

# **Inter-Party Talks on Funding of Political Parties 2007**

Agendas, Papers and Minutes

30 March 2010



# **Inter-Party Talks on Funding of Political Parties 2007**

Agendas, Papers and Minutes



## Contents

Introduction	3
Agenda and papers for first session of Inter-Party Talks	4
Minute of first session	14
Papers for second session of Inter-Party Talks	18
This set of papers comprises a paper on affiliation fees and a paper on spending controls	
Minute of second session	62
Papers for third session of Inter-Party Talks	67
This set of papers comprises a paper on transitional arrangements and accompanying timeline	
Minute of third session	71
Agenda and papers for fourth session of Inter-Party Talks	75
This set of papers includes a paper prepared by Ministry of Justice officials containing proposals for reform of the Electoral Commission	
Minute of fourth session	127
Papers for fifth session of Inter-Party Talks	133
Omitted from this is a paper containing legal advice from Ministry of Justice officials	
Fifth session draft agreement	141
Minute of fifth session	148

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## Introduction

These papers are the Agendas, Papers and Minutes for the five sessions of the Inter-Party Talks on Funding of Political Parties chaired by Sir Hayden Phillips during 2007. The minutes of the first meeting were agreed by the Parties. The other four were drafts from the Secretariat to the Talks, authorised for circulation and comment to the parties by Sir Hayden.

The Agendas, Papers and Minutes are released in their entirety. There is one substantive exception to this: a paper which contained legal advice from Ministry of Justice officials on donation caps. The advice was given in confidence and Sir Hayden judged he should respect that. However Sir Hayden has made clear that the content of the advice relates to the lawfulness of a proposal to impose a cap on political donations, and the advice given was that a cap was capable of being compatible with the European Convention on Human Rights, provided that it was prescribed by law and sought to achieve a legitimate aim in a proportionate way. The curriculum vitae of advisors to the talks have also been removed as these do not contain substantive material.

These documents were laid before Parliament on 30 March 2010 by the Secretary of State for Justice at the request of Sir Hayden Phillips.

Annex A

**Agenda for Meeting 1**

15 May 2007

1. Chairman's Introduction, including discussion of the process for the talks, reflecting Hayden Phillips's letter of 9 May.
2. Limiting Donations
3. Limits on Spending
4. Preparation for next meeting



## Annex B

### **Working paper on limits on donations**

The Review of the Funding of Political Parties' Report of March 2007 states that "it has become clear that many of the elements of a possible agreement are now to hand." In relation to donations the report states:

"The status quo, in which there are no caps on donations, is unsustainable and therefore donations to parties should be limited.

Restrictions on donations should be buttressed by measures to prevent breaches of the new regulations."

In addition, one of the principles set out in the report is that

"A fair system need not initially be a uniform system but it should aim for a common result over time. Differences in the histories, structures and support base of the principal parties might require us to craft solutions which are responsive to their particular circumstances."

This paper starts by looking at the current system, before setting out the issues that the design of a limit on donations needs to address.

#### **Current system**

Donations of over £200 have to be from a permissible donor. A donation of less than £200 can be made anonymously, and so can be from an impermissible donor. These rules apply to all registered political parties in Great Britain, regardless of size.

The following are permissible donors:

- An individual on an electoral register in the UK;
- a UK registered political party;
- a UK registered company;
- a UK registered trade union;
- a UK registered building society;
- a UK registered limited liability partnership;
- a UK registered friendly/building society;
- a UK based unincorporated association.

Any individual, body or organisation not explicitly identified as a permissible donor is not therefore allowed to give a donation of more than £200. In addition, shareholder permission is required for public limited companies to give donations of over £5,000.

All donations of £200 or more need to be recorded by the party or accounting unit receiving them. Donations over £1,000 to an accounting unit other than party headquarters have to be reported to the Electoral Commission. Donations over £5,000 to party headquarters have to be reported to the Electoral Commission. In-kind donations also have to be given a monetary value and reported, in line with cash donations. Reporting of donations takes place on a quarterly basis, and a statement of accounts based on the calendar year has to be filed annually.

Since the passing of the Electoral Administration Act 2006, loans are now treated on the same basis as donations.

### **Points of agreement – A limit on donations**

It may be possible to reach immediate agreement on the following points:

- that the introduction of a limit (or cap) on donations would set a maximum on the amount that any permissible donor could donate to a party and its accounting units taken together in any one calendar year;
- that loans, donations and donations in-kind made in the same year from the same source would have to be taken together for the purposes of a cap;
- that an exception would need to be made for commercial loans, for example, to meet capital expenditure, or mortgages, provided they were made by UK financial institutions registered with the Financial Services Authority and their source, amount, terms and interest declared in the party's Annual Statement of Accounts;
- that any amount donated over the agreed limit would have to be returned to the donor, or forfeited if this were not possible. The current rules applying to donations from impermissible sources could be adopted.

### **Issues to be considered**

The key issues to be considered are discussed below. They are:

- Level of a cap
- Threshold for a limit on donations to apply
- Trade union affiliation
- Donations to third parties

### **Level of a cap**

The precise level at which a limit on donations would be set is a matter for discussion in the talks. The Review's Report states that a figure of £50,000 seems to be "a reasonable and attainable target."

It would be possible for the cap to be set at different levels for different categories of permissible donor. For example, the limit on donations from individuals could be higher than that for donations from other permissible donors.

It would be possible for the cap to be set at one level for donations to national parties, and at a lower level for donations to constituency parties or other accounting units, to reflect the difference in income between a constituency party and the national party, and the possibility of donations of a smaller amount being perceived as buying influence at a local level.

Similarly donations to holders of elective office, members of political parties and members associations in connection with their political activities will need to be regulated, building upon the current regulation for reporting of donations.

### **Threshold for a limit on donations to apply**

The talks should consider the threshold above which a limit on donations applies. The Review's Report states that there is:

“no reason to include new parties and those smaller parties without elected representatives within the scope of a donation limit. They would come within them if they secure election of a minimum of two representatives to a devolved assembly or parliament, to the European Parliament or to Westminster.”

The same criteria are proposed for eligibility for additional public funds.

Currently the following parties would be subject to a limit on donations following this criterion:

- Conservative Party
- Labour Party
- Liberal Democrats
- Scottish National Party
- Plaid Cymru
- Green Party
- United Kingdom Independence Party
- Scottish Green Party

### **Trade union affiliation fees**

The talks will need to consider the application of the limit on donations to trade union affiliation fees.

The Labour Party was formed by the trade unions. The current mechanism by which a trade union forms part of the Labour Party is through a process of affiliation, which is a collective decision. The trade union then becomes an affiliated member of the Labour Party, not the individual trade unionists.

Currently trade unions that affiliate to the Labour Party contribute financially through two sorts of donations – one-off, in cash or in kind, and affiliation fees. The way unions can raise money for these purposes is prescribed by the 1992 Trade Union and Labour Relations Consolidation Act. This Act also designates the Certification Officer as the person to oversee the processes.

There are variations in practice between different unions but the current way in which affiliation fees are paid is broadly speaking that an individual, when joining a trade union with a political fund, is given the choice to opt out of paying the political levy, which goes into the trade union's political fund. If the individual opts out, the subscription fee is normally reduced by the amount of the political levy. The individual retains the right to opt out of the political fund at any time, and an individual who has previously opted out can change that decision.

On affiliation fees, the March 2007 Report proposes that:

“these payments may be regarded as individual donations for the purposes of the new limit if, and only if, the decisions reached are clearly transparent and it is possible to trace payments back to identifiable individuals.”

### **Donations to third parties**

The March 2007 report argues that:

“Political parties should remain the primary agents of campaigning, not third parties.”

The current rules on donations to third parties follow the rules on donations to political parties in terms of the receipt of donations, the declaration of donations and the provision of accounts to the Electoral Commission.

A third party is an individual or organisation that is not standing or fielding candidates at an election, but which campaigns for or against a political party, parties or group of candidates at the election.

The talks should consider the application to third parties of the agreed limit on donations, in particular whether any limit on the amount of donations that a third party can receive should take account of the fact that third parties may legitimately undertake other activities, and receive donations in connection with those activities.

Annex C**Working paper on limits on spending at elections**

The Review of the Funding of Political Parties' Report of March 2007 says:

Expenditure on general election campaigns has progressively grown and should now be reduced.

All the major parties have agreed that campaign spending must be reduced. The Review argues that the system created by the Political Parties, Elections and Referendums Act 2000 (PPERA) has failed to control the spending of political parties largely because its definition of campaign spending is inadequate and excessively complicated.

The first part of this paper sets out the current limits on spending in elections in Great Britain. The second part of the paper describes the issues relating to the current system that were identified by the Review of the Funding of Political Parties. The 2005 expenditure of the three main political parties and registered third parties is given in Annex A.

**The current system**Limits on spending by political parties and candidates

	<i>Party</i>		<i>Candidate</i>	
	<i>Limit</i>	<i>Regulated period</i>	<i>Limit</i>	<i>Regulated period</i>
General election	£30,000 per constituency contested <u>UK limit: £19.23m</u>	365 days before date of election	Approx £11,000 Based on the number of electors in the constituency	From dissolution of Parliament
Westminster by-election	See candidate limit		£100,000	The occurrence of the vacancy
European Parliament	£45,000 multiplied by number of MEPs to be returned in each region it contests <u>GB limit: £3.375m</u>	4 months	Individual candidate not on party list: £45,000	Dissolution of European Parliament
Scottish Parliament	£12,000 per constituency contested £80,000 per region contested <u>Limit: £1.516m</u>	4 months	Constituency candidate approx £9,000. Individual regional candidate not on party list: approx £65,000	Dissolution of Scottish Parliament
Welsh Assembly	£10,000 per constituency contested £40,000 per region contested <u>Limit: £600,000</u>	4 months	Constituency candidate approx £9,000. Individual regional candidate not on party list: approx £65,000	Last date for publication of notice of election (approx 5 weeks)

Categories of spending controlled as campaign expenditure

National campaign expenditure is defined by the Political Parties, Elections and Referendums Act 2000 (PPERA) as expenses incurred with the following items:

- party political broadcasts,
- advertising,
- unsolicited material addressed to electors,
- manifesto and policy documents,
- market research or canvassing on voting intentions,
- dealings with the media,
- transport with a view to obtaining publicity for the election, and
- rallies and other events.

National campaign expenditure does not include

- any expenses which should be included in a candidate's election expenses return.
- Nor does it include expenses incurred on:
- publications issued in a particular area with information about elected officials or candidates for election (unless in relation to the European Parliament),
  - unsolicited material addressed to party members,
  - staff employed by the party, and
  - travel or other personal expenses incurred by individuals that are not reimbursed by the party.

These requirements of PERA are amplified and interpreted by the Electoral Commission in its *Campaign expenditure: Guidance for political parties*

([http://www.electoralcommission.org.uk/files/dms/Revised-Campaign-Expenditure-Guidance-2007-01-31\\_24154-6307\\_ENSW.pdf](http://www.electoralcommission.org.uk/files/dms/Revised-Campaign-Expenditure-Guidance-2007-01-31_24154-6307_ENSW.pdf)).

Limits on spending by individual registered third parties at elections in Great Britain

	<i>Limit</i>			<i>Regulated period</i>
	<i>England</i>	<i>Scotland</i>	<i>Wales</i>	
General election	£793,500	£108,000	£60,000	365 days
By-elections	£500	£500	£500	The occurrence of the vacancy
Scottish Parliament		£75,800		4 months
National Assembly for Wales			£30,000	4 months
European Parliament	£159,750	£18,000	£11,259	4 months

## **Issues relating to the current system identified by the Review**

The Review showed that the major parties agree that

- election expenditure should be reduced;
- any changes to current arrangements should not displace spending from the political parties and candidates to third parties.

The Review identified four key issues that require further discussion.

### Geographical scope of spending limits

The PPERA limits national party campaign spending, but local campaign expenditure is only controlled once Parliament is dissolved. There is therefore a risk that if national spending were limited further and more effectively local spending in the pre-dissolution period would increase substantially.

To manage this risk and to recognise the increasingly blurred boundaries between some aspects of national and local campaigning such as telephone canvassing it is necessary to consider controlling both national and local spending. In this context the following issues are likely to require further examination:

- fairness between incumbents and other candidates;
- permitting vigorous but fair and proportionate contests in marginal seats;
- the reconciliation of appropriate controls with the varying forms of the parties' constitutions; and
- the extent of any proposed regulatory burden.

### Time periods over which spending should be regulated

At present parties must limit their national campaign spending during the period beginning 365 days before a general election. However the date of a general election is only announced a few weeks before it is held. The 365-days period may also encompass or overlap with the 4 months regulated period for elections to the Scottish Parliament, Welsh Assembly, Northern Ireland Assembly or European Parliament. The 365 day limit results in complex regulations relating to whether or not expenditure incurred outside the regulated period was for goods and services used during the regulated period for campaigning and to elaborate apportionment rules.

The Constitutional Affairs Select Committee recommended continuous limits on expenditure and this option was discussed favourably by the Review. If this appears a viable solution to the issue the talks could examine whether

- such a system would impose a greater regulatory overhead than the current system;
- there should be an annual limit on spending, or one covering a longer period of time such as the lifetime of a Parliament;
- the spending limit should be higher in election years;
- the potential impact on parties' capital expenditure of annual limits.

### Categories of campaign spending

The Review identified that the current statutory definition of campaign spending is not comprehensive enough. The definition creates an incentive to reclassify items of expenditure as non-campaign related, even though the underlying purpose of the expenditure relates,

wholly or partly, to a forthcoming election. The current regulations in relation to both the regulated time period and categories of spending are easy to breach, whether inadvertently or otherwise, are very difficult to enforce, and to date have not been fully enforced.

The parties might discuss whether an improved definition of campaign spending can be devised or whether there are inherent difficulties in trying to isolate campaign spending. Any more comprehensive approach to the regulation of spending will require a careful assessment of the regulatory burden, particularly on smaller accounting units.

