**Electoral regulation review - Terms of Reference FAQs**

**Q.1 What is the Committee’s role and why is it looking at elections?**

The Committee on Standards in Public Life (CSPL) monitors and reports on issues relating to the standards of conduct of public office holders, and advises the Prime Minister on ethical standards across the whole of public life in England and broader issues of public policy. It does not consider individual cases. The CSPL is an independent, advisory, non-departmental public body sponsored by the Cabinet Office.

The Electoral Commission was established following recommendations made by the CSPL in 1998[[1]](#footnote-0) and the CSPL last substantively reviewed the Commission in 2007.

Since that time, digital campaigning has transformed the way in which parties and campaigners engage with voters, creating challenges for the regulation of election and referendum campaigns. With the Electoral Commission approaching its twentieth anniversary, the CSPL believes the time is right to return its focus to the regulator.

The review will focus on an important aspect of the Electoral Commission’s role - the regulation of donations and campaign expenditure by political parties and non-party campaigners under the Political Parties, Referendums and Elections Act (PPERA) 2000. It will also consider how this interacts with the separate regime under the Representation of People Act (RPA) 1983 for the regulation of candidate expenditure.

**Q.2 How is election finance regulated at the moment?**

The Electoral Commission regulates party and election finance in the UK. Its role is to ensure that voters can see and understand how political parties and campaigns are funded and what is spent on campaigning. It must also take action, and where appropriate, impose sanctions when the rules are broken.

**Q.3 Will the Committee be looking at digital campaigning in this inquiry?**

The review will consider the impact of digital campaigning on the regulation of election finance. This will include examining whether the Commission requires new powers to allow it to keep pace with change.

However, this is not a review of digital campaigning as a subject in its own right and will not examine interconnected issues around misinformation and targeting. These are important areas which Parliamentary Committees and other expert bodies have been examining in depth.

**Q.4 Will the Committee be looking at the fairness of the EU referendum?**

The Committee does not consider individual cases and will not be looking at previous referendums or elections. The review will look at the current structures and sanctions for non-compliance and will make evidence-based recommendations for change where necessary.

**Q. 5 What is the problem that the Committee is trying to solve with this inquiry?**

This review is a ‘health check’ of the Electoral Commission’s role as a regulator of party and election finance. Given the Electoral Commission was set up following the recommendations made by the CSPL in its report in 1998, and CSPL last substantively reviewed the Commission in 2007, the Committee wants to check how this central aspect of the Commission’s role is working in practice. The review will also look at whether the Electoral Commission’s civil sanction regime should be expanded to cover the enforcement of candidate finance laws.

The review will have 3 aspects:

* It will look at whether the Electoral Commission has the powers it needs to be a robust regulator of election finance in the 21st century.
* It will assess the operation of the civil sanctions regime and the criminal prosecution regime and examine how they work as a complete system for detering and sanctioning breaches of election finance laws.
* It will examine the different regimes for enforcement of party and candidate finance laws and consider whether there should be a single framework under the remit of the Electoral Commission.

**Q.6 Why are elections important to public life?**

Free and fair elections underpin our democracy, ensuring that government authority derives from the will of the people. There cannot be democracy without elections and elections cannot be free and fair unless electoral rules are fair and coherent, unless they are properly administered and unless they are actively enforced.

The regulation of the money that is spent to influence the outcome of elections in the UK is vital to public confidence in the operation of our democracy.

**Q.7 Is the Committee going to look at the sanctions available?**

Yes, the civil and criminal sanctions available for penalising breaches of the law will be in the scope of this review.

**Q.8 Are you consulting the public?**

Yes. We have launched a public consultation on our website and would welcome responses from the public and those with an interest in electoral regulation.

**Q.9 What legislation currently covers the regulation of party and election finance? Is the Committee likely to recommend new legislation?**

Political parties, campaigners, members associations and elected officials such as MPs have to follow the Political Parties, Referendums and Elections Act (PPERA) 2000 when spending money or accepting donations and loans.

The Political Parties and Elections Act 2009 provided the Electoral Commission with investigative powers and sanctions for breaches of PPERA by political parties (a CSPL recommendation).

The Representation of the People’s Act (RPA) 1983 contains the law on candidate expenditure at elections. At present the Electoral Commission is not able to enforce the controls on donations to and spending of candidates set out in RPA and has no powers over candidates to sanction breaches of those rules. Criminal prosecution is the only enforcement approach available.

**Q.10 Will the Committee be looking at what happens in other countries?**

Yes, we will undertake research on how other countries regulate election finance for comparative purposes.

**Q.11 Are you going to look at party funding more widely? Why not?**

This review will examine the regulation of election finance. The funding of political parties is a separate issue. The Committee’s 2011 report on political party finance and subsequent research can be found on our website.

**Q.12 Will you look at foreign donations in elections?**

Yes. When the CSPL recommended measures to increase transparency in relation to the sources of party donations and party expenditure during election campaigns, overseen by a new, independent, Electoral Commission (in 1988), it said there should be a ban on foreign donations.

Global digital communication tools mean that anyone outside the UK can pay for adverts on digital and social media platforms to target voters in the UK. This means that people who are not allowed to register as campaigners can still spend money to influence voters in the UK.

**Q.13 Will this cover Scotland, Wales and Northern Ireland too?**

As the review will examine the regulation of general elections, elections in these regions will be included. However, in line with the Committee’s terms of reference as amended by the Triennial Review, the Committee can only consider devolved matters with the agreement of the devolved administrations. Therefore matters relating to the regulation of elections that are devolved are out of scope, although where applicable, lessons will be learnt from experiences in the devolved administrations.

**Q.14 How will this inquiry be conducted?**

A public consultation has been launched and focus groups will follow. There will also be a series of meetings with people with an interest in this subject, ranging from parties and non-party campaigners regulated by the Electoral Commission, to Parliamentary bodies, law enforcement, academics, think tanks and campaigning organisations. Given the current situation many of these meetings will need to be virtual.

Transcripts and meeting notes will be published on our website.

**Q.15 When will the Committee report and who to?**

The review is expected to run for approximately 12 months. As with all Committee reviews, the report will be presented to the Prime Minister and published on our website.

1. [The Funding of Political Parties in the United Kingdom](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/336870/5thInquiry_FullReport.pdf) [↑](#footnote-ref-0)