Committee concluded that:

"any meaningful limit on donations from individuals, corporations and trade unions would lead to a shortfall in funds, which would not be addressed by a reduction in the current level of the cap in spending alone."⁸⁸

Sir Hayden Phillips believed that the package of measures he proposed:

"would impose significant restrictions on the parties' freedom to raise their own funds, and new obligations in terms of compliance and reporting. These measures are in the public interest, and it is fair and reasonable to use public funds to help offset their financial impact."⁸⁹

- 4.11 A cap on donations would therefore result in a considerable shift from the current approach of linking the use of public funding to specific purposes.
- 4.12 Sir Hayden Phillips judged that if public funding were to be increased, it should be on the basis of the principles set out in the Constitutional Affairs Committee report, which recommended that "Any extension of state funding should offer the taxpayer visibly cleaner and healthier politics: it should be accompanied by robust regulation and be focused towards the local level."⁹⁰ Sir Hayden therefore argued that the introduction of a new scheme of substantially increased public funding should be dependent upon a cap on donations, and ought to be devised in such a way as to encourage parties to recruit members and to reward parties for popular support.
- 4.13 Public opinion on the funding of political parties, and in particular the degree of support for a cap on donations and increased public funding, is difficult to judge. The box below summarises some of the research on this subject. The starting point for many people is strong opposition to the principle of public funding, even in the face of awareness of the limited public funding that is already in place for specific purposes. However, when the public are given the facts about the current system and the chance to deliberate, they become more aware of the need for a link between limiting donations to parties and increasing public funding, and research has shown that pre-existing views have tended to shift.⁹¹
- 4.14 A wider public debate is needed on the proposal to shift the public funding approach away from one of funding specific activities towards one which

88 Constitutional Affairs Committee, *Party Funding: First Report of Session 2006–07*. London: The Stationery Office (2006) paragraph 109, p.40.

89 The Review of the Funding of Political Parties, *Strengthening Democracy: Fair and Sustainable Funding of Political Parties* (March 2007) p.17.

90 Constitutional Affairs Committee, *Party Funding: First Report of Session 2006–07*. London: The Stationery Office (2006) paragraph 126, p.46.

91 Electoral Commission/Ipsos MORI (2006) *Public Perspectives: The Future of Party Funding in the UK*.

compensates parties for the effect of a cap on donations and addresses the long-term financial instability parties face. Central to an informed debate is the acknowledgement that a cap on donations would not be sustainable without increased assistance to political parties from public funds.

- 4.15 Before the level of a cap on donations could be set and a linked increase in public funding introduced, careful consideration would have to be given to:
- the level of public funding that would be made available;
 - how such funding would be distributed; and
 - the impact that the cap and public funding arrangements would have on each political party.
- 4.16 The Government believes that any arrangements for increased public funding would need to be fully transparent, and provide for fair treatment not just of existing political parties, but of parties that might emerge in the future.

The potential effect of a cap on donations

- 4.17 The extent of the financial impact on political parties, and therefore the amount of public funding necessary to ensure stability, would depend on the level of the cap on donations.
- 4.18 Sir Hayden Phillips considered a range of limits: his interim assessment looked at the financial impact of limits ranging from £5,000 to £100,000.⁹² His final report stated:

“The parties will want to consider the precise level of the limit on donations. But a ceiling of £50,000 on donations from any one source – whether individual or organisational – seems to me to be a reasonable and attainable target.”⁹³

Sir Hayden’s draft agreement proposed a limit phased in over four years, beginning at £500,000 and reducing each year to reach the final limit of £50,000 per annum.

- 4.19 There is no evidence to suggest that the overwhelming majority of people who give to political parties do so with the intention of securing improper influence. Nonetheless, the objective of donation caps would be to remove any possible perception that donating to a political party could secure influence of some sort and to reassure the public of the motives of those who give to political parties. It is difficult to gauge at what level donations should be capped to

⁹² The Review of the Funding of Political Parties, *An Interim Assessment* (October 2006) p.45.

⁹³ The Review of the Funding of Political Parties, *Strengthening Democracy: Fair and Sustainable Funding of Political Parties* (March 2007) p.10.

provide reassurance that the maximum sum is insufficient for the donor to gain influence. However, some other jurisdictions cap donations at well below the level of £50,000 suggested by Sir Hayden Phillips – some have a cap equivalent to only a few hundred pounds.⁹⁴ A donation of £50,000 would represent a substantial sum of money to most people, given that the average UK household income is less than £30,000. Limits at a considerably lower level – perhaps even as low as £1,000 – would go much further and would require parties to seek donations from many more people, making them less reliant on a small number of wealthy donors. That would transform the basis for the financing of political parties, and could have far-reaching effects for our political system.