#### Actual spending limit

Whether or not the current spending limit should be reduced, and if so by how much is dependent upon what spending it is agreed should be limited. The Review recommended that spending be reduced to the trend which was observable at the 2001 general election. This would require both the Conservative Party and the Labour Party to reduce their own spending by £20m over the lifetime of a full Parliament.

#### **Third parties**

In addition to the four issues described above there is also the question of third parties. The Review argued that:

Political parties should remain the primary agents of campaigning, not third parties.

Any further limits on the spending of political parties and candidates would require third parties to be subject to corresponding restrictions.

#### **National party expenditure in 2005**

	<i>Campaign expenditure in 365 days preceding 2005 election</i>	<i>Total expenditure in calendar year 2005</i>
Conservative Party	£17.85m	£39.21m
Labour Party	£17.94m	£49.80m
Liberal Democrats	£ 4.32m	£ 8.78m

#### **Third party expenditure at the 2005 general election**

There were 26 registered third parties which spent a total of £1.7m. The two highest spenders were the Conservative Rural Action Campaign, which spent £550,370, and UNISON, which spent £534,916. The others spent less than £58,000 each.



Annex F

**Attendees at the Talks**

Sir Hayden Phillips  
Ted Whybrew  
Ian Gambles  
David Rowland

Jack Straw MP  
Peter Watt  
Declan McHugh

Francis Maude MP  
Andrew Tyrie MP  
Ian McIsaacs

David Heath MP  
Lord Kirkwood

# Inter-Party Talks: The Funding of Political Parties

Sir Hayden Phillips GCB, Chairman

## MINUTE

**Date:** 17 May 2007  
**To:** Sir Hayden Phillips GCB  
**From:** David Rowland  
Secretary to the Talks  
020 7210 0535

**Minutes of first session**

**2pm 15 May 2007**

**Location: Dover House**

**Attendees:** Sir Hayden Phillips (Chairman)  
Ian Gambles (Secretariat)  
Ted Whybrow CBE (former Certification Officer advising Secretariat)  
Rt Hon Francis Maude MP (Conservative Party)  
Andrew Tyrie MP (Conservative Party)  
Ian McIsaac (Conservative Party)  
Rt Hon Jack Straw MP (Labour Party)  
Peter Watt (Labour Party)  
Declan McHugh (Labour Party)  
David Heath MP (Liberal Democrats)  
Lord Kirkwood (Liberal Democrats)

Also observing the talks but not participating were the following:

Sheridan Westlake (Conservative Party)  
Pauline Prosser (Ministry of Justice official)  
Melissa Case (Leader's Office official)  
David Rowland (Secretariat)

1. **Sir Hayden** opened the talks by welcoming the participants and thanking them for their participation in the process. He stated his view that an agreement from these talks would provide a much-needed shot in the arm for party politics. He hoped that the parties understood that in the Report he published on 15<sup>th</sup> March 2007 he had chosen his words carefully in expressing where there were points of agreement, and also where there was not yet agreement. He was fully aware of the sensitivities of the various parties around the issues that were under discussion.
2. Sir Hayden stated that he believed that the talks should not come out with a figure for additional public funding greatly higher than the amount that he had suggested in the Report. On the subject of the regulator, Sir Hayden stated that, although not much time need necessarily be spent upon the subject, it would be important for all to be clear about what the Electoral Commission would need to be like in order to be an effective regulator.

3. As far as the outcomes from the first session of the talks, Sir Hayden said that he would need an indication from the Labour Party that they would consider seriously the issue of trade union affiliation fees and a cap on donations, and from the Conservative Party that they would consider seriously the issue of expenditure controls over the lifetime of a Parliament.
4. The Labour and Conservative Parties both expressed their willingness to do this. The Conservative Party added that they had already made this clear publicly and stressed the importance of keeping to the Review's recommendation that additional public funding should only be agreed once agreement had been reached on donations and expenditure.
5. **Jack Straw** stated that, following the reports of Sir Hayden, the Committee on Standards in Public Life and the Constitutional Affairs Committee, there was a consensus on the reforms necessary for the Electoral Commission to be an effective regulator. He proposed that Ministry of Justice officials prepare a paper setting out what these reforms could look like, based on the work they are currently doing, for him to be able to present to the talks. This was agreed by the other participants.

**Action: Ministry of Justice officials to prepare detailed paper on Electoral Commission reforms for discussion at a later date.**

6. It was agreed by all parties that everything said at the talks should be kept strictly confidential.
7. **Sir Hayden** pointed out the importance of keeping parties such as the SNP and Plaid Cymru informed of progress, and asked that the talks consider at an appropriate stage how this might best be done, and by whom. This was agreed.

### **Donations**

8. The Labour Party stated that the question of affiliation fees paid by the trade unions to the Labour Party was a very sensitive matter with deep historical roots. There was a perception that in the past a partisan approach had been taken to this issue by the current main opposition party when it was in government, and this had increased sensitivity on this issue. It was important to understand that trade unions affiliate to the Labour Party on the basis of fees paid by individual trade union members. The Labour Party were already looking into approaches to making individual decisions in this area more transparent and identifiable, with a view to enabling affiliation fees to be treated as individual donations along the lines of the Phillips Report. The Labour Party would not, however, be prepared to countenance the reintroduction of "opting-in" nor anything approaching this.
9. The Conservative Party acknowledged that this was a sensitive matter for the Labour Party and that it was not seeking any settlement which would damage the Labour Party. The system was complex and they would welcome further explanation of it. It was, however, important to address the perception that large donations from any source could buy political influence, and donations from trade unions had to be included in any regime for limiting donations which was agreed. The key test was that each decision to contribute money to a political party through an affiliation fee should be made as a matter of individual choice. If the decisions were made collectively by union officials,

then a cap should apply in the same way as to other organisations. This issue was fundamental for them, and more important and broader than opting-in or opting-out. In the long run only individuals should be able to donate to parties.

10. The Liberal Democrat Party stated that there needed to be a clear, traceable link between an individual decision to give money and the money going to the Labour Party. It was important to achieve this without erecting excessively onerous regulations which hampered trade union members from giving money to the Labour Party.

**Actions: Ted Whybrew would speak to representatives of the parties to discuss and explain the current situation. The Secretariat will produce a paper setting out possible solutions. This will be tabled in time for the meeting on the 7<sup>th</sup> June.**

### Spending

11. The Conservative Party stated that whatever spending controls were introduced should not damage local engagement in politics. An onerous compliance burden would do just that, and drive away volunteer local treasurers. It would be important to recognise that, given the structure of the Conservative Party, it would be extremely difficult for the national treasurer to assume responsibility for the spending of local associations. The Party was willing to consider the idea of capping expenditure over the whole of the electoral cycle, giving parties the freedom to determine the balance of their spending between years. In any limits set for local spending, it would be important to take account of the benefit of incumbency, which the Conservative Party felt had recently increased substantially by virtue of the introduction of the communications allowance.
12. The Labour Party acknowledged that some aspects of this issue were difficult for other parties, and stated that it had no wish to worst the Conservative Party financially. He recognised that there was an issue of the power of government not being used to complement the power of the party. It should also be recognised that political competition was conducted largely in marginal seats, and any solution must reflect this reality. The Labour Party argued, however, that the system set up by the PPERA 2000 had failed to control spending, and new controls were needed. They favoured annual spending limits but would consider the idea of a cap on spending over the electoral cycle. Limits on campaign spending had not worked, so limits on all spending except capital should be considered (and might be less onerous). Some regulation of local spending was also necessary. Spending on billboards should be stopped. There were benefits of incumbency, but these fell far short of the quantum of MPs' communications allowances, and a fair quantification should be attempted.
13. The Liberal Democrat Party noted that some purportedly national party expenditure was in fact local in nature, and some expenditure outside the regulated period in fact related to the election campaign. These issues would need to be resolved in any solution. The difficulties identified by the Conservative Party in holding local volunteers accountable for campaign spending were real for the Liberal Democrats too and needed to be carefully considered. There were some benefits to incumbency but they were limited.

**Action: Ian Gambles would take forward the work on spending, including looking at a cap over the whole of the electoral cycle, with the objective of presenting a paper to the talks for the 7<sup>th</sup> June meeting. Ian would therefore need to meet the party leads and also speak to local accounting units.**

**Summary of action points**

**Actions: It was therefore decided to cancel the meeting due on the 22<sup>nd</sup> May, and to hold the next meeting on 7<sup>th</sup> June.**

**Ted Whybrew and Ian Gambles would separately hold meetings with the parties' representatives to take forward the work on trade union affiliation fees and spending respectively.**

**Two papers would be produced for the meeting on 7<sup>th</sup> June, one on affiliation fees from trade unions and a cap on donations, and one on spending.**

**Ministry of Justice officials would prepare a paper on the Electoral Commission, including the period over which any such changes should be implemented.**

David Rowland  
Secretary to the Talks

## Affiliation Fees

In light of page 10 of *Strengthening Democracy: Fair and Sustainable Funding of Political Parties*<sup>1</sup> and the stated positions of each political party, this paper puts forward a range of options for the treatment of trade union affiliation fees and invites the parties to discuss which is most likely to form the basis for an agreement and what further development of that option is needed. It does not attempt to cover other issues relating to a cap on donations; these will be dealt with in a further paper for a later session of the talks.

For those who find it useful, diagrammatic representations are enclosed with each option.

Detailed background material is annexed showing how elements of the options could work in practice and gives examples of where particular unions currently operate a similar system. Annex B, which considers the issues around the individual's decision to pay an affiliation fee, is the most important of these.

Annex A proposes a fifth option, a variant on options 2 and 3, which focuses on the processes needed to ensure transparency and choice in payments from unions to political parties rather than taking the current regulation of political funds as its starting point.

While the Labour Party is referred to, the options would apply to any political party to which a trade union decided to affiliate. Historically, trade unions, because of their role in establishing the Labour Party, have only affiliated to the Labour Party.

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<sup>1</sup> This requires that for affiliation fees to be treated as individual donations, decisions reached must be clearly transparent and that it must be possible to trace payments back to identifiable individuals.

## **Option 1 – Trade Unions pass donations to the political party of the member’s choice**

The trade union would be able to collect donations from its members, and would be required to pass the donation to the political party of the individual’s choice. Where members decided to donate to the political party the union had affiliated to, these payments would form the collective affiliation fee. The union would therefore be affiliating based on 100% of its members who contributed towards the affiliation fee.

The union would continue to collect a political levy from members to fund other political activities.

Trade unions would annually ask each member whether they wanted to make a donation and if so, how much and to which political party. Examples of how this could work are given in annex B.

These donations would be included in the individual’s donation allowance but apart from this, there need be no limit on how much an individual could give via their trade union.

### *Analysis of option 1*

In this option, it is assumed that the individual has a choice about how much to donate. If this is the case, in order for an individual donation to form part of the union’s collective affiliation, it would need to be sufficient to cover the affiliation fee i.e. at present for the Labour Party it would need to be £4.

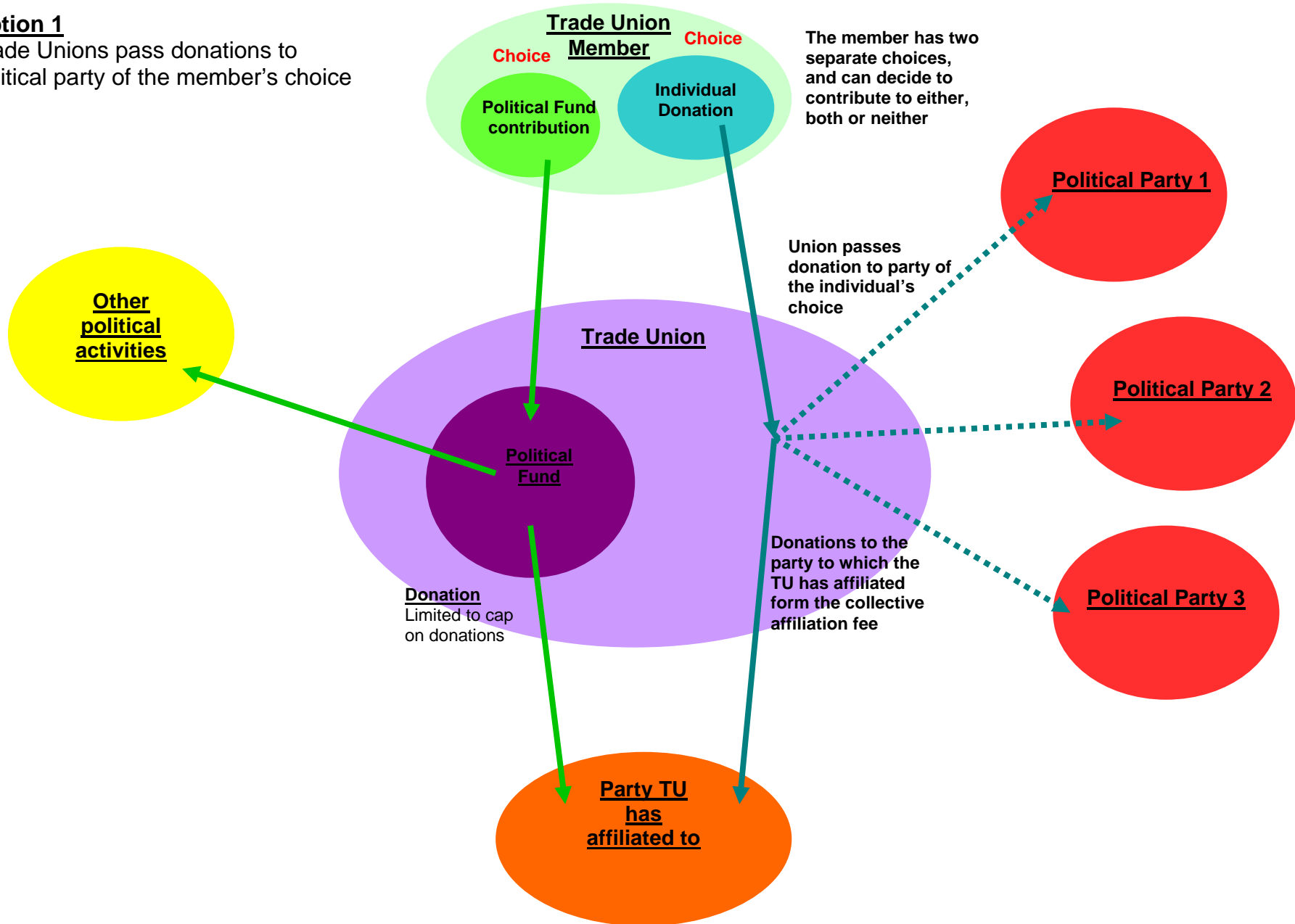
The donations from individual trade union members could vary between individuals and also be quite small amounts. The administrative costs incurred by the union in operating the scheme could, therefore, be disproportionate to the financial benefits to political parties.

