

Political party finance

Ending the big donor culture

Committee on
Standards in
Public Life

November 2011



Thirteenth Report of the
Committee on Standards in Public Life

Chair: Sir Christopher Kelly KCB

Political party finance

Ending the big donor culture

Presented to Parliament
by the Prime Minister
by Command of Her Majesty

November 2011

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THE SEVEN PRINCIPLES OF PUBLIC LIFE

SELFLESSNESS

Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

INTEGRITY

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

OBJECTIVITY

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

ACCOUNTABILITY

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

OPENNESS

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

HONESTY

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

LEADERSHIP

Holders of public office should promote and support these principles by leadership and example.

Committee on Standards in Public Life

November 2011

Dear Prime Minister

I am pleased to present the report of the Committee on Standards in Public Life's inquiry into political party finance.

We have spent over a year looking at the issues. We took oral evidence over 11 days in London, Belfast, Edinburgh and Cardiff and heard from political parties, academics, journalists, representatives of organisations and individuals with relevant personal experience. We have also considered the regulation of party funding in other countries.

We have come to the conclusion that the only safe way to remove big money from party funding is to put a cap on donations, set at £10,000.

We are conscious that the effects of a cap on the finances of the largest parties will be significant. We would expect them to have to respond by cutting their spending, particularly their spending on campaigning, and to step up their efforts to engage with a larger number of individual supporters.

But even allowing for that it is clear to us that an inevitable consequence of the cap will be an increase in support for the parties from public funds. The public may be cynical about political parties, but they play an essential role in UK democracy.

It is hard to imagine a more difficult climate in which to make such a proposal. We would not have made it if we thought there was a credible alternative. We do not believe there is. If the public want to take big money out of politics, as our research demonstrates they do, they also have to face up to the reality that some additional state funding will be necessary.

We realise this is a very uncomfortable conclusion. But it needs to be kept in perspective. The additional amount involved annually of around £23 million is the equivalent of only about 50p per elector per year – little more than the current cost of a first class stamp. Much larger sums are already spent in supporting democracy.

It would be tempting to believe that it would be possible to avoid the need for additional public support by setting the cap higher than £10,000. We are aware that during the failed inter-party talks four years ago the proposal then on the table was for a cap as high as £50,000.

The firm view of the Committee is that a cap at this level would simply not be credible. At around twice average earnings it would in our view fail to convince majority opinion that the issue had been addressed. Our findings suggest it would also be manifestly unfair in its financial impact on the different parties.



Our recommendation is that the cap should apply to all donations from all sources, including trade unions. Our survey evidence makes clear that the public are concerned about very large donations from trade unions as they are about donations from other sources. Our view is that it would only be reasonable to regard trade unions affiliation fees as the bundling together of a series of individual payments to which the cap would be applied individually if:

- the unions were to change to an arrangement in which their members were required to opt in to the payment of an affiliation fee on their behalf to the Labour Party, instead of opting out;
- their members were able not to opt in to the affiliation fee without opting out of the other activities financed out of their union's political fund; and
- certain other conditions were met to prevent affiliation fees being manipulated so as to exert improper influence.

We are conscious that the issue of opting in or opting out has considerable symbolic importance because of its history. But our proposals will require all the major parties to make significant adjustments.

We have thought carefully about timing. We have recommended that the majority of the new arrangements should not come into effect until the beginning of the next Parliament, expected to be in 2015. Our belief is that the time before then will be needed to agree and pass the necessary legislation, for the parties to adjust to the new circumstances and for the Electoral Commission to prepare for a different set of enforcement requirements. If the will exists it might be possible to move more quickly.

The majority independent members of the Committee remain firmly of the view that the package we have put forward is the only feasible way of addressing the issue which is right in principle, sustainable and reasonably even-handed in its effects. The members of the Committee appointed by the political parties have dissented in some areas, partly reflecting their own party's positions.

The Committee believe that adopting these recommendations will be an important step forward in safeguarding the health of our political parties and of democracy in the UK. We commend the report to you.

CHRISTOPHER KELLY
Chair, Committee on Standards in Public Life





Executive summary

Introduction

Political parties play an essential role in this country's democracy. The public may be cynical about them. But they affect all our lives in important ways. They produce the platforms and leadership between which electors choose when casting their votes at elections. They provide and support the individuals who make up the government, the opposition and the membership of hundreds of local authorities. They develop policies. They build support for those policies by engaging with the electorate. When in opposition, they scrutinise and debate government policy and hold the Government to account.

If they are to play these essential democratic roles effectively, they need adequate funding, both nationally and locally.

Successful politics delivers the power to take major decisions affecting economic and social life. It is essential, therefore, that political parties obtain their funding in ways free of suspicion that donors are able to receive favours or improper influence in return.

Measured against that standard, the current arrangements for funding political parties in the United Kingdom fall short. There is a high degree of scepticism about the motivation of both donors and recipients. This should come as no surprise. All three main parties depend for their funding on a relatively small number of individuals, trade unions or other organisations. All three require their leaders to spend time soliciting those individuals or organisations for the funds they need to survive. This dependency cannot be healthy for democracy.

The regulatory regime introduced by the *Political Parties, Elections and Referendums Act 2000 (the 2000 Act)*, which followed an earlier report by this Committee, undoubtedly improved the position in some respects. So also have later legislative changes brought in as events exposed various loopholes.

But one of the major changes introduced in the *2000 Act* – transparency for donations above a certain size – has served to make much clearer the extent of the dependency of the parties on their major donors. Public confidence in the integrity of the system has not, in consequence, improved. In a survey undertaken for the Committee at the end of last year, most respondents thought the main reasons for large donations were self-serving. As many as one-third thought that special favours for individuals or organisations making large donations happened 'very often'. Around half thought they happened 'sometimes'.¹

There may be a temptation to think that this is simply a matter of perception, that as the result of the changes

made over the last decade the risk of anything untoward happening in practice is now fairly small.

But that would require a big leap of faith. It would fly in the face of recent history, which has involved successive attempts to stretch the rules. It would ignore the enormous pressures the present arrangements put on party leaders, chairs and treasurers if their parties are not to be placed at electoral disadvantage by shortage of funds. It would fail to recognise how decisions can be affected more subtly than simply rewarding a significant donor with a seat in the upper chamber.

It would also miss the main point. High levels of public suspicion of party funding are not just an expression of normal healthy scepticism. They should not be dismissed on the grounds that the public will always be suspicious of politicians. We received no hard evidence of current corruption. But the arrangements are clearly corruptible.

It is our view that this situation is unsustainable, damaging to confidence in democracy and in serious need of reform. This was also the view expressed by the three major parties at the last election. All three made commitments in their manifestos to reform the big donor culture. They now need to deliver those commitments.

Our main proposals

Experience in this country, as in others who have wrestled with the same problems, suggests there is no ready solution that will eliminate all difficulties. As often with issues of public policy, the need is to balance different considerations.

In principle, there are three possible ways to take big money out of party politics – restricting the amount any individual donor can give, reducing the amount the parties need to raise by limiting their expenditure, or providing funds from a source which does not risk improper influence, meaning the public purse. Our conclusion is that a workable solution needs to combine all three.

We have four main recommendations:

- A limit of £10,000 should be placed on donations from any individual or organisation in any year to any political party with two or more elected representatives in Westminster or in any of the devolved legislatures.
- The cap should apply to donations from all individuals and organisations, including trade unions. But it would be possible to regard trade union affiliation fees as a collection of individual payments, to which the cap applied individually, by requiring the individuals on whose behalf the payments are made to opt in to the fee. It would also be necessary to meet certain other

conditions to ensure that undue influence cannot be exerted.

- The existing limits on campaign spending in the period before an election should be cut by the order of 15 per cent.
- Existing public support to the political parties should be supplemented by the addition of a new form of public support paid to every party with two or more representatives in the Westminster Parliament or the devolved legislatures. The public funding should depend on the number of votes secured in the previous election, at the rate of around £3.00 a vote in Westminster elections and £1.50 a vote in devolved and European elections. Income tax relief, analogous to Gift Aid, should also be available on donations of up to £1,000 and on membership fees to political parties.

Our expectation is that the financial impact of our proposals is likely to be reasonably even-handed between the largest two parties. But we cannot be sure because of deficiencies in the current data and because of the difficulty of forecasting how parties and donors will react to the new regime. There should therefore be a stock take immediately prior to implementation, to consider whether any fine-tuning is necessary in the interests of fairness. There should be a further review, undertaken by this Committee, two years after implementation.

The cap

The cap on donations will cause a significant loss of income to the main parties. The new tax relief and pence-per-vote support will replace some of that. But for the largest two parties the intention is not to replace it all. They need an incentive to broaden the basis of their support and increase political engagement.

The Liberal Democrats will almost certainly benefit because their current income is much lower than the other two and disproportionately low relative to their share of the popular vote. They have less to lose from the cap, while still gaining from the pence-per-vote proposal.

The Conservative Party would prefer a cap higher than £10,000. The last attempt at reform, inter-party talks brokered by Sir Hayden Phillips in 2007, contemplated a cap of £50,000. In our view that would be much too high to convince public opinion that the issue had been adequately addressed. Most people would consider £50,000 a very large amount – almost twice average earnings in the UK. If provided yearly over a parliamentary cycle it quickly mounts up to an even larger sum – £250,000 over five years. If partners were

to give the same amount, it would be doubled. We doubt that many people would believe that nothing would be expected in return for such large amounts.

A £50,000 cap would also significantly favour the Conservative Party, relative to the other parties, because they currently have many more supporters able to provide support at this level. This alone makes such a cap untenable.

Even £10,000 is high by international standards. The Labour Party in their evidence said that a lower cap of around £500 would be “more equitable, democratic and less susceptible to avoidance”.² Our view is that setting the cap below £10,000 would be an over-reaction in the circumstances of the UK. It would also mean the consequent increase in public subsidy to bring the finances of the parties back to a minimal level would unbalance the package as a whole. Our aim is not to replace private funding entirely, but to remove large donations. Moreover, a cap of £10,000 generates, as best as we can estimate, a reasonably level playing field.

Trade union donations

Our recommendation about affiliation fees is likely to be controversial. The history of opting in and out has considerable political resonance.

But our survey of public opinion suggests that the concern about large donations creating inappropriate influence applies to trade union donations as much as to those from elsewhere.³ We would not be dealing with the problem adequately if we failed to respond to that concern. Our recommendations will require all the main parties to make significant changes in the relationships they have with their major funders. Nor are we making the proposal in isolation. It forms part of a comprehensive reform package intended to promote integrity in a major part of our democratic system.

It is, of course, up to the Labour Party and the trade unions and other affiliated bodies to decide if they wish to change their processes for collecting and paying affiliation fees. Without such a change, they cannot reasonably expect the payments not to be subject to the cap in aggregate, and therefore limited to £10,000 a year from each affiliated body. The changes we propose are the minimum necessary to ensure that individual contributions towards affiliation fees can genuinely be treated as individual donations.

Limits on campaign spending

Limits on campaign spending already exist. The question is whether they should be made tighter.

Our view is that it would be unacceptable, in current circumstances, to ask taxpayers to provide a higher subsidy without simultaneously obliging the parties to cut their spending.

Our expectation is that there is some scope for doing this because of the potential of social marketing techniques and other electronic methods of communication to lower the cost of campaigning. The size of the cut is a matter of judgement.

Increasing public support

We would not recommend public subsidy to political parties if we thought there was an alternative. If the public want to take big money out of politics, the only way to do so is a cap on donations. It is unrealistic to expect to be able to do that at a level low enough to achieve the objective without at the same time increasing public support.

Public support to political parties would not be an innovation. It already exists, in both cash and in kind. It is also very common in other countries. The amounts currently involved in the UK are at the bottom end of the range internationally.

The cost of the additional support might amount in total to around £23 million a year. This is not trivial. But it is equivalent to only about 50 pence a year for each UK elector. It is also small compared to the other costs of supporting democracy. The cost to the taxpayer of a general election, for example, is around £90 million.⁴ The anticipated cost of police and crime commissioners is likely to exceed £20 million a year.⁵

We regard 50 pence an elector as a relatively small price to clean up party funding and remove the corroding perception of corruption.

Review

It is not our intention in making these proposals to damage any of the political parties. If the new regime is to be sustainable, it will need to be reasonably fair in its financial impact on different parties. Our expectation is that our recommended package will achieve that, provided it is implemented in full. But we cannot be certain. Surprising though it might seem in a regime supposed to be rooted in transparency, we have encountered serious deficiencies in the information available about the parties' uses and sources of funds. It is important to rectify that if meaningful public accountability is to be achieved when more public funding is provided.

It is also difficult to predict how parties and donors will react to the new circumstances created by our proposed reforms. We have illustrated what might happen by considering what would have happened had the new regime been in place over the last decade and nothing else had changed. But that could produce results that are seriously misleading. It is for that reason that we have proposed a stock take immediately before implementation, by when better data should be available as well as an indication of likely changes in behaviour. A post-implementation review two years later will provide another opportunity to check the fairness of the new regime.

Enforcement

Our proposals will create a new set of challenges for the Electoral Commission as the regulator. At present, the Commission's main concern is to establish that donations are from permissible donors and to report them publicly if above a certain size. It does not otherwise need to concern itself with the size of donations. Under the new regime, it will need to find ways of providing assurance that donors are observing the new cap. This will require the Commission to rethink its mode of operation. It will also need to pay more attention to the activities of third parties, because of the increased risk that they will become a way of evading the cap. We have suggested a number of the things that will need to be done to mitigate that risk.

We have no reason to believe the problems of regulating the new arrangements will be insuperable. But they will undoubtedly prove challenging.

Timing of implementation

It is difficult to prioritise a new form of public support for political parties in current circumstances. For that reason, and to allow time for necessary legislation and for the parties to adjust to the new circumstances, we recommend that the new arrangements should not be introduced until the start of the next Parliament, expected to be in 2015.

This should not be an excuse for inaction. Preparation for the new regime will take time. A number of our recommendations can and should sensibly be implemented before 2015.

Impact of the changes

We believe these proposals to be firmly rooted in principle, while not ignoring the practicalities. It is

important to regard them as a package. Our expectation is that they will:

- Ensure a higher degree of integrity. The reliance of the parties on a small number of individuals or organisations will be eliminated.
- Maintain a reasonably level playing field.
- Ensure that the ability of the parties to spend money on campaigning or developing policy will be much less dependent on the relative wealth of the supporters to whom they appeal.
- Mean that the additional burden on the taxpayer will be small in relation to the other costs of supporting democracy.
- Be proportionate to the weaknesses we are addressing.
- Be more sustainable, in that they will provide a predictable source of finance, dependent only on their electoral popularity.
- Encourage and not inhibit democratic engagement. The parties will still have an incentive to broaden their supporter base.
- Be enforceable, though not without creating a new set of issues for the Electoral Commission to address.

The parties will face considerable uncertainty until the new arrangements settle down. In the circumstances they might be tempted to prefer the present regime, or some less radical amendment to it. In our view that would be a major mistake.

It is critical too that the proposed reforms command the support of all parties. They will not otherwise prove to be sustainable. It would be unfortunate if the parties looked at them only in terms of party political advantage. It would also be a lost opportunity. All share a common interest in public confidence in the integrity of the democratic system. Their manifestos for the last General Election recognised that fact. Implementation of our proposals will, however, require political courage.

Notes of dissent

The Rt Hon Margaret Beckett MP and Oliver Heald MP dissent from some of our recommendations. The areas where they dissent and their reasons for doing so are set out at **Appendix 8**.

Endnotes

- 1 Committee on Standards in Public Life, *Survey of Public Attitudes Towards Conduct in Public Life 2010*, September 2011, p.40.
- 2 Labour Party, written evidence, E29.
- 3 Committee on Standards in Public Life, *Survey of Public Attitudes Towards Conduct in Public Life 2010*, September 2011, p.11.
- 4 Cabinet Office figures, 2011.
- 5 Home Office, *Police and Crime Commissioners: Impact Assessment*, March 2011.

Our recommendations in full

Figure 1

Full list of recommendations

Recommendation 1 (see also Recommendation 23)

A cap of £10,000 should be placed on donations to a political party or regulated donee from any individual or organisation in any year.

Recommendation 2

Private companies donating to political parties should declare their ultimate ownership and be able to demonstrate that their owners would be permissible donors if they had given the same money directly. A controlling shareholder's share of any corporate donations, when added to any personal donations, should not be allowed to exceed the £10,000 cap.

Recommendation 3

To be a permissible donor all companies, whether publicly or privately owned, should have to be able to demonstrate that they are trading in the UK and earning sufficient income here to fund any donations.

Recommendation 4

If they continue to be collected and paid as now, affiliation fees paid to the Labour Party by trade unions and other affiliated bodies should be subject to the £10,000 cap. But the affiliated union or other body could, if they wish, change their procedures so the fees could be regarded as an aggregation of individual payments, to which the cap applies individually and not collectively, if:

- The individual members of the affiliated body make a positive decision to contribute to the Labour Party by opting in to the affiliation payment when they join the body in question. Existing members should be asked to make a decision when any changes come into effect.
- The arrangements for opting in, the amount of the affiliation fee and the different rate payable when not opting in are clearly set out in the information given to members at the point of joining and prominently on the organisation's website in a form set and monitored by the Electoral Commission.
- The members of an affiliated union are able to contribute to their union's political fund even if they choose not to pay that part of the levy which represents the affiliation fee.
- The fees paid accurately reflect the number of members opting in, are handed over automatically and are not capable of being held back for any reason.

Recommendation 5

Additional public support should be provided to the parties in the form of:

- Tax relief at the basic rate on donations up to £1,000 and on membership fees, with an equivalent tax credit for donations from non-taxpayers.
- Public funding calculated as so many pence for every vote received at the last election, the amount to be determined when the new arrangements come into force.

Parties should not be eligible to receive either form of support unless they meet the minimum qualifications for Policy Development Grants, or any equivalent introduced in the devolved legislatures, and are therefore subject to the donation cap.

Recommendation 6

The existing limits on campaign spending during elections to the Westminster Parliament and devolved legislatures should be reduced. The amount of the reduction should be determined when the new arrangements come into force, but should be around 15 per cent.

Recommendation 7

The cap on donations, the additional state funding and the reduction in campaign spending limits should not be introduced until immediately after the next Westminster election, due in 2015.

Recommendation 8

The financial impact of the arrangements we have proposed should be reviewed shortly before implementation to consider whether any fine-tuning is required to ensure fairness between the parties. The level of the Labour Party affiliation fee should be suitably constrained until then. This Committee should carry out a further, post-implementation review two years after the new regime comes into force, to assess how well the regime is delivering its objectives in light of the principles set out in Chapter 2, including fairness, and to consider whether any further regulatory changes are required.

Recommendation 9

The Electoral Commission should consider how it can best operate under a capped regime and review the powers it needs to regulate the new arrangements effectively.

Recommendation 10

The Electoral Commission should pay particular attention to the risk of third parties being used to avoid the cap. It should review the definition of third parties and the registration and reporting requirements for third parties and other organisations engaged in wider political activities, including think tanks. The Government should legislate to give the Commission any additional powers required, including powers of investigation outside the regulated period. The extent to which third parties are becoming used as an avoidance mechanism should be one of the main issues for the proposed post-implementation review.

Recommendation 11

The need for continuing central reporting and publication of donations should be reconsidered as part of the post-implementation review. The Electoral Commission should consult on the best way of ensuring continued effective transparency under the new regime. Initially, the threshold for reporting donations to central parties should be reduced to £5,000. Reporting of donations above £1,500 to accounting units and regulated donees should continue.

Recommendation 12

The political parties should set out their sources and uses of funds in an easily intelligible way. To do so, they should immediately begin producing their accounts according to a set of common, publicly available standards, before the new regime comes into force.

Recommendation 13

The requirement in the *Political Parties Elections and Referendums Act 2000* that only donors on an approved electoral register can donate to a UK political party should be put beyond doubt.

Recommendation 14

On making a donation above the permissibility threshold donors should be asked to certify:

- If an individual, that they are on a permitted electoral register and that the donation is their own money and does not breach the donation cap.
- If a company, that they are carrying out business in the UK and have generated enough income from UK trading to cover the donation. If part of a group of companies, they should also certify that the donation would not breach the cap when added to donations from any other company within their group.

Recommendation 15

There should be a review of the current structure of offences under the legislation governing elections and party funding and of the ability of the Electoral Commission to apply effectively the civil sanctions it now possesses.

Recommendation 16

The parties should open discussions with a view to replacing the different limits on campaign spending for different elections with a single limit covering all elections in a single Westminster Parliamentary cycle.

Recommendation 17

The long and short campaign periods should, for simplicity, be combined into a single regulated period for candidate spending in line with the four month period for elections to the devolved legislatures and European Parliament.

Recommendation 18

Existing definitions of regulated campaign expenditure should be looked at again in light of the standardisation of party accounts, to guard against significant under-reporting.

Recommendation 19

Parties should publish the citations provided by the party leader for political appointments to the House of Lords, giving the reason for the nomination.

Recommendation 20

Policy Development Grants should be made available to parties with significant representation in the devolved legislatures, either by extending the Westminster scheme or by introducing equivalent schemes.

Recommendation 21

The exemption from inheritance tax should be extended to donations to political parties with representation in the devolved legislatures.

Recommendation 22

The Government should commit to a timetable to subject donations in Northern Ireland to the same transparency regime as in the rest of the United Kingdom. By the end of this Parliament, it should publish summary details of the total volume of donations above the reporting limit and the extent to which they come from Irish citizens residing outside the United Kingdom.

Recommendation 23

The donation cap should not apply to political parties without enough representation to qualify for Policy Development Grants, or the equivalent we have proposed in the devolved legislatures.

Recommendation 24

Smaller parties with no elected representatives should only submit donation returns to the Electoral Commission if they have a donation to report.

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Report



Chapter 1

The nature of the problem

Introduction

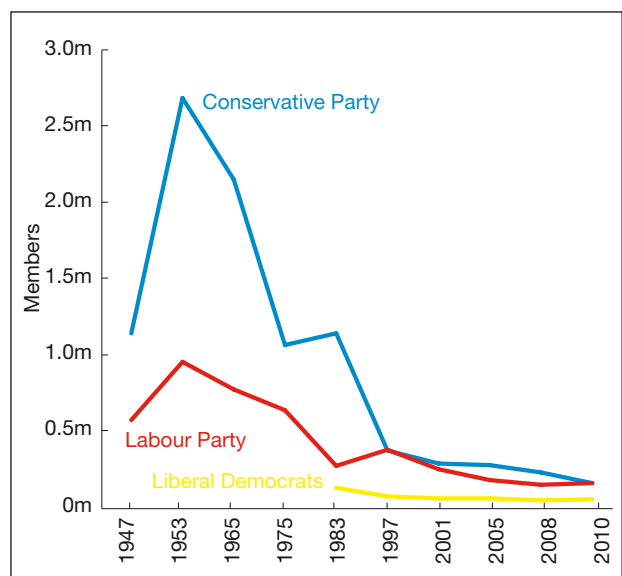
- 1.1 This report is the result of an inquiry into the financing of political parties that began in July 2010. The issues involved are both important and controversial. They have proved troublesome over a long period, in this country and elsewhere.
- 1.2 Political parties are essential to democracy in the United Kingdom. They provide the policy platforms and political leaders between which voters choose at local and national elections. They develop the policies which make up those platforms and build support for them by communicating with the electorate. They generate debate which enables citizens to influence policies directly. They supply and support the individuals who make up the Government and the Opposition. Opposition parties scrutinise policy proposals and hold the Government to account.
- 1.3 There is much public cynicism about political parties. But their role in shaping and debating policy affects the social and economic circumstances in which we all live.
- 1.4 It follows that the existence of vigorous, sustainably funded parties is a matter of public interest. In short, political parties provide a public good.
- 1.5 Over the last decade the spending of the three main parties in total averaged £68 million a year.¹ The smaller parties spent a fraction of that. This is a significant amount. But it is only a small proportion of the total costs of supporting democracy – running elections and referendums, maintaining legislatures in Westminster, Edinburgh, Cardiff and Belfast, supporting thousands of local authority councillors – or of the total running costs of government.
- 1.6 All parties have found raising the funds necessary to undertake their democratic functions extremely difficult. In an ideal world, the larger parties would perhaps depend more on their memberships for

funding, as do most of the smaller parties. There may be more they could do to encourage that, with positive effects on political engagement.

- 1.7 It would be unrealistic, however, to expect large increases in membership. For social and other reasons the membership of the three main parties has been declining steadily for some time. Their combined membership today is only about 420,000, around one-seventh of 1965 levels (**Figure 2**).² Nor is declining membership unique to the UK. Similar patterns are apparent in many other democracies. In current circumstances, mass memberships are more likely to be associated with cultural or leisure activities, or single issue movements, than with political parties.³

Figure 2

Membership levels of the main three political parties 1947-2010



Source: House of Commons Library 2009 and 2011

- 1.8 Over the last few decades all three main parties have instead become dependent on a small number of relatively large donations from individuals, trade unions (for the Labour Party) or other organisations. This dependency has inevitably created a risk that favours will be asked or given in return.

The regulatory regime and public perception

- 1.9 The present regime regulating party funding in the UK largely stems from a report made by this Committee in October 1998.⁴ The subsequent *Political Parties, Elections and Referendums Act 2000 (the 2000 Act)* created a new regulator, the Electoral Commission, introduced a ban on donations from outside the UK and set limits on the amount which could be spent on campaigning at parliamentary elections. It also provided that all donations above a certain level have to be on the public record.

- 1.10 In their Fifth Report, our predecessors recognised the problems that could be created by over-reliance on limited sources of funds. But they did not then favour imposing a donations cap. They took the view that transparency was a better way of dealing with the issue.

- 1.11 In practice, transparency has proved double-edged. It has undoubtedly, as intended, made the system more self-policing. But it has also made apparent the extent to which the financial health of the main political parties is dependent on a small number of donors. As one witness put it:

“You could argue that all transparency has done is allow us to see what a mess we are in, whereas before people argued about what the mess was and people could say ‘there is not a problem’.”
[Peter Facey, 11 November 2010, para 285]

- 1.12 The result has been a high, and unhealthy, degree of public suspicion about the motivations of both donors and recipients.
- 1.13 A number of high profile events have fuelled this suspicion.⁵ In particular, in the run up to the 2005 General Election, concern arose about anonymous donations channelled through connected parties, about the use by all three major parties of loans which looked as if they might have been intended to bypass the transparency rules and about the eligibility of a company trading in London but operating from abroad. In 2007, allegations about loans for peerages led to the Metropolitan Police interviewing the then Prime Minister. Although there were a number of arrests and a resignation,

no charges were brought against any politicians or officials.

- 1.14 In a public survey conducted for this inquiry at the end of last year, most respondents believed the main reasons for very large donations (defined for these purposes as £100,000 or more) were self-serving, whatever the source. 81 per cent thought the most common reason for donating was either the hope of receiving special favours in return or gaining access to those taking decisions. Only 16 per cent thought the most common reason to be belief in a party and what it stood for.⁶
- 1.15 Scepticism about the motivations of donors is not necessarily a problem if the public believe the parties are not being influenced by their donations. But our survey suggests the opposite. 36 per cent of respondents thought special favours for individuals or organisations making very large donations occurred ‘very often’. 49 per cent thought they happened ‘sometimes’. Only 11 per cent thought they were ‘rare’ or ‘never happened’.⁷
- 1.16 Other surveys tell a similar story. In a 2010 *State of the Nation* poll, 72 per cent of people surveyed agreed ‘slightly’ or ‘strongly’ that funding parties by voluntary donations was unfair because of a risk of donations buying influence.⁸
- 1.17 Political leaders should not be tempted to believe that public concern about large donations and the influence they can bring has gone away as memories of the last scandal fade.

Is public suspicion justified?