- 4.20 The Government has calculated the average annual shortfall in income which would be experienced by the two largest parties as a result of a donation cap, using projections based on the donations that they reported to the Electoral Commission between 2002 and 2006. These figures should be treated with caution as they are based on parties' historical pattern of donations and not their ability to raise funds in the future. They take into account the proposals for trade union affiliation fees outlined below.
- 4.21 These figures show that a donation cap of £50,000 would produce a shortfall of £5–6m for each of the two largest parties compared with the amount they would be expected to receive if there were no limits on the amounts they could raise. If the cap were set at £25,000, the two largest parties would each lose on average £6.4–6.8m per year. A cap at £10,000 would result in an average shortfall of £7.6–7.8m. If the cap were set at £5,000, the shortfall would be on average £8.1–8.9m. The level of the shortfall in the parties' funds would also depend on the level of spending limits: the lower an expenditure limit, the less the parties' need for income.
- 4.22 A wider discussion of public funding would need to take into account the level of the cap since, while opinion might indicate that a lower donations cap would be desirable, a lower cap would increase the amount of public funds required. Balanced with this is the need to ensure that parties remain financially sustainable and that any changes do not give an unfair advantage to any single party at the expense of others.

⁹⁴ International IDEA, *Funding of Political Parties and Election Campaigns*. Sweden: International Institute for Democracy and Electoral Assistance (2003).

Donation caps and public funding: the Canadian and US experience

In Canada, parties that pass a threshold in terms of share of the vote receive public funding through quarterly grants based on the number of votes the party received at the previous election. Parties are also reimbursed for 50% of their election expenses. Candidates that receive at least 10% of votes are entitled to reimbursement of 60% of their election expenses. In addition, donors to political parties receive tax credits depending on the size of their donation.

In the US, public funding for candidates to cover their campaign expenses was introduced in 1974 as a result of concerns that donors who gave large sums might have exerted undue influence on candidates. The Republican and Democrat presidential candidates receive a grant to cover all their campaign expenditure. In 2004 they received \$74.62m each. If a candidate accepts public funding they are not allowed to raise other contributions, but if a candidate does not accept public funding they can raise and spend an unlimited amount. A candidate from another party is eligible for public funding after the election to cover part of their costs if they receive at least 5% of the vote. Both major parties receive public funds to support their nomination conventions, which in 2004 amounted to \$14.9m each.

The significant levels of public funding available to election candidates in the US have not deterred individuals from making private donations. In particular, recent and current US presidential candidates have raised significant sums from a wide base of relatively small donations. This has been facilitated in part by the growth of political communication and campaigning over the internet. Howard Dean, who campaigned for the presidency in 2004, was in many respects the pioneer. He used the internet to great effect by encouraging people who had not previously given financial support to a candidate or political party to give small donations. He raised over \$51m from 43,873 different individuals.⁹⁴

In the 2008 presidential primaries, Barack Obama has used a similar strategy of internet campaigning, which has enabled him to raise large amounts from a very wide donor base; he has received over \$28m of online donations. Significantly, 40% of the donations he has received were of \$200 or less, with a large proportion coming from donors who gave \$25. This compares to John McCain and Hillary Clinton, for whom contributions of \$200 or less make up around 25% of their total donations.⁹⁵

Sir Hayden Phillips' proposals for public funding

- 4.23 Sir Hayden Phillips recommended that public funding of political parties should be increased to make up for the effect of a donation cap. The public funding schemes he proposed, based on a donations cap of £50,000, would have an overall cost of around £20–25m per year.
- 4.24 Sir Hayden proposed two schemes for distributing public funding for parties subject to the cap on donations. The first scheme was designed to encourage parties to engage the electorate by providing, up to a certain level, public funding to match donations. The second would reward public support by allocating a set amount of money to parties for each vote they receive – this is known as a pence-per-vote scheme.
- 4.25 These schemes were designed to provide greater financial stability following the introduction of a cap on donations. However, it is difficult to predict how much parties would receive through an incentivisation scheme and how this would compare to the cost of setting it up and accounting properly for public funds. There is also an element of uncertainty in the pence-per-vote system as the amount a party receives will change each time an election takes place. This could be every one or two years if devolved administration and European Parliament elections were to be included.
- 4.26 These schemes and the weighting given to them in Sir Hayden's draft agreement may not provide the stability that was sought. The Government is considering the options carefully. The issues are outlined in more detail below.