Requiring union members to specify which party they would like to donate to is likely to reduce the amount of money the trade union passes to the Labour Party compared to the other options or the amount they currently receive in affiliation fees.

The other options relate only to trade unions that are affiliated to a political party. This option could be extended to non-affiliated trade unions with political funds and to other organisations.

**Option 1**

Trade Unions pass donations to political party of the member's choice





## **Option 2 – Trade Unions collect individual donations from their members to pay collectively their affiliation fee**

As in option 1, the trade union would collect donations from individual members who wished to contribute in this way. However, rather than passing donations to different political parties, the trade union would pay all of these donations as the union's affiliation fee to the party to which it had decided to affiliate. The Labour Party would continue to charge unions a fee to affiliate based on the number of members of the union who had chosen to contribute. The Labour Party currently charges £4 per member. The union would have no discretion to increase or reduce the amount per member and would be required to demonstrate that all the individual donations made by its members had been paid to the Labour Party as affiliation fees.

The union's delegate conference, as at present, would take the decision to affiliate to a political party and members would remain free to bring resolutions to disaffiliate (see annex E for examples).

The union member would have a choice about whether to make this donation, both initially and annually. There are a number of ways which this could work; examples are given in annex B. As with all the options, if the union member wished to support another political party, they could make a donation directly to the political party of their choice.

The political fund would continue to operate as at present, with donations to political parties from trade unions subject to the cap on donations. Members would be presented with two distinct choices: to contribute to the political fund, and a separate choice about whether to contribute to the affiliation fee. The choices could be presented to the individual union member in various different ways, considered in Annex B. The political fund would be used to fund all political activities other than affiliation fees, such as donations to political parties and political campaigning on workforce issues.

### *Analysis of option 2*

This option could potentially confuse trade union members who are asked both whether to contribute to the political fund and whether to make a donation towards the union's collective affiliation fee. It would cause additional administration for the union to run a separate scheme for affiliation compared to option 3, but less additional administration than for option 1.

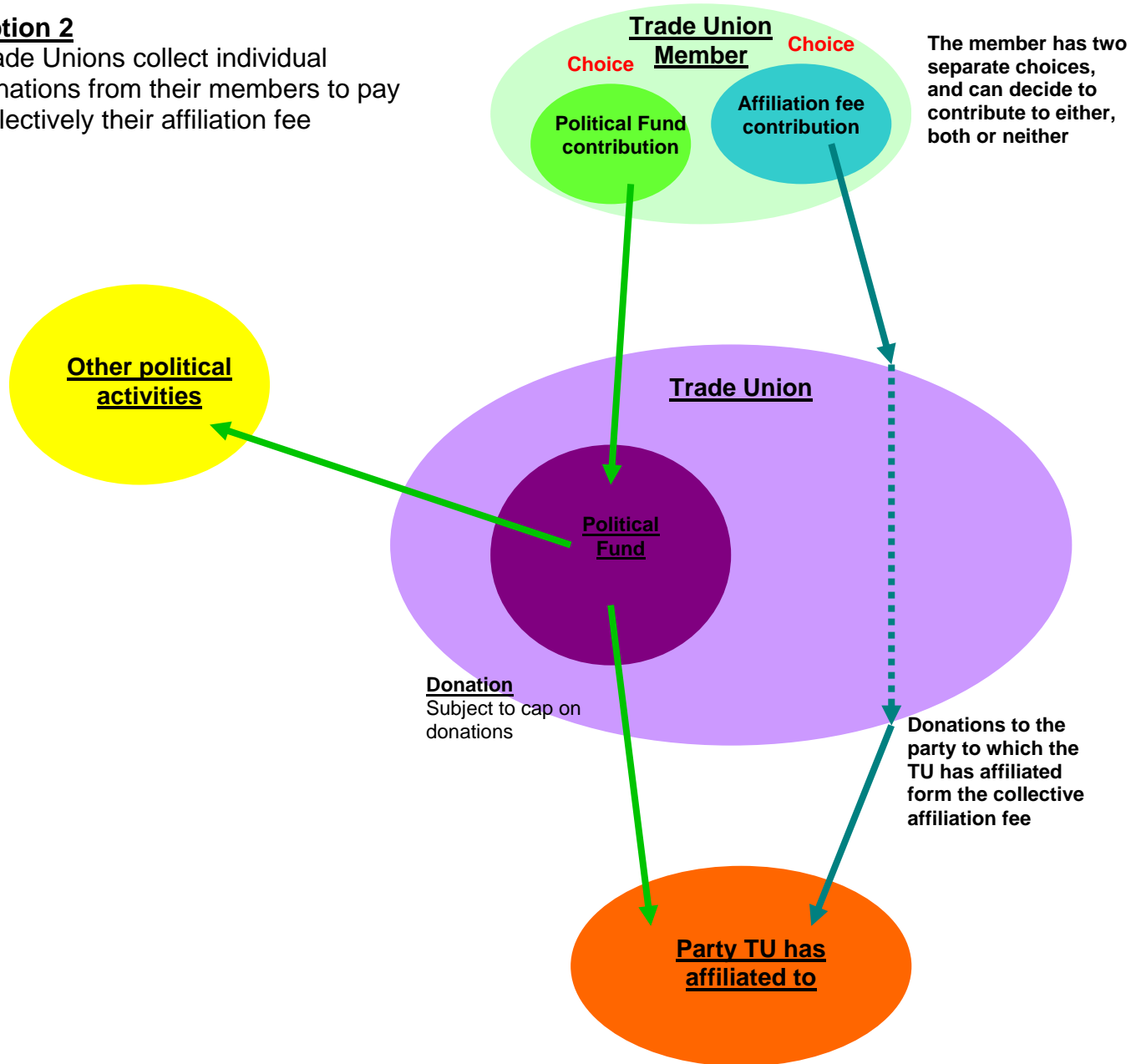
Trade unions would still be able affiliate to the Labour Party on the same basis at present, although there would no longer be the potential for the union executive to use discretion over the number of members it uses for the purposes of affiliating.

The financial impact on the Labour Party would be less severe than option 1, but it would still receive less money than at present.

This option would have no impact on non-affiliated unions with political funds.

**Option 2**

Trade Unions collect individual donations from their members to pay collectively their affiliation fee



### **Option 3 – Affiliation fees paid from political fund, but treated as individual donations for the purposes of a cap on donations**

This option would retain the political fund as the source of funding for all the trade union's political activities. A trade union deciding to affiliate to the Labour Party would be required to do so on the basis of 100% of its members who pay the political levy. The affiliation fee payments would be treated as individual donations for the purposes of a cap on donations. The amount would be fixed at the sum the Labour Party decided to charge unions to affiliate, which is at present £4 per member.

Normally, therefore, the individual union member would be asked to make only one decision – whether or not they wished to pay a political levy, including a specified contribution to the affiliated union's fee to the Labour Party. Some trade unions might, however, decide to give their members a separate choice to pay into the political fund but not contribute towards the affiliation fee by setting up two political funds, one of which would be used for general campaigning and one of which would be used to pay the affiliation fee. Members would then be given the choice of contributing to both political funds, either, or neither.

Whichever system the union adopted, there would be a direct relationship between the number of people who chose to contribute to an affiliated political fund and the amount that was paid to the Labour Party. The union executive would have discretion over how to use the remainder of the political fund(s) but donations to political parties would be subject to the cap on donations.

Members would be told how much they were paying towards the political fund, what that money was used for, and how much was passed to the Labour Party as an individual donation from them. With this information, and reminders, they could then be required to opt either out of or into paying (see annex B for further details).

#### *Analysis of option 3*

This might be more straightforward for trade union members to understand than the two choices offered in option 2, but would not guarantee that members would have the option to contribute to political activities but not pay the affiliation fee.

The trade unions would still be affiliated to the Labour Party on the same basis as at present. There would no longer be the potential for the union executive to use its discretion over the number of members to use for the purposes of affiliating.

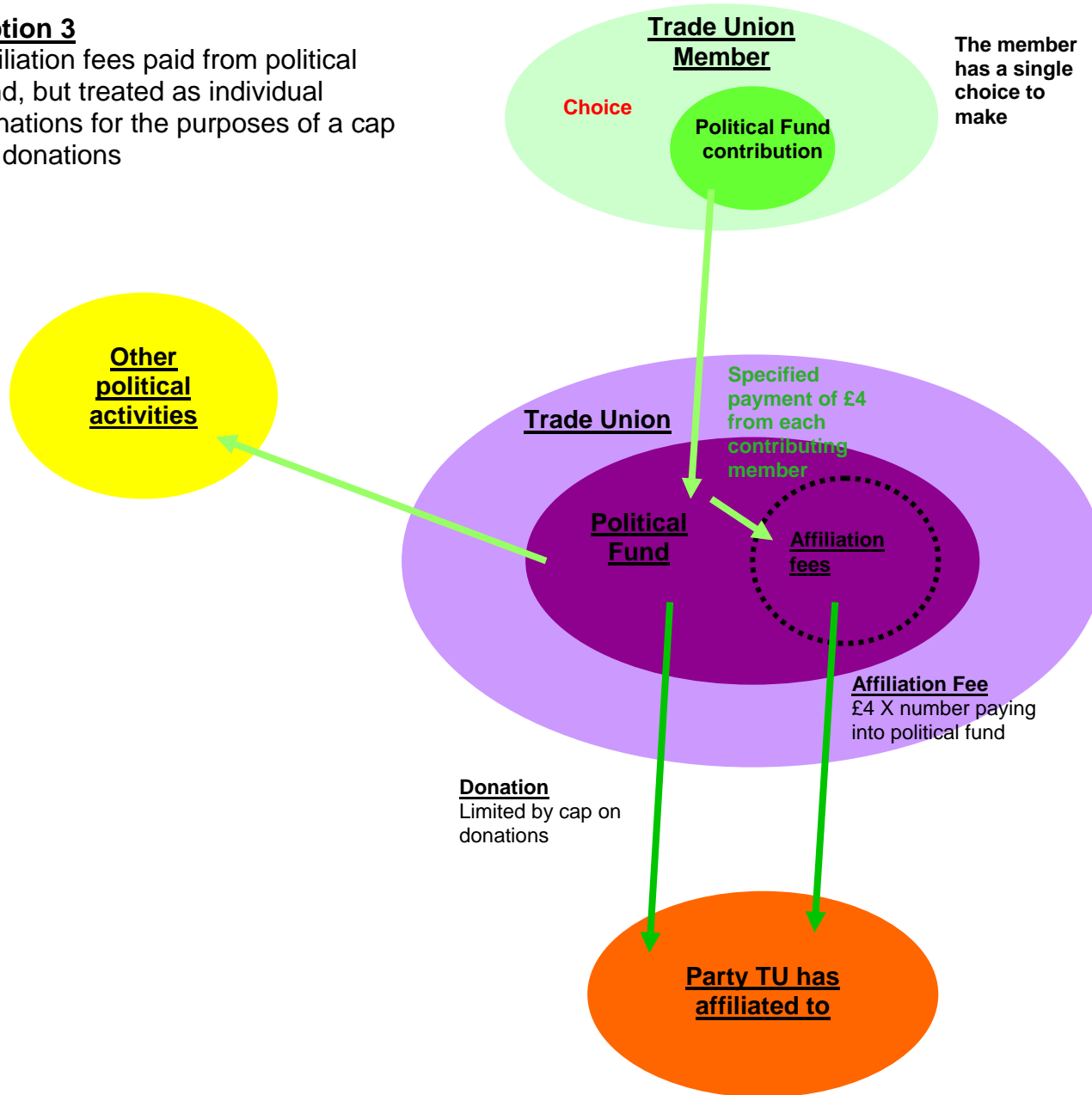
Not all unions have been raising enough through their political funds to affiliate 100% of their levy paying members at £4 each. The means by which the union got to a position where 100% of their levy paying members contributed to the affiliation fee would not need to be prescriptive. Some unions might decide to increase gradually the political levy over time; others might cut down on other political activities. Similarly the Labour Party might be prepared to consider setting different levels of affiliation fee for different categories of member. However, when considering transitional arrangements, a decision would need to be reached on the length of time trade unions needed to get to this position. It might be possible to introduce more quickly greater individual choice and transparency.

The financial effect on the Labour Party would be similar to option 2.

There would be little additional administration for the trade unions under this option, although the increase would be greater if the union decided to operate two political funds.

**Option 3**

Affiliation fees paid from political fund, but treated as individual donations for the purposes of a cap on donations



#### **Option 4 - Special cap on donations from trade unions of £10 X number of union members contributing to the political fund**

This option means that a Trade Union decides how best to represent its members interests politically through the operation of its political fund. It does this through its own democratic structures – Executive, Conferences, Constitution and so on. These arrangements were settled in legislation culminating in the 1992 Trade Union Act.

If a trade union decides to donate to a political party from its political fund it can only do so up to a limit of £10 per member to any political party. All donations would be declared on the basis of the total amount of the donation and the amount per member that represents. So, for instance, if a trade union has 1,000 members choosing to pay into its political fund and makes a donation of £4,000 to a political party it declares the £4,000 at £4 per member of the political fund.