- 1.18 It is not easy to assess whether this public suspicion is justified.
- 1.19 On the one hand:
- Significant donors do have preferential access to political decision-makers. All three main parties run leader’s clubs of one form or another that explicitly provide access as an incentive to donors.
 - Significant donors have on occasion been appointed to the House of Lords. Of the 212 party political peers appointed since 2004, 48 were donors, either before or after appointment, fewer than some might have supposed. Of these, 20 gave £50,000 or more. 8 appointees held roles in trade unions that gave money to the Labour Party. 35 were associated in some way with companies, unincorporated associations or limited liability partnerships that

made donations, although in some cases the connections were tenuous. In others it was with an organisation that made donations to all three main parties. 130 of the political peers appointed in the period had no discernible connection with any donations.⁹

- Party leaders are under much pressure to obtain funds for campaigning in competitive elections – and therefore to push what is permissible within the rules to the limit. The parties do not always resist the temptation. In 2005, for example, it became apparent that all three main parties had obtained significant loans. The fact they had not previously publicly disclosed the loans was not a breach of the then prevailing rules. But it was clearly against their spirit. The press reported that a number of the lenders were to be nominated by the parties for peerages, though none was in fact appointed at the time.¹⁰
- The way influence is exerted does not have to be very direct. One witness who had been in a senior position in the then Prime Minister's office told us:

“You do not have to spend very long within a government, and in the private conversations within government, to know how many policy areas are coloured by the dependence of the party on particular kinds of very wealthy individuals...I think the various regulations of different parts of the City is the most obvious example, and of property, where I do not think it is any secret that governments have been influenced by the likely views of major donors.”
[Geoff Mulgan, 27 January 2011, para 41-42]

- Even if there is no direct connection between individual donors and specific decisions, there could be a bias created by large donations encouraging policies which benefit a particular type of donor.

1.20 On the other hand:

- None of our witnesses gave us concrete evidence of a connection between donations and influence or position.
- Access does not automatically bring direct influence on particular decisions – though it may have more subtle effects.
- Many significant donors are successful people in their own spheres and might be expected to have access to ministers, or to receive peerages or other honours, irrespective of any money given to a party.

- Senior officials of affiliated trade unions would similarly be expected to have influence on Labour Party policy, and on occasion to be appointed to the House of Lords, even in the absence of large financial transfers from their union's political funds.
- Whatever may have occasionally happened in the past, the arrangements for vetting political appointments to the House of Lords have been significantly tightened in the last few years.
- There are provisions in the Ministerial Code and other safeguards intended to prevent improper influence on policymaking.
- Public suspicion about party funding might partly reflect the way some donations are reported in the media. It might also be caused by unwarranted scepticism among people without party allegiance that strong supporters of political parties might wish to donate for that reason alone.
- Although there have been several complaints leading to police investigations, there have been no successful criminal prosecutions relating to corruption in the giving or receiving of donations to political parties or individual politicians in the last decade.

1.21 The lack of successful prosecutions has to be interpreted with some care. It has been suggested that the absence of a successful prosecution may, in part, be because the necessary standard of proof is high. It requires the demonstration of direct causality between a donation and some favour received in return. It is not enough simply to demonstrate a coincidence between the two.

The Committee's view

1.22 Our view is that public suspicion is justified. Even if there is no actual corruption in the present arrangements, it is hard to dispute that they are potentially *corruptible* and therefore not deserving of trust. The fact the continued existence of the major parties, and the effectiveness of their campaigning, depends on the financial backing of a small number of individuals or organisations is inherently unhealthy and creates unnecessary risks. The enormous competitive pressure on party leaders and treasurers to raise the funds thought necessary to fight elections creates considerable incentives to find ways of avoiding the rules. It is also almost bound to lead to media speculation about the motivations and behaviour of donors and recipients, which may be unfair to both.

- 1.23 It makes matters worse that party leaders, including the Prime Minister, actively involve themselves in the solicitation of funds. It is access to those in leadership positions that is most often wanted by those who make large donations or join leadership clubs.
- 1.24 Whether or not speculation about a link between political donations and honours or influence is justified is, in our view, beside the point. Such speculation will arguably be inevitable for as long as large donations remain possible.
- 1.25 In sum, the present arrangements for funding political parties are seriously problematic because:
- They lack integrity, in that if not corrupt they are plainly corruptible.
 - They rely on a degree of dependency on a small number of individuals or organisations, which is fundamentally unhealthy.
 - They leave something to be desired in terms of fairness, in that they give parties with more wealthy supporters an advantage over those with fewer.
 - They attract such a significant degree of public suspicion that a failure to respond is unlikely to be acceptable to the electorate, whose lack of trust on this issue is corrosive to the political system as a whole.

Previous attempts at reform

- 1.26 Others have looked at the party funding regime since this Committee's 1998 report.
- 1.27 In particular, the Constitutional Affairs Select Committee recommended a number of changes in 2006, including strengthening the powers of the Electoral Commission.¹¹ The Select Committee report was followed by the *Electoral Administration Act 2006 (2006 Act)*, which made loans subject to the same transparency rules as donations, whether or not made on commercial terms.
- 1.28 Also in 2006, the Prime Minister asked Sir Hayden Phillips to conduct a review of party funding.¹² Subsequent inter-party talks appeared initially to create a fair degree of consensus around a proposal involving a cap of £50,000 on donations from any one individual in any one year, balanced by a small increase in support from public funds.
- 1.29 These talks eventually collapsed in 2007 without agreement. A subsequent White Paper¹³ ruled out both donation caps and increased state funding,

but proposed a number of other changes which were implemented in the *Political Parties and Elections Act 2009 (2009 Act)*.

- 1.30 We do not think that the piecemeal changes made since the *2000 Act*, which leave the basic framework intact, are enough. We believe there is a compelling case for more radical reform. It would be a significant mistake in our view not to respond to public concern in an orderly way, before another scandal further damages public confidence in good government and the workings of democracy.
- 1.31 The proposals we make in this report are likely to be controversial. We are conscious that they contain features which may be unpalatable. We believe them nevertheless to be justified.

Manifesto commitments

- 1.32 The three main parties have already accepted the case for reform. All three committed themselves to it in their manifestos for the last general election (**Figure 4**).
- 1.33 Our expectation is that these public commitments mean the chances of finding an appropriate and acceptable solution are higher than at the time of the discussions brokered by Sir Hayden Phillips.
- 1.34 Sustainable reform will, however, require all party leaders to put the interests of democracy as a whole before narrow party interest. We hope they will all do so. If not, a significant opportunity will be lost.

Structure of the report

- 1.35 The rest of this report discusses the main issues before recommending the best way forward. **Chapter 2** sets out the principles on which we believe any sustainable regime should be based. **Chapter 3** describes the existing regulatory regime. **Chapters 4** and **5** analyse current flows of political party income and spending. **Chapter 6** discusses the analogous arrangements in other countries and potential lessons. **Chapter 7** considers the possible effects of imposing a cap on the size of individual donations – a practice adopted in many other countries as a way of addressing the same problem that we perceive to exist in the UK. **Chapter 8** looks at the case for according special treatment under a cap to trade union affiliation fees – one of the main issues which caused the last set of talks to break down. **Chapter 9** considers the scope for partly addressing the issue in another way, by curbing spending. **Chapter 10** looks at the

possibility of raising money from other sources to reduce the dependence on large donations.

Chapter 11 presents our main conclusions and recommendations about the way forward. The remaining chapters consider some of the consequences and a number of other issues that have arisen during our inquiry. **Chapter 12** discusses some of the changes needed to enforce the regime, including in relation to the activities of third parties. **Chapter 13** considers the position of the devolved legislatures and **Chapter 14** that of the smaller parties. **Chapter 15** assesses how closely the recommendations in this report reflect the principles we set out at the beginning.

Figure 4

Manifesto commitments and the Coalition Agreement

“The public are concerned about the influence of money on politics, whether it is from trade unions, individuals or the lobbying industry. We will seek agreement on a comprehensive package of reform that will encourage individual donations and include an across the board cap on donations. This will mark the end of the big donor era and the problems it has sometimes entailed.”

[Conservative Party manifesto 2010]

“We will...get big money out of politics by capping donations at £10,000 and limiting spending through the electoral cycle.”

[Liberal Democrat manifesto 2010]

“We believe that the funding of political parties must be reformed if the public is to regain trust in politics. Our starting point should be the Hayden Phillips proposals of 2008. We will seek to reopen discussion on party funding reform, with a clear understanding that any changes should only be made on the basis of cross party agreement and widespread public support.”

[Labour Party manifesto 2010]

“We will also pursue a detailed agreement on limiting donations and reforming party funding in order to remove big money from politics.”

[The Coalition: Our programme for Government May 2010]

Acknowledgements

- 1.36 We are grateful to the large number of individuals and organisations who have contributed to this inquiry through written and oral evidence. A full list is provided in **Appendices 2 and 3**. The Committee has also benefitted greatly from the assistance of Professor Keith Ewing, Professor Justin Fisher and Dr Michael Pinto-Duschinsky, who met on two occasions to assist our deliberations, and from the cooperation of the political parties, in arranging meetings with party leaders, as well as the meetings each of us had with local activists engaged in financial issues in constituencies to better understand the impact of the regulatory regime at local level. We are also grateful to Dr Mark Philp and our Research Advisory Board for their assistance in developing the public perceptions research for the inquiry, to the numerous individuals who contributed to the focus groups we held in July 2011 and to Professor Michael Malbin (USA), Dr Marcin Walecki (Poland) and Jean-Pierre Kingsley (Canada) who provided valuable advice by video link on experience in their own countries.
- 1.37 We could not have completed this inquiry without the support of the Committee’s secretary, Georgia Hutchinson, and the other members of our small but hard-working secretariat, listed in **Appendix 1**. We owe them a considerable debt.

Endnotes

- 1 Based on average expenditure reported in the central parties' statements of accounts 2001-10.
- 2 House of Commons Library Note 2011/1/244-SGS.
- 3 In 2010, the total membership of the three main parties was only around 10 per cent of that of the National Trust.
- 4 Committee on Standards in Public Life, *The Funding of Political Parties in the United Kingdom*, October 1998, Cm 4057.
- 5 The regulatory regime has evolved in a piecemeal fashion over a long period in response to such events. See timeline of regulation (Figure 3) at Appendix 5.
- 6 Committee on Standards in Public Life, *Survey of Public Attitudes Towards Conduct in Public Life 2010*, September 2011, p.39.
- 7 Committee on Standards in Public Life, *Survey of Public Attitudes Towards Conduct in Public Life 2010*, September 2011, p.40.
- 8 Joseph Rowntree Reform Trust, *State of the Nation Poll 2010*, p. 5.
- 9 Committee on Standards in Public Life research based on Electoral Commission and Houses of Parliament data. Excludes Northern Ireland peers because no donations information is available. Also excludes deceased peers. A small number of individual donors were also connected to organisations that made donations.
- 10 Two of those who made loans were subsequently appointed to the House of Lords.
- 11 Constitutional Affairs Committee, *Party Funding: First Report of Session 2006-07*, July 2006, HC163-1, p.27. Strengthening the powers of the Commission was also recommended in this Committee's Eleventh Report, *Review of the Electoral Commission*, January 2007, Cm 7006.
- 12 Sir Hayden Phillips, *The Review of the Funding of Political Parties: Strengthening Democracy: Fair and Sustainable Funding of Political Parties*, March 2007.
- 13 Ministry of Justice, *Party Finance and Expenditure in the United Kingdom: The Government's Proposals*, June 2008, Cm7329.

Chapter 2

Underlying principles

- 2.1 Any proposals to reform the arrangements for party funding have to be practical to have any chance of achieving the consensus necessary for success. But they also need firm roots in principle if they are to serve the long-term interests of parliamentary democracy.
- 2.2 Clarity about underlying principles is important both for the design of regulatory rules and for their interpretation. The Electoral Commission told us:
- “If a committee like yours is clear about the outcome it wants to achieve... that is incredibly helpful for us as a regulator. There is no perfect system and redesigning a system involves grappling with very many different moving parts... it is very helpful for us to have clarity about the policy intent.”* [Jenny Watson, 3 November 2010, para 18]
- 2.3 This chapter therefore sets out the principles on which we believe the regulatory regime for the funding of political parties, and any changes to it, should be based.
- 2.4 We have derived these principles from the Seven Principles of Public Life – selflessness, integrity, objectivity, accountability, openness, honesty and leadership – established by this Committee in 1995 as qualities which ought to characterise the behaviour of all public institutions and holders of public office¹:
- Because politics is about the exercise of power, the arrangements for party funding need to display **integrity** of the highest order. Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties. It is wrong in principle for certain individuals or organisations to have greater opportunity to influence political decisions simply because of their economic strength. It follows that political parties should not be overly dependent on any one source of funding, and should be scrupulous about the propriety of their funding.
 - Political parties and candidates should be demonstrably **accountable** for the funds they raise and spend. They should follow appropriate accounting processes. They should be honest in their handling and reporting of income and spending; and they should ensure that relevant information is clearly accessible to the public, the media and other commentators. Political parties and candidates are accountable for their actions at the ballot box. But the electorate needs meaningful information to judge how parties handle their affairs.
 - Transparency is a key condition for accountability. Its introduction for political donations in the *2000 Act* has put us in a position to make the recommendations in this report. But it has not been, and will not be, enough to prevent suspicion of improper behaviour unless what it reveals is beyond reproach.
 - It is fundamental to our democracy that political parties remain financially viable to enable them to operate, either in government or in opposition, and to present policy alternatives to the voters at elections. The system for funding political parties has therefore to be **sustainable** to allow parties to carry out these important functions as their electoral popularity rises and falls.
 - Both as a matter of principle and to support its sustainability, the regulatory regime must be **fair** to all political parties, and widely believed to be so. The rules should not discriminate against particular parties or candidates and as far as possible should have regard to their different histories and structures. A fair system need not necessarily be a uniform one. The objective is not to ensure that all parties have equal resources. But differences should be

Figure 5

Principles underlying this report	
Integrity	Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.
Accountability	Political parties and candidates should be held to account for the money that they raise and spend. They should be scrupulous as to the propriety of funding sources.
Sustainability	It is fundamental to our democracy that political parties are financially viable to enable them to function, either in government or in opposition, and to present policy alternatives to the electorate at elections.
Fairness	The system should be fair to all parties, as far as possible should have regard to their different histories and structures and should not unduly discriminate against particular candidates or parties.
Proportionality	The rules should be proportionate to the harm they are seeking to address. They should be easy to understand and apply without imposing unnecessary bureaucracy on those involved.
Enforceability	The rules should be unambiguous with clear and effective sanctions for any breaches.

justified by factors such as the popularity of their policies or leadership, not simply by the relative wealth of the supporters to whom they appeal. Fairness also requires that reforms should not be designed solely to meet the needs of those parties which enjoy current electoral success. Any rule changes should avoid inappropriate barriers to entry for new political parties.

- Proposals for reform must be **proportionate** to the harm they are seeking to address. The rules should be designed to advance the other principles set out here. But they should also, as far as possible, allow political parties to carry out their business without unnecessary bureaucracy. The rules need not bear as heavily on a political party with annual income and expenditure of a few hundred pounds as they do on those with much larger budgets. To help with this, and in recognition of the fact that most political parties rely on volunteers, the rules on party funding should as far as possible be easy to understand and to apply. They should not be excessively burdensome for political parties, candidates, the regulator or others.
- The rules must be **enforceable** and should be enforced robustly. This requires that they be unambiguous in their requirements and supported by clear, effective and proportionate sanctions with a regulator resourced and ready to make use of them.

- 2.5 We also have one important objective. We think it important that any changes to the current arrangements should not inhibit, and ideally should encourage, **democratic engagement**. Engagement in politics, including giving to political parties, is a positive civic activity and we should recognise it as such.
- 2.6 We believe that if the reforms we have proposed are to be sustainable they need **agreement** between all the major parties. That may to some extent require putting national interest before party interest, narrowly interpreted. All parties have an interest in effective measures designed to support confidence in the integrity of their funding.
- 2.7 Finally, successful, sustainable reform will be critically dependent on **leadership** from those at the top of political parties in promoting a culture of high standards. All those involved in political parties need to comply with the spirit of what the party funding regime seeks to achieve rather than – as has sometimes happened in the past – narrowly focusing on compliance with the letter of the law.

Endnote

- 1 Committee on Standards in Public Life, *First Report of the Committee on Standards in Public Life*, May 1995, Cm 2850-1.

Chapter 3

The regulatory framework

- 3.1 This chapter sets out the current rules on election finance as they affect donations, loans and expenditure by parties and candidates and the activities of third parties.

Donations

- 3.2 Donations to political parties in the UK are permitted only from individuals registered on a permitted electoral register or from a registered party, company, trade union, building society, limited liability partnership, friendly, industrial or provident society, or unincorporated association. Donations from foreign nationals are not permitted, with a limited exception in Northern Ireland. Treasurers need to check that donations over £500 to a party are from a permissible source. Election agents and candidates must check permissibility for donations over £50.
- 3.3 Donations over £1,500 to an accounting unit (such as a constituency party), or over £7,500 to a central party, must be reported to the Electoral Commission.¹ The Commission has the power to confiscate impermissible donations through forfeiture to the Consolidated Fund. In pursuit of this function, it currently checks each donation reported to it by comparing names against the electoral register. The Commission publishes details of all reported donations on its website, except for those to Northern Ireland parties and those to sitting MPs.² The latter are required to report donations in the Register of Members' Interests.
- 3.4 Until recently it had been thought that the requirement for permissibility was that donors should actually be on a permitted electoral register, not just *eligible* to be on it. But a recent Supreme Court judgement has created some doubt.³ (See **Chapter 12**)
- 3.5 Unincorporated associations giving over £25,000 to political parties, third parties and regulated
- donees in a year must declare to the Electoral Commission any gifts they have themselves received in that period. This arrangement provides visibility of any individuals making covert donations by channelling them through another donor. Covert donations are an offence.
- 3.6 Political parties in Northern Ireland face the same rules about reporting donations to the Electoral Commission as parties in the rest of the UK. Under the *Northern Ireland (Miscellaneous Provisions) Act 2006*, however, this information is not made public, to protect donors against the risk of intimidation. The arrangement was intended to be transitional and had been due to expire in 2010. But in January 2011 the Government decided following public consultation to keep it in place for another two years.⁴ Northern Ireland political parties are also able to accept donations from Irish citizens or companies that are permissible donors to Irish political parties, as well as from those on the UK electoral register. This includes some donors resident outside the Republic of Ireland.
- 3.7 Under the *Representation of the People Act 1983* candidates must report all donations over £50.

Loans

- 3.8 Since 2006, the disclosure and permissibility requirements for donations to political parties have also applied to loans, credit facilities, overdrafts and guarantees of borrowing.

Expenditure

- 3.9 There are limits on the amounts that can be spent on campaigning during specified periods before elections both by individual candidates and by national parties. Campaign spending as defined by the *2000 Act* includes advertising, direct mail, media, transport, rallies, election broadcasts, manifestos and policy documents, market

research and canvassing. There are no statutory limits on other forms of spending by the parties.

- 3.10 The rules are complex. For **central parties**, different spending limits and different regulated periods apply to general elections and to elections to the Scottish Parliament, the National Assembly for Wales, the Northern Ireland Assembly and the European Parliament. The limits for each party depend on the number of constituencies the party is contesting. The maximum limits are shown in **Figure 6**. Parties contesting only a proportion of the seats are subject to correspondingly lower limits.
- 3.11 There are no limits on spending by central parties at local elections unless those elections fall within the same period as an election to which national limits apply. In that case, local election campaign spending is included in the relevant party's expenditure return for the regulated election and is covered by the limit for that election.
- 3.12 **Individual candidates** standing in UK parliamentary elections are subject to two separate limits on their campaign spending (**Figure 7**). The 'long' campaign or pre-candidacy limit applies before the formal election campaign. It was introduced in 2009 to prevent candidates from spending large amounts shortly before the formal campaign began. The 'short' campaign limit applies from the dissolution of Parliament. The size of the 'long' campaign limit varies depending on the time a Parliament has been sitting before it is dissolved. The maximum only applies if a Parliament has been sitting for the full 60 months allowed by the law. If a Parliament is dissolved earlier, the limit is reduced by 10 per cent for each month less than 60. It is 90 per cent of the maximum if the Parliament lasts 59 months, 80 per cent if 58 months, and so on. Fixed-term Parliaments will make the application of this limit simpler.
- 3.13 Spending limits for candidates at elections in the devolved legislatures are defined in the election order for each relevant election. The 2011 Scottish Parliament elections used a similar approach as the 2010 UK General Election, with separate limits for 'long' and 'short' campaign periods. Elections to the Wales and Northern Ireland legislatures have adopted the 'short' campaign model.
- 3.14 In local elections candidate spending is regulated by the *Representation of the People Act 1983*. The spending limits are £600 plus 5p for each local elector in a ward or division. For candidates standing on a party list, the limit reduces by 25 per cent where there are two candidates or by 33 per cent where there are three or more candidates.
- 3.15 Difficulties can arise in deciding whether campaign spending within a particular constituency should be attributed to a candidate or to the central party – particularly in a marginal constituency where central spending may be disproportionately concentrated. According to Electoral Commission guidance, the distinction turns mainly on whether the individual candidate is mentioned by name. The decision can be important in a small number of cases because central parties do not generally spend up to their limits, whereas individual candidates can come close to them, and can suffer penalties if they exceed them. In practice most candidates' spending comes comfortably within the limits. In the 2010 UK General Election, only 0.9 per cent of candidates spent over 90 per cent of the long campaign limit, and just under 10

Figure 6

Current limits on campaign spending by central parties

Election	Regulated period	Maximum limit (if all seats contested)
General Election	365 days	£19.5m
Scottish Parliament	4 months	£1.5m
National Assembly for Wales	4 months	£0.6m
Northern Ireland Assembly	4 months	£0.3m
European Parliament	4 months	£3.3m (GB) and £0.1m (NI)

Source: Electoral Commission

Figure 7

Current limits on campaigning spending by candidates

Election	Regulated period	Maximum limit
General elections: 'long' campaign	January of the election year to the dissolution of Parliament	£25,000 plus 7p for each elector in a county constituency and 5p in a borough constituency
General elections: 'short' campaign	Dissolution of Parliament to polling day	£7,150 plus 7p for each elector in a county constituency and 5p in a borough constituency
Scottish Parliament elections: 'long' campaign	January of the election year to the dissolution of Parliament	£17,500 plus 4.9p for each elector in a county constituency and 3.5p in a burgh constituency
Scottish Parliament elections: 'short' campaign	Dissolution of Parliament to polling day	£7,150 plus 7p for each elector in a borough constituency and 5p in a burgh constituency
National Assembly for Wales elections	Announcement of election to polling day	£7,150 plus 7p for each elector in a county constituency and 5p in a borough constituency
Northern Ireland Assembly elections	January of the election year to the dissolution of Parliament	£7,150 plus 7p for each elector in a county constituency and 5p in a borough constituency

Source: Electoral Commission

per cent spent more than 90 per cent of the short campaign limit. Only 35 candidates spent more than 90 per cent of their combined long and short campaign limits.⁵

- 3.16 For all regulated elections, central parties must report the amount of their campaign spending to the Electoral Commission within three months where expenditure is under £250,000 and within six months where expenditure is greater than that. Candidate spending in both general and local elections must be reported within 35 days after an election.

Third parties

- 3.17 An individual or organisation other than a political party which is intending to spend a significant amount of money⁶ in an attempt to influence the outcome of an election must register as a third party with the Electoral Commission. 30 organisations or individuals were registered at the 2010 General Election.
- 3.18 Registered third parties campaigning nationally during regulated elections are subject to rules on

donations similar to those for political parties.⁷ The intention is to guard against the risk that significant donors might use them to aid political parties anonymously. They have to provide a statement of all donations above £7,500 received for campaign expenditure, together with a campaign spending return. Donations above £500 must be from a permissible source.

- 3.19 Registered third parties are subject to limits on the amount they can spend on campaign material at all elections other than local elections (unless they fall within the same period as another regulated election). The limits apply to any material that can reasonably be regarded as intending to influence people's voting choice, even if it is also intended to achieve something else such as raising awareness of an issue. The current limits are shown in **Figure 8** overleaf. Separate limits apply to third parties campaigning for or against individual candidates. Because of the low level of these limits, the disclosure rules about the source of donations do not apply.
- 3.20 If a number of third parties formally campaign in a concerted strategy, the combined spending will count against each campaigner's limit. Similarly, if

Figure 8

Campaign spending limits for registered third parties				
Region	Westminster Parliament	European Parliament	Devolved bodies	Local elections
England	£793,500	£159,750	–	Only controlled if falls in the same regulated period as another election.
Scotland	£108,000	£18,000	£75,800	Only controlled if falls in the same regulated period as another election.
Wales	£60,000	£11,260	£30,000	Only controlled if falls in the same regulated period as another election.
Northern Ireland	£27,000	£6,750	£15,300	Only controlled if falls in the same regulated period as another election.
Registration not required				
Individual candidates	£500	£5,000 (independent candidates only)	£500	£50 plus 50p per elector

Source: Electoral Commission

a third party campaigns in concert with a political party or candidate any spending authorised by the political party or candidate counts against their spending limit. Any unauthorised spending counts against the third party's limit.

- 3.21 A wide range of pressure groups, lobbyists and advocacy groups run campaigns during elections in support of particular policies or ideas, but do not need to register as third parties because they do not stray into partisan territory. The Charity Commission regulates those that are charities with strict rules. Broadly speaking, charities can campaign for objectives consistent with their charitable objects. But they cannot engage in party political activities.

Endnotes

- 1 The £1,500 threshold also applies to regulated individuals and the £7,500 to members associations.
- 2 And other holders of relevant elective office, as defined in Schedule 7 of the 2000 Act.
- 3 Supreme Court, 'R (on the application of the Electoral Commission) (Respondent) v. City of Westminster Magistrates Court and the United Kingdom Independence Party (Appellant) UKSC 2009/0205', July 2010.
- 4 Northern Ireland Office, *Donations and Loans to Northern Ireland Political Parties: The Confidentiality Arrangements: Government Response to Consultation*, January 2011.
- 5 Electoral Commission.
- 6 Currently defined as £10,000 in England or £5,000 in the devolved administrations.
- 7 Rules on reporting are different, however. Third parties only have to report donations related to regulated campaign spending and make a single report for each campaign, rather than reporting at regular intervals.

Chapter 4

Current financial flows: income

Data problems

- 4.1 Obtaining comprehensive and consistent data for the income and spending of political parties is not straightforward.
- 4.2 Details about donations are only available from 2001, when the Electoral Commission was created and began publication of those reported to it under the new legislation. The Electoral Commission figures only include donations reported to it.
- 4.3 Further information is available from the obligatory annual statements of accounts produced by central parties and by their local accounting units with income or expenditure greater than £25,000. But these figures are not directly comparable with each other, or with the Electoral Commission figures, since there has been no common accounting standard.
- 4.4 In comparing the two sources of figures, we have found numerous discrepancies and anomalies. For example, the Conservative Party receive significantly more income through their local accounting units than the other parties. But we do not know how much of this is transferred back to the central party. The extent of internal transfers, and of potential double-counting, is not clear from the parties' accounts. The Labour Party handles membership centrally, which means they have received higher income centrally than the Conservative Party, whose members join locally. The functions of the Liberal Democrats are spread over a larger number of accounting units than the other parties because of their federal structure.
- 4.5 One consequence of these data problems is that – despite the interest in donations – transparency about the parties' sources and uses of funds is far from complete.
- 4.6 The larger parties have recently agreed a set of common accounting standards with the Electoral Commission. We welcome this development. But

we understand that compliance is voluntary, which we do not regard as satisfactory. We return to this point later.

- 4.7 The figures used in this report are the best available, but may be neither completely accurate, nor completely consistent. Unless otherwise stated, the data come from the accounts of the central parties only. The exception is that the Liberal Democrats' central party accounts have been combined with those for their Parliamentary Office, through which they receive and account for Short and Cranborne Money (see later), to make them more comparable with the accounts of the Conservative and Labour central parties.

Overview

- 4.8 The political parties differ significantly in their main sources of funds.
- 4.9 Around two-thirds of the Conservative Party's income comes from donations. Historically the party is reported to have secured significant donations from listed companies. But there have been very few donations of this kind since the *2000 Act* required companies to obtain prior approval from their shareholders. Donations from private companies, often a proxy for the individuals who control them, continue. A significant part of the Labour Party's funds comes from the financial contributions of thousands of trade union members paid through the political funds of unions affiliated to the party. The Liberal Democrats, whose income is much lower than the other two main parties, depend on individual donations, on surcharging their elected members and on significant donations from the Joseph Rowntree Reform Trust. All three main parties also receive income from fundraising, from membership fees and from public funds provided for specific purposes. The smaller parties rely almost entirely on income from their memberships, on local fundraising and on individual donations, usually on

a small scale. Some, such as UKIP, have been the beneficiary of one or more significant donations, especially in their start up phase.