Ensuring fairness in any scheme

- 4.27 Parties would be affected in different ways by a cap on donations because they structure their finances in different ways. The importance of ensuring that any scheme would not impact disproportionately on any single political party has already been made clear.
- 4.28 While Sir Hayden found that there was the basis for an agreement on the principle of limiting donations to political parties, he reported that the precise design of a limit remained an obstacle. In order to understand why this issue was difficult to resolve, it is necessary to understand something of the nature of political parties in the UK.
- 4.29 Modern party politics began to be established in the eighteenth century, in parallel with the gradual evolution of Cabinet government. However, each party has an individual structure which reflects its own particular origins, social

95 Federal Election Commission.

96 Ibid.

foundation and history; and each has developed without the constraint of any external legal framework. Indeed, there was no direct regulation of political parties in legislation until the late 1990s. Each party is therefore singular in its attributes – exactly as it should be in a free society.

- 4.30 The asymmetrical nature of parties in the UK means that unless great care is taken, changes in financial regimes could be felt very differently by different parties. This is one reason, as set out in the Introduction, why successive governments have rightly been reluctant to introduce significant changes without cross-party consensus.

Donations and affiliation fees from trade unions

- 4.31 A donations cap would raise a particular issue for the Labour Party, which has a federal structure that stems back to its origins as an alliance of socialist societies and trade unions.
- 4.32 The political levy paid by union members and political expenditure by trade unions is already highly regulated by law. In the absence of donation limits, there has been no need for the law to distinguish between affiliation fees and donations by trade unions, and PPERA does not do so. Within the existing regulatory structure, a crude cap on donations therefore would in practice stop the larger trade unions from paying collective affiliation fees.⁹⁷
- 4.33 The Constitutional Affairs Committee said that “any move to change the nature of party funding must not stray into prescriptive devices to require political parties to organise internally in ways that violate their democratic relationships with other institutions.”⁹⁸ This principle was endorsed by Sir Hayden Phillips, who said that he would not favour an approach to funding reform which prescribed how parties should or should not organise themselves.
- 4.34 Sir Hayden acknowledged that a crude donation cap would undermine the legitimate constitutional structure of the Labour Party, including most notably its democratic relationship with affiliated trade unions and the Co-operative Party. Sir Hayden Phillips therefore distinguished between discretionary donations from trade unions and affiliation fees. He proposed that the latter “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.”⁹⁹

97 The Review of the Funding of Political Parties, *Strengthening Democracy: Fair and Sustainable Funding of Political Parties* (March 2007), p.10

98 Constitutional Affairs Committee, *Party Funding: First Report of Session 2006–07*. London: The Stationery Office (2006) paragraph 110, p.41.

99 The Review of the Funding of Political Parties, *Strengthening Democracy: Fair and Sustainable Funding of Political Parties* (March 2007), p.10

- 4.35 To ensure traceability, Sir Hayden Phillips proposed that trade unions should be required to pay affiliation fees to a political party on a one-to-one basis, according to the number of members who contribute to the union's political fund. For example, if the affiliation fee is set at £3 per member, the union would pay the political party £3 multiplied by the number of members contributing to the political fund.
- 4.36 With regard to transparency, affiliated trade unions would be required to provide new members with the following information when they join (for example on the application form):
- an explanation of what the political fund is and the union's affiliation to a political party;
 - an explanation of how much individual members contribute to the political fund and towards the union's affiliation fee;
 - an explanation of the trade union member's right at any time to stop contributing to the political fund and the union's affiliation fee, and clear information about how they can do this; and
 - an explanation that if a member stops contributing to the political fund, their membership subscription will be reduced accordingly.

Trade union members would be reminded annually about their contribution to the union's political fund, the union's political affiliation and their right to opt out. Affiliated trade unions would still be able to spend the balance of their political fund, after affiliation fees have been paid, on other political activities as at present, under the scrutiny of the Certification Officer.

- 4.37 As these proposals would place additional administrative burdens on trade unions, Sir Hayden Phillips proposed that transitional arrangements should allow trade unions time to adapt to the new requirements. He also proposed that the requirement for a political fund ballot to be held every ten years should be removed. However, the requirement to hold a ballot to establish a political fund for the first time would remain.
- 4.38 Sir Hayden Phillips said that a cap on donations should not apply to the Co-operative Party.