An individual member can still opt out of paying into the political fund. Greater transparency and choice would be introduced for members to opt out. This would affect non affiliated trade unions as it would affect all political funds.

The total amount a trade union could give to a political fund would be limited to, for example, £10 per member. This amount would not count towards the individual's donation allowance.

All affiliation fees would be a donation and would be declared as the total amount and the amount that represents per member (currently affiliation fees are set at £4 per levy paying member). The affiliated trade union could only therefore donate an additional £6 per member to a political party.

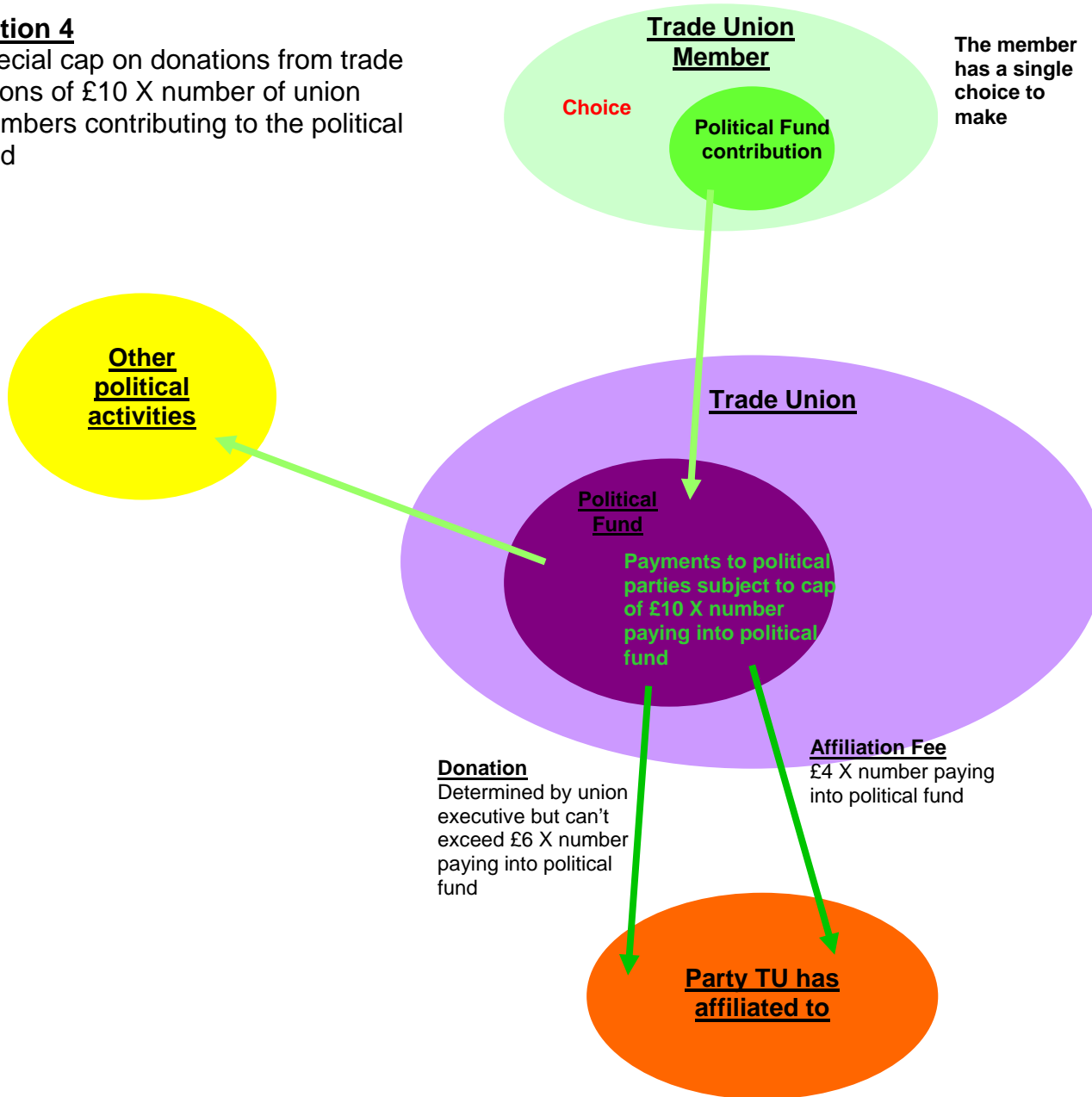
#### *Analysis of option 4*

Trade unions would continue to be able to give sums to the Labour Party similar to the levels they currently give. There would be no change in the relationship between the trade unions and the Labour Party. The administrative costs to the trade union would not change.

While the total amount a union could give to a political party would be capped, the cap would operate at a much higher level than that applying to other organisations, and the union executive's role in deciding how much to donate would still leave it open to accusations of trying to gain undue influence. For example, based on the numbers paying into the political funds in 2006, the new union Unite would be able to give over £10 million to a political party per year because it has so many members.

**Option 4**

Special cap on donations from trade unions of £10 X number of union members contributing to the political fund



*Annexes on Trade Unions and Affiliation to Political Parties*

*An alternative option*

**Annex A: 'No political fund' option**

*Supporting material on how the options could work in practice*

**Annex B: Individual decisions to pay an affiliation fee**

**Annex C: Trade union political activities at the regional and local level**

*Background material on the present system*

**Annex D: Member involvement in the decision to affiliate/disaffiliate to a political party**

**Annex E: Spending by trade unions as a third party at elections**

**‘No political fund’ option****Annex A**

Trade unions would be permitted to carry out political campaigning, including campaigning for or against a political party, from their general fund. The regulations on third parties would continue to apply to them (and are likely to be tightened to reflect proposals on spending). They would ensure that trade union political activities are transparent and spending on campaigning at elections is controlled.

Trade unions would be allowed to make donations to a political party from their general fund up to the level of the cap on donations. The existing regulations on donations would continue to apply to them, including declaring donations.

Affiliation fees would be treated as donations from individual trade union members for the purpose of a cap on donations along the same lines as option 2. Trade unions would be required to ballot their members before affiliating to a political party and have a mechanism for reviewing that affiliation if union members requested it. Political funds would no longer be needed.

*Analysis*

In terms of the political activities of trade unions, trade union law and electoral law overlap. The political activities of trade unions are therefore often regulated twice by two different systems. This overlap will increase if a cap on donations is introduced and regulation of third parties tightened

As option 2 notes, keeping the existing arrangements for political funds under a new scheme could confuse members, who could be faced with several choices. Several of the options increase the administration for unions and may result in a fall in contributions to political funds or limit the amount of money the union has available to carry out political activities such as campaigning. This alternative option would significantly reduce the regulatory burden on trade unions.

In recent years, there has been an increase in non-partisan organisations that campaign or lobby on political issues. The rules on what charities can do have been relaxed allowing them to campaign on political issues. It is, perhaps, more accepted now that campaigning on issues that affect their members is an integral part of what a trade union does.

Many unions have political funds as an ‘insurance policy’ without intending to support or oppose a particular political party, yet they still have to meet regulatory requirements designed to control party political activities.

The 10 year review ballots were originally intended to give union members a choice about whether their union should continue to support a political party. However, in practice review ballots have been fought on the basis of whether or not unions should have the ability to campaign on political issues. The legislation gives union members the simple option of having a political fund or not having one. It does not give them the ability to choose not to support a political party but still campaign. If a union wishes to review its decision to affiliate to a political party, this is done through the decision making processes of the union.

A small number of unions have given their members the choice to contribute to political campaigning but not to a political party by putting in place special procedures, but these are in the minority. Most members of affiliated unions can either contribute to all the functions of the political fund or none of them. The legislation has moved away from its original purpose in 1913 of allowing union members the right to decide not to contribute to a political party. This option restores that choice.



## Individual decisions to pay an affiliation fee

## Annex B

In order to give effect to the position outlined in *Strengthening Democracy: Fair and Sustainable Funding of Political Parties* that affiliation fees should be regarded as individual donations for the purposes of a cap on donations, there are four aspects to the individual's decision which need to be considered, in addition to the structural questions covered in the four main options. These aspects are:

- The nature of the individual's decision
- The manner in which the individual indicates their decision
- The information provided to enable the individual to make a decision
- The traceability of payments from the union back to named individuals

While trade unions with political funds are all subject to the same regulatory regime, each union has developed different ways of operating their political fund within that framework. Some of the unions' existing systems offer examples of how an individual could make a decision to pay an affiliation fee under a new system. This information is based primarily on internet research, so reflects particularly the practice in those unions who make much of their information available on their public website.

### *The nature of the individual's decision*

In unions with political funds, individual union members currently pay into the union's political fund unless they opt out of doing so. This could be changed to a position where members did not pay into the political fund unless they opted into doing so, as was the case between 1926 and 1946, although the Labour Party has stated that it would not be prepared to reach an agreement on this basis.

On the one hand, there is evidence to suggest that some trade union members are contributing to the Labour Party who would not do so if they were required to opt in. Historically, following the change to require union members to opt in to contributing to the political fund from 1926 – 1946, there was a decrease of over one third of those contributing. In recent elections, survey data suggests that about 50% of all trade union members, including unions without political funds, cast their votes for Labour. At present, out of all trade union members, 57% contribute to the political fund. Of those unions with political funds, about 10% opt out of contributing.

On the other hand, opt out systems seem to be increasingly common and generally accepted commercial practice in the wider economy, particularly as more people set up direct debits for a variety of purposes. Many membership organisations will automatically collect payments by direct debit annually without confirming whether the member still wishes to belong to the organisation and, in many cases, without reminding the member that a payment is about to be taken. This is not confined to membership organisations. For example, some restaurants automatically add a service charge to a customer's bill, and rely both on the customer noticing this and going to the trouble of changing the amount they wish to pay. Therefore, the expectations of individuals and context of the debate are, perhaps, changing.

### *The manner in which the individual indicates their decision*

An opt in system would require each member to tell the union if they wished to contribute and unions are likely to make it as easy as possible for their members to do so. There are therefore fewer considerations about how an individual indicates their decision than if an opt out system were

retained. There are a number of practical ways of making sure that, under an opt out system, the individual is aware of their right to opt out and can take an informed decision.

While a union is required to have certain rules in its rule book about how its members can opt out of contributing to the political fund, it is not obliged to provide its members with any additional information. Under a new system, trade union members could initially be provided with information about the political fund on the membership form. For example, the Musician's Union (MU) has the following statement on its application form:

**“Political Fund:** Trade union members need a political voice. Politicians make decisions that affect the lives of union members at work and at home. Unions need to be able to influence those decisions. For that they have to have a Political Fund. If you don't want to contribute to the MU Political Fund, however, you don't have to - you have the right to opt in or out of paying the levy whenever you want. For further details please contact the Union.”

A union could go further and provide a box on the membership application form which a member could tick in order to opt out of paying the affiliation fee. UNISON already operate such a scheme, although this is partly because for historic reasons they operate both an affiliated political fund and general political fund, and invite members to choose to which they would like to contribute.

After a member has joined the trade union, there is no requirement on trade unions to remind members that they contribute to the political fund. However, after the initial ballot on establishing a political fund and each ten year review ballot, unions are required to tell their members about their rights to opt out. Some unions do provide information more frequently, with many having taken the opportunity of the current Labour deputy leadership elections to remind their members about affiliation and that they need to have opted to pay the political levy in order to receive a ballot paper. UNISON has forms available on the political fund pages of its website that enable a member to opt out of contributing to the political fund at any time.

Unions are required to communicate information about the political fund to their members annually using a communication method that is acceptable to the Certification Officer, either by writing directly to its members or by using the method which the trade unions usually uses to communicate with its members. It would be straightforward for unions to add to this a reminder about how to opt out of contributing to the political fund. The reminder could include a form for members to use to indicate their wish to opt out, if they so chose.

Another possibility would be to require a union to write to its members directly once a year to remind them of their right to opt out, rather than allowing unions to chose an acceptable communications method. This could be costly for many unions given the number of people involved, although for some unions whose members are likely to have an email address, email could reduce the cost. However, it could bring advantages such as providing an opportunity to encourage members to get more involved in local political activity. The responsibility for sending reminders to union members could even be placed on the political party receiving the affiliation fees, which could help it to build up a relationship with supporters.

Whichever approach is adopted, it could be used to explain to members the changes introduced by a new system, how their individual contributions would be affected and how to opt out from the new system.

*The information provided to enable the individual to make a decision*

For members considering joining the union, Amicus provides information on how much the political levy is per week alongside its subscription rates. As a result, members are clear how much they are paying and for what purposes and can make an informed decision about whether to opt out of paying this additional amount. This could be extended to all unions.

Unions are currently required by statute to inform their members of the total income and expenditure which relate to the union's political fund. This could be extended to include how many members contribute towards the affiliation fee and the political fund and how much money is passed to political parties in affiliations and donations. Unions also have to submit this information in annual returns to the Certification Officer which are then made publicly available. These could be extended in the same way which would increase the amount of information in the public domain.

Many unions meet the current requirement by providing the information in their journal. The additional information would help improve member awareness of the political fund and help the union to be even more accountable to its members.

Some unions already go further than this. For example, Amicus has issued a report on implementation of policies agreed at their annual policy conference to members which includes progress on issues including political activities such as their anti-BNP campaign. UNISON provides a monthly magazine for both its Labour Link political fund and general political fund keeping members regularly up to date on the union's political activities.

*The traceability of payments from the union back to named individuals*

Options 1 to 3 require there to be a direct link between the contributions made by individuals and the amount received by the Labour Party in affiliation fees.

At present, two trade unions affiliate on the basis of more members than they have contributing to the political fund, while the majority affiliate on the basis of fewer members. In many cases this is because the unions have not collected enough money from their members to affiliate on the basis of the total number of members contributing. Two unions affiliate on the basis of 100% of members they report as contributing to the political fund.<sup>1</sup> These are the Union of Shop, Distributive and Allied Workers (USDAW) and the National Association of Colliery Overmen, Deputies and Shotfirers (NACODS).