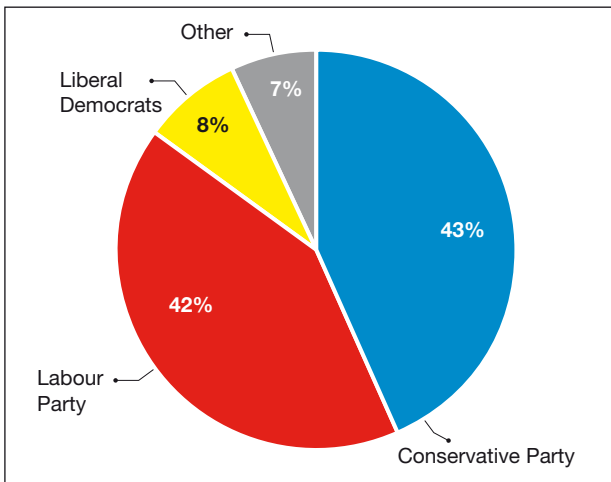
4.10 The following paragraphs provide further detail.

Donations

4.11 More than 800 parties have registered with the Electoral Commission since the 2000 Act came into force.¹ Only 53 have reported donations above the reporting thresholds. Between 2001 and 2010 reported donations in cash or in kind amounted to £384 million.² More than 90 per cent of this amount went to the three main parties (Figure 9).

Figure 9

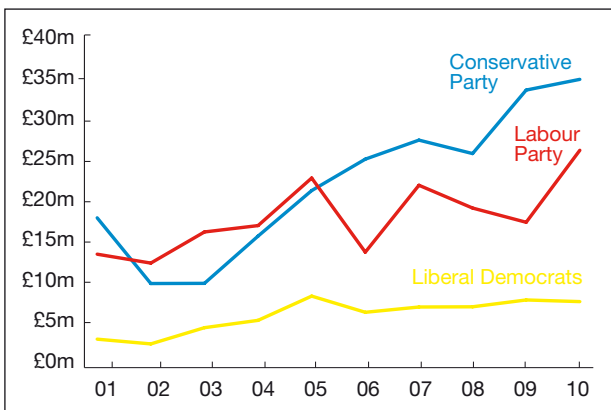
Share of total donations reported to the Electoral Commission 2001-10



Source: Electoral Commission (August 2011)

Figure 10

Total reported donations to the main three central parties 2001-10



Source: Electoral Commission (August 2011)

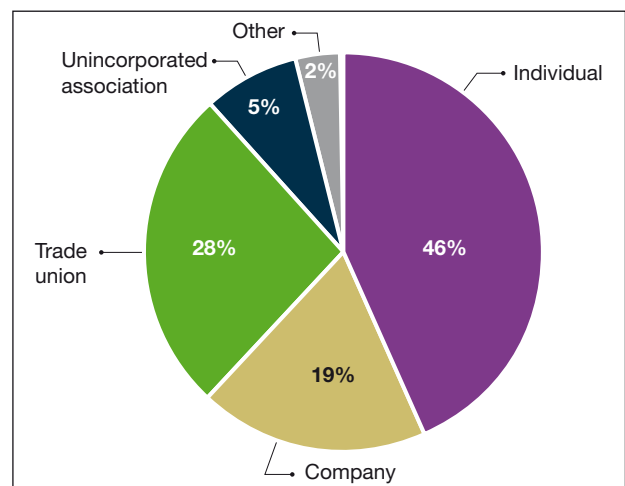
4.12 Figure 10 shows fluctuations in reported donations to the three main parties over the period. Between 2002 and 2005 the Labour Party received more in donations than the Conservative Party. Between 2005 and 2010 those positions were reversed, not because the Labour Party was receiving less in donations than before but because the Conservative Party became conspicuously more successful. The Liberal Democrats received significantly less than either of the other two main parties throughout the period.

4.13 There is likely to have been a significant volume of donations below the reporting threshold and not included in these figures. Comparison of the three main central parties' statements of accounts (which include all donations to the central party regardless of value) with data from the Electoral Commission database suggests that between them the parties might have received around £80 million in donations under the reporting threshold between 2001 and 2010, equivalent to around £8 million a year.³

4.14 Figure 11 shows the source of reported donations to the three main central parties between 2001 and 2010. The largest share came from individuals. Donations from companies amounted to around £70 million. Public companies provided only 5 per cent of the £49 million corporate donations during the last parliamentary cycle. The rest came from private companies.⁴

Figure 11

Reported donations by type to the three main central parties 2001-10



Source: Electoral Commission (August 2011)

- 4.15 Unincorporated associations, which include social clubs for example, accounted for 5 per cent of donations. Other sources include limited liability partnerships, friendly societies, impermissible donations, political parties (mainly the Co-operative Party donations to the Labour Party) and trusts.

Membership fees

- 4.16 Membership fees currently account for between 3.5 per cent (the Conservative Party) and 18.1 per cent (the Green Party) of total income. **Figure 12** shows membership fees in value terms and as a proportion of income for the three main central parties and a sample of smaller parties over the period 2001-10. Increasingly, the parties look for support other than through membership.

Affiliation fees

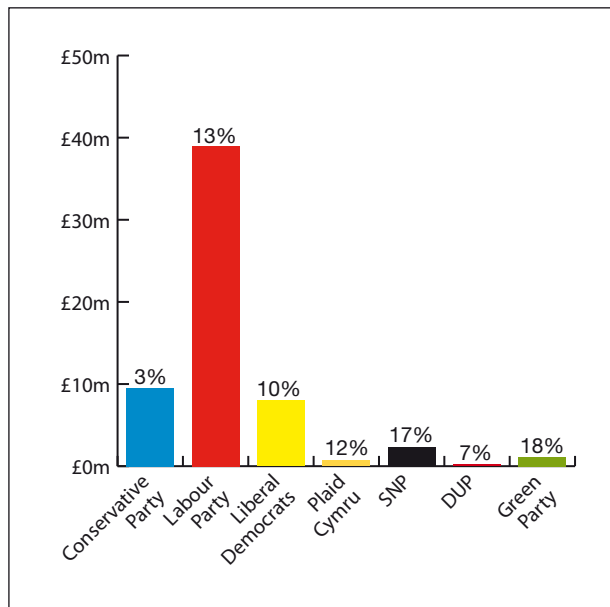
- 4.17 As well as individual membership fees, the Labour Party receives significant amounts in affiliation fees from trade unions and other affiliated bodies (see **Chapter 8**). Their statements of account show that between 2001 and 2010 the central Labour Party received £74.8 million in affiliation fees, accounting for 25 per cent of the central party's total income.⁵ Affiliation fees over the relevant threshold are reported to the Electoral Commission as donations and were included as such in **Figures 9 to 11**.
- 4.18 Published information does not distinguish between affiliation fees from trade unions and affiliation fees from other organisations. It seems reasonable to assume that the overwhelming majority of affiliation fees received by the Labour Party come from trade unions because of the size of their membership. No other party has affiliated trade unions.⁶

Direct public funding

- 4.19 The larger UK political parties currently receive significant amounts in public funding, in direct grants and as benefits in kind. There is also an exemption from inheritance tax for legacies to political parties.
- 4.20 Direct grants come in three forms.
- 4.21 **Short Money** is provided to opposition parties in the House of Commons to assist them in carrying out their parliamentary duties effectively, through providing research support for the Opposition front bench, funding the office of the Leader of the Opposition and travel expenses. Short Money is

Figure 12

Membership fees as a proportion of central party income 2001-10



Source: Central parties' statements of accounts

available to all opposition parties that have secured at least two seats in the House of Commons, or one seat and more than 150,000 votes. Short Money allocated to the six eligible parties in 2010-11 amounted to £6.3 million.⁷

- 4.22 There are similar arrangements in the Northern Ireland Assembly and the Scottish Parliament. In both cases support is available to all parties, including those in government. In Westminster the Liberal Democrats lost their entitlement to Short Money when they went into the Coalition.
- 4.23 Short Money is not available to Sinn Fein MPs at Westminster because they have not sworn the oath of allegiance. Under a separate scheme they were allocated £99,130 in 2010-11, on an equivalent basis, to support the party's spokesmen "in relation to the party's representative business".⁸
- 4.24 **Cranborne Money** is the equivalent of Short Money in the House of Lords and is available for similar purposes. The total amount allocated in 2010-11 was £587,000, including just over £60,000 to support cross-bench peers.⁹
- 4.25 **Policy Development Grants** amounting to £2 million a year are administered by the Electoral Commission to assist in developing policies for inclusion in manifestos for elections

to the UK Parliament, the European Parliament, devolved legislatures and local government. They were introduced in the 2000 Act following a recommendation in the Committee's Fifth Report. Parties are only eligible if they have at least two sitting members in the House of Commons who have taken the oath of allegiance. That therefore excludes both Sinn Fein and some parties who have members either in the devolved legislatures or the European Parliament but not in Westminster.

4.26 The value of Policy Development Grants has not increased since their introduction. Figure 13 shows the current allocation (figures have been rounded up).

Figure 13

Policy Development Grant allocation 2010-11

Party	Allocation 2010-11
Conservative and Unionist Party	£456,610
Democratic Unionist Party	£155,540
Labour Party	£456,610
Liberal Democrats	£456,610
Plaid Cymru	£152,430
Scottish National Party	£166,650
Social Democratic and Labour Party	£155,540

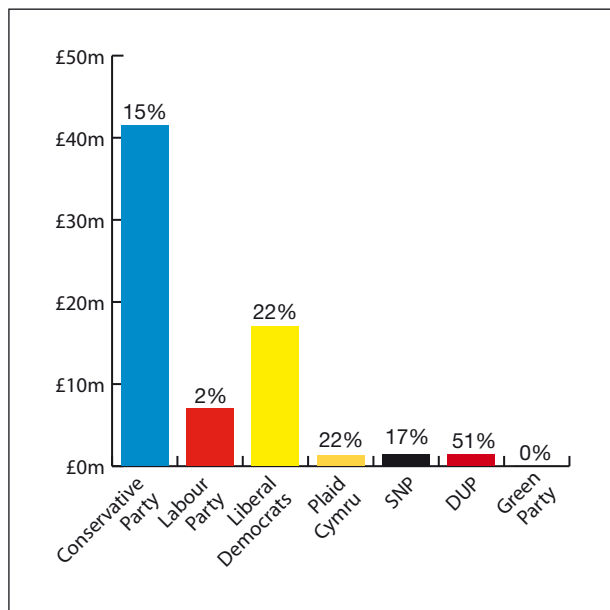
Source: Electoral Commission (2011)

4.27 In total, UK political parties received an average of around £7 million a year in direct public subsidies between 2001 and 2010.¹⁰ Of that, 94 per cent went to the three main parties. Figure 14 shows that, as a proportion of central parties' total income over this period, public funding varied from 2 per cent for the Labour Party (reflecting the fact they were in government) to 51 per cent for the Democratic Unionist Party (DUP).¹¹ In the case of the Conservative Party, who were in opposition during the period, it was 15 per cent.

4.28 The only significant increase in public funding in the last 20 years, other than up-rating for inflation, has been the addition to Short Money of an allowance for the Leader of the Opposition's office and of a travel allowance.

Figure 14

Public funds as a proportion of total central party income 2001-10



Source: Central parties' statements of accounts

4.29 UK political parties with representatives in the European Parliament may also be eligible for some funding from the budget of the European Union.

Benefits in kind

4.30 UK political parties enjoy a number of benefits in kind funded by the state in the form of party political broadcasts, free postage at election times and free use of meeting rooms during election campaigns.

4.31 **Party political broadcasts** are available to any party fielding candidates in one-sixth of the contested seats at elections for Westminster, the European Parliament and the devolved legislatures. Major political parties will usually be offered more than one.

4.32 It is difficult to quantify the value of party political broadcasts. The BBC has no advertising rates and independent broadcasters take party broadcasts out of programme, not advertising time. If the parties bought the equivalent advertising time at commercial rates the costs would be around £85 million in an election year and £22 million in a non-election year.¹² Whether the parties receive the same amount of value from the broadcasts may be debatable. The vigour with which some parties argue for election broadcasts suggests they do regard them as important.

- 4.33 **Free postage** is available to candidates for one election mailing to each elector in their constituency. Free postage is also available for mayoral elections. The cost in the 2010 General Election was £28 million.¹³
- 4.34 Candidates have **free use of public buildings** including schools or any other building maintained at public expense for meetings during parliamentary, local or European elections and for elections to the devolved legislatures. As far as the Committee is aware, there are no estimates of the cost of this to the public purse. Public meetings now happen less often than in the past.

Indirect public funding

- 4.35 Political parties may also receive support from public funds in indirect ways. For example:
- Government ministers are supported by a limited number of special advisers whose functions are party political but who are paid from public funds.
 - Many parties have arrangements under which, with various degrees of compulsion, their representatives are expected to contribute a proportion of their public salaries or allowances to party funds.
 - Some MPs may rent offices from their constituency parties, paid for from their parliamentary expenses – though these arrangements may be both convenient and good value for money for the taxpayer.
 - Despite strict rules, there can be difficulty in separating spending in support of the party political activity of ministers from spending undertaken in their ministerial role.

Commercial income

- 4.36 For most parties, commercial income means money generated at party conferences from hiring out stands and from sponsorship. It also includes smaller amounts from selling advertising space in publications or from merchandise, party-branded credit cards and investment or rental income. Between 2001 and 2010 commercial income accounted for 11 per cent of the three main central parties' total income.¹⁴

Loans

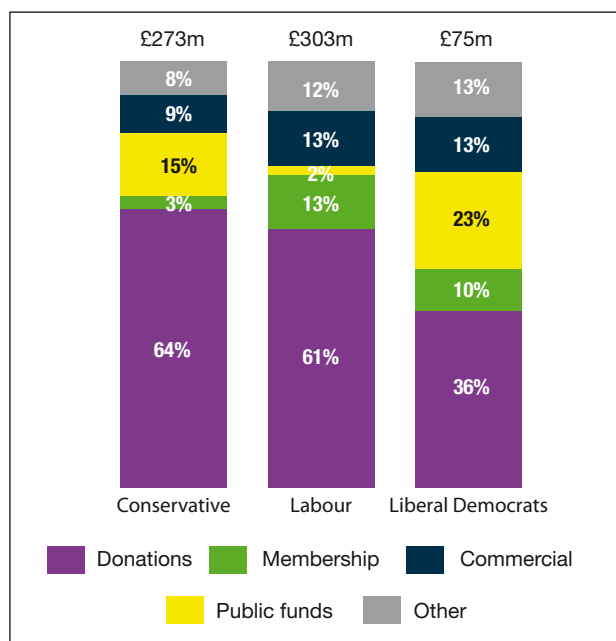
- 4.37 Political parties may receive loans and credit facilities at commercial or preferential rates. On 31 December 2010 registered political parties had £14.7 million of loans outstanding. Total credit facilities available were £18.2 million.¹⁵ It is not easy from examination of the published accounts or returns to the Electoral Commission to distinguish between loans on preferential terms and those on commercial terms.

Summary of income

- 4.38 **Figure 15** overleaf summarises the level and types of income received by the three main central parties between 2001 and 2010. For comparative purposes, **Figure 16** overleaf provides the same information for some of the smaller parties.

Figure 15

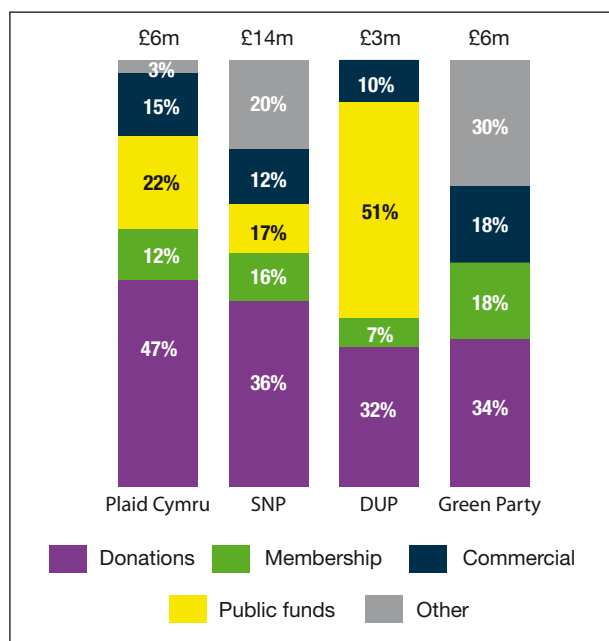
Total income by type of the three main central parties 2001-10



Source: Central parties' statements of accounts

Figure 16

Total income by type of smaller central parties 2001-10



Source: Central parties' statements of accounts

Endnotes

- 406 are currently registered with the Electoral Commission.
- This figure excludes public subsidies but includes trade union affiliation fees received by the Labour Party which are reported to the Electoral Commission as donations.
- Donations below the reporting threshold but still reported to the Electoral Commission may have been double counted, resulting in an over-estimate.
- Figures based on Electoral Commission data from Q3 2005 to Q2 2010, roughly the period of the last Parliament, submitted by Dr Richard Williams of Cambridge University, written evidence, E17.
- Labour Party's central statement of accounts.
- Parties other than the Labour Party have also received donations from non-affiliated (or ex-affiliated) trade unions. The Electoral Commission database shows that relatively small sums were given between 2001 and 2010 to the Liberal Democrats (£152,000) and to the Scottish Socialist Party (£9,000). The majority of other donations from trade unions were to third parties.
- House of Commons Library Standard Note SN/PC/1663, *Short Money*, August 2011. The six eligible parties are the Labour Party, the Democratic Unionist Party (DUP), the Green Party, Plaid Cymru, the Social Democratic and Labour Party (SDLP) and the Scottish National Party (SNP).
- House of Commons Library Standard Note SN/PC/1663, *Short Money*, July 2010.
- House of Commons Library Standard Note SN/PC/1663, *Short Money*, July 2010.
- Electoral Commission.
- Figures are based on central parties' statements of accounts for 2001-10, which may result in underestimation where parties receive public funding through other accounting units. Some parties had absent, incomplete or extended accounts for 2001 due to a change in accounting periods. Like the Liberal Democrats, the SNP receive public funds through other accounting units so their accounts and reported public funds have been combined to more accurately reflect this.
- Electoral Commission, *The Funding of Political Parties*, May 2003. The report cites a figure calculated by Andrew Tyrie MP which we have uprated for inflation.
- Cabinet Office, 2011.
- Central parties' statements of accounts 2001-2010.
- Electoral Commission.

Chapter 5

Current financial flows: spending

5.1 The amounts spent by the political parties depend partly on the resources available to them and partly on the stage of the electoral cycle. Over the whole period 2001-10 the Conservative Party spent an average of £29.5 million a year, the Labour Party £30.9 million a year and the Liberal Democrats £7.5 million a year.¹

5.2 **Figure 17** shows yearly spending by the three main parties. The impact of election years and of changes in the relative popularity of the parties and consequently in their income is clearly visible. The chart also brings out the disadvantage of the Liberal Democrats in amounts spent. The loss of Short Money on entering the coalition has made their position worse. Their chief executive told us:

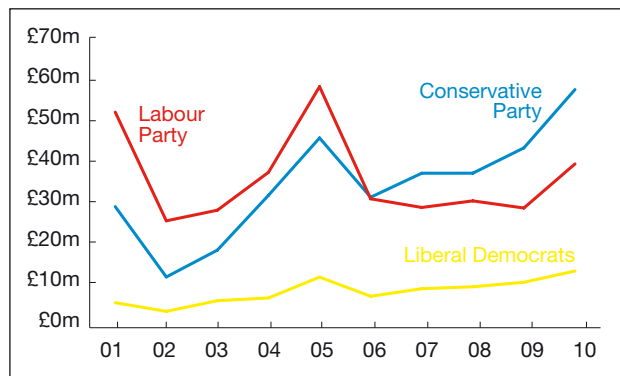
"I think we cut bone and flesh as well as what fat there was... we are not supporting things as well as we would like because we do not have the resources to do it." [Chris Fox, 15 February 2010, para 505]

5.3 The spending of the smaller parties was much lower than that of the three main parties, reflecting their lower income. In 2010, for example, the DUP spent just over £0.3 million and the Scottish National Party (SNP) £2.1 million.²

5.4 **Figure 18** shows the split between regulated campaign expenditure and other (unregulated) expenditure for the three main UK parties for the period 2001-10. Other expenditure includes activities such as maintaining offices and equipment, communicating with members, developing policy, organising party conferences and supporting local parties. On average, around 20 per cent of the three parties' spending was on campaigning and 80 per cent on routine operational costs and staffing. These proportions were broadly similar in a sample of smaller parties.³

Figure 17

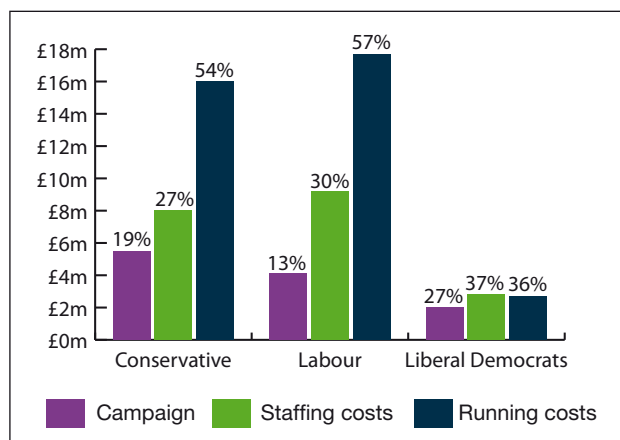
Total annual expenditure of the three main central parties 2001-10



Source: Central parties' statements of accounts

Figure 18

Average annual breakdown of expenditure by the three main central parties 2001-10



Source: Central parties' statements of accounts

Spending by candidates

5.5 Spending by candidates varies widely. In the 2010 General Election successful candidates on average spent between £0.10 (Labour Party/Co-operative Party) and £1.78 (Conservative Party) for each vote received. Some unsuccessful candidates spent as much as £17 and £269 a vote received.⁴

Spending by third parties

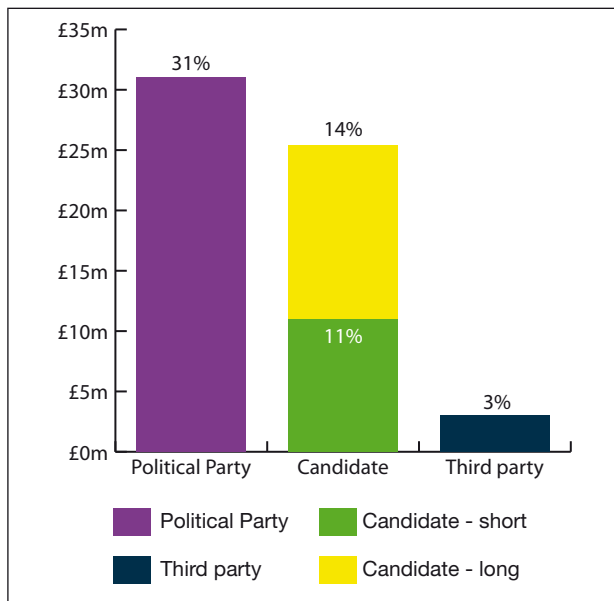
5.6 Spending by registered third parties forms a relatively small part of overall campaign spending (Figure 19). In total, registered third parties declared spending of £2.8 million during the 2010 General Election, around £1 million more than in 2005. Some registered third parties spent nothing (Figure 20).⁵

Endnotes

- 1 Central parties' statements of accounts 2001-10.
- 2 Central parties' statements of accounts 2001-10.
- 3 Plaid Cymru, the SNP, the DUP and the Green Party. These parties spent between 16 and 33 per cent of their total central expenditure on campaigning.
- 4 Electoral Commission.
- 5 Electoral Commission, *UK General Election 2010: Campaign Spending Report*, February 2011.

Figure 19

Campaign spending by campaigner type during the 2010 General Election



Source: Electoral Commission

Figure 20

Campaign spending by third parties registered at the time of the 2010 General Election

Third Party name	Status	Total spent £
38 Degrees	Company	9,000
A Minority Pastime	Company	10,970
Community	Trade union	0
Mr Patrick Evershed	Individual	14,060
IFAW in Action	Company	206,630
Independent Network Campaign	Company	51,020
Dr Harold Brian May	Individual	151,950
Muslim Friends of Labour	Unincorporated association	0
National Union of Teachers	Trade union	121,940
Political Animal Lobby Ltd	Company	172,540
Public and Commercial Services Union	Trade union	84,790
Searchlight Information Services	Company	319,230
Sentinel Publications Ltd	Company	0
The Board of Deputies of British Jews	Company	0
The Campaign to End All Animal Experiments	Company	6,000
The Democratic Reform Company	Company	299,990
The League Against Cruel Sports	Company	62,890
The Young Britons' Foundation	Unincorporated association	134,860
Uncaged Campaigns	Company	7,690
UCATT	Trade union	14,970
Union of UEA Students	Trade union	0
UNISON	Trade union	671,870
Unite the Union	Trade union	16,930
Unite Against Fascism	Unincorporated association	34,860
USDAW	Trade union	4,940
Vote Cruelty Free	Unincorporated association	15,340
Vote for a Change Ltd	Company	555,550
Vote-OK	Unincorporated association	19,150
Wales TUC	Trade union	4,300
Mr Robin Wright	Individual	6,100

Source: Electoral Commission



Chapter 6

Experience in other countries

- 6.1 The UK is not alone in having to address the difficult issues of how best to fund political parties. Most other democratic countries have experienced problems of one kind or another in this area. We have therefore looked at experience in other countries with the help of an analysis commissioned from Dr Michael Pinto-Duschinsky¹ and a number of video conferences with overseas experts.
- 6.2 Different histories, political cultures and organisational arrangements can make it risky to draw too heavily on what happens elsewhere in determining what will work effectively in the UK. But we have found the exercise helpful in identifying some of the possibilities and risks of different approaches.
- 6.3 The last few decades have seen an international trend towards greater regulation. The arrangements differ, often markedly. But there are a number of features common to many mature democracies:
- A significant number place limits on campaign spending by parties or candidates during elections to maintain a reasonably level playing field, prevent escalation of spending or make it easier for candidates or parties with limited resources to run for office. These countries include, for example, Canada and France, but not Australia, Germany, the USA or Sweden. As far as the Committee are aware, only one country (Israel) limits *all* spending by a political party during an electoral cycle, including spending other than on campaigns.
 - Transparency is the most common form of regulation. Transparency requirements apply to donations above a certain limit, to party accounts or to both. The thresholds above which donations have to be declared are often quite low. In the USA, for example, the threshold is \$200.
 - Contribution limits or caps are common as an attempt to restrict undue influence from wealthy individuals or organisations or as an indirect way of limiting political spending. Such limits currently apply, for example, in the USA, Canada, Japan, France, Spain, Portugal, Iceland, Ireland and Poland. Typically the limit is set at a relatively low level – much lower than the equivalent of £50,000 suggested in the discussions brokered by Sir Hayden Phillips. In France, for example, it is £4,000 to a candidate and £6,500 to a party. In Canada, which has one of the most rigorous regimes, it is £700 to each of a party, party candidate, independent candidate and leadership contestant.
 - A number of countries have limitations on who can donate. It is relatively common to ban foreign donations, so that only those who have a stake in the country can help fund political activity there. There is a ban on foreign donations in, for example, Canada, the USA and France, but not in Australia or Sweden. In Germany, foreign donations are possible only from European citizens or corporations.
 - Some countries, for example Canada and France, do not allow donations from either trade unions or corporations. France also bans donations from any government contractor. Corporations and trade unions in the USA may not donate to parties directly. But they can set up independent committees to campaign for individual candidates or for legislative change.
 - A number of countries including, for example, Australia, Canada, Germany, Ireland, France and Sweden, provide public subsidies. The USA does not give a subsidy at the federal level. But it does in some state elections and to some presidential candidates (see below).
 - The amount of subsidy varies considerably. It amounts to between 30 and 40 per cent

of party revenues in Germany (equivalent to around £2 a registered voter) and 67 to 88 per cent of party revenues in Norway (almost £10 a registered voter). The median subsidy in a recent assessment of member states of the Council of Europe was £3.25 a year.² The equivalent figure in the UK is currently 36p. The subsidy tends to be highest in those countries with relatively low limits on donations.