How would a cap on donations operate?

- 4.39 This section has set out Sir Hayden Phillips' proposals for a cap on donations in return for public funding. The Government hopes this will provide the basis for further discussions, particularly on how to balance limiting donations on the one hand against the impact that this will have on the amount of public funding needed on the other. We have given further consideration to how, if

consensus were achieved, a cap on donations and additional public funding could work in practice, which is intended to assist a wider public discussion of these proposals.

- 4.40 Sir Hayden Phillips proposed that the cap on donations would apply only to parties that have two or more representatives drawn from across the devolved administrations, the European Parliament or the UK Parliament. Excluding parties without two or more elected representatives allows smaller and new parties to develop.
- 4.41 Donors would be limited to giving no more than the cap in total in any calendar year. The cap would apply to donations to the central party, any of its accounting units, or any officer, member, trustee or agent of a party who received a donation in their party capacity. Donations to individuals and members' associations currently defined in law as regulated donees would also be capped.
- 4.42 The cap would cover donations both in cash and in kind. Loans to political parties would be covered unless they were on commercial terms – this would allow parties to take out, for example, a mortgage on a property.
- 4.43 The Government agrees with Sir Hayden Phillips that it is important that there are robust provisions to ensure that a donation cap would be properly enforced. This would include making parties legally liable if they knowingly accepted multiple donations from a single source that exceeded the cap. It would also allow the Electoral Commission to give advice on areas where there might be ambiguity. However, as the Neill Committee observed, preventing donors from finding ways to continue to give large sums by sub-dividing their donations and donating through others would present real challenges. Money that is currently donated to political parties may be donated instead to third-party campaigning organisations. The importance of ensuring that third-party spending is effectively controlled has already been highlighted in the previous chapter. However, the introduction of a cap on donations could potentially result in a significant increase in the number of well-funded third parties able to spend up to the limit on campaigning. This would cause a dramatic shift in the nature of UK politics. Before introducing a cap on donations, we must be certain that these undesirable consequences can be avoided.

Possible mechanisms for distributing public funds

- 4.44 As set out above, Sir Hayden Phillips proposed a matched funding system and a pence-per-vote system. However, these may not contribute to the financial stability of parties to the extent that Sir Hayden envisaged. There are a number of ways that public funding could be distributed and this section looks in further detail at the advantages and disadvantages of each one.

Incentivisation schemes

- 4.45 Incentivisation schemes aim to provide a financial incentive for parties to increase the number of people who donate small sums to them and therefore increase their funding base. This may bring wider benefits not offered by other schemes by encouraging more people to participate in party politics. Incentivisation schemes, however, provide parties with the least certainty about how much they will receive as it is difficult to predict how many donors will participate in the scheme. They are also more expensive to administer than other schemes and more vulnerable to fraud.
- 4.46 Sir Hayden Phillips proposed a matched funding scheme that would give parties £10 for each qualifying donation of £10 or more from any individual in any year. For a donation to be eligible for matched funding, the donor would have to be on the electoral register.¹⁰⁰ Membership fees would be eligible for matched funding. As proposed by Sir Hayden Phillips, qualifying donations could only come from individuals and not from any other permissible donor. Matched funding would not apply to trade union affiliation fees paid by individuals in the scheme proposed by Sir Hayden, and it would be restricted to the first donation of the calendar year from any individual.
- 4.47 Sir Hayden suggested that in order to restrict the total amount that could be paid out through this scheme, an annual limit should be set. He proposed that it be at a level equivalent to donations from 1 million electors – that is, £10m. The current combined membership of the parties which would be eligible for public funding is around 600,000, so even with a limit of £10m, parties would still have an incentive to reach beyond their membership bases and engage more people in politics.

Linking public funding to popularity

- 4.48 Other schemes seek to create a direct link between a party's popularity and the amount they receive. The level of funding available to each eligible party would be dictated by their performance at the ballot box, and voters would know that they were directly influencing the allocation of public funds to the party of their choice. It is easier to predict how much parties will receive through such a scheme, which makes it possible to link public funding more directly to the financial effect of a cap on donations. However, while it provides more financial stability than an incentivisation scheme, the amount a party receives is very likely to fluctuate at each election which, if devolved administration and European Parliament elections were included, could be every one or two years. Such a scheme would also not provide the wider benefits in terms of participation that an incentivisation scheme would offer.

¹⁰⁰Under current law a donor does not have to be on the electoral register to give a donation of less than £200.

