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**Committee on
Standards in
Public Life**

Stephen Kinnock MP
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27 February 2017

Dear Mr Kinnock,

Thank you for your letter of 14 February 2017 referring to your concerns about Vote Leave's campaign expenditure during the EU Referendum. We were also grateful for a copy of your earlier correspondence and for sight of the Electoral Commission's reply to you of 17 February. To avoid any confusion, just in case there is any risk of ambiguity, we would like to clarify that we were not party to the Electoral Commission's letter of 17 February which was sent on their behalf only.

We are very grateful to you for drawing this matter to our attention. As you know, party political funding and third party spending has been a long standing matter of interest to this Committee. Our 2011 report, *Political party finance, Ending the big donor culture*, called for reform of party funding and made a number of recommendations. Recommendation 10 (paragraph 12.23) of that report was directed at the risks associated with third party funding and suggested the Electoral Commission should pay particular attention to the risk of third parties being used to avoid the proposed donation cap:

It [the Electoral Commission] 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

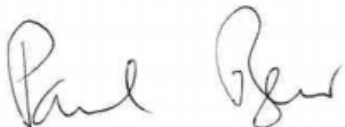
*avoidance mechanism should be one of the main issues for the proposed post implementation review.*¹

As you may know, various attempts at cross-party talks since the publication of that report have failed, and our key recommendations have not been taken forward. The Government's response (December 2016) to the House of Lords Select Committee on Trade Union Political Funds and Political Party Funding confirms that 'there is still no cross-party consensus on... the issue of party funding at this time'. The Government rejects our 2011 report as a basis on which to reform party funding but says it is 'open to constructive debate and dialogue on small-scale measures which could command broad support – if there was a positive reaction to such a potential step from the main political parties'. A copy of the Government's response is attached for ease of reference.

The Electoral Commission has however, reviewed the legislation and regulatory lessons for each referendum to consider how further improvements could be made for the future. As the Electoral Commission has explained in its letter of 17 February, the Commission will report on the regulation of campaigners at the EU Referendum in the spring and this will include recommendations to clarify the 'working together' rules. We welcome Mr Posner's suggestion that we might meet to discuss those recommendations and we hope this would be helpful to you. You will also have seen that the Electoral Commission announced on 24 February an investigation into the spending returns of both lead campaigns in the EU Referendum.

I am copying this letter to the Electoral Commission and will be publishing a copy on our website.

Yours sincerely,



Lord Bew
Chair, Committee on Standards in Public Life

¹https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/336913/13th_Report_Political_party_finance_FINAL_PDF_VERSION_18_11_11.pdf



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Lord Burns GCB
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December 2016

Dear Lord Burns,

Further to my letter of 5 December about the recommendations of the Select Committee on Trade Union Political Funds and Political Party Funding, I am writing to provide you with the Government's response to the Select Committee's report.

As well as setting out the Government's position on political party funding, the response also summarises the position on the Trade Union Act 2016 and trade union political funds.

I am depositing a copy of this response in the Libraries of both Houses.

I am copying this letter to Margot James, Baroness Neville-Rolfe and Baroness Chisholm.

CHRIS SKIDMORE MP

Memorandum to the House of Lords Select Committee on Trade Union Political Funds and Political Party Funding

Government response to the Select Committee's report

Background

The Select Committee on Trade Union Political Funds and Political Party Funding was appointed by the House of Lords in January 2016. The Committee's remit was to consider the impact of clauses 10 and 11 of the Trade Union Bill, including considering the Committee on Standards in Public Life's report of 2011.

The Government provided oral and written evidence to the Committee. The Conservative Party – the governing party – also submitted evidence. The Select Committee's report was published in March 2016.

The Committee's recommendations duly influenced the Lords and Commons debates on the Bill, leading to a number of Government amendments which were introduced in the Commons and which were then accepted by the Lords. The final Act itself thus represents the substantive response of the Government to the report's legislative recommendations.

The Committee has effectively been dissolved following the passage of the Bill. Notwithstanding, in line with the convention of responding to Select Committees, the Government would like to take the opportunity to summarise the issues, and to respond to the letter by the Committee's chairman, Lord Burns, of 22 November to the Minister for the Constitution.