- The objectives of public funding are broadly similar in most countries – to reduce the potentially corrupting effect of private donors, to create greater fairness between rich and poor parties or, as in the UK, to improve the effectiveness of policy-making or holding the Government to account.
- The allocation of public funding usually depends on the number of votes received at the most recent election or on current representation in the legislature. In some cases it takes the form of matched funding, usually with the objective of encouraging engagement with larger numbers of donors of small amounts. Such funding can be highly geared. New York, for example, in 2009 gave participating candidates in state elections \$6 in public matching funds for each \$1 of the first \$175 that an individual city resident gave to their campaigns.³
- Countries that provide state aid in the form of tax relief to donors include Australia, Canada, Germany and France. Sometimes tax relief is combined with tax credits for non-taxpayers, as in Canada.
- In the USA individual citizens can indicate on their tax returns that they want US\$ 3 of their tax payments to go to a Presidential Election Campaign Fund. 7% did so in 2006, down from almost 30% in 1989.⁴ Presidential candidates who receive support from the fund are then restricted in the amount they can spend. Enforced spending limits are deemed unconstitutional in the USA. But they have been introduced in certain circumstances on a voluntary basis, for example in return for public funding.
- A significant majority of countries provide free political broadcasts. The USA does not, but, unlike the UK, does allow candidates to pay for broadcasting.
- Other forms of public support in kind, for example the free use of public buildings, are common. There are also a number of payments that amount to indirect funding of political

parties such as payment of salaries to political advisers. In some countries, forms of wider government funding, such as use of public vehicles, buildings or staff are believed to be used for party political purposes, even where that is not supposed to be allowed.

- A number of countries have controls on the activities of third parties, intended to prevent them being used as a way round other controls.
- The robustness of enforcement varies, depending on political culture, the strength of the relevant legislation, the availability of resources and expertise and the degree of independence of the regulator.

6.4 Many if not all the countries surveyed have experienced problems of varying degrees of severity with the observance and enforcement of the rules at different times. The importance of the prize – political office – is such that the temptation for avoidance or, in some cases, evasion is considerable. Parties and candidates tend to adapt their fundraising tactics to whatever regulations are in force. Contribution limits, for example, are subject to avoidance or evasion by dividing large contributions into smaller ones, by sharing them out with spouses or other family members or by channelling donations to or through third parties. There are examples of all of these occurring. Controls on spending limits are reported as relatively easy to evade in a number of countries.

International guidelines

- 6.5 As far as we are aware, the only official international guidelines in this area are those published by The Organisation for Security and Co-operation in Europe of the Council of Europe (OSCE) and Venice Commission in 2010.⁵ The OSCE guidelines recognise private contributions to political parties as a legitimate form of political participation, but stress the importance of regulation (see [Figure 21](#)).
- 6.6 The UK appears to adhere to a good number of the guidelines to a greater or lesser extent.

The GRECO evaluation

- 6.7 The Group of States against Corruption of the Council of Europe (GRECO) has recently published a report on lessons to be learnt from an evaluation of the transparency rules in 22 member countries.⁶

Figure 21

OSCE guidelines on party political regulation	
1. Restrictions and limits on private contributions	<ul style="list-style-type: none"> ■ States should specifically limit, prohibit or otherwise regulate donations from foreign donors. ■ Anonymous contributions should be strictly regulated, including through a limit on the aggregate allowable amount of all anonymous donations. ■ Legislation should attempt to achieve a balance between encouraging moderate contributions and limiting unduly large contributions. ■ It is best that contribution limits are designed to allow for inflation, based on, for example, some form of indexation, such as minimum salary value, rather than absolute amounts. ■ Legislation should ensure that membership fees are not used to circumvent contribution limits. ■ While parties may enact “taxes” from their sitting parliamentarians, such “taxes” must be subject to contribution laws to ensure they do not contravene contribution limits.
2. Balance between private and public funding	<ul style="list-style-type: none"> ■ Legislation should require that all political parties be financed, at least in part, through private means as an expression of minimum support. ■ The amount of public funding awarded to parties must be carefully designed to ensure the utility of such funding, while not removing the need for private contributions or nullifying the impact of individual donations.
3. Restrictions on the use of state resources	<ul style="list-style-type: none"> ■ Public funding may reasonably be restricted based on compliance with a set of basic obligations including compliance with relevant accounting and auditing standards. ■ In addition to direct funding, the state may offer support to parties in a variety of other ways, including tax exemptions for party activities, access to free media airtime, or the free use of public meeting halls for campaign activities. In all such cases, both financial and in kind support must be provided on the basis of equality of opportunity to all parties and candidates.
4. Fair criteria for the allocation of state support	<ul style="list-style-type: none"> ■ State funding should be allocated early enough in the electoral process to ensure equal opportunity throughout the period of campaigning. ■ Public funding should be available to all parties represented in Parliament as well as to parties representative of a minimum level of the citizenry's support.
5. Spending limits for campaigns	<ul style="list-style-type: none"> ■ Limits should be realistic, to ensure that all parties are able to run an effective campaign, recognising the high expense of modern electoral campaigns. ■ It is best that limits are designed to allow for inflation.
6. Requirements that increase transparency of party funding and credibility of financial reporting	<ul style="list-style-type: none"> ■ Political parties should be required to submit disclosure reports to the appropriate regulatory authority on at least an annual basis in the non-campaign period. These reports should require the disclosure of incoming contributions and an explanation of all expenditures. All disclosure reports should be produced on a consolidated basis to include all levels of party activities. ■ States should require political parties to keep records of all direct and in-kind contributions given to all political parties and candidates in the electoral period. Such records should be available for public review. ■ Article 7(3) of the United Nations Convention against Corruption obliges signatory states to make good faith efforts to improve transparency in election candidate and political party financing.
7. Independent regulatory mechanisms and appropriate sanctions for legal violations	<ul style="list-style-type: none"> ■ States should provide for independent monitoring in respect of the funding of political parties and electoral campaigns. The independent monitoring should include supervision over the accounts of political parties and the expenses involved in election campaigns as well as their presentation and publication. ■ Legislation should specify the process and procedures determining how and which party reports are selected for auditing. ■ While criminal sanctions are reserved for serious violations that undermine public integrity, there should be a range of administrative sanctions available for the improper acquisition or use of funds by parties.

6.8 In this report, GRECO:

- Expressed concern that the threshold below which donations do not have to be published is too high in some countries. It commented in particular on Germany, where it is €10,000 or around £8,700, and Ireland, where it is €5,079 or around £4,500. GRECO did not specifically draw attention to the UK national threshold of £7,500, possibly because its evaluation of the UK was before the increase of this amount in 2009.
- Drew attention to the use of loans, a particularly significant form of party funding in Spain and Poland, as a means of avoiding limits on donations. GRECO believed the use of loans as an avoidance device to be a possibility even in countries which regulate the area. This included the UK, where the requirements on reporting loans do not apply to candidates or third parties.
- Thought the presentation of accounts required particular attention. Standardisation, which makes it possible to compare accounts over time and between entities, is not always prescribed and the legislation in many countries either ignores local parties altogether or regards them as separate entities.
- Thought it likely there was a correlation between the maximum set for election campaign spending and the existence of third parties. Campaigns organised by third parties have enabled political parties to circumvent the ceiling on election campaign spending in France, Denmark, Latvia and Lithuania. GRECO regarded UK legislation as taking regulation of third parties further than any other.
- Suggested the distinction between a party's ongoing activities and its electoral activities can be artificial.
- Pointed out that legislation and regulations can only be judged in terms of their application and the associated monitoring machinery. GRECO drew attention to weaknesses in some countries in the audit of accounts (Sweden), independence of the regulator (Finland and the Netherlands) or resources (Germany).

Lessons from international experience

- 6.9 We drew attention at the beginning of this chapter to the risks involved in attempting to transfer culturally-specific international experience to a different context in the UK.

6.10 There are, however, five lessons which can reasonably be drawn from the experience of other countries:

- No model is perfect. Almost any regulatory regime has disadvantages as well as advantages, though some are more coherent than others.
- Public funding and caps on donations or spending are not a panacea for preventing corruption. Political culture is as important as regulations, though culture is not independent of structure. Funding scandals have been rare, for example, in Sweden, which has no disclosure obligations and no regulator. A number of significant issues have, on the other hand, arisen in France and Germany, which have apparently well-developed regulatory regimes.
- This could, however, be a result of the robustness of enforcement. Apparently tough regulatory regimes are unlikely to be effective without robust enforcement.
- The design of any system has to recognise that the imposition of controls often leads to the redirection of funding flows through less regulated channels.
- Public subsidy to political parties is almost universal. The degree of subsidy in the UK is at the bottom end of the range elsewhere – except by comparison with the USA, where campaigning for political office requires deep pockets.

Endnotes

- 1 Michael Pinto-Duschinsky, *International Comparisons: A Study Prepared for the Inquiry into Party Funding*, July 2011.
- 2 Group of States Against Corruption (GRECO), *Third Evaluation Round, Theme II, 2007-11* Reports on Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Spain, Sweden and the UK.
- 3 Michael Malbin, *Why New York City's Matching Funds should be a Model for the Nation and States*, December 2010.
- 4 Flannagan and Coletto, *Replacing Allowances for Canada's National Political Parties?*, 2010
- 5 European Commission for Democracy through Law (Venice Commission), *Guidelines on Political Party Regulation by OSCE/ODIHR and Venice Commission*, October 2010.
- 6 Yves-Marie Doublet, *Political Financing: GRECO's First 22 Evaluations: Third Evaluation Round*, May 2010.

Chapter 7

Elements of a possible solution: capping donations

Introduction

- 7.1 In **Chapter 1** we concluded that the continued permissibility of large donations to political parties creates a problem which needs to be addressed.
- 7.2 There are only three ways to do this: place a cap on donations, reduce the need for funds by limiting party spending or supply funds from elsewhere, which means public subsidy. The following chapters discuss each of these possibilities in turn. It seems likely that a workable solution will need to combine all three.

A cap on donations

- 7.3 The only way of addressing the problem directly is to put an upper limit or cap on the amount that any one donor can give to a party in any one year. The previous chapter suggested that the UK is now relatively unusual among mature parliamentary democracies in not employing such a cap. Depending on the level at which it was set, a cap would have a substantial impact on the financial positions of the major parties. It would also be likely to affect parties in different ways because of differences in their donor bases.

- 7.4 It could be argued that these effects should be irrelevant if a cap is the right way to proceed in a modern democracy, except as a transitional problem. As one (Liberal Democrat) MP said in evidence to us:

“Sometimes you have to adjust. As the public sector is discovering at the moment, sometimes you have shocks to the system. If it is the right thing to do, you should press on. [Martin Horwood MP, 11 November 2010, para 200]

- 7.5 But that would be to ignore the other principles we have set out. We argued in the first chapter of this report that vigorous, properly resourced political parties were an essential part of the UK

democratic system. It follows that anything which casts doubt on the financial viability of any of the main parties ought to be a matter of concern. This chapter therefore considers what the effects of imposing a cap might be by estimating what the impact might have been had one been in place over the period 2001-10.

- 7.6 There are significant difficulties about drawing firm conclusions from this analysis:

- As explained in **Chapter 4**, available figures about donations are incomplete and imperfect.
- The value of donations has fluctuated in the past as the popularity of the different parties, their leaders and their political platforms have changed (**Figure 10**). The results of attempting to exemplify what might happen in the future on the basis of what did happen in the past will therefore depend on the period chosen.
- The past may not be a good guide to the future. It has been suggested, for example, that the sizeable individual donations to the Labour Party during the first half of the last decade reflected an exceptional period in that party’s history.¹
- Changing the rules is likely to change the behaviour, significantly and possibly in unexpected ways, both of donors and of parties seeking donations.

- 7.7 It follows that any illustration of the effect of a cap based on history can at best be only indicative of what might happen should one be imposed in the future. It could turn out to be very misleading.

- 7.8 With these reservations in mind, **Figure 22**² overleaf shows what the average annual effect of caps of different levels would have been on donations to the three main political parties over the period 2001-10, assuming no other changes in behaviour.

Figure 22

Average annual loss to parties that would have resulted from different donation caps over 2001-10 if nothing else had changed (£ million)

	£7,500 cap (% of donations lost)	£10,000 cap (% of donations lost)	£25,000 cap (% of donations lost)	£50,000 cap (% of donations lost)	£100,000 cap (% of donations lost)
Conservative Party	-13.4 (80%)	-12.7 (76%)	-10.4 (62%)	-8.1 (48%)	-6.1 (37%)
Labour Party	-14.9 (93%)	-14.7 (91%)	-13.9 (86%)	-13.0 (81%)	-11.9 (74%)
Labour Party (no cap on affiliation fees)	-7.5 (47%)	-7.3 (45%)	-6.8 (42%)	-5.9 (36%)	-4.8 (30%)
Liberal Democrats	-1.8 (62%)	-1.6 (57%)	-1.3 (46%)	-1.1 (38%)	-9.0 (30%)

Source: CSPL calculations using Electoral Commission data

7.9 In constructing this table:

- We have assumed that the caps apply to donations from all sources, with one exception. The figures for the Labour Party show what would have happened on two different assumptions. The first line assumes that donations from trade unions are capped on the same basis as donations from any other source. The second line assumes that affiliation fees – paid by trade unions affiliated to the Labour Party according to the number of their members they wish to affiliate – are not capped, but that other trade union donations are.³
- We have not included donations under the reporting threshold, whether at central or local accounting unit level, because figures are not available.

7.10 In practice, the figures in this table overstate the loss of income which would have resulted from a cap. For example, it must be likely that some donors of significant sums that would be capped could have been persuaded instead to make a series of smaller donations within the cap over several years or to channel donations through partners. It would be unrealistic, however, to assume that all, or even a majority, of donors would have spread their donations in this way.

7.11 Allowing for the deficiencies in the figures, it is possible to draw the following tentative conclusions:

- All three parties would have lost a substantial proportion of their donations had a cap been in place and nothing else had changed. Even

at the relatively high level of £50,000 proposed by Sir Hayden Phillips, the Conservative Party would have lost an average of around £8 million a year, equivalent to around 48 per cent of its reported donations. The Labour Party would have lost around £13 million (81 per cent) or £6 million (36 per cent) depending on the treatment of affiliation fees and the Liberal Democrats around £1.1million (38 per cent).

- These losses would have caused significant difficulties. They would have severely curtailed the ability of the parties to campaign at the last two elections and to carry on their normal activities between elections, including formulating policy.
- Significant though they would have been for the parties, the losses from a £50,000 cap still amount to only £22.2 million a year in total or £15 million if affiliation fees are not capped.
- The size of the losses would have been greater the lower the cap. With a £10,000 cap, the losses would have averaged £29 or £21.6 million a year, depending on the treatment of affiliation fees.
- These are not trivial amounts. But they are small relative to other costs of supporting democracy. The cost to public funds of mounting a general election, for example, is around £90 million, or £118 million including the cost of providing free mailing.⁴
- The losses would have been reduced to the extent that the parties had persuaded their larger donors to spread their donations over

several years. In the (unlikely) extreme case in which every donor of more than £50,000 had spread their donations as far as they could the total annual loss from a £50,000 cap would have reduced from £22.2 million to £18 or £11 million (depending on the treatment of affiliation fees).

- The losses of the parties relative to each other depend on whether affiliation fees are capped. If affiliation fees had been capped the Labour Party, would have consistently lost a higher proportion of donations than the Conservative Party, whatever the level of the cap. The Liberal Democrats, with a much lower base, would consistently have lost a smaller percentage than either. If affiliation fees had not been subject to the cap, the Labour Party would have lost a smaller percentage than the other two parties.

- 7.12 We have not illustrated the effects of a cap on the smaller parties. For most of them significant donations are rare.

“We receive very few donations over the £7,500 reporting level.” [SNP written evidence, E60]

“Overwhelmingly our money comes from our members...in 2010 we received something like £25,000 of donations larger than £5,000. In 2009 we received £66,000 and in 2008 nothing.” [Dean Walton, 15 February, para 25]

- 7.13 The exception is the Co-operative Party. Their 58 representatives represent both the Labour Party and the Co-operative Party.⁵ The Co-operative Party reported donations from 17 co-operative societies between 2001 and 2010, totalling £7 million. £4.5 million was in amounts over £50,000 and £5.9 million in amounts over £10,000.⁶

Endnotes

- 1 Lord Levy, *A Question of Honour*, 2009.
- 2 These figures are calculated based on donations reported to the Electoral Commission.
- 3 It has been put to the Committee that donations from unions, because they are an aggregation of monies contributed by their members, are different in character to similarly large donations from individuals or corporations. The case for treating affiliation fees differently from other donations is discussed in more detail in the next chapter.
- 4 Cabinet Office figures, 2011. The cost of a stand alone general election would be £90.1 million. The cost of the 2010 General Election, which was held alongside other elections, was £82.1 million.
- 5 29 in the House of Commons, 15 in the House of Lords, 5 in the Scottish Parliament and 9 in the National Assembly for Wales.
- 6 Electoral Commission.

Chapter 8

Trade union donations

8.1 One of the most difficult and potentially most controversial questions to be decided about a donation cap is the treatment of donations from trade unions and other affiliated bodies. This issue appears to have been one of the main reasons behind the collapse of the inter-party talks brokered by Sir Hayden Phillips. Recollections about what happened are not consistent. But Sir Hayden Phillips was clear:

“The proximate cause for the breakdown of talks in 2007 was a difference of view about the way in which affiliation fees of trade union members should be treated.” [Sir Hayden Phillips, 8 July 2010, para 19]

8.2 We cannot ignore this issue in making proposals for reform. This chapter therefore sets out the background.

Political funds

8.3 Trade unions are only able to engage in political activity within a strict legal framework supervised by an independent regulator – the Certification Officer.

8.4 This legal framework has evolved over the years. Since 1913, unions wishing to pursue any political objects have been required to hold a secret ballot of their members. Any political activities have then to be funded out of a special political fund, kept separate from their general funds.

8.5 The legal definition of political objects was tightened in the 1980s. A number of unions with no institutional or funding links with the Labour Party then found it necessary to set up political funds for the first time.

8.6 All unions with political funds must hold a ballot every ten years to confirm that their members continue to want one and thus to continue the possibility of political activity. Since 2005, nine

trade unions have held such ballots. All voted in favour. Turnout ranged from 14 per cent (NASUWT) to 75 per cent (Energy and General Workers Union). The average turnout was 27 per cent. Votes in favour ranged from 71 per cent to 100 per cent.¹

8.7 The law provides union members with the right to opt out of paying a levy into their union’s political fund, if it has one, and lays down that no one doing so can be penalised in any way. Those who opt out must not be excluded from any benefits of the union or placed under any disability or disadvantage compared with other members, except in relation to the control or management of the political fund. The rules also provide for each member to know what proportion, if any, of their contribution to the union goes towards the political fund.

8.8 In 2010-2011 there were 28 unions with political funds. A full list is in [Figure 23](#)² overleaf. The total income of these funds in 2009-10 was £22 million. The 28 unions between them had almost 5.5 million contributing members, of whom 9.3 per cent or just over 500,000 had opted out of their political funds.³ A further 149 listed and scheduled trade unions with around 2 million members between them do not have political funds. The constitutions of some unions with political funds prohibit party political donations. Their funds are used solely for non-party political campaigning purposes.

Affiliation to the Labour Party

8.9 The Labour Party has a mix of organisational and individual members. Organisational members, referred to as affiliated members, include trade unions, socialist societies and the Co-operative Party.

8.10 Organisational members pay affiliation fees to the party at the rate of £3 a member according to the

Figure 23

Listed trade unions with political fund resolutions in force as at 31 March 2011

Aspect	National Union of Mineworkers
Associated Society of Locomotive Engineers and Firemen	National Association of Rail Maritime and Transport Workers
Association of Revenue and Customs	National Union of Teachers
Bakers Food and Allied Workers' Union	Prison Officers Association
Broadcasting Entertainment Cinematograph and Theatre Union	Prospect
Communication Workers' Union	Public and Commercial Services Union
Community	Transport Salaried Staffs Association
Educational Institute of Scotland	Union of Construction Allied Trades and Technicians
Energy and General Workers' Union	Union of Democratic Mineworkers
Fire Brigades Union	Union of Shop Distributive and Allied Workers
GMB	UNISON – The Public Service Union
Musicians Union	Unite
National Association of Colliery Overmen, Deputies and Shotfirers	Unity
National Association of Schoolmasters/ Union of Women Teachers	University and College Union

Source: Certification Officer

number of members they wish to affiliate.³ Unions that decide to affiliate to the party can only pay affiliation fees or make donations to the party out of their political funds.

- 8.11 Of the 28 unions with political funds, 15 are currently affiliated to the Labour Party.⁴ Under the rules of the party, it is the union and not the individual trade unionist that is the member. Each affiliated trade union has taken a decision to affiliate through a majority vote of the representative delegates at the union's national conference. These decisions are subject to challenge and review within the union.
- 8.12 Affiliation brings with it certain rights of access and influence for the union (or other affiliated body) within the party:

- 50 per cent of votes at the Labour Party conference belong to affiliated organisations, with each organisation's votes weighted according to the number of members it affiliates.
- Affiliated organisations are represented on the National Executive Committee, with 12 seats reserved for trade unionists.
- One-third of the votes in elections for party leader and deputy leader belong to affiliated organisations. Affiliated organisations are required to ballot their members to determine the proportion in which their votes are cast.
- Trade unions are guaranteed 30 of the 188 places on the party's National Policy Forum.

- 8.13 The union decides the extent of affiliation to the Labour Party at national level. The union does not need to affiliate in respect of all the members who contribute to its political fund. But it should not affiliate more than that number.
- 8.14 Trade union regional and local branches also affiliate to the Labour Party. At regional level, and in Scotland and Wales, unions send delegates to regional Labour Party conferences and elect representatives to the regional board of the Labour Party. At constituency level, local union branches affiliate to constituency parties at a rate of £6 a year for 100 members.⁵ Affiliation entitles the union branch to send a delegate to the constituency Labour Party's General Committee, to submit resolutions and to make nominations for parliamentary candidates in that constituency.
- 8.15 Affiliation fees have been one of the Labour Party's most important and reliable sources of funding for some time (Figure 24). The loss of this source of income, or its significant limitation through a cap, would have serious effects on the party's finances.
- 8.16 Trade unions can and do make donations to the Labour Party on top of affiliation fees. The party does not record these donations separately in the information it publishes. It is not therefore possible to identify the amounts precisely. But additional donations probably averaged around £2.5 million a year between 2001 and 2010.⁶
- 8.17 Almost £1.5 million in donations from trade unions to recipients other than the Labour Party were reported to the Electoral Commission in the same period.⁷ Recipients included the Liberal Democrats, No2EU, Yes4theNorthEast, Searchlight and Ken Livingstone.

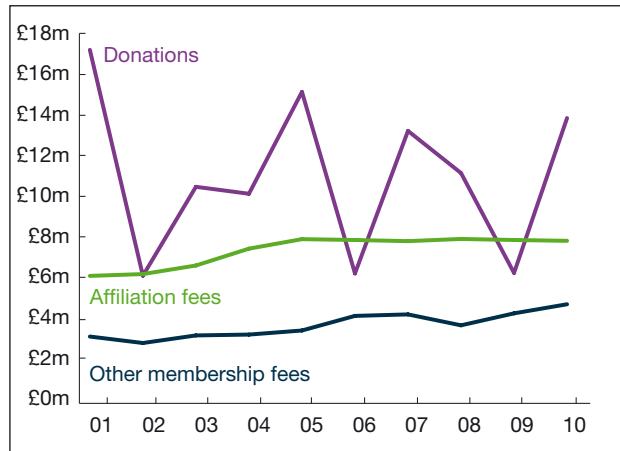
Affiliation fees as individual donations

- 8.18 Affiliation fees are the means by which the Labour Party is able to mobilise financial support from a large number of union members.
- 8.19 It has been argued to the Committee that the numbers of individuals connected to the Labour Party through affiliation, and the fact this happens through a democratic vote, ought to be encouraged rather than inhibited:

"With turnout, party membership, voter identification and other indicators of democratic engagement all in decline (over the long term, and across almost all democracies), one might expect affiliation fee-type mechanisms to be emulated

Figure 24

Proportion of central Labour Party income from affiliation fees, other membership fees and donations 2001-10



Source: Central Labour Party statements of accounts

rather than threatened with extinction." [Dr Navraj Singh Ghaleigh, written evidence, E79]

- 8.20 There is something in this argument. But its force is reduced by the less than direct link between an individual deciding to join an affiliated union and not opt out of the political fund and the exercise of membership rights by the union. Affiliation fees paid by the unions to the Labour Party are not the same as membership fees paid to the party by individual. It is the union and not the individual union member which becomes a member of the party. It is the union who exercises the rights which that membership confers. TULO made this clear in their evidence:

"Under the constitution and rules of the Party (and as a matter of law), it is the organisation (and not its individual members) which is the member of the Party. It is thus the organisation that is admitted to the Party, which may resign from the Party and which may be expelled from the Party." [TULO, written evidence, E22]

- 8.21 Moreover:

- Individual members of most membership organisations make a positive decision to join. Individual union members in an affiliated union do not make a positive decision about paying into the political fund.⁸ Instead, the decision is a negative one: not to opt out of a payment.
- From the material we have seen, some trade unions do not make it particularly clear in their information for members that it is open to an

individual to opt out, nor the consequences of that decision.

- If an individual member of an affiliated union does want to opt out they can usually do so only by opting out of contributing to the union's political fund as a whole.⁹ Members cannot therefore contribute to the other activities funded out of their union's political fund – which they might support – without also making a contribution to the Labour Party. That creates the possibility of payments of affiliation fees in respect of some union members who actually support other parties.
- It is for the union or other affiliated body to decide how many members to affiliate. They should not affiliate more than the number of their members who contribute to their political fund. Any affiliated body can affiliate fewer than the number of its contributing members.
- The money given to the Labour Party is not therefore a simple function of the number of members who have decided not to opt out, multiplied by the affiliation fee. In principle, the union executive can decide to pay a different amount.

8.22 There is therefore a dilemma. On the one hand, there is a case for regarding affiliation fees (but not other union donations) as the kind of engagement between party and individual that many wish to encourage; and capping them could pose major financial problems for the Labour Party. On the other hand, certain features of the way affiliation fees are collected at present make it difficult to regard them as being genuinely simply a convenient way of collecting individual donations.

8.23 We return to this point, and explain where we think the balance should be struck, in **Chapter 11**, when we bring the constituent elements of our proposed reform package together.

Endnotes

- 1 Certification Officer, 2011.
- 2 Certification Officer, *Annual Report of the Certification Officer 2010-11*, 2011.
- 3 Trade Union Liaison Office (TULO), written evidence, E22, p.5.
- 4 TULO.
- 5 TULO, written evidence, E22, p.5.
- 6 Electoral Commission. This figure is the sum of reported donations from trade unions to the Labour Party minus the affiliation fees reported in the Labour Party's central accounts.
- 7 Electoral Commission.
- 8 Although they do make a positive decision to join the affiliated union.
- 9 The exception is UNISON, which has two political funds following its formation through a merger. Only one of the funds is used to make affiliation payments. We understand the arrangement creates a number of administrative problems.

Chapter 9

Elements of a possible solution: further curbs on spending

9.1 Political parties only raise money in order to spend it. The less they spend, the less they need to raise. As one witness put it:

“If you are looking at party funding in the round, then I think you need to look at both supply and demand.... If there is public concern about how political parties are funded... you need to tackle both of those.” [Peter Watt, 23 November 2010, para 369]

9.2 This chapter therefore considers the case for tightening the rules governing party spending as another way of reducing the pressure on parties to raise money.

9.4 The limits on campaign spending by central parties were introduced in the *2000 Act*. They have not increased since then and have therefore declined significantly in real terms. If the £19.5 million limit for parties contesting all seats at a Westminster election had been up-rated for inflation, it would now be around £25 million. The analogous limits for parties contesting all seats in the Scottish Parliament, National Assembly for Wales and Northern Ireland Assembly would have increased by the same proportion.

9.5 There is no evidence, however, that the limit on national campaign spending has been a constraint in practice. The Conservative Party spent an average of 81 per cent of the national spending limit on the General Elections between 2001 and 2010. The Labour Party spent an average of 63 per cent and the Liberal Democrats 18 per cent. No other party came close to their limits. **Figure 25** shows campaign spending by election for the three main central parties since 2001.¹

Campaign spending

9.3 As explained in **Chapter 3**, there are statutory limits on the amounts both parties and candidates can spend during election campaigns. No limits apply to spending outside campaigns.