- 4.49 Under Sir Hayden's proposed pence-per-vote scheme, eligible parties would receive 40p each year for each vote cast for them in the most recent general election, 20p for each vote for the Northern Ireland Assembly and European Parliament, and 10p per vote, equivalent to 20p per elector, for the Scottish Parliament and National Assembly for Wales.¹⁰¹
- 4.50 This formula recognises the primacy of the Parliament at Westminster and, at the same time, acknowledges the importance of the legislatures in Edinburgh, Cardiff and Belfast, and the European Parliament. Local elections would be excluded as the costs of participating in them are relatively modest and would not seem to justify the unnecessary complexity which would be introduced to the scheme if all local elections were to come within its scope.
- 4.51 An alternative to the pence-per-vote scheme would be to adopt a scheme along the lines already in operation for the distribution of the core component of Short Money.¹⁰² This is distributed to qualifying parties on the basis of £13,356 for every seat won at the last election plus £26.67 for every 200 votes for the party. A scheme predicated on this basis would provide a little more stability, as the number of seats is less likely to vary dramatically than the number of votes. However, the amount a party receives would still change every time there was an election giving rise to some of the same issues as would be involved in the pence-per-vote scheme.

Grant funding

- 4.52 At the moment, parties receive grants to assist them in developing policy. This gives the parties a degree of certainty about how much money will be made available for them to develop policy, although the formula used to calculate distribution of the £2m total does mean that it changes slightly after an election and there is a risk that parties may cease to be eligible. This funding is strictly ring-fenced for the development of policy and parties do not have discretion about how they can use it.
- 4.53 It would be possible to devise a scheme which would provide a higher degree of certainty about how much parties would receive and the total amount that would be available from public funds. However, this would not reflect the popularity of the parties and would lose many of the benefits of the incentivisation schemes and schemes based on popular support.

¹⁰¹As voters in Scotland and Wales have two votes at the elections for their devolved administrations, one for a constituency representative and one for a regional representative, the parties would receive 10p per vote regardless of whether it was a vote for a constituency representative or a list representative – equivalent to 20p per voter.

¹⁰²The other components of Short Money are the travel expenses allowance, which distributes a fixed sum of £146,714 between each of the opposition parties in the same proportion as the amount given to each of them under the general funding scheme, and the Leader of the Opposition's Office allowance, which is a flat amount of £622,223 only available to the Official Opposition.

- 4.54 Sir Hayden proposed that policy development grants should be discontinued as the new public funding schemes would more than compensate for the funds they provide, and would enable parties to use the funding allocated to them for any purpose.
- 4.55 At present, eligibility for policy development grants only takes into account representation in the Westminster Parliament. When PPERA was enacted, the devolved administrations were new. Their impact on party politics and the need for policy development specifically on devolved issues are now much clearer. This was recognised during the passage of the Electoral Administration Act in 2006, when amendments were tabled to extend the eligibility criteria for policy development grants to take account of elected representatives in the devolved administrations. These amendments were withdrawn on the basis of an undertaking by the Government that Sir Hayden Phillips would consider eligibility as part of his review.
- 4.56 The Government believes that the eligibility criteria proposed by Sir Hayden Phillips, including representation at the Scottish Parliament, National Assembly for Wales and Northern Ireland Assembly, deserve further consideration.

Operation of the schemes

- 4.57 Under Sir Hayden's proposals, the other forms of public funding given to the political parties – direct funding such as Short and Cranborne Money, and indirect funding such as freepost and party political broadcasts – would continue. The Government agrees with this proposal.
- 4.58 Sir Hayden Phillips recommended that the amount of public funding made available for political parties should be kept under review. This would ensure that the amounts were neither too low nor too high, taking into account the parties' varying abilities to raise funds for themselves. It would also maintain an appropriate balance between the two schemes (that is, Short/Cranborne Money on the one hand, and the new incentivisation or popular support scheme on the other), so that parties would have a reasonable level of financial stability and would be sufficiently incentivised to seek small donations from their supporters.
- 4.59 Sir Hayden also recommended that public funding should be made available on a one-off basis to parties to assist them in meeting the costs of compliance with the new regulations. This funding would be distributed by the Electoral Commission following the precedent set in PPERA, and would not exceed £1.5m in total.