Trade Union Act 2016

The Trade Union Act modernises the UK's industrial relations framework to better support an effective and collaborative approach to resolving industrial disputes. It will ensure that strikes can only happen as a result of a clear, positive decision by those entitled to vote, balancing the interests of unions with the interests of the majority of people who rely on important public services. The Act delivers the Government's manifesto commitments on trade union and political levy reform, including:

- a 50 per cent threshold in strike ballot turnouts and a 40 per cent support threshold in strike ballots for industrial action in important public services;
- an independent review of electronic balloting for industrial action ballots;
- strict mandates for industrial action - six months or nine months by mutual agreement;
- that new members joining a union will make an active choice to opt-in to their union political fund;
- improving transparency in trade union/public sector employer relations and ending the taxpayer subsidy for payroll deductions for trade union subscriptions; and
- updated investigatory and enforcement powers for the Certification Officer.

The Act received Royal Assent in May 2016 and is being implemented in a phased approach. The Government has now laid secondary legislation on the 40 per cent ballot threshold and to set the transition period for the opt-in to political funds. The affirmative resolution orders will now be debated in Parliament. Further secondary legislation will follow in due course.

Political funds

In Great Britain, trade unions and unincorporated employer associations that have passed a political resolution are able to run political funds. Currently, when there has been a successful ballot on a political resolution, the union or employer association must write to each of its members setting out the rules of the political fund, and informing them that they can opt-out of the fund (and letting them know where an opt-out form can be obtained). Members automatically contribute to the political fund unless they choose to exempt themselves from making contributions. Members are able to opt out of the political fund at any time. However, the majority of trade unions with political funds do not currently highlight the right to opt-out on their membership forms, leading to insufficient information for employees on their rights.

The intention of the Act's reforms will be to ensure that new members are better informed and have a conscious choice on whether they wish to contribute to a political fund. Such an opt-in is similar to the choices which are required by data protection and consumer protection law. Trade unions in Northern Ireland (most of which are headquartered in Great Britain) already operate by way of opt-in.

The Government accepted the majority of the Select Committee's recommendations in relation to trade union political funds, and the relevant provisions are contained in sections 11 and 12 of the Trade Union Act.

We have begun implementation of these measures and regulations to set the transition period for the opt-in were laid in Parliament on 5 December 2016, following consultation with the Certification Officer and trade unions with a political fund.

Party funding

The Government has been clear that this Act was not about party funding. The Act makes no change to the way that trade unions may decide to affiliate and/or donate from their political funds to any political party.

Despite a decade of talks, there is still no cross-party consensus on the separate and broader issue of party funding at this time. This is ultimately a matter for the political parties – the Government cannot impose consensus from Whitehall.

The Committee on Standards in Public Life's recommendations from 2011 did not obtain cross-party consent amongst the political parties, and indeed, it had dissenting opinions in its own report. For assorted reasons, Labour, Conservatives and subsequently Liberal Democrats disagreed with the report's conclusions. The report did not and does not represent a basis on which to reform party funding legislation.

The Committee on Standard in Public Life's suggestions from 2011 included taxpayer funding of politicians under a scheme which was estimated would cost around £20 million a year at 2010 prices. This would represent a considerable increase in taxpayer-funding of

political parties and given the continued need to pay off the inherited deficit, the Government believes there is no case for more taxpayer-funding of politicians. Instead, we believe savings are needed to help reduce the cost of politics, which we are taking forward – such as reducing the size of the House of Commons, cross-party talks on the size of the Lords, freezing Ministerial pay, and stopping the unanticipated hikes in the cost of Short Money.

The Government notes the Conservative Party's written submission to the Select Committee stated: "The assorted inter-party party funding talks over the last decade have failed to reach any consensus – not least since they have focused on controversial and complex structural changes... Notwithstanding our aspirations towards a comprehensive settlement, we would practically suggest that – entirely separate to this Bill – there may be smaller reforms that could command some broad support, rather than trying and failing to achieve an all-or-nothing, 'big bang' solution."

As Baroness Chisholm has outlined to the House of Lords, the Government is open to constructive debate and dialogue on small-scale measures which could command broad support – if there was a positive reaction to such a potential step from the main political parties.

More broadly, the Government wants a democracy that works for everyone, and is committed to taking steps to further increase transparency and accountability.