Figure 25

General Election campaign expenditure (as a proportion of the maximum limit available) 2001-2010

Election	Conservative Party	Labour Party	Liberal Democrats	Green Party	SNP	DUP	Plaid Cymru
2001	£12,752,000 (65.4%)	£10,945,000 (56.1%)	£1,361,000 (7.0%)	£44,912 (0.2%)	£226,200 (1.2%)	£73,320 (0.4%)	£71,950 (0.4%)
2005	£17,852,000 (91.5%)	£17,939,000 (92.0%)	£4,325,000 (22.2%)	£160,224 (0.8%)	£193,990 (1.0%)	£107,130 (0.5%)	£38,880 (0.2%)
2010	£16,683,000 (85.6%)	£8,009,000 (41.1%)	£4,788,000 (24.6%)	£331,728 (1.7%)	£315,780 (1.6%)	£59,090 (0.3%)	£144,930 (0.7%)

Source: Electoral Commission

- 9.6 The extent to which campaign spending has fallen short of the relevant spending limits is as marked for elections to the devolved administrations. The Conservative Party spent an average of 20 per cent of the limit for elections to the devolved administrations in 2003 and 2007. The Labour Party spent an average of 52 per cent and the Liberal Democrats 27 per cent.² Figure 26 shows campaign spending by devolved legislature election for the three main central parties.
- 9.7 Only one witness suggested the current expenditure limits were at risk of bearing too heavily on the parties in the near future.

"[The costs of advertising and direct mail] have been going up. So with a flat limit real term decrease, I think it is on the border of becoming a problem." [Lord Feldman, 15 February 2010, para 210]

Managing election campaigns with less money

- 9.8 We received evidence to suggest that political parties could and should reduce their campaign spending, particularly on billboard advertising or direct mailing, both of which are unpopular with many voters.

"In the talks I had with the three main parties, they were quite open in private... that a lot of things they spend their money on in their view were not value for money and a complete waste of time." [Sir Hayden Phillips, 8 July, para 64]

"The political parties spend too much in terms of elections at the moment. A lot of that expenditure is actually rather wasteful and badly applied." [David Heath MP, 8 July 2010, para 342]

Figure 26

Devolved election campaign expenditure by central parties (as a proportion of the maximum limits available' 2001-10

Election	Conservative Party	Labour Party	Liberal Democrats	Green Party	SNP	DUP	Plaid Cymru
Northern Ireland Assembly 2003	£7,220 (2.3%)	–	–	£1,040 (0.3%)	–	£147,870 (48.3%)	–
Northern Ireland Assembly 2007	£7,470 (2.4%)	–	–	£2,500 (0.8%)	–	£88,810 (29.0%)	–
National Assembly for Wales 2003	£80,720 (13.4%)	£265,010 (44.2%)	£249,340 (41.5%)	£19,170 (3.2%)	–	–	£72,980 (12.2%)
National Assembly for Wales 2007	£245,970 (41.0%)	£254,450 (42.4%)	£239,800 (39.9%)	£28,800 (4.8%)	–	–	£261,290 (43.5%)
Scottish Parliament 2003	£323,280 (21.3%)	£726,700 (47.9%)	£130,360 (8.6%)	–	£473,110 (31.2%)	–	–
Scottish Parliament 2007	£601,980 (39.7%)	£1,102,870 (72.7%)	£297,570 (19.6%)	–	£1,382,730 (91.2%)	–	–

Source: Electoral Commission

“There are things you need to do as a political party during a general election, of which the majority but by no means all is actually useful and valuable.” [Lord Sainsbury, 27 January 2010, para 314]

- 9.9 The Labour Party and the Liberal Democrats both significantly reduced their spending on advertising at the 2010 General Election compared to the previous election. The reduced spending was a result of limited resources. But it demonstrated that the use of volunteers and the internet made it possible to run reasonably effective campaigns at less cost. A previous General Secretary of the Labour Party told the Committee:

“We just fought an election in the Labour Party with virtually no money, and I think that has done two things: I think on the one hand it has said, ‘Actually we don’t want to do that again’, but on the other hand it has said, ‘Actually, you know, you can stop the spending race and you can actually fight’.” [Peter Watt, 23 November 2010, para 307]

- 9.10 Others have drawn attention to the potential for social marketing techniques to lower the cost of campaigning.

“We have gone from General Elections fought in town halls to much more mailing and those kinds of communications, and I think we will go to one where the internet becomes very much more prevalent, so it might well be that the costs go down again.” [Lord Sainsbury, 27 January 2010, para 315]

“In the ten years I have worked in politics the cost of campaigning and doing politics has come down dramatically thanks largely to the rise of the internet. When I started my career working in think tanks, where literally everything had to be sent out by post and everything had to be printed, of course there were huge costs involved in that. But now with many think tanks everything is done by email, documents are often made into PDFs and put on a website so that has dramatically cut the costs of campaigning.” [Matthew Elliott, 16 November 2010, para 10]

- 9.11 Our conclusion is that there is scope for cutting the amounts the rules allow political parties to spend during election campaigns. Our focus groups suggest that might be popular with the public – though public awareness of the existence of the limits is probably fairly limited. But if a reduction in spending limits is to have any effect in reducing the pressures on political parties to raise funds the cuts need to be significant.

Other spending by national parties

- 9.12 It is not only campaign spending that can put pressure on party treasurers to find the funds to resource it. Parties spend significant sums even in non-General Election years on running the party machinery, maintaining membership, developing policy and fighting local elections (see **Chapter 5**).
- 9.13 It would in principle be possible to place limits on that spending too. Arguably that would create greater fairness between the parties. It would, however, be difficult to decide on appropriate limits to cover all of a party’s spending. It would also be a significant intrusion into the internal affairs of the parties and would therefore fall foul of one of the principles set out in **Chapter 2**. It is possibly for these reasons that, as recorded in **Chapter 6**, as far as we are aware Israel is the only democratic country to have followed this approach.

Limits on spending by candidates

- 9.14 The limits on spending by candidates during elections are much more longstanding than those on national parties. They were introduced in the 1880s to inhibit bribery and corruption and to prevent wealthy candidates from having an undue advantage.³
- 9.15 At the 2010 General Election some candidates did spend close to their limits. But most came nowhere near. On average, Conservative candidates spent 39 per cent of their combined long and short campaign limits, Labour and Labour/Co-operative candidates 26 per cent and Liberal Democrat candidates 20 per cent.⁴
- 9.16 Some witnesses proposed an increase in the limits on spending by individual candidates, if necessary compensating with a reduction in the national limits. We do not think the very few candidates who come close to their limits create a compelling case for doing that. But the Electoral Commission should continue to keep candidate limits under review to ensure they remain fit for purpose.

Endnotes

- 1 Figures 25 and 26 do not include the Scottish Green Party.
- 2 The Labour Party and the Liberal Democrats did not contest any seats in Northern Ireland.
- 3 Committee on Standards in Public Life, *The Funding of Political Parties in the United Kingdom*, October 1998, Cm 4057, p.27.
- 4 Electoral Commission.

Chapter 10

Elements of a possible solution: public funding

- 10.1** In **Chapter 7** we looked at the potential impact of a cap on donations. Even if the cap were as high as £50,000 the effect on the financial position of the main parties would be substantial. The lower it is, the greater the impact.
- 10.2** In the last chapter we considered the possibility of reducing the pressures on the parties to raise funds by tightening the existing curbs on their spending. We concluded that there was some scope for doing this for campaign expenditure. The three main political parties all promised to reduce the cost of politics in their manifestos at the last General Election and such a move could form a useful part of that. But the amounts involved would fall well short of the levels needed to remove the pressure to seek out big donations.
- 10.3** Given enough time, it is possible the parties could make up a further part of the difference by generating more income from other sources, by broadening the base of their financial support or in other ways. A number of witnesses argued that this would be highly desirable, because it would increase political engagement. All three of the main political parties are already exploring ways of expanding their supporter base – involving people for specific campaigns, encouraging subscription to newsletters or following on social media sites and so on. For many of the smaller parties without large donors this is a way of life already. But it would be unrealistic to expect too much from it, particularly in the short term.
- 10.4** We heard from the political parties that there is an irreducible minimum below which their spending could not fall if they are to perform effectively the role required of them in a democracy. Imposing a cap at any reasonable level without supplying an alternative source of funds would take them well below such a minimum.
- 10.5** However much some may wish otherwise, the public purse is the only realistic alternative source.

The case for public funding

- 10.6** The main arguments for public funding are:
- It is the only reliable way of making it possible to remove the current corruptible big donor culture which is so undermining of public trust in politics.
 - Many other countries have come to the same conclusion. It is common in other Western democracies for public subsidy to political parties to play a much larger role than in the UK.
 - It is not a new principle. Different forms of state funding amounting to around £7 million a year, plus significant amounts in benefits in kind are already an accepted part of the political landscape. The issue is more about amounts and the purposes for which the funding is used.
 - The amounts involved would be relatively small compared to the total costs of democracy. Elected police and crime commissioners are likely to cost as much or more than any increase in the funding for the three main parties which a cap might necessitate.¹
 - The damage done to public confidence in the political system, and in politicians, by continuing a regime which requires parties to solicit significant gifts from major donors far outweighs the cost of the public subsidy made necessary by a cap.
 - Public subsidy up to a certain level is justified because the political parties provide a public good.

The case against public funding

- 10.7** The main arguments put to us in evidence against increased public funding are that:

- It would be wrong in principle.

"I also object to it on principle because you effectively nationalise democracy. This should be something owned by people" [Ben Gummer MP, 11 November 2010, para 384]

- It would be unpopular with the general public.

"In the current context, I do not fancy particularly going on to the doorstep and explaining to people that their libraries are shutting and their day care is being closed down and we may not be able to put as much on housing benefit as we used to, but good news; do not worry, we are giving more money to political parties. I think I might get a punch in the face." [Martin Horwood MP, 11 November 2011, para 229]

- Even accepting that the parties are providing a public good, there are large numbers of other organisations providing services of value to the public which are currently facing funding reductions.
- It might reduce the incentive for parties to commit more to political engagement.

"I think the moment a democratic organisation loses not just its commitment to but its dependence on its members it begins to atrophy. That is what has happened to political parties... But it is so central to democracy that if these parties lose touch with their members by no longer depending on them for money, they will cease being what I call active political parties. They will become like European parties, which are just adjuncts of the people in or out of government." [Sir Simon Jenkins, 3 November 2011, para 147 and 152]

- The experience of other democracies that combine significant public funding with restrictions on individual donations suggests this is not a panacea which will remove all possibility of corruption, or the suspicion of it.

10.8 We find some of these arguments more persuasive than others:

- As we have argued, the principle of state funding has already been conceded with Short and Cranborne Money, Policy Development Grants and free postage at election times.
- It is undeniable that an increase in state funding would be unpopular. It would be necessary to consider its timing carefully and to make the case to the public. Our survey suggests

this would be difficult, but not impossible.²

Participants in our focus groups expressed concern about the big donor culture. Despite mixed views, a significant number thought additional public funding a price worth paying to eliminate big donors once the choices were explained. A more recent online survey³ suggested similar results. Despite a majority of respondents being unsure, more agreed than disagreed that donations over £10,000 should be banned even if it meant increasing the public subsidy to political parties.

- Increased public subsidy could potentially increase political engagement, if done in a way which left the parties with an incentive to widen their supporter bases.

The nature of any increase in public funding

10.9 In our view increased public subsidy is both inevitable if a cap is imposed, and justified.

The way in which it is provided requires careful consideration.

10.10 The main possibilities are:

- An extension of the existing direct grants provided in support of defined activities.
- Matched funding for voluntary donations.
- Tax relief.
- A general subsidy paid according to the number of votes cast in the most recent election to Westminster or a devolved legislature.
- Allowing voters to indicate on their ballot papers whether they want a fixed amount of tax revenue to be given to the political party for whom they are voting.

Direct grants

10.11 The advantage of an extension of the existing direct grant arrangements is that it would build on existing practice. State funding through Short and Cranborne money and their equivalents in the devolved legislatures, or through Policy Development Grants, has not on the whole been controversial. This is possibly because it is specifically targeted at either the development of policy or at the effectiveness of scrutiny and challenge, rather than campaigning.

- 10.12 Of the £679 million the three main parties between them spent out of their central funds between 2001 and 2010, only £116 million went on election campaigns.⁴ Campaigning on European and devolved elections accounted for a further £17 million. Some spending outside election periods might also strictly speaking be of a campaigning nature. Even so, there appears to be considerable scope to increase public subsidy while still keeping it well below the amount the parties spend on their routine operations, thus avoiding the appearance of supporting campaigning.
- 10.13 The main drawbacks of direct grants are that they would involve some administration, including audit to ensure they are used for the intended purpose, and that, in contrast to some of the other approaches, they would not do anything to advance political engagement.

Matched funding

- 10.14 Public subsidy provided as matched funding for voluntary donations is used in a number of other countries. The matching is usually pound for pound. But it can be provided in some other ratio, as in New York (see **Chapter 6**).
- 10.15 The advantages of matched funding are that it provides an incentive to parties to broaden their supporter base; and it rewards those who do so effectively. It is also not provided automatically or compulsorily. It is only triggered when an individual voluntarily decides to support a political party.
- 10.16 It does, however, have two disadvantages. It needs regulation to prevent the use of impermissible or fraudulent donations to obtain additional public support; and even in a capped system it rewards parties with wealthier supporters more than those with less wealthy ones.

Tax relief

- 10.17 This Committee has recommended tax relief on donations to political parties before. In their 1998 report our predecessors recommended that income tax relief should be available for small donations and membership fees of up to £500.⁵
- 10.18 The Government rejected that recommendation at the time. But sentiment has since changed. Few of our witnesses, including those representing the political parties, were opposed to relief against tax on income. For example:

"I think that as far as we can tell the kind of state funding that we support wholeheartedly would be

around gift aid. The reason we feel strongly about that is because we think it would deal quite well with the public perception of using public money to support political parties, because people would equate it with what happens in charities... it might also do something to enhance the reputation of political parties if people thought they were given a sort of quasi-charitable status and that they were fulfilling a public service" [Lord Feldman, 15 February 2011, para 148]

- 10.19 Tax relief is a particular form of matched funding. It would have the same advantages and disadvantages as other forms of matched funding. Presentationally, it might have an advantage over other forms in that it would follow an existing precedent in Gift Aid on charitable donations and might be more acceptable publicly for that reason. It would also be an effective way of acknowledging that providing financial support to a political party, if done without ulterior motive, is creditable, not shameful. The downside is that there might be a risk that it could divert some funding from, or by association discourage giving to, charitable causes.
- 10.20 It is also the case that tax relief is unlikely on its own to deliver significant amounts to the political parties. It is possible that a larger number of donors might be encouraged to give if they knew the value of their contributions would be increased. But past experience suggests the effect is likely to be small. HM Treasury told us there was no discernible increase in giving to charities after the introduction of Gift Aid⁶. The Institute of Fundraisers told us they thought the impact of Gift Aid on people's willingness to donate, or the amount they gave, was probably negligible:

"It would be lovely if it were proven that Gift Aid could boost the amount of money given, but I do not think it does. Various research has found that even for higher rate donors it does not actually incentivise them to give more." [Howard Lake, 9 December 2010, para 353]

- 10.21 There might therefore be considerable administration involved for relatively little advantage. It is perhaps for this reason that some of those we spoke to at local level were not in favour, whatever their central offices might think.
- 10.22 It follows that tax relief would almost certainly have to be accompanied by additional public subsidies in another form.

General subsidies

- 10.23 There are precedents in some countries, including Germany, for a general subsidy determined on

the basis of the number of votes cast in the most recent election. Usually there is a threshold in terms of representation in the legislature or number of votes received before any subsidy is paid. Sometimes qualified parties receive a fixed sum in addition to a payment for each vote.

- 10.24 This option would be the easiest to administer. It could be calculated by simply multiplying the number of votes cast for a party by the amount of the subsidy. It would also reward most those parties who are popular with the electorate, rather than those with the wealthiest supporters.

Giving electors a choice

- 10.25 The final possibility is to allow voters to indicate on their ballot papers whether they want a fixed amount of tax revenue to be given to the political party for whom they are voting. This would draw on the example of the arrangement in the USA relating to the Presidential Campaign Fund (see **Chapter 6**). It would have the presentational advantage of giving voters some control over the amount of public funding. But it would leave the parties facing great uncertainty over the amount they are likely to receive.

Endnotes

- 1 Home Office, *Impact Assessment on Police and Crime Commissioners*, March 2011.
- 2 Committee on Standards in Public Life, *Public Attitudes Towards Conduct in Public Life 2010*, September 2011.
- 3 Nottingham University, *Report on Party Funding Research*, November 2011.
- 4 Central parties' statements of accounts.
- 5 Committee on Standards in Public Life, *The Funding of Political Parties in the United Kingdom*, October 1998, Cm 4057, p. 2.
- 6 HM Treasury, 2011.

Chapter 11

The way forward: our main recommendations

11.1 In **Chapter 1** we concluded that there is a significant problem with the existing arrangements for party funding that demands attention, and explained why we believed that. In the following chapters we drew attention to international experience of dealing with much the same issues and then discussed possible ways of addressing them in the UK. In this chapter, we draw the main threads together and make our principal recommendations. The remaining chapters deal with some important consequential points.

The need for action

11.2 It might be possible to continue with the present regime for a few more years, amending the rules incrementally in response to new problems as they arise. That has been what has happened for the last decade. The temptation for party leaders to continue with the same approach may be substantial when they face up to what well-founded and coherent reform will require. We understand the difficulties our proposals are likely to create. They will require a major restructuring by all the parties.

11.3 But the concerns and tensions which led to Sir Hayden Phillips' proposals, and after those talks broke down to the manifesto commitments by the three main parties, have not gone away. Nor will they. Even if the current system is not actually corrupt, it is manifestly corruptible, and not worthy of public trust. An arrangement which makes the main parties dependent for their continued functioning on a small number of individuals, trade unions or other organisations is fundamentally flawed. It creates enormous temptations for party leaders to bend the rules, flex their policies to make them more attractive to potential donors or look for other ways to reward them – legitimately or illegitimately. It inevitably leads to suspicion about the motives of donors and recipients and about the existence of undue influence. It is unfair in that it favours those parties

with the wealthiest supporters. It therefore falls short of many of the principles set out in **Chapter 2**.

11.4 Our conclusion is that the present arrangements are no longer fit for purpose. Nor, for that reason, are they ultimately sustainable, particularly in a period when – as all parties have recognised – the relationship between politicians and the electorate has been significantly weakened by what happened in relation to MPs' expenses.

11.5 In our view it would be a major mistake not to introduce reform now, in a measured way, before a further party funding scandal occurs with a further blow to public confidence.

A cap on donations

11.6 We argued earlier that the obvious way to remove big money from party funding is to impose a donation cap, as many other democracies have done.

11.7 That will not ensure a perfect solution. Experience elsewhere shows that a cap is likely to create a new set of problems, some of them considerable. But we believe the scale and seriousness of the issues associated with the current arrangements justifies introducing a cap, and finding ways of addressing the attendant difficulties.

11.8 The level of the cap is a matter of judgement. On the one hand, it should not be so high that it fails to convince people that the concern about big money in politics has been properly addressed. On the other, it should not be so low that it leaves the parties with no incentive to raise funds for themselves and risks a new form of dependency, on the State. It also needs to be seen to be reasonably fair between the parties, and not set at a level which manifestly favours one of them because of the economic circumstances of their supporters.

- 11.9 Our view is that a cap of £10,000 in current money terms would provide the right balance.
- 11.10 We do not believe that a higher cap would be appropriate. A cap as high as £50,000, which is what the discussions mediated by Sir Hayden Phillips contemplated, would be around twice the average annual wage in the UK. It would still involve all the difficult issues of regulation and enforcement which a cap would create. But it would run a significant risk of being too high to convince the public that the issue of undue influence had been addressed – particularly since it would be amenable to being multiplied by the same payment being made several years in succession and by partners both giving the maximum. Added together these forms of spreading donations could produce a very substantial amount very quickly. A high cap could also be seen significantly to advantage the Conservative Party over the other two main parties, because they currently have more supporters capable of funding at this level.
- 11.11 A lower cap would be possible. It would have a bigger effect in levelling the playing field. But it would also increase the impact on the financial position of the parties and correspondingly increase the need to substitute alternative sources of funds, to no obvious advantage. £10,000 would be relatively high by international standards. But, even so, we do not think many people could reasonably consider it capable of buying influence, though some will no doubt claim otherwise.
- 11.15 Donations to the central party, to local accounting units within the party and to candidates and regulated donees standing under the party banner should be amalgamated, to ensure that donors are not able to evade the cap by spreading donations across different levels of the party.
- 11.16 Contributions made personally by candidates to their own campaign – spending on which is regulated – should not be subject to the cap.
- 11.17 Regulated donees are defined by the *2000 Act* to also include members associations whose membership consists wholly or mainly of members of a registered party. We suggest the Electoral Commission consider exempting such associations from the cap where they are pursuing legitimate policy development in their own areas (for example, the Societies of Labour and of Conservative Lawyers), if that could be done without creating a loophole which could be exploited.
- 11.18 As now, it should be an offence for a donor to increase their donation by channelling additional amounts through others – family members, work colleagues or anyone else. The only exception is that it would be reasonable to allow spouses or partners each to donate up to £10,000, even if the money comes from the same bank account.
- 11.19 The cap should not apply to legacies, unless they become a significant source of avoidance. Nor should it apply to loans made at commercial rates of interest, unless converted into donations.

Recommendation 1

A cap of £10,000 should be placed on donations to a political party or regulated donee from any individual or organisation in any year.

- 11.12 A separate £10,000 cap should apply in respect of each party to which a donor donates.
- 11.13 The cap should apply to donations not just from individuals but also to those from companies, trade unions, unincorporated associations, partnerships and any other organisation.
- 11.14 The cap should apply to donations to any political party and its associated regulated donees with two or more representatives in the Westminster Parliament¹ or in the devolved legislatures. Donations to political parties without such representation need not be capped, because they are unlikely to be able to offer significant influence in return. Exemption from the cap is intended to avoid placing an unnecessary inhibition on new parties.

Corporate donations

- 11.20 There is an argument for banning donations from companies altogether, as in some other countries such as France and Canada. We see attraction in such a ban. Donations from *public* companies have been small since prior shareholder approval became a requirement in 2001. Donations from *private* companies on the other hand have been substantial and may be a channel for their owners to make what are in effect personal donations, sometimes hiding behind complex company structures. They have also occasionally been the source of controversy, relating to the domicile of their shareholders.
- 11.21 A cap would be likely to create a temptation for individuals to seek to avoid it by making additional donations through companies they control. If corporate donations were to continue to be allowed, the Electoral Commission might therefore reasonably feel obliged to investigate the ownership of any companies making donations of

which it becomes aware. That could prove difficult where company structures are hard to unravel. It could also be a substantial drain on Commission resources.

- 11.22 A ban on corporate donations would not obviously disadvantage anyone. Controlling shareholders would still be able to donate directly if they wished. But a ban would simplify the Electoral Commission's task and allow it to focus more attention elsewhere, potentially more productively.
- 11.23 On the other hand, a total ban on corporate donations could unintentionally prevent some donations which do not pose the same difficulties as those from private companies.
- 11.24 Initially therefore we favour an alternative approach. Corporate donations within the £10,000 cap should continue. But they should be subject to two conditions.
- 11.25 First, private companies or other corporate bodies making donations should be obliged to disclose their ultimate ownership to the party receiving their donation. The party should in turn provide that information to the Electoral Commission, if the donations are above the reporting threshold. That requirement might stop such donations altogether. If not, it would reveal whether individuals were using them as a way of avoiding the cap.
- 11.26 Second, there is in our view a weakness in the 2000 Act provision that, to be a permissible donor, all companies, including private companies, must be registered in the UK and carrying on business here. This is a lesser condition than that suggested by our predecessors in their Fifth Report. Their recommendation was that it should be necessary for a company to demonstrate not only that it was carrying on a genuine business in the UK but also that it was generating sufficient income here to fund any donations.² Their objective was to ensure that foreign donors could not channel donations through UK subsidiaries as a way of getting round a ban on foreign donations.
- 11.27 The Electoral Commission drew attention in their evidence to the difficulties which the current definition of a permissible company donor can cause:

“For the test of ‘carrying on a business in the UK’ to be satisfied, a company need not be generating a profit or even actively trading, provided that it is engaged in business transactions such as employing staff or paying for business facilities.

...there is no requirement in PPERA that the funds a company donates must be generated from

its own trading. It is acceptable for an overseas parent company to donate through a UK-registered subsidiary, provided that the subsidiary is carrying on business and is not simply acting as an agent for the overseas company... Establishing that funds have been transferred from one company to another is not sufficient to demonstrate agency, as the capitalisation of a subsidiary by a parent company is a common business practice.” [Electoral Commission, written evidence E6, p.20]

- 11.28 Ambiguities in the law are not helpful for effective regulation. We believe the 2000 Act should be amended in line with our predecessor Committee's original proposal.

Recommendation 2

Private companies making donations to political parties should declare their ultimate ownership and be able to demonstrate that their owners would be permissible donors if they had given the same money directly. A controlling shareholder's share of any corporate donations, when added to any personal donations, should not be allowed to exceed the £10,000 cap.

Recommendation 3

To be a permissible donor all companies, whether publicly or privately owned, should have to be able to demonstrate that they are trading in the UK and earning sufficient income here to fund any donations.

- 11.29 If these measures prove to be inadequate in preventing private companies from becoming a significant avoidance mechanism, or too difficult or too resource-intensive for the Electoral Commission to police, we would favour introducing an absolute ban on corporate donations.

Affiliation fees

- 11.30 We have made clear our view that the cap should apply to all donations, whether from individuals or organisations. Its purpose is to free the political parties from suspicion, justified or not, that significant donations can be used to purchase inappropriate influence. Our survey shows that public suspicion applies to donations from trade unions to the Labour Party as well as to large donations to parties from other sources.³

- 11.31 But we have also suggested that the imposition of a cap on all donations to the Labour Party, including from trade unions, would be likely to create a disparity in the losses the party suffers compared with the other main parties. This would be contrary to the principle set out in **Chapter 2** that, to be sustainable, our proposed reforms need to be reasonably even-handed in their financial effect on the main parties. We have therefore looked carefully at the arguments for treating some trade union donations as a special case.
- 11.32 In particular, as we explained in **Chapter 8**, it has been suggested that there is a distinction to be made between affiliation fees (around £7.5 million a year over the period 2001-10) and other payments by trade unions (roughly £2.5 million a year).⁴ The argument is that, even if other trade union donations are capped, affiliation fees should be treated as if they were simply the aggregation of individual membership payments made on behalf of a large number of members of unions and other affiliated bodies. It is further argued that the payments are made following democratic process, and that they are a form of democratic engagement to be encouraged, not inhibited.
- 11.33 If this view was accepted, it would be logical to apply the cap to each £3 payment⁵ individually, rather than to the aggregate. The cap would not therefore restrict such payments at all.
- 11.34 This approach is not, however, sustainable in our view:
- The exemption of affiliation fees in full, while capping large donations from all other sources, would be in breach of the same principle of even-handedness referred to above. It would give the Labour Party a significant financial *advantage* over the other main parties.
 - As we explained in **Chapter 8**, affiliation fees are not the same as individual membership fees in a number of important respects.
 - Even if they were the same, bundling them together would still give the trade unions potential financial leverage of a kind which it is the objective of this report to remove from party funding.
- 11.35 For these reasons, we do not believe that it would be right *either* to treat affiliation fees – at least as currently constituted – as individual payments and thereby to exempt them all together, *or* to subject them to the full force of the cap as applied to other large donations.
- 11.36 We have therefore considered whether there is a reasonable practical alternative to the two extremes
- which would not only reduce to more acceptable levels the financial leverage that might be exercised by the trade unions but also result in a more equitable distributions of financial flows to the main parties.
- 11.37 We think there is such an alternative. It requires changing the way affiliation fees are collected to address the issues identified in **Chapter 8**. In particular, those on whose behalf they are made would need positively to agree them, as is the case with most other donations to political parties.⁶ The payments would also need to be transparent, traceable and less capable of being manipulated to bring pressure to bear to obtain some specific outcome independently of the influence derived from the membership rights they give.
- 11.38 Specifically we think that it would be possible to treat affiliation fees as individual payments for cap purposes if the following conditions are met:
- Individual members of unions or other affiliated bodies should have to make a positive decision to contribute through their organisation to the Labour Party. In other words, they should opt in to the affiliation fee.
 - Their decision should be made on the basis of full information. The arrangements for opting in, the amount of the affiliation fee and the different rate payable in the event of not opting in should be clearly set out in information given to members at the point of joining, as well as prominently on the organisation's website.
 - Individual members should be able to contribute to their union's political fund, even if they decide not to opt in to the affiliation fee.
 - A union or other affiliated body should not be able to give the party in affiliation fees an amount larger (or smaller) than would be implied by the number of members who have opted in.
 - It should be clear that the union or other affiliated body is simply collecting the affiliation fee on the part of the party. Once collected, the fee should be the property of the party in the same way that charitable donations collected through payroll giving are the property of the recipient charity and not the collecting employer. Affiliation fees should be handed over automatically and not be capable of being held back for any reason.
 - Affiliated unions and other affiliated bodies should include in their published accounts, in a prescribed form, how much they donated to which political parties in the year, and how much of that represented affiliation fees.