These examples suggest that it would be possible for all affiliated unions to get to this position. However, they would need time to implement such a system so that any increases in members' contributions could take place gradually.

Unions are required to keep a statutory register of members' names and addresses. These details are kept confidential. To assist in ensuring there is a direct link between the numbers who contribute towards the political fund/affiliation (depending on the option), this duty could be extended to require the union to include on that register details of which members contribute and which have opted out.

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<sup>1</sup> In some unions, retired members, members working overseas or members outside Great Britain do not pay into the political fund or are excluded from the number of members used to calculate the affiliate fee.

## Trade union political activities at the regional and local level

The options address affiliations from the national trade union to the national Labour Party. However, trade unions affiliate at a regional and local level to the Labour Party, make donations at different levels and some branches have a constituency development plan with a specific Constituency Labour Party. The total of these regional and local payments is estimated to be some £1 million per annum, about 10% of the national payments.

### *Affiliation to TULO*

Of the £4 affiliation fee, 10p goes to the national Trade Union and Labour Party Liaison Organisation (TULO), an accounting unit of the Labour Party. The national TULO accounting unit transfers some of its funds to regional TULO accounting units. The TULO accounting units have three purposes; firstly maintaining and serving the national TULO committee, secondly building the profile of trade unions within the Labour Party and thirdly training activists (source: TULO accounts 2005.)

All options would not have any impact on the existing arrangements.

### *Regional and Local Affiliation*

Some trade union regions currently affiliate to regions of the Labour Party, paying an affiliation fee in addition to the national affiliation fee. Trade Union branches can affiliate to Constituency Labour Parties or branches of the party. This affiliation determines the role the trade union plays in selecting candidates for elections and sending delegates to Conferences. Option 4 would not alter the current arrangements, but options 2 and 3 would require some changes to be made to existing practices in order for these affiliations to continue. Option 1 would prevent regional and local affiliations for larger unions whose total paid in affiliations would exceed the cap on donations.

Once a decision has been made about national affiliation, further policy options can be developed on local and regional affiliations. Two possibilities are outlined below for illustrative purposes, but this is an issue that requires further work to reach a satisfactory solution.

Under options 1 to 3, the union could operate similar arrangements for affiliations fees at the regional and local level as at the national level. For example, an individual union member could be asked for another £1 donation for regional affiliation and another 20p for local affiliation, with the arrangements for individual choice and transparency in place and a direct link between members who contribute and the number who are used to calculate the level of affiliation (these amounts are illustrative, and do not reflect the current affiliation levels which are much lower). However, given the small amounts of money currently involved, the administrative costs could outweigh the benefits.

Alternatively, trade unions could use the numbers who contribute to the national affiliation fee and live in a particular geographical area to determine how many members to use for the purposes of affiliation and therefore calculating the levels of representation the trade union qualifies for in that area. This is just one possibility and it would be for the Labour Party to determine how it wished to operate its democratic structures.

### *Local and Regional Donations*

In addition to local and regional affiliations, trade unions make donations at all levels. Trade union branches have in some areas set up constituency development plans. Constituency development

plans replaced sponsorship of particular MP's election expenses by a trade union.<sup>2</sup> Constituency Development Plans are concerned with the longer term and do not involve the MP. They set out the level of donation a trade union will make to the branch, what it can be spent on and the reports the trade union will get on how the money has been used.

All these areas of spending would be classed as donations under the options and subject to the cap on donations (although option 4 would allow a higher level of spending than options 1 – 3). It is anticipated that in-kind donations from trade unions would be treated in the same way as in-kind donations from any source, as at present (see donations paper considered at the first meeting of the inter-party talks).

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<sup>2</sup> An MP's parliamentary activities are now restricted if they receive more than 25% of their election costs from a particular trade union.

*Background material on the present system*

This information is in addition to the background paper provided to parties since the last meeting. Further copies of the background paper are available from the Secretariat.

**Annex D**

**Member involvement in the decision to affiliate/disaffiliate to a political party**

A union's delegate conference will decide initially whether to affiliate. If it decides to affiliate, it would then be open for members to bring motions to disaffiliate using the union's normal democratic procedures. For example, the Broadcasting, Entertainment, Cinematograph and Theatre Union (BECTU) has considered and rejected motions to disaffiliate every year since 2001. Earlier this year, its annual conference voted against the following motion:

“That this Annual Conference [resolves] that due to the financial condition of BECTU and to assuage any risk to staffing, the union ceases its affiliation to the New Labour Party or to any political party until its finances are in better shape at some time in the future, if BECTU members so wish.”

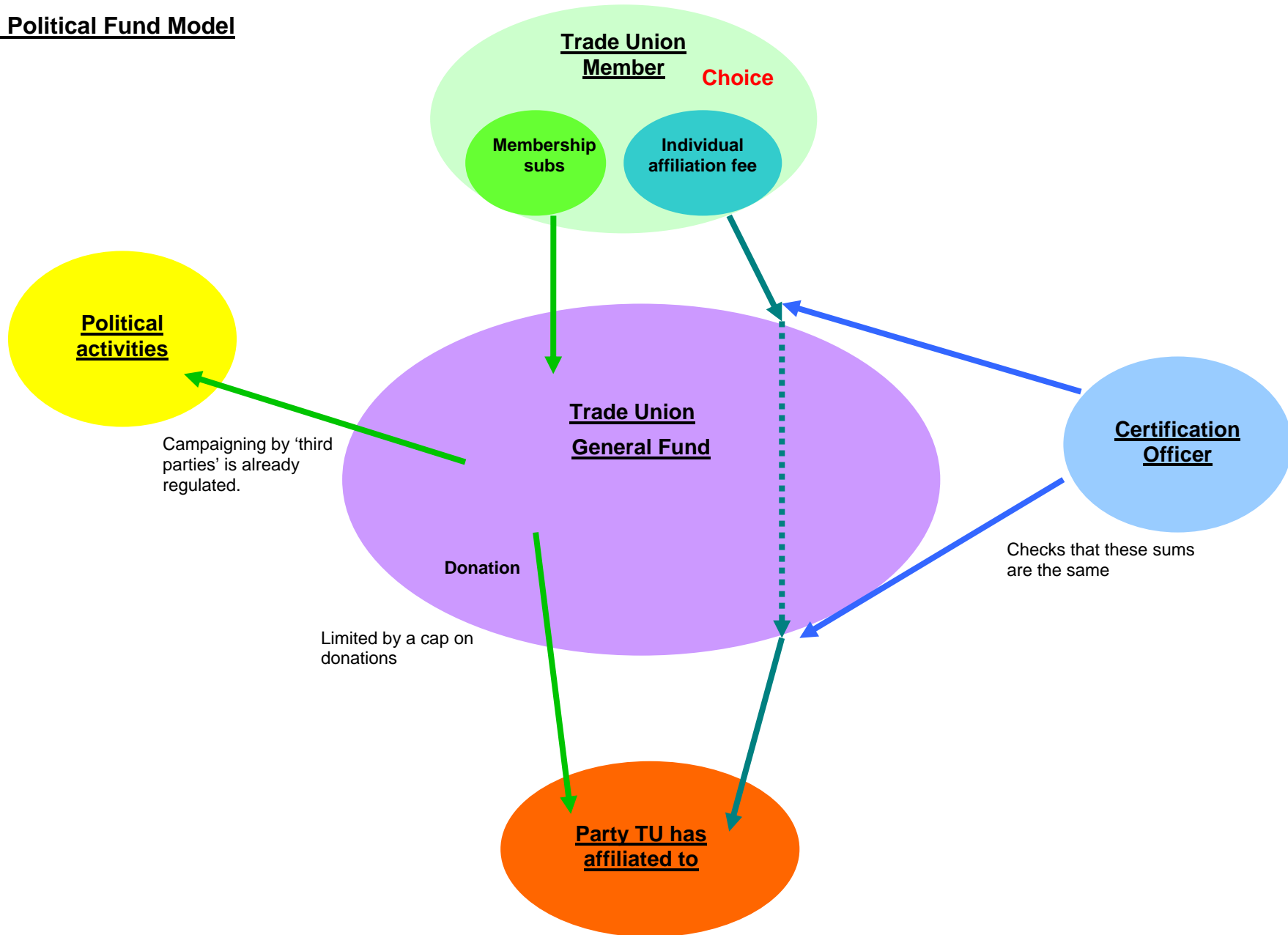
**Annex E****Spending by trade unions as a third party at elections**

Of the 29 unions with political funds, only seven of them campaigned as third parties at the 2005 general election. The tables below show the expenditure by trade unions compared to expenditure by all other registered third parties in the 365 day period prior to the 2005 general election (for more details of the rules relating to third parties, please see annex I of the *Interim Assessment*). While all spending was by affiliated unions, this was not all spent on campaigns supporting the Labour Party or opposing their nearest rivals. For example, some was spent on campaigns encouraging the electorate not to vote for the BNP.

Name of Recognised Third Party	Total Controlled Expenditure (£)
Amicus	656.00
Community	20,662.65
GMB	53,164.00
Transport & General Workers Union	20,128.00
Transport Salaried Staffs' Association	9,255.60
Union of Shop, Distributive & Allied Workers (USDAW)	71,810.62
UNISON - The Public Service Union	682,115.00
<b>Total</b>	<b>857,791.87</b>

Name of Recognised Third Party	Total Controlled Expenditure (£)
British Declaration of Independence	12,775.98
Campaign for an Independent Britain	225.00
Conservative Rural Action Group	550,370.00
Evershed Mr. Patrick	48,456.99
Gilpin Mr. Zaccheus	405.00
Howard's End Ltd	8,400.00
League Against Cruel Sports Ltd	20,943.00
Muslims Friends of Labour	21,449.65
National Autistic Society [The]	15,099.00
Searchlight Information Services	42,761.00
Society for the Protection of Unborn Children	3,362.00
TMVO Ltd	24,157.00
Uncaged Campaigns Ltd	12,051.00
Unite Against Facism	20,343.00
Vote-OK	36,207.00
Waging Peace	30,340.00
Working Hound Defence Campaign	470.00
<b>Total</b>	<b>847,815.65</b>

**No Political Fund Model**





## SPENDING CONTROLS

### *Background*

It was agreed at the Inter Party Talks on 15 May that the Secretariat would produce a paper on spending limits for discussion at the second meeting.

The Review recommended that the talks focus on four issues:

- the time period over which spending should be limited,
- the categories of spending which should be limited,
- the geographical scope of spending limits, and
- the amount by which spending should be limited.

There are interactions between these issues, with the appropriate level of spending limits in particular depending on decisions on the other three issues.

This paper proposes principles for addressing the four issues, consolidates discussion to date on the regulatory time period and the categories for control and offers four options for review which present different approaches to the question of geographical scope.

The paper is supported by six annexes of factual and statistical data, as follows:

- A Incumbency factor
- B National and accounting unit expenditure of the three main parties over the last electoral cycle
- C Types of accounting units and their relationships to Westminster constituencies
- D Analysis of income and expenditure at constituency level and its effect on 2005 General Election
- E Impact on constituency bodies of annual limits on spending
- F Spending by accounting units in 2005 and 2006 in £10,000 bands

### *Principles*

In addressing all four issues, the following principles might be agreed:

1. Overall spending by parties to compete for votes should be reduced
2. Targeting marginal seats is a function of the electoral system and cannot be prevented
3. Local engagement should be encouraged
4. No party should be penalised for mobilising unpaid volunteer labour
5. It is not for the state to determine the internal structures of political parties
6. Rules should be kept as simple as possible
7. Rules which distort parties' expenditure decisions should be kept to a minimum
8. If volunteers are to be accountable, compliance must be simple and sanctions light
9. The dam should cross the whole stream – obvious loopholes should be closed

*Proposed spending limits*

The four options discussed below include figures for the proposed limits. These figures are indicative. The data and the assumptions underlying them are set out in Annex B. The table below shows the three main parties national party expenditure and combined national and accounting units' expenditure over

- the four year electoral cycle 2002 to 2005, and
- a notional five year cycle using 2002-2005 data to estimate it.

		<i>4 electoral year cycle: 2002-2005</i>	<i>Notional 5 year cycle using 2002-2005 data</i>
<i>Conservative Party</i>	National party spending	£74.5m	£88m
	Total national party and accounting unit spending	£135.5m	£163m
<i>Labour Party</i>	National party spending	£126.5m	£152m
	Total national party and accounting unit spending	£132.5m	£159m
<i>Liberal Democrats</i>	National party spending	£21m	£25m
	Total national party and accounting unit spending	£34.5m	£41m

The Review of Party Funding recommended that the Conservative and Labour parties should each reduce their spending by £20m over a full Parliament. Accordingly if £20m is deducted from the higher figures this suggests a ceiling of circa £130m for national spending, or, more equitably, a ceiling of circa £140m for combined national and other accounting unit spending.

*Time period*

The Inter Party Talks on 15 May agreed that consideration should be given to limiting campaign expenditure over the whole of an electoral cycle. The current limit on national campaign expenditure which covers the 365 days before polling day is unsatisfactory and impossible to enforce rigorously since parties do not know until the latter part of the period when the regulated period began. Limiting expenditure over the electoral cycle would eliminate this problem.

Electoral cycles for the Westminster Parliament are of uncertain duration and the limit would have to be calculated to allow for this fact. It is therefore recommended that the following formula should be used

$$\text{life of the Parliament} \times \text{agreed annual steady state spending} + \text{general election premium} \\ = \text{electoral cycle limit}$$

Where the electoral cycle was less than 5 years the amount would be reduced proportionally. Within the sum calculated by this formula parties would be free to distribute their spending

across the electoral cycle as they thought best. They could reduce running costs to build up a large war chest for the general election, or spread campaigning effort more evenly across the years.

An annual limit, with an uplift for general election years, has been suggested as an alternative, but it has two disadvantages compared to an electoral cycle limit. It would be less flexible, in that unless the general election were held at the end of the reporting year parties would not be able to make the most efficient use of the uplift. And it would impose an additional regulatory constraint on political parties for no obvious benefit.