Increasing transparency of the ultimate source of donations

- 4.60 The regime introduced by PPERA has significantly increased the transparency of the vast majority of donations to political parties. However, in some cases the ultimate source of a donation remains unclear. This is particularly true of donations from organisations. In the situation where an organisation receives a donation which it then decides to donate to a political party, that money may have originated from a foreign donor or other person or entity who is not permitted to give a donation directly to a political party. It is also possible that the organisation may make a donation to a party using money which, had it been given directly to the party, would have been declared on the Electoral Commission's register of donations.
- 4.61 Sir Hayden Phillips believed that lack of transparency was a particular issue for the type of donor referred to as an unincorporated association. This describes an organisation composed of a group of people who are acting together in an organised way, but which does not have a separate legal status, such as that of a company. The term 'unincorporated association' can therefore cover a large range of organisations such as tenants' and residents' associations, clubs, members' associations and some political parties. These organisations are often informal and can be set up easily as there is no requirement in law for them to be registered or established in a particular way.
- 4.62 PPERA requires an unincorporated association to meet three requirements in order to be a permissible donor:
- it must be formed of at least two people;
 - it must not fall under another of the categories of permissible donor; and
 - it must carry out its activities in the UK with its main office in the UK.
- 4.63 However, even where an unincorporated association is formed of a small number of individuals, there is no requirement to identify the individuals who have provided the association's funds. This raises concerns about the extent to which this type of organisation might be used by a donor as a vehicle to circumvent the transparency and permissibility requirements which would be imposed by PPERA if the donation was made directly (and not through the unincorporated association).
- 4.64 With the benefit of hindsight, the arrangements in PPERA for the regulation of unincorporated associations would appear to be inconsistent with the spirit of the legislation, which was intended to make political party funding transparent, as called for by the Neill Committee. The Government believes that it is right to ensure that the ultimate source of money donated to parties is transparent and will consider how the legislation might be amended to enable the Electoral Commission to take a more rigorous approach to ensuring that donations from unincorporated associations comply with the principles underpinning PPERA.

Annex 1

Northern Ireland

- A1.1 Under the Political Parties, Elections and Referendums Act 2000 (PPERA), special arrangements apply to political donations in Northern Ireland. Northern Ireland was initially excluded from the PERA controls in line with the recommendation of the Neill Committee, which considered that the circumstances then prevailing in Northern Ireland made it undesirable to impose a new, more transparent regime immediately. Since November 2007, a modified version of PERA has applied in Northern Ireland which has two key differences from the regime applied in the rest of the UK. Although recipients of donations must be declared to the Electoral Commission on the same basis as elsewhere, the details of donations are not made public but checked privately by the Commission; this is intended to take account of the continuing threat of intimidation of donors. In addition, donations are permitted from Irish citizens and bodies who meet criteria specified in legislation; this provision reflects the special role of Ireland in Northern Ireland's political life, recognised in the Good Friday Agreement. The provisions on not making donors' names public expire in October 2010 (though they can be extended by an Order made by the Secretary of State); the provision permitting Irish donations does not have an expiry date, although the conditions applying to citizens and bodies may be varied by Order.
- A1.2 Sir Hayden Phillips excluded Northern Ireland from the scope of the conclusions of his review, although he expressed the hope that the recommendations in his report could be applied there once greater convergence has taken place between the situations in Northern Ireland and the remainder of the UK. If a broad consensus emerged among the major parties at Westminster on moving forward with Sir Hayden's proposals in relation to spending limits and a cap on donations in return for state funding, then the Government would need to consider carefully how such a regime could be applied in Northern Ireland. Any such consideration would need to take account of the views of the Northern Ireland political parties as well as of the need to recognise the political culture of Northern Ireland.

Annex 2

Sir Hayden Phillips' proposals¹

Donations

- A1 There shall be a cap on donations and loans to all political parties that reach the threshold specified at A2.
- A2 The cap shall apply to all parties registered in Great Britain with two or more elected representatives to Parliament, the Scottish Parliament, the National Assembly for Wales and the European Parliament. It shall apply to the party, its accounting units, and regulated donees.
- A3 The final level of the cap will be £50,000.
- A4 Commercial loans will be exempt from the cap provided they are made and declared in accordance with existing applicable law.
- A5 Any amount donated over the limit will have to be returned to the donor, or forfeited if this is not possible.
- A6 Affiliation fees paid by trade unions will be treated for the purposes of the cap as individual donations of the members, provided the conditions at A7–A10 are all met.
- A7 The amounts paid by individuals into a union's political fund as their contribution to the union's affiliation fee, and the money paid by that union to a political party as its affiliation fee, will be the same. This one-for-one link will be transparent and auditable.
- A8 The following information will be provided on all union membership application forms:
- an explanation of what the political fund is and the union's affiliation to a political party;
 - an explanation of how much individual members contribute to the political fund and towards the union's affiliation fee;
 - an explanation of the trade union member's right at any time to stop contributing to the political fund and the union's affiliation fee and clear information about how they can do this; and
 - an explanation of the fact that if a member stops contributing, their membership subscription will be reduced accordingly.