- 11.39 The cap would still apply to any other donations made by unions or other affiliated bodies on top of affiliation fees.
- 11.40 It would be up to the trade unions and other bodies concerned to decide if they wished to amend their procedures in the way proposed and, if they did, to convince the Electoral Commission, advised in the case of unions by the Certification Officer, that they had done so satisfactorily. If, as is their right, they did not wish to change their procedures, they could not reasonably expect their affiliation fees to be treated as individual donations. The aggregate amount of the fees would therefore be subject to the cap.
- 11.41 Two members of the Committee, Lord Alderdice and Oliver Heald MP, believe there should be an additional condition. They argue that members of affiliated bodies should be given the option of deciding that the equivalent of an affiliation fee should be payable to any party of their choice. They believe this would be fairer to the individual member and more likely to deliver reasonable equivalence in the financial impact of our proposals on the parties.
- 11.42 The rest of the Committee take the view that such a condition would be a disproportionate intrusion into the constitution of the relevant trade unions and other affiliated bodies and their historical relationship with the Labour Party. Any union member wishing to contribute to a different political party can do so by other means.
- 11.43 The changes proposed would be likely to have a significant impact on payments to the Labour Party. It cannot be taken for granted that all those unions and other bodies currently affiliated will be prepared to alter their procedures, either on grounds of principle or because of the administrative modifications involved. Even if they do, it is possible that fewer, perhaps considerably fewer, members will be prepared to make a positive decision to be affiliated than the number currently not opting out of the political fund.
- 11.44 The size of these effects is impossible to quantify. At one extreme, affiliation fee payments could reduce to a fraction of their current levels. At the other they could be relatively unaffected. Our assumption is that the result will be somewhere in between. If so, it could usefully help to balance out the financial flows to the parties. But that can be little more than a guess at this stage. The outcome could be very different, and the amounts involved – up to £7.5 million a year – could have a material effect on whether our proposed reforms are reasonably even-handed in their impact.
- 11.45 For that reason we think it would be sensible to take stock at the point of implementation, and again two years after implementation, to consider whether any changes are appropriate to ensure fairness between the parties. Meanwhile, the Labour Party should not increase the amount of the affiliation fee above its current level of £3 per affiliated member. We return to this point later.
- 11.46 We have tried to ensure that our recommendations do not require unnecessary bureaucracy. But we accept that there will be compliance costs involved for any affiliated body deciding to change its practices in line with our recommendations. There may need to be some flexibility about the way these costs are recovered.

Recommendation 4

If they continue to be collected and paid as now, affiliation fees paid to the Labour Party by trade unions and other affiliated bodies should be subject to the £10,000 cap. But the affiliated union or other body could, if they so wish, change their procedures so that the fees could be regarded as an aggregation of individual payments, to which the cap applies individually and not collectively, if:

- **The individual members of the affiliated body make a positive decision to contribute to the Labour Party by opting in to the affiliation payment when they join the body in question. Existing members should be asked to make a decision when any changes come into effect.**
- **The arrangements for opting in, the amount of the affiliation fee and the different rate payable when not opting in are clearly set out in the information given to members at the point of joining and prominently on the organisation's website in a form set and monitored by the Electoral Commission.**
- **The members of an affiliated union are able to contribute to their union's political fund even if they choose not to pay that part of the levy which represents the affiliation fee.**
- **The fees paid accurately reflect the number of members opting in, are handed over automatically and are not capable of being held back for any reason.**

11.47 The Committee have made the recommendation only after considerable thought. We appreciate that:

- The issue of opting in has great symbolic resonance, because of the political football it has been in the past.
- Requiring opting in is also likely to pose some administrative difficulty for the unions concerned.
- A reduction in the number of affiliated members would have other consequential effects on the party.

11.48 However, we are also conscious that:

- The long period of transition, the commitment from all parties to remove the big donor culture and the increased level of state funding proposed later in this chapter create an opportunity for all the parties to establish new relationships with funders.
- Our recommendations will require all the main parties to make compromises if agreement is to be reached on a sustainable package of reform.
- The recommendation does not require any change to the arrangements for opting out of other payments to unions' political funds. It does not therefore have any implications for those unions which are not affiliated.
- The proposal is not an isolated one. It is an essential part of a reform package intended to promote integrity in an important part of our democracy.

11.49 Our proposals will not eliminate union influence on Labour Party decisions. Affiliation payments, even in their new form, will still give the unions some financial leverage. Moreover, it is not part of our intention to interfere with the constitution of the Party, which for historical reasons gives the affiliated bodies an important role in its decision-making machinery. We believe, however, that our proposals will significantly reduce the possibility of influence arising improperly, solely for financial reasons.

The Co-operative Party

11.50 The Co-operative Party has urged us to consider the consequences of applying a cap to the donations they receive from local co-operative societies.

11.51 The Committee is not convinced of the case for making an exemption for these payments. The

co-operative societies may note their relationship with the Co-operative Party (and the Labour Party) in their annual reports. But we doubt it is clear to many individuals joining their local society to receive a share of the profits that donations are being made to the party in their name.

11.52 As with affiliation fees, it may be that the Co-operative Party and the co-operative societies could come to an arrangement whereby the donations could be shown simply to be a way of collecting together donations from individual members. In that case, we could reconsider the application of the cap.

11.53 The Co-operative Party has an electoral arrangement under which it does not stand candidates against the Labour Party. As long as this arrangement remains in place, donations to the Labour and the Co-operative Parties should be amalgamated for cap purposes.

Unincorporated associations

11.54 A large number of unincorporated associations – such as dining clubs – donate to political parties. The cap should apply to them in the same way as to other organisations. Our belief is that a cap of £10,000 should be high enough to encompass donations from the majority of such associations, while being low enough to prevent the creation of new ones solely as a way of avoiding the rules. Some organisations of this kind might choose to restructure themselves so that their memberships could give donations of up to £10,000 individually rather than collectively. We see no difficulty in this, provided the rules for individual donations are followed and those who bundle donations in this way do not attempt to use the threat of withholding to influence policy.

Trading income

11.55 All the main parties derive some income from trading, including, for example, letting stands at party conferences. In some cases, the consultancies, legal firms and other organisations providing such income treat the total amount they pay for stands as donations, though the legislation only requires amounts paid over the commercial rate to be reported. We do not believe that any income derived from trading activities should be regarded as a donation and therefore subject to a cap, provided it comes from charges made at commercial rates. We recognise that determining the commercial rate for a stand at a party conference may not be straightforward.

Figure 27

Average annual losses from a £10,000 cap during 2001-10 if nothing else changed

	Reported donations £ million	Losses due to cap £ million	Losses as proportion of reported donations (%)
Conservative Party	16.7	-12.7	76
Labour Party	16.1	-14.7	91
Liberal Democrats	2.9	-1.6	57

Source: Electoral Commission

The financial implications of a cap for the political parties

- 11.56** A donations cap will have significant financial implications for the major parties. It will affect the smaller parties less as they do not, on the whole, receive many donations of a significant size.
- 11.57** **Figure 27**, which reproduces some of the information from **Figure 22**, shows what would have happened during the period of 2001-10 if a cap of £10,000 had been in place and *nothing else had changed*. The Conservative Party would have lost 76 per cent of its reported donations, the Labour Party 91 per cent and the Liberal Democrats 57 per cent. Losses as a proportion of total income would be lower (see **Figure 29**).
- 11.58** In practice, the assumption underlying this table – that nothing else changes – is unrealistic. A cap would face the parties with a completely different set of circumstances. It is difficult to predict how they, or their donors, would respond
- 11.59** For example:
- Some donors who might otherwise have given one-off amounts greater than £10,000 might spread their donations by giving £10,000 a year for several years. It would be unrealistic to expect that every large donor would do this. For illustrative purposes, on the arbitrary assumption that 30 per cent of people who gave more than £10,000 would have been prepared instead to make successive yearly donations, the losses to the Conservative Party would have been reduced by around £0.5 million a year, those to the Labour Party by around £0.2 million a year and those to the Liberal Democrats by around £0.1 million.
 - If affiliation fees were reduced to 30 per cent of their pre-cap level the reduction in the losses to the Labour Party described in **Figure 27** would have averaged around £2.2 million a year.
 - Our recommendation about corporate donations could also affect the figures. Some corporate donations might, however, convert into personal ones from the relevant controlling shareholders.
- 11.60** It would be misleading to read too much into these figures. The only safe conclusions are that:
- **Figure 27** is likely to overstate by some margin the income foregone by the three main parties as the result of a cap compared with the current position, as the parties adjust their behaviour to the new circumstances.
 - But the parties' losses will be significant and greater than they can reasonably sustain and still fulfil the functions our democracy requires—even assuming they cut back on spending.
 - It is difficult to forecast which party would suffer most. The Conservative Party, with a greater number of wealthy donors, would be likely to gain more from their ability to spread their donations over several years and possibly between partners. The Labour Party would recoup more the greater the extent to which the trade union and other affiliated bodies change their arrangements for affiliation fees. The Liberal Democrats are likely to lose less than the other two because their income is so much lower in the first place.
 - There will be other consequences of an unpredictable nature.

Balancing the package: increasing public subsidies

- 11.61** It follows from these figures, and from what we have said earlier about the need for democratic reasons to sustain vigorous, adequately resourced political parties, that a cap on donations will have to be accompanied by other measures. It is difficult to avoid the conclusion that a cap inevitably implies increased support from public funds.
- 11.62** If the political parties, and the public, genuinely want to see an end to a big donor culture – as we believe they do – they will have to face this consequence, however unpalatable it may appear.
- 11.63** We take the view that the additional support should be provided in two forms.

Tax relief

- 11.64** First, we think that tax relief at the basic rate should be provided on all permissible donations and membership fees including affiliation fees up to £1,000. An equivalent tax credit should be provided for donations from non-taxpayers.
- 11.65** Tax relief would recognise that giving to political parties is a proper use of individuals' own money, and to some extent counter the contrary perception that might otherwise be implied by a cap. It might also encourage greater political engagement in a modest way.
- 11.66** The benefit of the relief should go to the recipient party. We see no case for giving higher rate relief to the donor.
- 11.67** We expect that HM Revenue and Customs and HM Treasury will see difficulty with this proposal, fearing that it could set an unwelcome precedent. We do not think it should. Giving to political parties ought to be distinguishable from giving to other organisations.
- 11.68** It is difficult to forecast the financial effect of tax relief. No figures are available for the total value of existing donations below £1,000. The impact will also depend on the extent to which the parties are able to encourage additional donations. But we would expect the cost to be small, probably in the region of £3 million a year.

A pence-per-vote scheme

- 11.69** Second, because the financial advantage of tax relief to the political parties would be modest, we

believe public funding should also be provided throughout the life of a Parliament, calculated as a set amount for every vote received during an election.

- 11.70** The amount of public funds needs careful calculation so as to provide sufficient funds for the parties to fulfil their necessary democratic functions, while still requiring economy in their use of funds and leaving an incentive for increased engagement with potential members and donors.
- 11.71** If the amount were set today, we judge it should be around £3.00 a vote in Westminster elections and £1.50 a vote in devolved and European elections. Since our proposals would not come into effect until after the next Westminster election, we suggest that the actual rate be determined then. A pence-per-vote scheme calculated at the rates of £3.00 and £1.50 on the votes cast at the last set of elections would cost around £20 million a year.

Recommendation 5

Additional public support should be provided to the parties in the form of:

- **Tax relief at the basic rate on donations up to £1,000 and on membership fees, with an equivalent tax credit for donations from non-taxpayers.**
- **Public funding calculated as so many pence for every vote received at the last election, the amount to be determined when the new arrangements come into force.**

Parties should not be eligible to receive either form of support unless they meet the minimum qualifications for Policy Development Grants or any equivalent introduced in the devolved legislatures, and are therefore subject to the donation cap.

- 11.72** It will be necessary to devise appropriate arrangements in respect of votes for candidates standing on a joint party ticket.

Balancing the package: reducing campaign spending

- 11.73** In present circumstances we believe an essential part of the package should be a reduction in the amounts the parties can spend on election campaigns.

Figure 28

Impact of our proposals had they been in operation between 2001 and 2010 (£ million in an average year)

Average year	Reported donations	Loss from cap	Reported donations remaining after the cap	Tax relief on donations up to £1000 and on membership fees	Pence per vote funding ⁷	Net impact
Conservative Party	16.6	-12.7	3.9	1	6.6	-5
Labour Party	16	-14.6	1.4	1.3	7.5	-5.8
Liberal Democrats	2.8	-1.6	1.2	0.8	4	3.2

Source: CSPL calculations using Electoral Commission data

Recommendation 6

The existing limits on campaign spending during elections to the Westminster Parliament and devolved legislatures should be reduced. The amount of the reduction should be determined when the new arrangements come into force, but should be around fifteen per cent.

11.74 We recognise the effects of this recommendation are likely to be largely symbolic. We do not regard that as making it any less important.

Overall impact of our proposals

11.75 **Figure 28** shows the potential impact of our proposals had they been in place from 2001 to 2010 and nothing else had changed.

11.76 This table is likely to misrepresent the actual effects of a capped regime because it makes no allowance for changes in behaviour as donors and parties adapt to the new situation. It is impossible to say in advance precisely what these changes in behaviour will be. But if, for example:

- 30 per cent of large donors had spread their donations up to the cap level each year; and
- 30 per cent of affiliation fees continued to be paid under the new opt-in arrangement

11.77 The relative position of the parties would have been reversed. The Conservative Party would have lost £4.5 million a year and the Labour Party £3.4

million. The Liberal Democrats' position would have stayed the same.

- 11.78 Of course, donors could react in entirely different ways. But it is reasonable to assume that *some* proportion of the donations otherwise lost would be returned.
- 11.79 All the parties receive income from sources other than donations. The impact of our recommendations on their overall income and expenditure will therefore be proportionately lower than **Figure 28** might suggest. For illustrative purposes **Figure 29** shows what the impact of our proposals might have been on the total income of the parties, on the same basis as **Figure 28**⁸ (that is assuming that nothing else had changed) and then after making the assumptions about the spreading of donations and affiliation fees at paragraph 11.76.
- 11.80 This table should not be taken literally. First, as we have already explained, we do not have a consistent set of figures for central and local income. In particular, we do not know how much income at the local level is subsequently transferred to the central party and is therefore double counted when adding local and central income together. Second, as we have also explained, the past is likely to be a very inexact guide to what may happen in the future.
- 11.81 There is also a complication caused by Short and Cranborne Money. The figures for the income of the Conservative Party and of the Liberal Democrats in **Figures 28** and **29** include Short and Cranborne Money of around £4.4 million and £1.6 million a year respectively. We do not

Figure 29

Impact of our proposals on overall income had they been in operation between 2001 and 2010 (per cent)

Average year	Assuming nothing else had changed		Assuming 30% spreading of large donations and 30% affiliation fees are retained	
	Net impact as a percentage of central income	Net impact as a percentage of central and local income combined	Net impact as a percentage of central income	Net impact as a percentage of central and local income combined
Conservative Party	-18	-10	-16	-9
Labour Party	-19	-18	-11	-10
Liberal Democrats	43	28	44	28

Source: CSPL calculations using parties' statements of accounts

know which party or parties will be in power when our proposals are implemented. But at present neither the Conservative Party nor the Liberal Democrats receive any Short or Cranborne Money because they are in Government, while the Labour Party is receiving around £5.8 million a year.⁹ It is important to note that Short and Cranborne Money is provided to opposition parties specifically for their Parliamentary duties and not for campaigning or other routine forms of party spending.

11.82 Despite these health warnings, the figures help to demonstrate two important points:

- If allowance is made for other income the effects on the parties of a cap on donations do not look as severe as they might otherwise. On the assumptions made, the Conservative Party might have lost about 9 per cent of central and local income and the Labour Party 10 per cent. In the circumstances this would be a reasonable level of savings for the parties to have to make. Of course, to the extent that they were more successful in making up their losses, the savings they would have to make would be less.
- Whether or not the Labour Party or the Conservative Party stand to lose or gain most from our proposals is impossible to tell at this stage. The result will depend on how successfully both adapt to the new circumstances.

Timing of implementation

- 11.83 An increase in the public funds for political parties may be unacceptable in the immediate future when so many cuts are being made in other forms of public spending.
- 11.84 But time is required for the parties to discuss our recommendations, for the parties and the regulator to plan for the new regime and to draft and pass the necessary legislation. Implementation is therefore unlikely to be feasible before the next General Election, planned to be in 2015.

Recommendation 7

The cap on donations, the additional state funding and the reduction in campaign spending limits should not be introduced until immediately after the next Westminster election, due in 2015.

Review

- 11.85 We have argued that the changes we have recommended are likely to have a number of unpredictable consequences as parties and donors adjust. It would not be sensible to attempt to forecast all of those now. We have already suggested that it would be prudent to look again

at the potential financial impact of our proposals before implementation to determine whether any fine-tuning is necessary to ensure reasonable even-handedness. An essential pre-requisite to that will be the clearer and more consistent information about the parties' income and expenditure, which we recommend elsewhere.

- 11.86 We also think it desirable that the regime be subject to post-implementation review to assess how well it is delivering its objectives and how by then it measures up against all the principles set out in **Chapter 2**, including fairness.

Recommendation 8

The financial impact of the arrangements we have proposed should be reviewed shortly before implementation to consider whether any fine-tuning is required to ensure fairness between the parties. The level of the Labour Party affiliation fee should be suitably constrained until then. This Committee should carry out a further, post-implementation, review two years after the new regime comes into force, to assess how well the regime is delivering its objectives in light of the principles set out in Chapter 2, including fairness, and to consider whether any further regulatory changes are required.

Endnotes

- 1 This is the current qualifying threshold for Policy Development Grants. We recommend later in Chapter 13 that Policy Development Grants, or their equivalent, should be extended to parties with two or more seats in the devolved legislatures.
- 2 Committee on Standards in Public Life, *The Funding of Political Parties in the United Kingdom*, October 1998. Cm 4057, p.74.
- 3 Committee on Standards in Public Life, *Survey of Public Attitudes Towards Conduct in Public Life 2010*, September 2011, p.39.
- 4 It is not possible to be precise about this because of deficiencies in the data (see Chapter 4).
- 5 Or £6 per 100 members for branches.
- 6 The exception is donations from public companies, where prior shareholder approval must be sought but each individual shareholder is not expected to positively consent.
- 7 Using voting figures from general elections in 2001 and 2005, devolved elections in 2007 and 2003 and European elections in 2004 and 1999.
- 8 The figures used for central party income are averages for 2001-2010. Those for local party income are averages for 2008-2009.
- 9 House of Commons Library Standard Note SN/PC/1663, *Short Money*, August 2011



Chapter 12

Regulation and enforcement

- 12.1 Any system of regulation for political finance will be effective only if supported by the participants and robustly enforced. That requires a political culture which respects the rules and an energetic regulator, armed with the right powers.
- 12.2 The framework set out in the *2000 Act* has already been amended twice, through the *Electoral Administration Act 2006* and the *Political Parties and Elections Act 2009*. Some of the changes in the *2009 Act* involved strengthening the regulatory powers of the Electoral Commission.
- 12.3 A cap on donations will change the nature of the Commission's task materially. In a number of ways it will make it more difficult.
- 12.4 In particular:
- At present the main concerns of the Electoral Commission about donations are that they are properly reported and published and from permissible donors. The size of donation is not an issue. Under the proposed regime the Commission will have the new task of regulating compliance with the cap.
 - As part of this, the Commission, and the legislation, will need to consider the possibility of multiple donations from the same person or from connected parties. That is likely to require all types of donor to provide more information than at present, probably including a unique identifier like a National Insurance number or an equivalent for corporate donors and unincorporated associations.
 - The risk of donors or political parties seeking to avoid the cap through third parties will become significant, and require close attention.
- 12.5 The Electoral Commission will need to review its operating model against the anti-avoidance and other requirements of the new circumstances. It is likely to require wider powers than it has at present to gather information to investigate potential breaches.
- 12.6 Another conclusion might be that the Commission will need more resources. If the case is convincing, the resources should be provided. But we do not regard that as inevitable. The changed circumstances create an opportunity for the Commission to move further away from process-based regulation. This report should not be seen as a requirement for more reporting requirements through which the Electoral Commission double check every transaction. The onus should be on the parties and donors to ensure that they operate within both the letter and the spirit of the rules. The Commission's role should be to undertake risk-based audits of the parties' procedures, to investigate complaints about possible breaches of the rules and to carry out spot checks to ensure compliance, backed up by workable sanctions where failures or abuses are uncovered.

Recommendation 9

The Electoral Commission should consider how it can best operate under a capped regime and review the powers it needs to regulate the new arrangements effectively.

- 12.7 It is not for the Committee to perform this task in detail. But we have discussed some of the issues with the Electoral Commission and there are a number of aspects of the new arrangements on which we think it would be helpful to express a view. This chapter therefore comments on, and makes a number of recommendations about:
- The adequacy of the present arrangements for regulating third party activities and the new pressures that will be placed on them.
 - The arrangements for reporting donations to the Electoral Commission.

- The transparency of parties' accounts.
- The definition of a permissible individual donor following the 2010 Supreme Court ruling.
- The use of the criminal law to impose sanctions and its possible shortcomings.
- The possibility of combining different campaign limits for different elections into a single campaign limit covering the whole electoral cycle.
- The targeting of national expenditure by the parties on marginal seats.
- The definition of campaign expenditure.
- The implications of our proposals for other elections.
- The publication of citations for the appointment of party political peers.
- Registered third parties are also subject to much the same rules about donations as political parties (see **Chapter 3**)
- There are rules on third party campaigners working in concert, which ought to reduce the risk of donors funding multiple third parties.

The regulation of third parties

- 12.8 The Committee believes that the measures we are recommending will end the big donor culture that currently exists in the funding of political parties. However, evidence from other countries suggests that it is possible that such sources of funding will be diverted to other ways of influencing the political process. One of most significant potential routes for such avoidance is the use of third parties.
- 12.9 At present third parties are much less significant in the UK than they are in some other countries. In Germany, for example, the *Stiftungen* (political foundations associated with particular parties) are well established. In the USA there are over 4,000 Political Action Committees, many directly affiliated to political parties, and a large number of similar bodies referred to as '527 organisations' spending millions of dollars in support of particular candidates or parties.¹
- 12.10 There is a risk that third parties could become much more significant in the UK when caps are imposed on donations and more stringent limitations placed on campaign expenditure.
- 12.11 The extent of that risk is mitigated because:
- Unlike in the USA, spending by registered third parties during election campaigns is itself subject to upper limits.
- 12.12 Even so, a logical corollary of a cap on donations to political parties might be a similar cap on donations to registered third parties. If a sensible way of doing this could be found the Committee would be in favour. But we suspect there would be difficulties because third parties only need register during election campaigns. Unless continuous registration was practical, an individual could avoid the cap by giving outside the regulated period. Alternatively, a donor could accidentally breach the cap because an organisation to which they donated decided to register after the donation was made.
- 12.13 Unless and until it becomes apparent that third parties are being used to circumvent the cap in a significant way, and subject to any innovative thinking by the Electoral Commission, it may be better for regulatory purposes to rely on a combination of the existing controls on campaign spending and improved transparency about the sources of third party funding.
- 12.14 The existing reporting arrangements may need strengthening to achieve this. At present, registered third parties only need to report donations related to controlled spending, and are only required to do this once at the end of every campaign, rather than at the regular intervals required of the political parties.
- 12.15 The current third party regime is subject to two other potential weaknesses which will need to be considered by the Commission.
- 12.16 First, controls on spending and donations only apply to *registered* third parties. Technically, if a third party does not register it cannot spend more than the registration threshold (£10,000 in England or £5,000 in other parts of the UK) on campaigning. But it has been alleged that the current register is far from fully reflective of the true volume of third party activity.²
- 12.17 That allegation is unproven. The Electoral Commission has told us there is little evidence to support it in complaints about campaigners who should register, but do not. If the allegation were true, it could be the result of deliberate avoidance. But it could also result from genuine difficulties in policing the boundary. The TaxPayers' Alliance,

for example, has been cited as an example of an unregistered organisation alleged to be associated with a particular political party. But it has so far been able successfully to claim that the policies for which it campaigns feature in the manifestos of all three main parties and that they do not call on people to vote a certain way.³

- 12.18** The scope of the third party register could become a more significant issue under the new regime. It will be necessary to ensure the definition of a third party can stand up to the additional pressures placed on it. The Electoral Commission will also need to put more resources into the regulation of the register – focusing on those third parties with the largest budgets or which, for that or other reasons, seem more likely to impact on the outcomes of elections.
- 12.19** A second potential weakness of the current regime is that it is only the campaign spending of registered third parties which is controlled. Under a capped regime, political parties might be tempted to subcontract more of their other activities to third parties.
- 12.20** One obvious example might be greater use of think tanks or other bodies to carry out policy development.
- 12.21** Some of the 283 think tanks in the UK⁴ are closely tied to particular political parties and even now undertake some activities which, to an extent, substitute for party expenditure. Under the present rules, the provision of services to political parties, free or at reduced rates, is reportable by the party concerned as a donation. Such activities ought therefore to be caught by a donation cap. But there can be ambiguity about whether an activity is performed at the behest of a political party or autonomously by the organisation concerned.
- 12.22** Despite this, the Committee's view is that seeking to prevent think tanks from being used to circumvent the donation cap by imposing the same cap on them would be disproportionate. There would be practical difficulties in determining which bodies should be subject to the cap and real risks that attempting to distinguish between 'party-near' organisations and the rest could have potentially damaging consequences. At their best, think tanks contribute a great deal to the plurality of political debate. We would not want to risk stifling that. Nor would we want a charity to be caught by these regulations just because they were carrying out work that might be picked up by one or other of the parties. We also regard expenditure on policy formulation as different in kind from campaign spending intended to influence voters' decisions.

- 12.23** We may need to revisit this conclusion in the light of the way the parties respond to the new regime. It may also be necessary to look more widely at the reporting requirements of all organisations engaged in political activities, not just those which must currently register, so that the Electoral Commission has the information necessary to judge whether they are being used to circumvent the cap.

Recommendation 10

The Electoral Commission should pay particular attention to the risk of third parties being used to avoid the cap. It should review the definition of third parties and the registration and reporting requirements for third parties and other organisations engaged in wider political activities, including think tanks. The Government should legislate to give the Commission any additional powers required, including powers of investigation outside the regulated period. The extent to which third parties or other organisations are becoming used as an avoidance mechanism should be one of the main issues for the proposed post-implementation review.

Transparency and reporting donations to the Electoral Commission

- 12.24** One of the issues for reconsideration in a capped regime is the requirement for donations above a certain size to be reported to the Electoral Commission.
- 12.25** The reporting threshold for donations to central parties was increased as recently as January 2010, from £5,000 to £7,500. The threshold for donations to accounting units and regulated donees rose from £1,000 to £1,500. The threshold above which donations must come from a permissible donor also increased, from £200 to £500. These increases were the first since the 2000 Act came into effect. If the thresholds had only been up-rated for inflation the levels would be £6,260, £1,250 and £250 respectively. They are also relatively high by international standards.
- 12.26** The original purpose of the reporting obligation was to make large donations transparent in the belief that would prevent donations being exchanged for political favours. A cap on

donations will create new circumstances in which the cap becomes the main regulatory mechanism. Transparency – one of the key principles of public life – will still be important for effective policing of the scheme. But it will no longer bear the full burden.