Consideration would need to be given to the treatment of elections for the European and devolved administrations. To ensure fairness between parties principally focused on these elections and parties with a broader focus, it might be appropriate to retain the current four month controlled period for these elections. The operation of this limit is far less problematic than the 365 day Westminster limit as these elected bodies normally have fixed terms.

### *Categories of spending*

The Review of Party Funding found that the system of controlling campaign spending falling within the PPERA definition of campaigning had failed completely to halt the growth in party spending, and had produced a system that was difficult for parties to comply with and difficult for the regulator to enforce. The Review suggested that one approach would be to examine whether or not all party spending should be limited on the grounds that political parties are inherently campaigning organisations. The discussions between the parties and the secretariat indicate that while a limit on all spending might be easier to enforce than the current system there are a number of areas of expenditure which should be excluded from controls. The following areas have been identified:

- Contributions to pension funds for party employees
- Debt interest
- Capital expenditure on real estate. It is not recommended that all capital expenditure should be excluded from spending limits since otherwise capital expenditure for clear campaigning purposes such as in IT and printing equipment would be excluded.
- Legal expenses. If spending was limited in this area parties or their accounting units might be unable to defend themselves adequately in litigation.
- Transfers within parties, that is to say between accounting units or between the centre and accounting units.

The combination of regulating spending over the whole of an electoral cycle and limiting all expenditure except certain defined categories would sweep away the majority of the detailed regulations which bedevil the present system. Thus far, the proposals made here adhere to all of the principles set out, though they are not on their own sufficient to ensure that there are no loopholes.

### *Geographical scope*

The distinction between national and local campaigning has broken down in recent years. Attempting to attribute spending to either national or local campaigning, on the basis that one advocates voting for a particular party while the other advocates voting for a particular candidate, has become very difficult to enforce in a rational and effective way. The breakdown has been particularly caused by national parties using modern marketing techniques such as direct mailing and call centres to canvass individual voters in marginal seats. This trend is likely to increase. The four options below therefore been assume that any limits should be imposed on national and/or local organisations rather than on categories of national and local spending. It has also been assumed that the limits for candidates' expenditure during the controlled period under the Representation of the People Act 1983 (RPA) would continue to apply.

#### Option 1: National limit over a full electoral cycle of £130m

National party spending over the electoral cycle would be limited in accordance with the formula described above. Election agents would continue to be responsible for controlling candidates' spending during the election period in compliance with the Representation of the People Act 1983.

This option adheres to the principles that local engagement should be encouraged, that changes to party structures should not be a requirement of the system, and that local volunteers should not be burdened with demanding compliance obligations. However it would not meet the ninth principle that obvious loopholes should be closed.

The data in Annex B shows the combined national and accounting unit expenditure of the three main parties. It indicates that, particularly as far as the Conservative and Liberal Democrat parties are concerned, a significant proportion of party spending is undertaken by accounting units. This is a function of parties' histories and the way they have chosen to organise themselves. The data and analysis in Annex C shows that whereas most accounting units are based on Westminster constituency boundaries the accounting unit structure of the three main parties varies very considerably. Accordingly Option 1, which would impose tighter controls on national parties but leave their accounting units unregulated, is therefore flawed, since it would advantage parties with decentralised structures, and give all parties an incentive to avoid controls by transferring spending from the centre to other parts of the party.

#### Option 2: Tradable aggregate national and local limits of £140m over the electoral cycle

A single limit would apply to all party expenditure, national and local. Each party would be free to determine for itself how it was disaggregating the total amount among its constituent parts, reporting its decision to the Electoral Commission for monitoring purposes. Accountability for compliance with the disaggregated limits would rest with the relevant treasurers.

For convenience, and to avoid discouraging local engagement in non-winnable seats, it would be desirable to exclude accounting units with annual expenditure of less than say £25,000 from the controls. Such excluded accounting units would have to cover a Westminster constituency or larger geographical area to prevent parties fragmenting their accounting units into numerous small units each with annual expenditure below £25,000.

This option meets all of the principles set out above and in particular has regard to the different organisational structures and traditions of the parties. Parties could choose to centralise or decentralise expenditure as they thought best and as their internal structures determined. All the component parts of a party would be subject to the spending limit and therefore the loophole in option 1 would be closed. However the option would require parties with decentralised structures (primarily the Conservative and Liberal Democrat parties) to take a closer interest in and oversight of their accounting units' spending than they have done hitherto. Local accounting units would have to agree their annual spending limits in accordance with their parties' internal decision making processes, but they would not have to follow directions from their national parties as to what they could and could not spend their funds on. If parties wished to spare some local treasurers from the compliance burden they would be able to do so by assigning responsibility to a different level in the party structure.

Option 3: National limit of £130m over the electoral cycle and a constituency limit of £50,000-70,000 per annum

National party treasurers would have the same responsibilities over the electoral cycle as under Option 1. In addition local party treasurers would be responsible for ensuring that spending within each constituency in their accounting units did not exceed a limit of £50,000-70,000. Candidates' general election expenses would count towards the constituency limit and would not represent a separate allowance. Accounting units covering the whole of England, Wales, Scotland or Northern Ireland would count towards the national limit. Accounting units covering English regions could count either against the national limit or against the aggregate of the component constituencies, depending on the circumstances. Accounting units with annual spending of less than £25,000 would continue not to have to report. There is further discussion of how this option would map onto the existing structures of party accounting units in Annex C.

This option would therefore involve no direct interference in the internal constitutions of the parties, but it would require reporting below the national level to be on a constituency basis. It would therefore be likely to place a smaller burden on party centres than option 2, but a greater burden on local treasurers. To prevent avoidance, it would be necessary to maintain regulations, appropriately audited by the Electoral Commission, to ensure that spending by a constituency association was actually spent in support of the party's work in that constituency.

The most serious difficulty with Option 3 is that an annual limit of £50,000-70,000 for constituency associations and parties would impose a substantial restriction on many of them. In 2005, 226 constituency bodies, of all three parties but primarily of the Conservative Party, spent over £50,000. (The number of constituency associations and parties that would have to

cut their spending and by how much if constituency level caps were imposed is set out in Annex E.)

Option 4 is designed to address this objection to option 3.

Option 4: National limit of £130m over the electoral cycle and a constituency limit of £50,000-70,000 per annum with exemptions

Three exemptions for constituency parties might be devised. They could be adopted individually or in combination.

- There could be grandfathering arrangements for constituency bodies spending over say £100,000 in 2005. There were 60 such constituency associations and parties in 2005 of which 57 were Conservative associations. If they were compelled to limit their spending to £50,000-70,000 they would almost certainly have to lay off staff and reduce their activities. Grandfathering arrangements would exempt these particular accounting units from the new limits, either permanently or on a transitional basis. Of these 60 constituency bodies 27 were the Conservative Associations for seats where the Conservative candidate won the seat with a majority of over 8000. Much of their spending appears to be on fundraising functions, premises and permanent staff, and it could therefore be argued that exempting these bodies would allow them to continue with their traditional functions without disturbing the balance between the parties.
- There could be a higher spending limit for say one sixth of the constituency bodies, recognizing the need for parties to target a higher proportion of their financial resources on marginal seats.
- It is possible that some high spending constituency bodies are devoting a proportion of their spending to social activities designed for the benefit of party members but with no campaigning value. A transitional period could be created to allow such bodies to establish separate funds for social activities. Such funds would not be subject to electoral law controls but would be subject to audit by the Electoral Commission to ensure that they were not being exploited as avoidance devices.

*Mitigating the regulatory burden*

Options 2, 3 and 4 all place some form of regulatory burden on local volunteer treasurers but this could be eased by introducing more proportionate reporting of donations. It would also be appropriate to review the regime of sanctions so as not to drive away volunteers; criminal or otherwise unduly punitive sanctions should be avoided.

## Annex A

### Incumbency factor

#### Introduction

This annex discusses the financial benefits of incumbency under three headings:

- the benefits to individual MPs,
- the benefits to parties nationally, and
- the benefits to parties of incumbency in the European Parliament and the devolved administrations.

**It concludes that the Westminster communications allowance assists MPs to maintain their profiles in their constituencies and should be taken into consideration in setting the level of spending limits. It recommends that any constituency annual spending limit should not be set at a level below £50,000 if challenging candidates are not to be disadvantaged unfairly.**

#### Benefits to individual MPs

Since 1 April 2007 MPs have had the following annual allowances:

- £10,000 for communicating with the public on Parliamentary business.
- £7000 for pre-paid postage and other stationery to be used in direct connection with MPs' Parliamentary duties.
- £90,505 for staffing. Up to 10% may be used to fund office expenses in the constituency and a further 10% may be added to the communications allowance.
- £21,339 for incidental expenses provision. This provision is for expenses wholly necessarily and exclusively in discharging duties as MPs

None of these allowances may be used for campaigning activities or sending out unsolicited mail to constituents. Nevertheless many MPs have websites and they use them and related publications to communicate their Parliamentary work in the way that is most advantageous to their standing in their constituencies. Other candidates must pay for their own websites and publications.

#### Benefits to parties nationally

The political parties represented at Westminster receive grants to support them in their Parliamentary and policy development work. The sources of funding are as follows:

- Short money is paid to opposition parties in the House of Commons. The amount is calculated by a formula based on the number of seats won and votes gained.
- Cranborne money funds opposition parties in the House of Lords.
- The Electoral Commission divides £2m per annum among all parties with two or more MPs to assist with policy development work. (These payments would be replaced by other public funding arrangements under the proposals of the Review of Party Funding.)

2005-06	Conservative	Labour	Liberal Democrat
Short money	4,206,058		1,536,221
Cranborne money	426,351		212,873
Electoral Commission policy development grant	440,394	440,394	440,394
Total	5,072,803	440,394	2,189,488

Furthermore additional travel allowances are available for front bench spokesman, and the Leader of the Opposition and the Opposition Chief Whip receive public funds for their offices.

In 2004-05 there were 84 special advisors to Government Ministers. Their salaries cost £5.5m. The number declined to 78 in 2005-06.<sup>1</sup>

While the work of special advisors differs from the work of party staff funded by grants it can be argued that the benefits to national parties from grants and from special advisors are roughly equivalent.

#### Benefits to parties of incumbency in the European Parliament and the devolved administrations

Members of the European Parliament are entitled to

- €3,946 per month for office costs and travel within the member's home state.
- Up to €15,946 per month on staffing expenses

In addition funds are distributed to MEPs' political party groups for Parliamentary organisation and political and information activities. The total sum for distribution in 2007 is €50.6m.<sup>2</sup>

Members of the Scottish Parliament are entitled to

- £60,700 per year in a support allowance which covers office costs, staffing and other expenses.
- There is also a support fund which pays for such expenses as employees' pension contributions and advertising surgery times.<sup>3</sup>

National Assembly of Wales Members are entitled to

- £13,800 for office costs
- £61,017 in staffing allowance
- Groups of 3 or more members are entitled to an office and staffing allowance of up to a maximum of £159,870.<sup>4</sup>

While some of these allowances are substantial, there is no direct equivalent to the Westminster communications allowance, and in the case of the MEPs no widespread general practice of continuous communication to the very large constituency

<sup>1</sup> <http://www.parliament.uk/commons/lib/research/notes/snpc-03813.pdf>

<sup>2</sup> For the 2005 accounts of the groups see [http://www.europarl.europa.eu/groups/accounts\\_en.htm](http://www.europarl.europa.eu/groups/accounts_en.htm)

<sup>3</sup> <http://www.scottish.parliament.uk/msp/MSPAllowances/index.htm>

<sup>4</sup> April 2006 figures: <http://www.assemblywales.org/mem-pay-salaries.pdf>



electorates between elections. No separate limitation of spending in these elections is proposed beyond the existing 4-month campaign limits, and there seems to be no compelling case to take these particular incumbent benefits into account.

### Conclusion

If it is agreed that the benefits to national parties and to members of other representative bodies should be discounted the only allowances that appear to provide a real benefit to incumbent Westminster MPs are the Westminster communications allowance and the 10% of the staffing allowance which can lawfully be used to supplement it. It is impossible to quantify precisely the electoral benefits to Westminster MPs of the communications allowance. It is also the case that incumbent MPs do not always stand for re-election and that Westminster constituencies are subject to boundary changes. Any formula designed to negate incumbents' advantage by allowing other candidates a higher spending limit could therefore be expected to create more complications than it would resolve. The fact that there is a real incumbency benefit, however, does suggest strongly that any constituency spending limit should not be set so low as to give the incumbent an unfair advantage from their communications allowance. **It is therefore recommended that any constituency annual spending limit should not be less than £50,000.**<sup>5</sup>

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<sup>5</sup> An academic study of the effect of incumbency based on candidates' declared election expenses, but not taking into account any spending from Parliamentary allowances or any spending in the period prior to the dissolution of Parliament, concluded that election expense spending by incumbents has little impact on the result of the election, but that spending by challengers does. See Ron Johnston and Charles Pattie, 'Candidate Quality and the Impact of Campaign Expenditure: A British Example', in *Journal of Elections, Public Opinion and Parties* (2006), 16(3), pp. 283 – 294.