¹ Contained in the Draft Agreement put to political parties in August 2007 and published in October 2007.

- A9 Trade union members will be reminded annually of the amount they are contributing to the union's affiliation fee and of their right to opt out of contributing to the political fund, including how they may do so.
- A10 The requirements of transparency and choice set out here will be overseen by the Certification Officer acting in concert with the Electoral Commission, which will have the power to order affiliation fees to be repaid if they are not compliant with the requirements.
- A11 Due to the increased transparency and choice for trade union members, the ten-year review ballot on the existence of the political fund is no longer necessary and should be removed.

Spending controls

- B1 All registered political parties will be subject to the spending controls.
- B2 Spending controls will apply to the whole of a Westminster electoral cycle. The maximum limit for a full cycle will comprise a five-year running costs figure and a general election premium. In calculating the limit for parliaments which run for less than the maximum permitted cycle of 61 months, the running costs figure will be adjusted by the relevant fraction of 61 months depending on the actual life of the parliament, and the general election premium will be added back to calculate the enforceable limit.
- B3 A single overall limit will apply to the expenditure of each party, including all its constituent organisations whether national, regional, local or other. It will be a matter for the party itself to decide how to disaggregate its spending within the overall limit between the years of the parliament and among the various organisations in the party.
- B4 The expenditure of accounting units (equivalent to or larger than a Westminster constituency) with expenditure less than £40,000 (after transitional arrangements) in any given year will not count in that year towards the overall limit.
- B5 Spending controls will cover all of a party's spending except certain defined categories:
- contributions to party employees' pension funds to make up for past shortfalls;
 - interest on debt and repayments of debt;
 - legal expenses;
 - costs of compliance with electoral law;

- expenditure on trading activities and income generation;
 - accounting units' expenditure on social functions for members of the party; and
 - intra-party transfers.
- B6 Expenditure which under accounting standards would be classified as capital expenditure will be depreciated as usual in party accounts in accordance with accounting policies and with an appropriate asset life; only the depreciation figure would count towards the limit.
- B7 The limit will be £150m for the full term of the next parliament, including a general election premium of £20m.
- B8. The limit will be the same for all parties putting forward candidates in at least 90% of constituencies at the general election at the end of the cycle. The limit would fall pro rata, in steps of 10%, for parties fielding fewer or no candidates, with a floor (to allow for fixed costs and to avoid over-regulation of smaller parties) set at 10% of the total limit.
- B9 Existing controls on candidate spending under the Representation of the People Acts will continue, and will be tightened so as to bring the costs of direct mail targeted at a constituency and an apportionment of the costs of phone bank activity targeted at a constituency within the scope of reportable spending.
- B10 The current limit for by-elections of £100,000 should be maintained.

Public funding

- C1 Two new schemes for public funding of political parties will be introduced:
- a scheme designed to encourage parties to engage the active participation of the electorate based on a form of matched funding; and
 - a scheme based on public support, pence-per-vote, primarily designed to help provide for financial stability following the introduction of a cap on donations.
- C2 Only parties subject to the cap on donations will be eligible for these public funding schemes.
- C3 A matched funding scheme will enable parties to receive £10 of public funding for each donation of £10 or more that they secure from any one person on the electoral register in any one year.

- C4 The amount of money that can be paid out through this scheme will initially be capped at the equivalent of donations from 1 million individuals, that is, £10m.
- C5 The matched funding scheme will be primarily internet-based, with a paper-based alternative. Parties will set up their own internet schemes, adapting their current systems if they so wish. The Electoral Commission will be responsible for auditing the scheme and the release of money to the parties.
- C6 Under the pence-per-vote scheme, parties will receive 40p each year for every vote cast for them in the most recent general election, and 20p for every vote cast for them in the most recent elections for the Scottish Parliament, National Assembly of Wales, and for the European Parliament. As voters in Scotland and Wales have two votes at the elections for their devolved administrations, one for a constituency representative and one for a regional representative, the parties will receive 10p per vote regardless of whether it is a vote for a constituency representative or a list representative, equivalent to 20p per voter.
- C7 The Policy Development Grants currently received by the political parties will be abolished.
- C8 Public funding will also be made available on a once-off basis to parties to assist them in meeting the costs of compliance with the new regulations. This funding will be distributed by the Electoral Commission following the precedent set in PPERA, and will not exceed £1.5m in total.