- 12.27 One potential difficulty is that the difference between a cap of £10,000 and a reporting threshold of £7,500 is fairly small. It is possible that few, if any, donations would be made between £7,500 and £10,000. That would make a mockery of the reporting requirement and be likely to bring the system into disrepute.
- 12.28 There are two possible ways of responding.
- 12.29 The first would be to lower the reporting threshold. That would increase the administrative burden on political parties, but not by a great deal. If it was thought desirable to offset some of that burden, one option would be simultaneously to raise the threshold below which the parties do not need to check permissibility.
- 12.30 The disadvantage of this approach is that Parliament has so recently voted to increase the thresholds. Raising the threshold below which permissibility has to be checked would also increase the scope for tax relief being inadvertently given on foreign donations.
- 12.31 The second, more radical response would be to abolish the need to report individual donations to the Commission. Instead the parties could be given a new set of obligations:
- To publish information about their sources and uses of funds in a more intelligible way than at present, perhaps more frequently.
 - To retain the information necessary for the Electoral Commission to audit their processes and conduct spot checks to ensure they had credible arrangements to keep within the rules; and
 - To respond to reasonable freedom of information style requests from the media and others about their sources of funds.⁵ The role of the media in uncovering abuse has been, and will continue to be, important for effective policing.
- 12.32 The effect ought to be more meaningful information becoming publicly available. For example, under arrangements of this kind, it would be possible to require a party respond to questions about how much it had received in donations from any particular interest group, including any currently

under the reporting threshold. The completeness with which they respond to such questions would be one of the issues the Electoral Commission would be expected to audit.

- 12.33 This approach would not produce any administrative saving for the parties. Indeed it would be likely to increase their compliance costs. They would have to record much the same information as under the first option and probably more information about the nature of their donors. But they ought to regard that as a small price to pay in return for the increased amounts of public funding our proposals would provide.
- 12.34 The arrangement would have the advantage of making it clearer that the onus of ensuring compliance with the rules falls squarely on the parties. It would in our view be a more intelligent form of public accountability.
- 12.35 The choice between these two options is not straightforward. If a cap of £10,000 on donations had been in place at the beginning of 2000, we think it unlikely that the present reporting arrangements would have been thought necessary. But abandoning them now, even if a more effective accountability mechanism is put in their place, might be premature before the new arrangements have demonstrated their effectiveness. It might undermine the public confidence we are seeking to improve.
- 12.36 We are persuaded that, in the longer term, arrangements of the kind we have outlined in the second option above are the right way to proceed. But it would be prudent, until the effects of a donation cap are known, to retain the central reporting and publication of specific donations. In the meantime the Electoral Commission should consult on the best way of ensuring continued effective transparency through reporting arrangements under the new regime.

Recommendation 11

The need for continuing central reporting and publication of donations should be reconsidered as part of the post-implementation review. The Electoral Commission should consult on the best way of ensuring continued effective transparency under the new regime. In the meantime, the threshold for reporting donations to central parties should be reduced to £5,000. Reporting of donations above £1,500 made to accounting units and regulated donees should continue.

- 12.37 The arrangements for ensuring transparency about the source of loans to political parties – which would only be affected by the cap if made at preferential rates – should remain as they are.

Transparency and the standardisation of party accounts

- 12.38 We drew attention in **Chapter 4** to the difficulties we had encountered in obtaining coherent, comprehensive and comparable figures about the parties' sources and uses of funds. There is currently no legal requirement for political parties to follow a common set of standards in drawing up their accounts. The Electoral Commission has now agreed draft standards with the main parties. We expect them to be implemented immediately. If that does not happen, the Electoral Commission should use existing powers to enforce them. The standards may need to be reconsidered in the light of our recommendations.

Recommendation 12

The political parties should set out their sources and uses of funds in an easily intelligible way. To do so, they should immediately begin producing their accounts according to a set of common, publicly available standards before the new regime comes into force.

The definition of permissibility for individual donors

- 12.39 Section 54(8) of the *2000 Act* defines a permissible individual donor as someone who is registered on an election register. An election register is either:
- “A register of parliamentary or local government electors maintained under section 9 of the *Representation of the People Act 1983*.
 - A register of relevant citizens of the European Union prepared under the *European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001*; or
 - A register of peers under regulations under section 3 of the *Representation of the People Act 1985*”.
- 12.40 Section 56(1) of the *2000 Act* places an obligation on a political party to take all reasonable steps to verify the identity and permissibility of a donor. If a party is not satisfied that a donation is made by a permissible donor,

it can return the donation within 30 days. If it fails to return the donation within that period, the party will be regarded as having accepted it. Section 58(2) provides that, where a political party has accepted an impermissible donation, the Electoral Commission may apply to a Magistrate's Court for an order of forfeiture.

- 12.41 In March 2007, the Electoral Commission applied to the City of Westminster Magistrates for an order of forfeiture of £349,216. This was the total amount of donations made to UKIP by a donor who had not been on an electoral register between 1 December 2004 and 2 February 2006. The judge ordered the forfeiture of only £14,481, which was the total value of donations received by UKIP after the date of the meeting at which UKIP became aware the donor was no longer on the register. The decision went to judicial review, the Court of Appeal and finally to the Supreme Court which upheld the amount the Magistrate's Court had ordered to be forfeited.⁶
- 12.42 The Electoral Commission has expressed concern about the implication of this judgement. It turns what ought to be a reasonably straightforward check – whether someone is on the electoral register – into something more complicated – whether someone could be on the register. The Commission told us in evidence that:
- “In cases where we seek forfeiture of an impermissible donation from an individual, all those involved will have to balance a complex range of factors in deciding what amount, if any, should be forfeited. This will create a risk of inconsistent treatment of donations, which is clearly undesirable in this politically sensitive context”* [Electoral Commission, written evidence E6, p.19].

- 12.43 As a result of this ruling, where a party accepts a donation without adequate checks, and it turns out to be impermissible, the party may still be able to retain it. The effect may be to reduce the verification checks undertaken by political parties and, in turn, reduce confidence in the effectiveness of the regime. The task of political parties and the Electoral Commission is hard enough without unnecessary complications of this kind.

Recommendation 13

The requirement in the *Political Parties Elections and Referendums Act 2000* that only donors on an approved electoral register can make donations to a UK political party should be put beyond doubt.

- 12.44 Changing the law back to where it was believed to be before should not disadvantage anyone. If a UK resident wants to make a political donation, it ought to be easy to get onto an electoral register.

Checking permissibility

- 12.45 A potentially simple way exists to address concerns about the permissibility of donations, whether from individuals or companies. A donation certificate could reduce the bureaucracy involved in the current system where permissibility is checked and re-checked. It could also act as a powerful disincentive against evading the rules.
- 12.46 The precise terms of such certificates will need to be determined by the Electoral Commission in consultation with the parties to ensure it is workable and effective.

Recommendation 14

On making a donation above the permissibility threshold donors should be asked to certify:

- **If an individual, that they are on a permitted electoral register and that the donation is their own money and does not breach the donation cap.**
- **If a company, that they are carrying out business in the UK and have generated sufficient income from UK trading to cover the donation. If part of a group of companies, they should also certify that the donation would not breach the cap when added to donations from any other company within their group.**

- 12.47 Companies or other corporate donors would need to identify a named individual or officer as being responsible for the donation and completion of the certificate. Anyone knowingly making a false declaration should be guilty of a criminal offence.
- 12.48 None of this should be read as reducing the accountability of parties for complying with the rules. If they have doubts about the permissibility of a donation it should not be sufficient defence to show that the relevant donor signed a certificate. It may be necessary for someone from the party to certify that they have taken appropriate measures to verify the source of the donation. The specific measures deemed appropriate will vary with the nature of the donation. It is possible that the new regime will require a rather stronger declaration from the parties than is envisaged in the provision, yet to be commenced, about declarations in the *2009 Act*.

The use of the criminal law for sanctioning

- 12.49 There have been no prosecutions under the *2000 Act* since it came into force. The Electoral Commission has asked the Metropolitan Police to investigate a small number of high profile cases where it appeared that individuals might not have complied with the rules on donations. But in each instance the Crown Prosecution Service decided not to proceed.
- 12.50 There could be a number of reasons for this, not least that no offences have been committed. But it is also possible that the absence of prosecutions reflects either:
- Deficiencies in the way the legislation is drafted. We were told, for example that a reason for a decision not to proceed with one case was because it was impossible to identify who was responsible for receiving the donation. That issue has now been addressed in the *2009 Act*; or
 - Shortcomings in the use of the criminal law for these purposes because of the justifiably high standard of proof required. Some transgressions may not be sufficiently serious to justify criminal prosecution, but would still warrant some form of sanction under the lesser standard of proof required by civil law.
- 12.51 It is important for public confidence that those who break the rules on political finance are seen to be held to account. The Electoral Commission now has a range of civil sanctions available, modelled on the *Regulatory Enforcement and Sanctions Act 2008*. These sanctions can only be applied where the Commission is satisfied beyond reasonable doubt that a criminal offence has been committed. When it seeks to impose a civil sanction, the Commission has therefore to meet a higher standard of proof than other regulators, where the regime includes civil offences, and who can therefore impose sanctions if satisfied on the balance of probabilities that the law has been broken.

Recommendation 15

A review should be undertaken of the current structure of offences under the legislation governing elections and party funding and of the ability of the Electoral Commission to apply effectively the civil sanctions it now possesses.

Combining campaigning limits

- 12.52 The distinction between regulated and non-regulated periods for party spending has arguably become more artificial because political parties now campaign almost continually, taking into account elections to the devolved legislatures and the European Parliament as well as to Westminster. Of the total number of days between 2001 and 2010, 1,624 or 44 per cent were regulated in relation to one election or another.
- 12.53 The Committee sees attraction in the simplification of the current overlapping limits through an annual or whole-Parliament limit encompassing all elections during a single UK Parliamentary cycle. Assuming that in a five year period there will be one general election, one election to the European Parliament and one election to each of the devolved administrations, under the current rules national parties contesting all seats would be subject to a combined campaign expenditure limit of £25.4 million.

Recommendation 16

The parties should open discussions with a view to replacing the different limits on campaign expenditure for different elections with a single campaign limit covering all elections in a single Westminster Parliamentary cycle.

- 12.54 The long campaign limit for candidate spending has increased transparency. In the light of the brief experience so far it is not obvious, however, that it serves any useful purpose. Few candidates spent much at all in the period immediately before the 2010 General Election was called. Out of 4,150 candidates in the election, 3,092 spent less than 10 per cent of their long campaign limit. Only 38 candidates spent more than 90 per cent.⁷
- 12.55 According to the Electoral Commission, the two distinct limits do, however, create:
- “...additional confusion and complexity”* [Jenny Watson, 3 November 2010, para 88].
- 12.56 The advent of fixed term parliaments will make it easier to have a common regulated period.

Recommendation 17

The long and short campaign periods should, for simplicity, be combined into a single regulated period for candidate spending in line with the four month period for elections to the devolved legislatures and European Parliament.

National limits and candidate limits: target seats

- 12.57 During the 2010 General Election candidates for the Conservative Party in their top ten target seats⁸ spent an average of 67 per cent of their combined long and short campaign limits. Labour Party candidates spent 23 per cent and Liberal Democrat candidates 65 per cent respectively in their top ten target seats. In only five of these seats did candidates exceed 90 per cent of the combined long and short campaign limits.
- 12.58 This does not provide a complete picture. It is legitimate under the current rules for parties to target their national spending on advertising or direct mail disproportionately at specific seats, provided such material does not specifically mention their local candidate by name.
- 12.59 We received contradictory evidence on whether targeting spending in this way is effective. A number of witnesses told us that a greater difference was made by the use of volunteer time and the attention of senior politicians than by additional paid-for posters or mail shots.

“I think that what brings electoral success is really good candidates, really good policies, really good campaigning... I do not see any direct correlation between spending money and success. What the spending of money can do is just facilitate the communication of the message. If the message is no good it doesn't matter how often you saw it.” [Lord Feldman, 15 February 2011, paras 227-229]

- 12.60 This was also a recurring theme in our visits to local parties.
- 12.61 But we still received complaints about targeted expenditure. One candidate told us:
- “What I am complaining about is that we had an expenses limit of £11,000 for the campaign and we know that in practice quite specifically locally the Conservative Party spent double that, if not three times that.”* [Martin Horwood MP, 11 November 2010, para 132]
- 12.62 At first sight it does seem a paradox that there should be strict, enforceable limits on spending by individual candidates, but that those limits can be circumvented by national spending in the constituency through the simple expedient of not mentioning the candidate by name.
- 12.63 But it is an accepted part of politics that all parties should pay particular attention to marginal seats. We do not think it appropriate to introduce new rules to prevent this.

- 12.64 It is also possible for central spending to be targeted at individual seats outside the statutory campaign period. Considerable resentment was created in some quarters by the activities funded by Lord Ashcroft before the 2010 General Election. The Committee does not, however, see anything improper in the parties behaving in this way provided the rules about donations and the actions of third parties are followed. In this particular case, our impression is that some of the resentment was caused by the source of the funds, the donor's alleged residence and the nature of the campaigning rather than the targeting of the seats.

The definition of campaign expenditure

- 12.65 A reduction in the limits on national campaign expenditure, if they begin to bite, will require greater clarity about what counts against them than exists at present.
- 12.66 A number of witnesses cast doubt on the adequacy of the present arrangements:

"Trying to define election spending is almost impossible." [Peter Watt, 23 November, para 376]

"It is a hideous nightmare trying to enforce an expenditure cap." [Francis Maude MP, 8 July 2010, para 164]

"While I was learning my trade going through this work, it seemed to me those distinctions were very artificial and if you try to base a system of expenditure controls on those distinctions you would end up in the most terrible trouble." [Sir Hayden Phillips, 8 July, 102]

- 12.67 It is important that the Electoral Commission can demonstrate a robust approach to verification and audit of the parties' relevant returns and takes appropriate action where avoidance is detected. The tight reporting time frame in the regulated period has made this particularly problematic in the past.

Recommendation 18

Existing definitions of regulated campaign expenditure should be looked at again in the light of the standardisation of party accounts, to guard against significant under-reporting.

Other elections

- 12.68 The Committee is conscious there are also elections to local government or mayoral office that have not

been covered specifically in this report. Elections are also planned for police and crime commissioners. Where rules do not already exist for the financing of such elections, we would expect them to be developed using the same principles underlying this report. We would, for example, expect candidates standing in elections for police and crime commissioners or as directly elected mayors to be subject to the donation cap like other regulated donees.

Citations for political peers

- 12.69 We referred in **Chapter 1** to allegations made in the past about a connection between donations to political parties and party political appointments to the House of Lords. We pointed out then that many donors to political parties have been highly successful in their particular field or have a longstanding relationship with the party nominating them and might well have received a peerage or other honour irrespective of any donation they make.
- 12.70 Limited information about the appointment of party political peers, in the form of a list, is provided by the Prime Minister's Office. We think it is important for transparency reasons that more information be provided about the individuals concerned, along the lines of the press notice issued by the House of Lords Appointments Commission for non-party political peers.

Recommendation 19

Parties should publish the citation provided by the party leader for political appointments to the House of Lords, giving the reason for the nomination.

Endnotes

- 1 Federal Election Commission, 2009.
- 2 Jacob Rowbottom, oral evidence, 16 November 2010, para 429.
- 3 Matthew Elliot, oral evidence, 16 November 2010, para 115.
- 4 James McGann, *The Global Go-To Think Tanks: 2010*, updated 2011, p.7.
- 5 The definition of "reasonable" would be key, as would enforcement of the right to request the information. It must be expected that other parties would be among those keen to ask questions about their competitors' funding.
- 6 Supreme Court, 'R (on the application of the Electoral Commission) (Respondent) v. City of Westminster Magistrates Court and the United Kingdom Independence Party (Appellant)', UKSC 2009/0205, July 2010.
- 7 Electoral Commission.
- 8 Target seat rankings taken from: www.guardian.co.uk/news/datablog/2010/apr/26/general-election-2010-target-seats-constituency-party.

Chapter 13

Devolution

- 13.1** The framework for the regulation of party finance in the *2000 Act* dates from a time when the devolved legislatures in Scotland, Wales and Northern Ireland were not long established. It would not be surprising therefore if there were a number of issues about party funding raised by the effect of devolution which the regime did not fully address.
- 13.2** We have already touched in the previous chapter on the impact of devolution on the number of elections faced by a national party in an electoral cycle. In this chapter we address four other issues raised with us. The final section deals with issues specific to Northern Ireland.

Transparency about the source of donations

- 13.3** Separate figures are available to show how much each party spends on elections in Wales, Scotland and Northern Ireland. No equivalent figures exist for the source of donations.
- 13.4** This matters if, like the SNP, you are concerned about the extent to which the national parties subsidise election campaigns in one nation from funds raised in another.

“...as parties we are expected to account for our expenditure in England, Scotland and Wales. We are not expected to say where our income came from across those same areas. So you have, on one side... detail of how much each party spends in each part of the UK. But where the money comes from is just a total, so we do not have any transparency as to where money is flowing to and from within political parties.” [Peter Murrell, 1 December 2010, para 311]

- 13.5** At present it is not possible to determine whether cross-subsidisation occurs, though it is likely that it does.

- 13.6** The UK-based parties see it in a different way:

“We regard ourselves as part of the national party, which is the United Kingdom party. So I do not actually see that is an issue for parties that are constituted on a United Kingdom basis; they are entitled to support their operations in any part of the United Kingdom in which they contest seats.” [Mark McInnes, 1 December 2010, para 177]

- 13.7** The Committee regards it as reasonable for parties operating across jurisdictions but with a Great Britain or UK-wide presence and headquarters to make their own decisions about how best to target their resources. But we also think that the extent to which such transfers occur is a matter of legitimate public interest. The standardisation of parties’ accounts might provide a simple way to ensure there is sufficient transparency to meet the public interest, if the information available about donors makes that possible. We would not think it justifiable to ask donors to provide new information about themselves solely for this purpose.

Policy Development Grants

- 13.8** There are similar arrangements to Short Money in the Northern Ireland Assembly and the Scottish Parliament. In the National Assembly for Wales, some money is made available through the Party Group Leader’s Allowance. In all cases support is available to all parties, including those in government.
- 13.9** Policy Development Grants are, however, only available to parties with two or more elected representatives in Westminster.
- 13.10** The smaller parties with representation only in the devolved legislatures regard this as unfair. They argue that, even though they have no Westminster MPs, they still need to develop their policies on devolved matters:

“My understanding of the rules is that those grants, are not purely restricted for use for Westminster manifestos but they can be used for wider policy development in the party. So a grant through Westminster can subsidise the wider operation of those parties and, in particular, can assist them in terms of Assembly elections, European elections and district council elections. I think it is not only just us; there are other parties such as the Greens in the Scottish Parliament, who are also trying to compete in a devolved context but they do not receive Policy Development Grants because they are dictated purely by Westminster representation.” [Stephen Farry MLA, 7 December para 743]

- 13.11 If this argument was accepted, as we think it should, it would be possible either to extend the availability of the grant to those parties with representation in other legislatures or to encourage the three devolved legislatures to set up their own equivalent schemes.

Recommendation 20

Policy Development Grants should be made available to parties with significant representation in the devolved legislatures, either by extending the Westminster scheme or by introducing equivalent schemes.

Treatment of smaller parties for inheritance tax

- 13.12 Legacies to a political party are exempt from inheritance tax if, at the last General Election preceding the transfer, two members of the party were elected to the House of Commons or one member was elected and the party overall received 150,000 votes. These eligibility criteria were presumably intended to prevent individuals from setting up a political party solely to avoid tax. But the effect looks a little unfair on the parties represented in the devolved legislatures, where fewer votes are available, but not at Westminster.
- 13.13 The Committee do not regard this as a major issue. Legacies do not make up a significant proportion of donations to political parties. But there is a case for amending the qualification criteria on grounds of fairness.

Recommendation 21

The exemption from inheritance tax should be extended to donations to political parties with representation in the devolved legislatures.

Northern Ireland

- 13.14 As described in **Chapter 3**, for historical reasons the rules on party funding in Northern Ireland differ from those in the rest of the UK in two respects:

- Under the *Northern Ireland (Miscellaneous Provisions) Act 2006*, donations and loans to political parties above the same reporting thresholds as in the rest of the UK have to be reported by the parties to the Electoral Commission. But the Commission is under a strict duty not to make these donations public because of concerns about intimidation.
- Parties in Northern Ireland are entitled to receive donations not just from individuals on the UK electoral register but also from Irish citizens, wherever they live in the world.

- 13.15 The Committee heard conflicting views on whether the first of these should continue.

“Anybody potentially donating to a political party would be concerned that they could be targeted.” [Peter Weir MLA, 7 December 2010, para 9]

“I think a lot of the arguments that have been used do not stack up. There is a whole range of political activities where the individual involved's name must go on the public record. For example, anyone who proposes or seconds someone for office or nominates them on their election papers, those names are public record and can be accessed. I am not aware of anyone ever having been attacked in Northern Ireland for having signed someone's nomination papers.” [Stephen Farry MLA, 7 December 2010, para 16]

- 13.16 Before the start of this inquiry the Government issued a consultation paper on this subject. The conclusion reached was that the current arrangements should continue for a further two years, but that the Government would consider how to achieve greater transparency.¹
- 13.17 In its written evidence, the Electoral Commission commented:

“We strongly support the introduction of publication of the details of future donations

and loans to parties in Northern Ireland as soon as possible. We recognise that the particular circumstances of Northern Ireland may require a managed transition towards full transparency, and have put forward suggestions about how this may be done." [Electoral Commission, written evidence, E6, p.7]

- 13.18 If full transparency cannot be achieved because of security concerns, the Commission supports the publication of all details except those that would identify the donor.
- 13.19 The Committee regards transparency as a foundation block in building public confidence in the political system. It is important that Northern Ireland voters are given information as soon as the political situation permits about the funding of their political parties, particularly those in charge of major budgets and decisions. It would be helpful if the Government were now to publish a timetable for the introduction of full transparency on the same basis as in the rest of the UK.

Recommendation 22

The Government should commit to a timetable to subject donations in Northern Ireland to the same transparency regime as in the rest of the United Kingdom. By the end of this Parliament, it should publish summary details of the total volume of donations above the reporting limit and the extent to which they come from Irish citizens residing outside the UK.

- 13.20 The arrangement whereby Irish citizens can to donate to Northern Irish political parties was recommended by our predecessor Committee. We were told by one witness in Belfast that this provision was now outmoded:

"We are keen to see Northern Ireland play a full role within the United Kingdom and to be viewed in that way. Therefore we do not see any difference, why Northern Ireland should be any different to the other parts of the UK in relation to where donations have come from." [Dr Philip Weir, MLA, 7 December 2010, para 484]

- 13.21 Our predecessors made their original recommendation based on the political realities of Northern Ireland and the Good Friday Agreement. We see no reason to take a different view.

Endnote

- 1 Northern Ireland Office, *Donations and Loans to Northern Ireland Political Parties: The Confidentiality Arrangements: Government Response to Consultation*, January 2011.



Chapter 14

Smaller parties

- 14.1 In this report we have focused discussion mainly on the three political parties that hold the majority of seats in the Westminster Parliament.
- 14.2 There are, however, a further 403 parties currently registered with the Electoral Commission in Great Britain and Northern Ireland.¹ Many are characterised by:
- Low levels of membership.
 - Tiny or no recorded income or expenditure.
 - No elected representatives at national level but possibly some at local level.
 - Even greater reliance on volunteer resources.
- 14.3 Others have relatively well-defined party structures and policies, but low levels of representation.
- 14.4 This chapter considers a number of issues raised in evidence to the Committee by some of the smaller parties.

The application of a donation cap to small parties

- 14.5 The major reason for a donation cap is to remove the perception that rich individuals or organisations can buy access or influence on policy. For that perception to exist a political party must be in government, have a good chance of winning an election or be able to exercise influence over policy or appointments in other ways. It is questionable therefore whether it is necessary to subject to the cap smaller parties with little prospect of securing any position in which they are able to influence policy.
- 14.6 Arguably, capping donations to smaller parties might also perpetuate the dominance of the current larger parties. As one witness put it:

“Smaller parties... clearly by definition cannot influence policy. Then such parties should not be covered by the recommendations. This will assist organisations and individuals to start new parties and thereby maintain a vigorous democracy.” [The Jury Team, opening statement, 27 January, 2011]

- 14.7 Ideally, all political parties should be treated in the same way. But the reality is that until a political party is able to build a wide membership it is unlikely to be able to rely on large numbers of small donations to keep it financially viable. Nor without representation at Westminster or in one of the devolved legislatures will it receive public subsidies. On balance the Committee is persuaded that, to encourage plurality, it is sensible to exempt smaller parties from the donation cap until they win sufficient representation in the House of Commons or devolved legislatures to qualify for state funding.

Recommendation 23

The donation cap should not apply to political parties without sufficient representation to qualify for Policy Development Grants, or the equivalent we have proposed in the devolved legislatures.

The regulatory burden on smaller parties

- 14.8 Regulation of the finances of political parties largely follows a one-size-fits-all approach. There is little discretion to treat smaller parties differently to larger ones.
- 14.9 The smaller parties raised two issues about this with the Committee.
- 14.10 First, expenditure returns by political parties and returns from individual candidates are covered by

separate pieces of legislation. Returns by political parties are covered by *2000 Act* (and administered by the Electoral Commission). Returns by candidates are governed by the *Representation of the People Act 1983* and collected by Returning Officers. The consequence is that political parties and their candidates fill in a number of different forms using slightly different approaches. This makes more burdensome what should be a simple process. The point applies to all parties. But it may be a greater issue for smaller parties with more limited staff or volunteer resources.

“The categories of expenditure cause a lot of problems because they are different for by-elections, general elections and annual accounts. There is absolutely no reason for them to be different; it wastes a lot of accounting time recording everything and for small parties that is a real pain.” [Sir Paul Judge, 27 January 2011, para 106]

“I agree that it is not coherent in that you have forms from the Electoral Commission and also forms from the Returning Officers; they do not match each other in any sense. I personally regard it as a bureaucratic rigmarole that actually does not really achieve very much. It is not particularly painful to comply with it once you know that you have to. But what does it actually achieve? I think that is rather difficult to say.” [Robin Tilbrook, 27 January 2011, para 108]

14.11 Second, the current reporting threshold for donations to political parties is £7,500. The Electoral Commission’s quarterly register of donations shows that a small political party only rarely receives a donation or loan above the threshold. But every registered political party fielding a candidate has to make four consecutive nil returns to the Electoral Commission before they are exempt from the requirement.

14.12 The obligation to make returns prevents a party neglecting to declare a donation by oversight. As the Green Party put it in evidence:

“My view is that there is a lot of regulation from the Electoral Commission. But part of the reason for that is to ensure that the public have confidence in our political and electoral system; and so whilst it may be convenient for me to suggest that we should reduce the regulation just because it makes my job easier, I would not want to reduce it if that gave ground to those people who did not have confidence in our system.” [Dean Walton, 15 February 2011, para 91]

14.13 Even so, requiring a small party to continue to make nil returns looks unnecessary, particularly since all parties have to publish an annual statement of accounts which should reveal the total of any donations received.

Recommendation 24

Smaller parties with no elected representatives should only submit donation returns to the Electoral Commission if they have a donation to report.

14.14 The Electoral Commission has told us it is considering a review of how the *2000 Act* regime is working in practice, including whether there is scope to reduce the administrative burdens. In the Committee’s view, such a review would be timely.

Endnote

1 Electoral Commission as at 10 November 2011.

Chapter 15

Ending the big donor culture

- 15.1** We made clear at the beginning of this report that we believe the current arrangements for party political finance to be unsustainable, damaging to confidence in democracy and in need of serious reform. Action should be taken now to end the big donor culture before another scandal does further damage.
- 15.2** We expect the proposals in this report to be controversial. But we believe them to be justified by the circumstances. Unlike the previous attempt at reform, we have not sought to negotiate a deal. We have instead set out a solution which we believe strikes the right balance between the principled interests of our democracy and the practical needs of the political parties.
- 15.3** It is important that proposals are regarded as a package. Failure to resist the temptation to implement some parts, while rejecting others, would upset the balance we have sought to achieve.
- 15.4** It is our view that the package stands up well against the principles set out at the beginning of this report:
- Imposing a cap of an appropriate size on donations significantly reduces any risk of favours being asked or given in return, and thus supports the integrity of the system in a major way.
 - Greater transparency about the parties' uses and sources of funds will promote greater accountability.
 - At a cost, providing the parties with a regular source of income will eliminate the dependence of the parties on a relatively limited number of individuals or organisations. For this and other reasons it provides the parties with a more sustainable funding model.
- Providing a more level playing field between the parties, in the sense that the funds available to them will depend much more on their relative popularity and much less on the relative wealth of their supporters, improves fairness.
 - Difficult though an increase in public subsidy will be in present circumstances, we believe the changes we have proposed are relatively modest and proportionate to the harm we are seeking to address.
 - The new approach will pose new challenges for the Electoral Commission. But we have made a number of suggestions which should help to improve their enforceability.
 - The additional public subsidy is calculated to still leave the two main parties short of funds. They will therefore have an incentive to find ways of increasing the size of their supporter base, which ought to encourage democratic engagement. Tax relief will support those efforts.
- 15.5** The Government and the political parties should begin now to make the necessary preparations for transition to the new regime, to come into force after the 2015 General Election. A number of our recommendations do not require legislation and could be implemented immediately. It is important that they should be.