## Annex B – National and accounting unit expenditure of the three main parties over the last electoral cycle

		Stated Expenditure (£)					Full 5-year cycle estimate
		2002	2003	2004	2005	Total	
Conservative	National	10,486,000	16,034,000	26,238,000	39,206,000		
	less grants	3,304,000	4,551,000	4,579,000	5,011,000		
	<i>sub</i>	7,182,000	11,483,000	21,659,000	34,195,000	74,519,000	87,960,333
	Accounting Unit	13,517,052	15,351,731	17,561,318	22,295,214		
	less internal transfers	1,734,616	1,793,851	1,743,309	2,380,376		
	<i>sub</i>	11,782,436	13,557,880	15,818,009	19,914,838	61,073,163	74,792,605
	<b>Total</b>	<b>18,964,436</b>	<b>25,040,880</b>	<b>37,477,009</b>	<b>54,109,838</b>	<b>135,592,163</b>	<b>162,752,938</b>
Labour	National	22,085,000	24,281,000	32,109,000	49,804,000		
	less grants	448,000	439,000	440,000	440,000		
	<i>sub</i>	21,637,000	23,842,000	31,669,000	49,364,000	126,512,000	152,228,000
	Accounting Unit	1,495,644	2,525,456	1,870,320	3,877,165		
	less internal transfers	678,846	1,502,352	671,226	955,319		
	<i>sub</i>	816,798	1,023,104	1,199,094	2,921,846	5,960,842	6,973,840
	<b>Total</b>	<b>22,453,798</b>	<b>24,865,104</b>	<b>32,868,094</b>	<b>52,285,846</b>	<b>132,472,842</b>	<b>159,201,840</b>
Liberal Democrat	National	3,387,002	4,005,149	4,614,418	8,783,485		
	<i>sub</i>	3,387,002	4,005,149	4,614,418	8,783,485	20,790,054	24,792,244
	Accounting Unit	3,300,636	6,453,949	7,874,168	8,687,967		
	less grants	1,437,947	1,437,947	1,438,167	1,671,609		
	less internal transfers	1,539,501	1,659,088	1,678,743	1,726,058		
	<i>sub</i>	323,188	3,356,914	4,757,258	5,290,300	13,727,659	16,540,112
	<b>Total</b>	<b>3,710,190</b>	<b>7,362,063</b>	<b>9,371,676</b>	<b>14,073,785</b>	<b>34,517,713</b>	<b>41,332,356</b>

The data in the table has been compiled from

- the three main national parties' statements of account for 2002 to 2005
- the accounting units of the three main parties which submitted statements of accounts to the Electoral Commission in 2002 to 2005.

It is designed to show the total spending of the three main parties over the four year electoral cycle 2002-2005. Estimates of spending for a full five year cycle are given in the far right hand column. The spending for the notional fifth year has been calculated by taking the average annual spending in the three years 2002 to 2004.

Accounting units with annual income or expenditure over £25,000 are required to submit annual statements of account to the Electoral Commission. Some accounting units that do not meet the threshold submit accounts. Where they have done so they have been included in these figures. It is also the case that not all the statements of accounts of accounting units that do meet the threshold are available on the Electoral Commission's website.<sup>1</sup> Further information about the different types of accounting units is in Annex C. Further information about the distribution of spending among the three main parties' units is in Annex F. In the main paper it is proposed that accounting units with annual expenditure of less than £25,000 would not be included in any limits. Accordingly the omission of data about these units does not make any difference to the calculation of the proposed spending limits.

Grants to the parties have been deducted from the totals because they are allocated specifically for Parliamentary and policy purposes and so fall outside the scope of spending controls. These grants comprise Short money, Cranborne money, Electoral Commission policy development grants and Scottish Parliament grants.<sup>2</sup> The Conservative and Labour parties account for these grants at national level and the deductions have therefore been made from their national spending. The Liberal Democrat account for its Scottish Parliament grant in the Scottish Liberal Democrats' accounts and for its other grants in the statement of accounts of another accounting unit, the Parliamentary Office of the Liberal Democrats. The Liberal Democrats' grants have therefore been deducted from the accounting unit level.

All three parties transfer funds between the national party and their accounting units and between different account units. This money needs to be deducted from the total figures so it is not counted twice. In this table it has been deducted where it could be identified in accounting units' statements of accounts. This is not easy to do with any precision.

- *Conservative Party*: These deductions are mainly for
  - capitation fees and levies paid to Central Office, and
  - donations made by one accounting unit to one another (mainly constituency association donations to other associations).
- *Labour Party*: Deductions have been made for

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<sup>1</sup> For instance Perth and North Perthshire Conservative Association's 2005 statement of accounts is not published on the Electoral Commission's website but its 2006 statement is. The 2006 statement includes figures that show that the Association met the £25,000 threshold in 2005.

<sup>2</sup> Further information on these grants is in Annex A. Payments made under the Review's proposals for public funding of political parties, if implemented, would be available for general party expenditure and therefore within the scope of controls.

- the Scottish and Welsh Labour parties, and for regional TULO donations to regional Labour parties since the income and expenditure of the Scottish, Welsh and English regional parties are included in the national party accounts
- National TULO transfers to regional TULOs which are then passed onto regional Labour parties
- National TULO transfers to the national Labour Party
- Constituency Labour Party affiliation fees to Scottish, Welsh and English regional parties
- *Liberal Democrats*: The spending of the Liberal Democrats in England, significantly the largest of all parties' accounting units in terms of income and expenditure, has been deducted. This accounting unit collects English members' subscriptions and distributes its funds to the federal party and other accounting units. It is undoubtedly the case that there are other internal transfers within the Liberal Democrats structure, though not on the same scale. It has not been possible in the time available to identify them; this is unfortunate but it does not contaminate the figures that have been used in the main paper to calculate the proposed limits since those are derived from the figures for the two largest parties.

Candidates expenses under the Representation of the People Act 2000 are almost invariably included in constituency party statements of accounts (or those accounting units which consists of local groups of constituencies). They have not therefore been included in this table.

## Annex C

### Types of accounting units and their relationships to Westminster constituencies

#### Summary

This annex discusses the relationships between the three main parties' accounting units and Westminster constituency boundaries, based on the evidence of the annual statements of account submitted to the Electoral Commission in 2005. **It concludes that while the parties' internal structures vary considerably most accounting units are based on Westminster constituencies and that a system of spending controls based on separate national and Westminster constituency limits would be viable.**

#### Accounting units in 2005

Accounting units with income or expenditure over £25,000 per annum are required to submit an annual statement of accounts to the Electoral Commission. Some units that do not meet the threshold submit accounts. It is also clear that not all the accounts of accounting units that meet the threshold are available, for whatever reason, on the Electoral Commission's website. 2005 is the last year for which a nearly complete set of statements of accounts is available on the Electoral Commission website, and provides better evidence than previous years or 2006 since more accounting units met the threshold and made returns.

The table below categorises the 500 accounting units that submitted statements of accounts to the Commission in 2005 by those that are based on single Westminster constituencies and those that are not.

	<i>Great Britain</i>	<i>England</i>	<i>Scotland</i>	<i>Wales</i>	<i>total</i>
Conservative constituencies		275	21	9	305
Labour constituencies		57	1	1	59
Liberal Democrat constituencies		65	5	2	72
<i>Total</i>					<i>436</i>
Conservative not constituency bodies		12	1		13
Labour not constituency bodies	2	11	2	1	16
Liberal Democrat not constituency bodies	4	27	2	2	35
<i>Total</i>					<i>64</i>

436 out of the 500 accounting units are constituency bodies.

The table below lists those accounting units which made 2005 returns and which were not based on single Westminster constituencies. It divides these accounting units into three types:

- Units comprising small numbers of constituencies bodies that have combined together, sometimes on local Government boundaries,
- Units at English regional level
- Units at national level

<i>Conservative</i>	<i>Labour</i>	<i>Liberal Democrat</i>
<i>Groups of constituencies that have combined together</i>		
Bristol	Croydon Local Government Committee	Bournemouth
City of Coventry	Milton Keynes CLP	Brent
City of Nottingham	Norwich North and Norwich South CLP	Camden
<i>Cunninghame North</i>	Reading East and Reading West CLP	Cardiff Central, South, Penarth and the Vale of Glamorgan
Derby City	Sheffield District Council	Chelmsford and Maldon
Greenwich	Southampton CLP	Derby and South Derbyshire
<i>Hertfordshire</i>		Durham
Milton Keynes		Haringey
Newcastle upon Tyne Federation		Islington
North Tyneside Federation		Kingston Borough
South Tees		New Forest
Stockton on Tees		Newcastle upon Tyne
Tonbridge and Chatham		North East and Central Fife
		Portsmouth
		Reading (Greater)
		Stratford and South Warwickshire
	Sutton Borough	
	Twickenham and Richmond	
<i>English regions</i>		
	East Midlands Region Trade Union Liaison	Devon and Cornwall
	Eastern Region Trade Union Liaison	East Midlands Region
	London Region Trade Union Liaison	East of England
	North West Region Trade Union Liaison	London Region
	Northern Region Trade Union Liaison	North West Region
		South Central Region
		South East England
		West Midlands
		Western Counties
		Yorkshire and the Humber

<i>National bodies</i>		
	Labour Students	Business Forum
	National TULO	Liberal Democrats in England
	Scottish Labour	Liberty Network
	Scottish Trade Union Liaison	Parliamentary Office of the Liberal Democrats
	Wales Trade Union Liaison	Scottish Liberal Democrats
		Welsh Liberal Democrats
		Youth and Students

All three parties have accounting units which comprise two or more constituency bodies which have joined together. The Conservative Party units in this table fall into this category with two exceptions. Cunninghame North is a constituency of the Scottish Parliament which failed significantly to make the £25,000 threshold. Hertfordshire accounting unit exists to support Conservative constituency associations within Hertfordshire. 5 separate Conservative constituency associations in Hertfordshire met the £25,000 threshold in 2005 and submitted statements of accounts.

The Labour Party also has accounting units for the trade union – party liaison committees that shadow the Scottish and Welsh Labour parties and its regional English parties, and the Liberal Democrats have units derived from the federal structure of their party, and within the English Party the regional sub-structure. The largest accounting unit in terms of income and expenditure is the Liberal Democrats in England, the largest of the three ‘state’ parties that comprise the Liberal Democrats Federal Party. The second largest is the Parliamentary Office of the Liberal Democrats, whose income is derived from Short and Cranborne money. The Conservative and Labour parties account for such funds centrally. Both the Labour Party and the Liberal Democrats have Great Britain wide accounting units based on particular sections of the electorate (eg Labour Students, Liberal Democrats Business Forum).

If electoral spending were to be controlled by having separate national and constituency limits accounting units above the regional level could count towards the national limit. The four largest accounting units in terms of their 2005 expenditure would all fall into this category:

National TULO	381,877
Scottish Labour	437,219
Parliamentary Office of the Liberal Democrats	1,677,192
Liberal Democrats in England	1,726,058

The Labour Party currently includes the income and expenditure of the Scottish and Welsh Labour parties and of the English regional Labour parties in its national accounts.

Although PPERA requires national parties and accounting units with annual income or expenditure over £25,000 to submit accounts to the Electoral Commission, it does not require parties to account for their total expenditure. Internal transfers within

parties therefore appear in statements of account and the same money will appear as one accounting unit's expenditure and another's income and expenditure. (More detail is provided in Annex B.) If party spending were to be controlled with either one overall limit or separate national and constituency limits internal transfers would have to be exempt from controls and parties would rapidly devise means of ensuring that the same sum of money was not counted twice within their limit (or limits).

The treatment of the first two types of accounting units not based on single Westminster constituencies, that is to say,

- units comprising small numbers of constituencies bodies that have combined together, and
- units at a regional level

would be an subsidiary issue if either of Option 3 or Option 4 in the main paper were to be pursued. Possible alternatives would include:

- Requiring expenditure within the group to be assigned to the individual constituency where it was spent (which would impose a significant compliance burden and be challenging to enforce).
- Requiring accounting units below national level to align with constituencies (which would be a somewhat heavy-handed intervention in party affairs, albeit affecting only a small minority of accounting units, and might increase the difficulty parties have in persuading volunteers to stand as treasurers).
- Allowing parties to submit to the Electoral Commission schemes in which they determine which units' expenditure should count towards the national level and which should be count towards constituency limit. This would permit the Labour Party (if it wishes) to keep its English regional parties integrated within the national party and allow the Liberal Party (if it wishes) to maintain its current federal organisational network.
- Dividing expenditure equally among the constituencies the accounting unit comprised. This option would, however, carry significant avoidance risks.

It should be noted that in 2005 only 12 accounting units based on constituency bodies that had combined together had sufficient income to be subject to regulation if the cut of point were £25,000 per constituency. If the cut off point were £50,000 per constituencies only two of such accounting units (both Liberal Democrat and covering four constituencies in all) would be subject to regulation. Further information on the expenditure of different types of accounting unit is in Annex E.



## Annex D

### Analysis of income and expenditure at constituency level and its effect on 2005 General Election results

#### Summary

This annex presents a brief analysis of the income and expenditure of Conservative Party constituency associations in 2005. It has been argued that large donations to Conservative associations in some marginal seats had a significant and unfair impact on the outcome of the 2005 general election in those seats. This thesis has been advanced most notably by Peter Bradley (Labour MP for The Wrekin until 2005) who has assembled data which he argues shows that certain donations to Conservative associations in marginal constituencies by a few large donors had an appreciable impact on the election result in those constituencies.<sup>1</sup>

The statistical analysis in this annex shows that if the 2005 income and expenditure of Conservative constituency associations is plotted against the general election results in marginal seats a direct relationship between spending by those associations and election results cannot be established. This is not because local campaign spending in those constituencies was irrelevant to the outcome of the elections. It is because local expenditure data on its own does not provide a full picture. It is also necessary to know what national and regional party resources were deployed in those constituencies. It is likely that in many cases where the local Conservative Association outspent its local opponents the Labour and/or Liberal Democrat parties countered this with regional and national resources.

The analyses of party spending and of accounting units in annexes B and C shows that whereas the Conservative Party's resources are held for the most part either by UK campaign headquarters or by constituency associations, the Labour Party and the Liberal Democrats hold higher proportions of their resources in accounting units at levels between the party headquarters and the constituency association (usually as a result of internal party transfers) . The Labour Party headquarters also spent significantly more than the Conservative Party in 2005, though the total spend of the Conservative Party was greater. While the Conservative associations in the most marginal seats undoubtedly received large external donations the impact of their spending cannot be assessed without looking at the total expenditure of all the parties contesting these constituencies.