Compliance

General

- D1 The Electoral Commission should move towards a more investigative and tougher stance with the aim of ensuring integrity and public confidence in the system of party funding, and should take a pro-active approach to the investigation of apparent non-compliance.
- D2 Legislation should, where necessary, provide the framework, including a graduated system of sanctions, for the Electoral Commission to become a more effective regulator.
- D3 The Electoral Commission should issue advisory opinions where appropriate, and should seek to work with the parties at both national and local level to facilitate compliance with the law.

- D4 Further anti-avoidance provisions should be developed in the course of the preparation of the legislation, and the Electoral Commission should regularly review their adequacy.

Donations

- D5 Political parties subject to the cap on donations should be legally liable if they knowingly accept multiple donations from a single source exceeding the cap, whether in cash or in kind.
- D6 The cap on donations will also apply to donations to or from regulated donees. It will be assumed under a principle of 'safe harbour' that the national treasurer has accepted information about donation from regulated donees in good faith.
- D7 The cap on donations will also apply to donations to third parties.
- D8 Unincorporated associations donating to political parties should be required to identify the persons who make the decisions to donate money.
- D9 The Electoral Commission's donor database should ensure that donors are registered consistently and should include the total amount a donor gave to third parties or to political parties so that the donor's total financial influence may be judged.

Spending

- D10 There will be a general duty on the parties not to avoid the spending limit, and the Electoral Commission will have investigatory powers to audit compliance, identify avoidance of the provisions specified in the statute, and order expenditure returns to be restated if necessary.
- D11 Annual accounts will continue to be filed with the Electoral Commission as they are now, and an additional annual return will be made reporting expenditure against the limit.
- D12 The national registered treasurer will be responsible for compliance with the limit, and for ensuring that the central party has appropriate systems in place to monitor overall party spending, but it will be assumed under a principle of 'safe harbour' that the national treasurer has accepted accounting units' statements of accounts in good faith.
- D13 A system of graduated penalties will be available, with the Electoral Commission required to ignore non-material breaches, and to discriminate on a range from self-declared inadvertent errors to large-scale or systematic evasion. The normal sanctions for errors, misdeclarations and small-scale or opportunistic avoidance would be financial penalties levied on the national

party, which would then be free to determine whether it paid the penalties from central funds or passed them onto the accounting unit(s) responsible for the breach. Criminal sanctions would be available for serious evasion, and charges would have to be brought against the individual actually committing the offence.

Transitional arrangements and review

- E1 The cap on donations will be reduced to £50,000 over a period of time to give the parties time to adjust to the new system. The cap will be set at £500,000 in 2009, £250,000 in 2010, £100,000 in 2011, and reduced to its final level of £50,000 from 1 January 2012. These dates are obviously subject to the parliamentary timetable.
- E2 The introduction of changes to the treatment of trade union affiliation fees will be phased in over time. Transitional arrangements will be developed in consultation with the trade unions and the regulatory authorities, with a view to implementing the changes as quickly as possible and in no event later than 1 January 2012.
- E3 Spending controls will be introduced the day after the next general election, or from 1 January 2010, whichever is the later. The parties have agreed to continue discussions with a view to agreeing some measure of voluntary restraint on expenditure before the next election.
- E4 To allow the accounting units and the central parties time to adapt and put in place the necessary systems and processes, the threshold of accounting unit expenditure above which it is counted against the overall party limit (see B4) will be set at £100,000 in its first year or part-year, then reduced in equal increments so as to reach its final level of £40,000 in 2012.
- E5 The matched funding scheme will be introduced on 1 January 2009, at the same time as the initial cap on donations.
- E6 The pence-per-vote scheme will be introduced on 1 January 2012, when the cap has been reduced to its final level. Policy Development Grants will end at the same time.
- E7 The Electoral Commission will report annually on progress with the implementation of the system introduced by the Act which brings this agreement into force. The effectiveness of the system will be reviewed in all its aspects, including its regulation, by a comprehensive independent review in seven years' time reporting to all parties affected. This review will specifically consider whether the candidate limits imposed by the Representation of the People Act continue to serve a useful purpose in the context of the new system of spending controls.

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