Figure 30

How the package measures up against the principles underlying this report

Integrity	The imposition of a cap at a fairly low level ought to reduce radically the risk that favours will be asked or given in return for donations, and markedly improve public perception of the integrity and trustworthiness of the arrangements.
Accountability	We have recommended that all political parties should be required to produce their accounts according to a set of common standards, and to provide information about their sources and uses of funds in an easily intelligible way.
Sustainability	Providing the parties with a regular source of income, depending only on their popularity with the voters, and removing their dependence on a small number of significant donors who might remove their support should significantly improve the sustainability of the arrangements.
Fairness	Our proposals involve a significant levelling of the playing field for the major parties. In future their funding will depend much more on their relative popularity with the electorate and much less on the relative wealth of their supporters.
Proportionality	The post-implementation review we have recommended will check whether the new regime has any adverse effects and provide the opportunity to correct any part that results in undue harm to one or other of the parties.
Enforceability	The changes will pose new challenges for the Electoral Commission. We have indicated some of the ways they can respond to them including reviewing the structure of offences under the <i>2000 Act</i> .

Appendices

Appendix 1

About the Committee on Standards in Public Life

- A1.1. The Committee on Standards in Public Life is an advisory Non-Departmental Public Body (NDPB) sponsored by the Cabinet Office. The Chair and members are appointed by the Prime Minister. The Committee was established in October 1994, by the then Prime Minister, with the following terms of reference:

“To examine current concerns about standards of conduct of all holders of public office, including arrangements relating to financial and commercial activities, and make recommendations as to any changes in present arrangements which might be required to ensure the highest standards of propriety in public life.”

- A1.2. The remit of the Committee excludes investigation of individual allegations of misconduct.

- A1.3. On 12 November 1997 the terms of reference were extended by the then Prime Minister:

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

Membership of the Committee

Sir Christopher Kelly KCB (Chair)
The Lord Alderdice
The Rt Hon Margaret Beckett MP
Lloyd Clarke QPM
Oliver Heald MP
Sir Derek James Morris MA DPhil
Dame Denise Platt DBE
David Prince CBE
Dr Elizabeth Vallance JP
Dr Brian Woods-Scawen DL CBE

Secretariat

- A1.4. The Committee is assisted by a Secretariat consisting of Georgia Hutchinson (Secretary), Peter Hawthorne (Assistant Secretary), Cleo Blackman (Policy Adviser) and Maureen Keane (Secretariat Coordinator). Press support is provided by Maggie O’Boyle. Other members of the Secretariat left in the course of this inquiry: Rachel Finlay (Assistant Policy Adviser); Anju Still (Business Manager); Matthew Dowding (Secretariat Coordinator).

Cost of the inquiry

- A1.5. The estimated cost of this inquiry was £445,000. This figure includes staff and Committee costs, the cost of public hearings, research, external advice, and the cost of printing the report.

The Committee’s previous reports

- A1.6. The Committee has previously published the following reports:
- MPs’ Expenses and Allowances: Supporting Parliament, Safeguarding the Taxpayer (Twelfth Report (Cm 7724)) (November 2009)
 - Review of the Electoral Commission (Eleventh Report (Cm 7006)) (January 2007)
 - Getting the Balance Right: Implementing Standards of Conduct in Public Life (Tenth Report (Cm 6407)) (January 2005)
 - Defining the Boundaries with the Executive: Ministers, Special Advisers and the Permanent Civil Service (Ninth Report (Cm 5775)) (April 2003)
 - Standards of Conduct in the House of Commons (Eight Report (Cm 5663)) (November 2002)
 - Standards of Conduct in the House of Lords (Seventh Report (Cm 4903)) (November 2000)

- Reinforcing Standards: Review of the First Report of the Committee on Standards in Public Life (Sixth Report (Cm 4557)) (January 2000)
- The Funding of Political Parties in the United Kingdom (Fifth Report (Cm 4057)) (October 1998)
- Review of Standards of Conduct in Executive NDPBs, NHS Trusts and Local Public Spending Bodies (Fourth Report) (November 1997)
- Local Government in England, Scotland and Wales (Third Report (Cm 3702)) (July 1997)
- Local Public Spending Bodies (Second Report (Cm 3207)) (June 1996)
- Members of Parliament, Ministers, Civil servants and Quangos (First Report (Cm 2850)) (May 1995)

The Committee is a standing Committee. It can not only conduct inquiries into areas of concern about standards in public life, but can also revisit that area and monitor whether and how well its recommendations have been put into effect. In September 2001 the Committee published a stock-take of its recommendations made in the seven reports between 1994 and that date.

Appendix 2

List of witnesses who gave oral evidence

Exploratory Hearing: 9 July 2010
Sir Hayden Phillips, GCB
Rt Hon Francis Maude MP, Minister for the Cabinet Office and Paymaster General, Conservative Party
Rt Hon Jack Straw MP, Labour Party
David Heath CBE MP, Deputy Leader of the House of Commons, Liberal Democrats
Angus Robertson MP, Scottish National Party
Lord Pearson of Rannoch, United Kingdom Independence Party
Elwyn Llwyd MP, Plaid Cymru
Cllr Adrian Ramsey, Green Party
Dr Michael Pinto-Duschinsky, President, Research Committee on Political Finance and Political Corruption, International Political Science Association
Professor Keith Ewing, Professor of Public Law, King's College, London
Professor Justin Fisher, Professor of Political Science and Director of the Magna Carter Institute, Brunel University
Day 1: 3 November 2010
Jenny Watson, Chair, The Electoral Commission
Lisa Klein, Director of Party and Election Finance, The Electoral Commission
Sir Simon Jenkins, Journalist
Dr Stuart Wilks-Heeg, Executive Director, Democratic Audit
Day 2: 11 November 2010
Mike Smithson, Editor and Founder, Politicalbetting.com
Martin Horwood MP, Liberal Democrat
Peter Facey, Director, Unlock Democracy
Ben Gummer MP, Conservative Party
Gavin Barwell MP, Conservative Party
Day 3: 16 November 2010
Matthew Elliot, Campaign Director of No to AV and Chief Executive, TaxPayers' Alliance
Rt Hon Peter Riddell, Chair, Hansard Society
Ruth Fox, Director, Parliament and Government Programme, Hansard Society
Andrew Tyrie MP, Conservative Party
Jacob Rowbottom, University Lecturer and Assistant Director, Centre for Public Law, King's College, University of Cambridge
Day 4: 23 November 2010
Professor Anthony King, Essex County Council Millennium Professor, University of Essex
Lord Archy Kirkwood, Director, Joseph Rowntree Reform Trust
Mandy Cormack, Director, Joseph Rowntree Reform Trust
Peter Watt, Chief Executive, The Campaign Company and Former General Secretary of the Labour Party
Brian Roper, Donor, Liberal Democrats and President, Bath Liberal Democrats
Michael Farmer, Donor, Conservative Party
Gareth Thomas MP, Labour/Co-operative Party

Day 5: 1 December 2010

Magnus Linklater, Journalist

Dr Navraj Singh Ghaleigh, Lecturer in Public Law, School of Law, University of Edinburgh Law

David McLetchie MSP, Scottish Conservatives

Mark McInnes, Director, Scottish Conservatives

Peter Murrell, Chief Executive, Scottish National Party

Martin Hayman, Chief Executive, Scottish Liberal Democrats

Colin Smyth, Scottish General Secretary, Scottish Labour Party

Day 6: 7 December 2010

David Gordon, Journalist

Tony Stafford, Head of Guidance and Policy, Party and Election Finance Directorate, The Electoral Commission

Seamus Magee, Head of Office Northern Ireland Office, The Electoral Commission

Dr Elaine Byrne, Department of Political Science, Trinity College Dublin

Mark Cosgrove, Treasurer, Ulster Unionist Party

Peter Weir MLA, Democratic Unionist Party

Dr Philip Weir, Senior Policy Advisor, Democratic Unionist Party

Declan O'Loan, Social Democratic and Labour Party

Joe Byrne, Chair, Social Democratic and Labour Party

Paul Maskey MLA, Sinn Féin

Seamus Drumm, Six Counties Manager for Finance, Sinn Féin

Stephen Farry MLA, Alliance Party

Christine Robinson, Director of Policy, Alliance Party

Day 7: 9 December 2010

Bernard Hughes, former Head of Government and Public Affairs, ASDA

Byron Taylor, National Trade Union Liaison Officer, Trade Union and Labour Party Liaison Organisation (TULO)

Professor Keith Ewing, Adviser to TULO

Martin Bell OBE, Journalist and Former Independent MP

Howard Lake, Director, Fundraising UK

Day 8: 25 January 2011

Professor Richard Wyn Jones, Professor of Welsh Politics and Director of Wales Governance Centre, Cardiff University

Joanne Foster, Chief Executive, Welsh Liberal Democrats

Chris Franks AM, Member of Finance Committee, Plaid Cymru

Richard Grigg, Director of Finance, Plaid Cymru

Day 9: 27 January 2011

Geoff Mulgan, Chief Executive, the Young Foundation

The Lord Levy, Donor and Former Chief Fundraiser, Labour Party

The Rt Hon Lord Sainsbury of Turnville, Donor, Labour Party

David Monks, then Chief Executive of Huntingdonshire District Council and Chair of SOLACE

Sir Paul Judge, Leader and Treasurer, Jury Team

Robin Tilbrook, Chairman, The English Democrats

Day 10: 15 February 2011

David Murray, Chief Executive, Green Party

Dean Walton, Treasurer, Green Party

The Lord Feldman of Elstree, Co-Chairman, Conservative Party

Bob Crow, General Secretary, National Union of Rail, Maritime and Transport Workers (RMT)

Graham Allen MP, Labour Party

Chris Fox, Chief Executive, Liberal Democrats

David Allworth, Head of Compliance, Liberal Democrats

Amanda McLean, Former Chief Executive, Institute of Fundraising

Glyn Barker, Vice-Chair, PricewaterhouseCoopers UK

Ray Collins, former General Secretary, Labour Party

Appendix 3

List of those who submitted written evidence

The following 87 individuals or organisations submitted evidence to the Committee as part of its consultation exercise. The closing date for submission was 29 October 2010, however the Committee continued to receive and accept written submissions after this date.

Copies of submissions are available from the Committee's website www.public-standards.org.uk.

Name	Evidence Number
Democratic Audit	E1
Green Party in Northern Ireland	E2
Graham Allen MP	E3
Dr Stuart Wilks-Heeg and Stephen Crone (Democratic Audit)	E4
M.A. Neill	E5
The Electoral Commission	E6
Professor Mark Wickham Jones (University of Bristol)	E7
Joseph Rowntree Reform Trust	E8
David Gordon	E9
Damian Hockney	E10
Dr Andy Parkins	E11
Plaid Cymru	E12
Unlock Democracy	E13
Liberal Democrats	E14
Jacob Rowbottom (King's College)	E15
Taxpayers' Alliance	E16
Dr Richard Williams (University of Cambridge)	E17
Professor Justin Fisher (Brunel University)	E18
Dr Elaine Byrne (Trinity College Dublin)	E19
Professor Paul Heywood (University of Nottingham)	E20
Dr Jennifer van Heerde-Hudson	E21
Trade Union and Labour Party Liaison Organisation (TULO)	E22
Democratic Unionist Party	E23
Professor James Connelly and Dr Matt Beech (University of Hull)	E24
Tom Clark	E25
Tudor Greaves	E26
United Kingdom Independent Party (UKIP)	E27
Simon Holder	E28

Name	Evidence Number
The Labour Party	E29
Ian Lewthwaite	E30
Catherine Allinson	E31
John W. Latimer	E32
Carol Hylton	E33
James E. Phillips	E34
Iris Binstead	E35
Michael Morris	E36
John Moylan	E37
J.R. Parker	E38
Councillor Tony Woodcock	E39
Andrew Smith	E40
R. Willescroft	E41
T. McMenemy	E42
Ivan Meyrick	E43
Duncan Richardson	E44
John Robinson	E45
Mike Grizzard	E46
Philip Tilbrook FCA	E47
Veronica I. Upstone	E48
J.N. Coles	E49
Richard Thomas	E50
John R. Bourne	E51
Bryan Harris	E52
William Alcock	E53
John B. McNamara	E54
Green Party of England and Wales	E55
Scottish Green Party	E56
Jeremy Poynton	E57
A.W. Coles	E58
C.J. French	E59
Scottish National Party (SNP)	E60
Stuart Wheeler	E61

Name	Evidence Number
J. Wallace	E62
Nigel Clothier MBE TD	E63
Diana M. Donald	E64
G. Morris	E65
Tim Ambler	E66
Christopher Cannon	E67
Andrew Tyrie MP	E68
Conservative Party	E69
Len Cantrill	E70
Hansard Society	E71
Steven Wittich	E72
Alliance Party of Northern Ireland	E73
Social Democratic and Labour Party	E74
Jane Alison Brodie Carruthers and Stuart Hardwicke Carruthers	E75
Glyn Barker (PricewaterhouseCoopers)	E76
A.S. Hegarty	E77
Neil Sherlock	E78
Navraj Singh Ghaleigh (University of Edinburgh)	E79
John E. Strafford	E80
Bernard Hughes (Asda)	E81
Sir Anthony Bamford	E82
House of Lords Appointments Commission	E83
James G. Edgar	E84
Trade Union and Labour Party Liaison Organisation	E85
John Mann MP	E86
The Co-operative Party	E87
Conservative Party	E88

Appendix 4

Additional material considered by the Committee

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- The Committee also had access to the files of the Committee on Standards in Public Life's Fifth Report, *The Funding of Political Parties in the United Kingdom*, and selected documents from Sir Hayden Phillips's *Review of the Funding of Political Parties*.

Appendix 5

Figure 3: A timeline of regulation

1883	The Corrupt and Illegal Practices Act limits expenditure at constituency level to prevent the excessive spending and bribery seen at elections.
1925	The Honours (Prevention of Abuses) Act criminalises the sale of peerages or honours following the exposure of such practices by the Liberal Party.
1974	Government sets out proposals to allocate state support for opposition parties' Parliamentary functions in the House of Commons, which became known as " Short Money ".
1976	The Houghton Committee , set up by the Government to consider whether public funds should be given to political parties to assist them in carrying out their functions outside Parliament, recommends a 'modest injection of state aid' in the form of direct grants and partial reimbursement of candidates' expenses. A minority report by four Committee members rejects public funding.
1983	The Representation of the People Act consolidates previous legislation in relation to candidates' spending at elections.
1994	The Home Affairs Select Committee advocates a code of practice for political parties following the 'cash for questions' allegations which resulted in the resignations of Neil Hamilton and Tim Smith. A minority report by Labour members argues for stricter rules on disclosure of political donations.
1997	The Committee on Standards in Public Life's terms of reference are extended to allow them to conduct an inquiry into party funding following allegations about a connection between a donation from Bernie Ecclestone and the exemption of sport sponsorship from the ban on tobacco advertising. The following year the Committee recommends full disclosure of donations, a limit on campaign expenditure and tax relief on small donations.
2000	The Political Parties, Elections and Referendums Act is introduced following the CSPL report. It establishes the Electoral Commission as the regulator of political party finance, introduces central reporting and publication of donations, and sets national spending limits.
2006	The Electoral Administration Act subjects loans to the same rules as donations in response to allegations that loans were being used by the three main parties to circumvent the disclosure rules for donations.
2007	The Hayden Phillips Review , convened in the wake of concerns about the use of loans, recommends a cap on donations and additional public funding. Cross-party talks on the recommendations break down without agreement.
2009	The Political Parties and Elections Act introduces additional limits on pre-election spending by candidates in response to concerns about the targeting of expenditure outside regulated campaign periods. It also gives the Electoral Commission a range of civil sanctions.

Appendix 6

List of figures

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Appendix 7

List of abbreviations

AM	Member of the National Assembly for Wales
BBC	British Broadcasting Corporation
DUP	Democratic Unionist Party
EEA	Electoral Administration Act
EU	European Union
GB	Great Britain
GRECO	Group of States Against Corruption
IFAW	International Fund for Animal Welfare
MLA	Member of the Northern Ireland Assembly
MP	Member of Parliament
MSP	Member of the Scottish Parliament
NASUWT	National Association of Schoolmasters/Union of Women Teachers
NDPB	Non-Departmental Public Body
NI	Northern Ireland
ODHIR	Office for Democratic Institutions and Human Rights
OSCE	Organization for Security and Co-operation in Europe
PEF	Party and Election Finance
POA	The Professional Trades Union for Prison, Correctional and Secure Psychiatric Workers
PPEA	Political Parties and Elections Act
PPERA	Political Parties, Elections and Referendums Act
RMT	National Union of Rail, Maritime and Transport Workers
RPA	Representation of the People Act
SOLACE	Society of Local Authority Chief Executives
SDLP	Social Democratic and Labour Party
SNP	Scottish National Party
TUC	Trade Union Congress
TULO	Trade Union and Labour Party Liaison Organisation
UCATT	Union of Construction, Allied Trades and Technicians
UEA	University of East Anglia
UK	United Kingdom
UKIP	United Kingdom Independence Party
USA	United States of America
USDAW	Union of Shop, Distributive and Allied Workers
UUP	Ulster Unionist Party

Appendix 8

Note of dissent from the Rt Hon Margaret Beckett MP

There is much in the Committee's report with which I concur, and which merits broad support.

The Labour party is strongly supportive of reforms to make political finance and expenditure more equitable and sustainable, and will continue to try to build consensus on these issues.

However I have continued concerns about some specific issues, which I believe need further consideration, if this report is to form the basis for a new framework of regulation which is both fair & practical.

For my own part, I would have been happy to go further than the report recommends in two respects, the limits on expenditure, and the level of the donation cap. I also have one area of serious concern, the potential constitutional impact of the Committee's proposals, not least on the Co-operative Party.

Expenditure Limits

The public object to "big money" in politics. But it is the capacity to spend which is the incentive to raise it. I would have been happy to see a greater cut in overall levels of permitted expenditure.

Although the Committee recognises that spending drives demand for money in politics, many would feel that there is a need to go further than the proposal to tighten existing expenditure limits. There are, at present, no restrictions on some types of spending, especially at local level. The report recognises that the introduction of fixed-term parliaments creates a new opportunity to tighten controls here. This is an area which merits further and more widespread discussion.

Donation Cap

Giving money to political parties is a legitimate and important civic activity, but I completely accept, as does my party, the principle of a donation cap in the context of general reform of political finance.

But there are some practical problems with the specific proposals made, which require further consideration.

First, the cap may be too high. Certainly, the evidence the committee received suggests it is high by international standards. The Committee, rightly in my view, rejected proposals for a cap of £50,000. At a time when the national median wage is about £26,000, and the majority of our fellow citizens may never even earn £50,000, let alone make such a donation every year, this would have been far too high.

Even a permitted donation of £10,000 per year is beyond the reach of the vast majority. But, in the

absence of any data on donations below the present reporting threshold of £5,000, (recently raised to £7,500), the Committee felt unable to contemplate a lower cap. I would prefer to see this proposal given further consideration.

I also have grave concerns about the way trade union affiliation fees and the funding of the Co-operative Party are proposed to be treated under the cap.

The report draws a distinction between donations from trades unions, which would be subject to a cap, (as are other donations from organisations), affiliation fees.

However the proposed treatment of such fees has substantial constitutional implications for the Labour Party and indeed of all its affiliates.

In addition, such regulations will increase administrative costs substantially. Yet the report calls for the affiliation fee to be frozen for some time at the present level of £3 per head per year. Fixing the level of subscription that an organisation may charge its members is an unacceptable intrusion into the internal workings of a political party, which the Committee had sought to avoid.

The Co-operative Party

Similarly the Committee has not given enough thought, in my view, to the destructive impact that a crude donation cap would have on the Co-operative Party. The Co-op Party has a unique system of funding through its network of individual co-operative societies, which has its origins in the mutualist philosophy which gave rise to the movement.

But the Committee has decided that the support the Co-op Party receives from these co-operative societies should be regarded and treated in exactly the same way as if they were a single contribution from a wealthy individual. This seems to me to be a crude and in effect punitive approach which fails to respect the tradition and constitution of the Co-operative Party. I cannot agree to this aspect of the report as it stands.

Elsewhere in the report the Committee seeks to encourage wider political participation, have regard for the interests of smaller parties and avoid undue bureaucracy, and seeks outcomes which are both fair and proportionate. These are all aims I share.

But I fear that these desirable aims are not reflected in the impact of the present package of proposals on my party, still less on the Co-operative Party, which would possibly be driven out of existence if they were enacted.

State Funding

Finally, the Committee proposes a substantial increase in state funding for political parties. In the current economic climate, such a measure would need to command the confidence of the public and gain broad acceptance across the political spectrum.

Earlier, the Committee discussed producing an interim report. For my part, I do not feel that the evidence we have takes us the whole way to all the Committee's conclusions. For that reason, although I commend many of the proposals in this report, I do not feel able to support it in full.

Note of dissent from Oliver Heald MP

The Committee has spent more than a year taking evidence and deliberating on Party Political Funding. Whilst I support many recommendations in the Report, I regret that I am unable to support it in full. The Committee recommends that the proposals should not be implemented for some years and I believe that we should use this time for further reflection to ensure that the right changes are made for the long term.

The donation cap

Setting the level of the donation cap is a matter of judgement, taking account of the level below which undue influence could not reasonably be thought to be purchased and the principles of fairness, sustainability and proportionality set out in Chapter 2 of the Report. It is also important to bear in mind that the lower the cap, the more public subsidy is needed to fill the gap.

However, it is difficult to exercise good judgement without knowing the likely effects of your decision. At present, it is impossible accurately to "model" the financial effects on the political parties of any level of donation cap. The Committee is recommending improvements in political party accounts, which would make this possible. It is therefore premature to decide the level of the donation cap without having this information. These uncertainties have led the Committee to propose that a stock-take should occur immediately before implementation of the recommendations, but in my view that is when the decision on the level of the cap should properly be made.

The Report is peppered with references to the inadequate nature of the financial information available for illustrating the effects on the parties of particular levels of donation cap.

In Chapter 4 of the Report, the Committee drew attention to the difficulties encountered in obtaining coherent, comprehensive and comparable figures about political parties' sources and uses of funds. There is currently no legal requirement for political parties to follow a common set of standards in drawing up their accounts, although the Electoral Commission has now agreed draft standards with the main parties.

In Chapter 11 various health warnings are given against the financial illustrations.

In Chapter 12, the Committee recommends that more transparent and intelligible financial accounts are set out by the political parties, adopting common standards.

The Committee has found it difficult to compare the statements of account filed by the political parties with their reported donations. Reported donations include donations at the local level, but not those below the reporting threshold. The national statements of account for the parties show donations both above and below the reporting threshold and other sources of income received at the central level, but do not cover the local level. Figures available for the local level contain double counting of transfers to the centre.

There are also significant differences in the parties' structures which mean the way in which they account for donations and other income differs and makes comparison of their accounts very problematic. For example, the Labour Party had more income at the central level over the ten year period 2001 to 2010: £303.5m over 10 years compared to £272.9m for the Conservative Party, but the Labour Party channels more of its income to the centre than the Conservatives. In trying to "model" the effects of a particular level of donation cap, it is impossible accurately to identify how it impacts either locally or nationally.

In Chapter 2, the Committee sets out its principles for reform, including principles that party funding should be sustainable, fair and that reform proposals should be proportionate.

In my view, the Report does not meet these principles if it makes a subjective judgement of the level below which undue influence is unlikely. It is also important to be able to "model" whether or not it would put one of the main political parties at a major disadvantage and consider the implications for the Chapter 2 principles.

It was decided by the Committee that a £50,000 donation cap, as advocated by the Conservative Party, was too high – in part because it was seen significantly to advantage the Conservative Party and damage the Labour Party. The Committee considered that a cap at that level would take away most of the donation income of the Labour Party, whilst reducing that of the Conservative Party much less.

If the donation cap is set at £10,000, it may disadvantage the Labour Party in terms of donation income, but it may inflict worse damage on the Conservative Party in terms of overall central income. But, it has proved impossible to work out the implications accurately, because the accounts of the parties are not yet suitable for the purpose.

The calculations in Chapter 11 assume nothing has changed to affect the central income and donation figures for the decade 2001 to 2010, but it seems clear that there have been changes. For example, Short Money has changed hands since the 2010 Election yet is included in central income figures for two parties which no longer receive it and not for the one which now receives this £5 million a year. Donation income is expressed for the decade, but seems to have varied greatly, stronger for one party in the first half of the decade and for another more recently.

I am concerned that the proposed package should meet the principles of sustainability, fairness and therefore proportionality that we have set.

These uncertainties have led the Committee to propose that a stock-take should occur before implementation of the recommendations and an early review two years afterwards. It is made clear that for the stock-take, “an essential pre-requisite to that will be the clearer and more consistent information about the parties’ income and expenditure” recommended in Chapter 12. In my view, the accounting changes should be implemented first. Then, once the information is available, the financial impact of donation caps on the political parties should be fully “modelled” at different levels, so that the true impacts can be accurately assessed, before the level of the donation cap is decided and set.

The extent of income to offset losses caused by the cap

There is also considerable doubt about the extent to which the political parties will be able to find extra income from donations to offset the losses caused by the cap. Labour Party supporting trade union members will probably choose to opt-in to paying affiliation fees, which would evade the collective donation cap on affiliation fees. This is particularly so with the incentive that they would receive tax relief. In this way Labour could receive more than £3 million per annum to offset its losses of central income.

The Report assumes that many donors would respond to the donation cap by “spreading” their donations over a number of years and that a couple could both give the maximum allowed and that this would partly offset losses. This reasoning requires too big a leap of faith for me.

As explained in Chapter 4 and Figure 10, the value of donations has fluctuated in the past. The strength of a

donor’s support often changes over time, as happened with two witnesses to the Inquiry, Mr Stuart Wheeler and Sir Paul Judge, both former Conservative donors who went on to support other parties. It is wrong to assume that the urge to give will remain the same over a long period of time or that donors will be amenable to the concept of “spreading”. Moreover, modern spouses and partners often have different political views and do not share the desire to donate.

Even if some “spreading” did occur, a wide gap between the parties’ central incomes could arise. One way to address this would be to allow trade unionists to pay their affiliation fee to the party of their choice.

Trade Union members’ choice over affiliation fees

Whilst I welcome the Committee’s proposal that individual trade union members should be required to make an active choice to send their affiliation fee to the Labour Party if it is to be treated as an individual donation, I would like them to have the choice to send it to any political party.

The British Election Study 2010¹ suggests that about:

- 40% of trade union members identified themselves with Labour,
- 20% identified themselves with the Conservatives,
- 10% identified themselves with the Liberal Democrats,
- 10% identified themselves with another party, and
- the final 20% did not know or did not identify with a particular party.

Many of the trade union members who support Labour would tick a box to turn their affiliation fee into an individual donation, which would increase Labour’s funding. The Committee felt that any proposals should not unduly weaken or aid a particular Party. Allowing only Labour to benefit from affiliation fees does not satisfy this test.

Trade unions should be willing to allow their members to contribute to the political party of their choice through the union. This point was made to the Committee by a number of witnesses, including former Labour fundraiser Lord Levy. This would also encourage political engagement by all trade union members. At the heart of matter is the fact that these days as many union members vote for the other parties as for Labour.

It is widely thought that trade unions exercise undue influence on Labour through affiliation fees. If affiliation fees also benefitted other parties, this impression would be dispelled. It would also tackle the concern expressed by the Committee that trade unions might increase

affiliation fees in order to off-set losses in Labour income caused by less trade union members opting to pay affiliation fees than are paid now.

Times have changed for the trade unions and their membership is not predominantly Labour. Unions should be campaigning for their members' interests with all parties equally. Lord Alderdice and I argue that unions should be prepared to collect affiliation fees for all three main parties.

We have heard no argument of principle against the view that each union member should have the right to contribute through his/her trade union to whichever political party they wish. There is no bureaucracy required, simply a tick box for the member to signify the party and a cheque each year from the union covering all contributions for that party. It is argued that this does not fit in with trade union history, but we should be looking to the future.

Endnote

- 1 British Election Study 2010, internet pre-campaign survey – analysis by House of Commons Library



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