**This indicates that attempts to control spending at just national level or constituency level is likely to be both inequitable and unsuccessful since the resources of the three main political parties are distributed differently within their party structures and that limiting spending at one level will merely displace it to a different one.**

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<sup>1</sup> See his evidence to the Constitutional Affairs Select Committee inquiry into party funding <http://www.publications.parliament.uk/pa/cm200607/cmselect/cmconst/163/163we03.htm>.

## Data analysis

In looking at the impact of Conservative association spending this annex looks at:

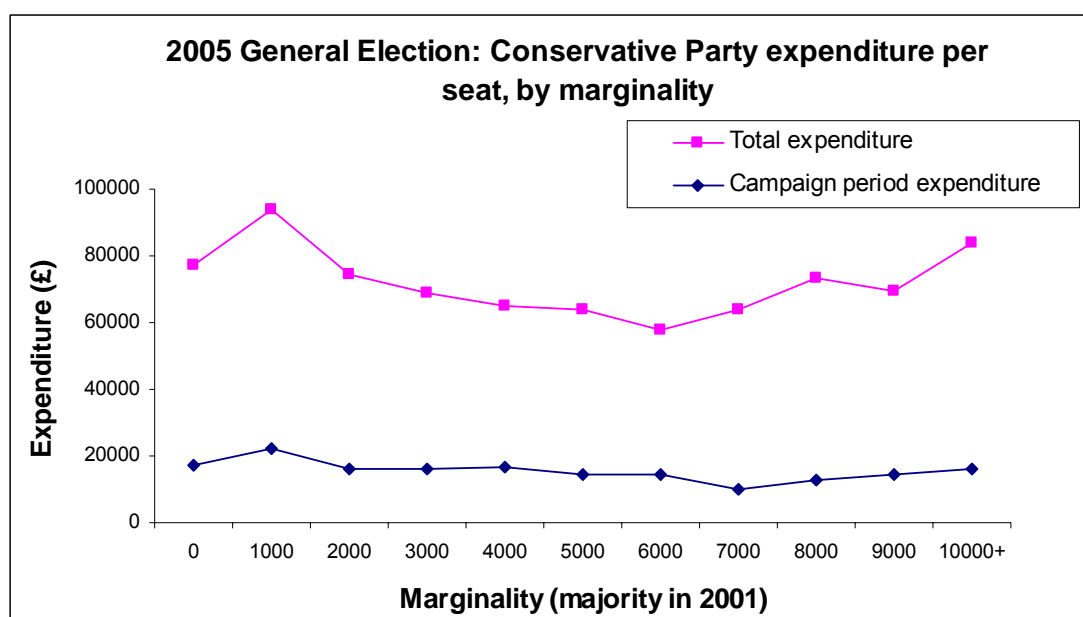
- the relationship between 2005 income and expenditure and the marginality of the seat at the 2001 General Election
- the relationship between 2005 expenditure and the change in the Conservative Party's share of the vote between the 2001 and 2005 General Elections.

Notes:

- The analysis only covers English and Welsh constituencies. Scotland has been omitted owing to the major constituency boundary changes that occurred between 2001 and 2005. Northern Ireland has been omitted because three main UK political parties do not usually contest elections in the province.
- Accounting unit financial data has only been included in this analysis where it could be clearly and unambiguously linked to a single Parliamentary constituency.
- Usable data is available for 283 out of 569 constituencies. These are predominantly in areas where the Conservative Party has tended to be electorally competitive and where an active constituency association would therefore be more likely to thrive. The analysis may not therefore reflect the picture across all constituencies, since safe Labour seats are likely to be under-represented in the sample.
- This analysis only uses Conservative party expenditure figures because constituency-level expenditure data does not exist in sufficient quantities for either of the other main parties, as a consequence of their differing internal accounting structures.

## Income / expenditure versus marginality

The graph below shows local Conservative associations' average levels of income and expenditure (overall and during the defined election campaign period) by seat, according to the seat's marginality. "Marginality" is measured by the majority of the MP elected at the previous General Election in 2001, and is divided into 1000-vote categories (0-999, 1000-1999, etc.) for the purposes of constructing this graph.



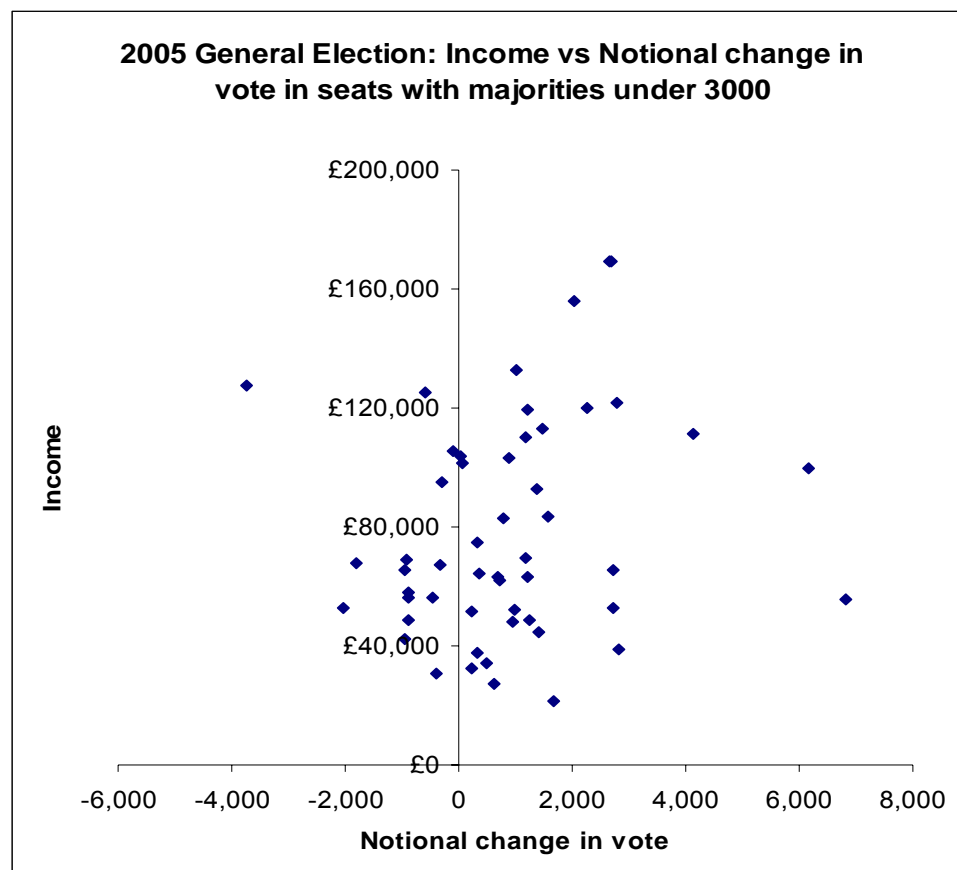
Although they fluctuate, the graphs of both total income per seat and total expenditure per seat – which closely mirror each other - form shallow “U” shapes, indicating that these values are at their highest at either end of the marginality distributions. Our explanatory hypothesis for this is as follows:

- Very marginal seats (i.e. those with small 2001 majorities) are more likely to have been the recipients of strategically targeted donations from major Conservative backers.
- Seats with very large 2001 majorities are, by the nature of this dataset, most likely to be very safe Conservative strongholds. Given the Conservatives’ electoral demographics, such seats are likely to be in very affluent areas of the country, where Conservative associations are likely to have both large memberships (generating more income) and greater access to wealthy local donors.

#### Effect of income on share of the vote

The graph below shows the relationship between total income and change, the “notional change of vote”, of the Conservative candidate between the 2001 and 2005 elections. (The notional change in vote reflects the size of the swing to or from the Conservative candidate, adjusting for the change in the total number of votes cast in the constituency between the two elections).

Building on the hypothesis discussed above, this graph excludes all seats with a majority of more than 3,000 at the 2001 election. This is intended to exclude the Conservatives’ safer (and therefore likely to be inherently better funded) seats, and focus on those seats which are most likely to have been the recipients of strategic donations to help fight a potentially close election.



The graph strongly suggests that there is very little relationship between declared constituency association income and the “notional change in vote” achieved by the Conservative candidate. The graph shows no clear pattern or relationship, and this conclusion is supported by the extremely low correlation coefficient between the two plotted variables of 0.08 – indicating an essentially random scatter

There are some widely differing examples by way of illustration. In Brentwood and Ongar, the association declared a relatively modest income of around £55,000 and yet achieved a notional increase of 6,800 votes (an increase of 15 percentage points in its share). On the other hand, in North Norfolk the association declared an income of more than £125,000, yet it’s notional vote fell by 3,700 as the incumbent Liberal Democrat MP substantially increased his previously very small majority.

### Conclusion

It would be wrong to assume that local spending has no impact on the results of general elections in marginal seats. Rather it is one of a number of factors. One of the factors that an exclusive focus on local party income and expenditure excludes is the impact of national and regional party resources. Such resources will inevitably be deployed most heavily in marginal seats. In order to assess the impact of local association spending it is necessary to set that spending in the wider context of all campaign spending.

## Annex E

### Impact on constituency bodies of annual limits on spending

This annex contains two tables designed to show the impact on constituencies associations and parties of local spending limits. **It shows that of the three main parties spending limits at constituency level would impact most severely on the Conservative Party and least severely on the Labour Party. Had there been a £50,000 annual constituency limit in 2005, and had no extra constituency spending been displaced to national level, total Conservative Party spending would have been reduced by 14%.**

#### Explanation of the tables

The data is derived from the statements of accounts submitted by accounting units to the Electoral Commission in 2005 and published on the Commission's website. 2005 is the last year for which there is a near complete set of accounts. Being a general election year it indicates the impact of limits when spending pressures are most acute. The impact would be less in other years.

The first table shows the total cuts that would have to be made by the three main parties' constituency bodies if an annual spending limit was set at £25,000, £40,000, £50,000, and so on in £10,000 intervals to £100,000.

- The majority of accounting units are based on constituencies. The statements of accounts of these accounting units are the basis for the figures in the columns headed *constituency associations* or *constituency parties*. Thus if there were a cap of £25,000 Conservative associations which are also accounting units would have to cut their spending by £13,739,954 and constituency Labour parties by £972,666.
- In 2005 35 accounting units below the level of the regional party consisting of two or three constituency bodies which have chosen to function as one unit submitted statements of accounts to the Electoral Commission. These accounting units are discussed and listed in Annex C.<sup>1</sup> If these bodies' spending was controlled at constituency level and their 2005 spending was divided equally between the constituencies they cover 12 of them would also have to take cuts. Between them these 12 units cover 27 constituencies.<sup>2</sup> The cuts to their spending is given for each party in the columns headed *related units*. Thus if there were a cap of £25,000 were imposed Liberal Democrat accounting units consisting of small groups of constituencies would have to take £275,529 cuts.

<sup>1</sup> The 35 bodies are listed in the top third in the second table of Annex C. Cunninghame North and Hertfordshire Conservative Party accounting units are not relevant since Cunninghame North is a constituency of the Scottish Parliament and Hertfordshire it receives money from Hertfordshire constituency associations which are themselves accounting units.

<sup>2</sup> The Conservative accounting units in question are Bristol, City of Coventry, Milton Keynes, North Tyneside Federation, and Tonbridge and Chatham. The Labour units are Croydon, Milton Keynes, Norwich North and Norwich South. The Liberal Democrats are Bournemouth, Haringey, Islington, Sutton Borough, and Twickenham and Richmond.

- The sum of the cuts that would be taken by both constituency bodies and related accounting units is given in the columns headed *sub-total*.

The second table shows the number of accounting units that would have had to take cuts at each of the intervals from £25,000 to £100,000 and the sum total of the three main parties' cuts had there been spending limits in 2005.

- The column headed *constituency bodies* shows the number of constituency associations and parties that would have to take cuts. The column headed *with constituencies in related units* is the number of constituency associations and parties that would have to take cuts combined with the number of constituencies covered by the 12 accounting units that cover small combinations of constituencies. Thus if there were a constituency spending limit of £25,000 430 constituency associations and parties of all three parties would be affected.
- The second table also shows the sum total of cuts that all three parties would have had to take at constituency level in 2005.

Immediately below the cuts constituency associations and parties would have had to make in 2005 had there been a limit of £50,000 on spending is shown within the context of total party spending.

<i>2005</i>	<i>Total spending<sup>3</sup></i>	<i>Constituency spending cuts with cap of £50,000</i>	<i>Constituency cuts as percentage of total spending</i>
<i>Conservative Party</i>	54,109,838	7,682,350	14%
<i>Labour Party</i>	52,285,846	287,931	0.5%
<i>Liberal Democrats</i>	14073785	524224	4%

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<sup>3</sup> See Annex B

Constituency spending caps	Conservative			Labour			Liberal Democrats		
	Constituency associations	Related units	<i>Sub-total</i>	Constituency parties	Related units	<i>Sub-total</i>	Constituency parties	Related units	<i>Sub-total</i>
<b>25,000</b>	13,739,954	109,349	<i>13,849,303</i>	972,666	64,611	<i>1,037,277</i>	1,515,590	275,529	<i>1,791,119</i>
<b>40,000</b>	9,749,405	31,466	<i>9,780,871</i>	463,710	15,707	<i>479,417</i>	748,503	126,217	<i>874,720</i>
<b>50,000</b>	7,682,350		<i>7,682,350</i>	287,931		<i>287,931</i>	438,007	86,217	<i>524,224</i>
<b>60,000</b>	5,985,220		<i>5,985,220</i>	162,691		<i>162,691</i>	236,726	50,873	<i>287,599</i>
<b>70,000</b>	4,617,644		<i>4,617,644</i>	89,768		<i>89,768</i>	125,780	30,873	<i>156,653</i>
<b>80,000</b>	3,540,495		<i>3,540,495</i>	52,408		<i>52,408</i>	61,916	10,873	<i>72,789</i>
<b>90,000</b>	2,682,702		<i>2,682,702</i>	32,408		<i>32,408</i>	32,490		<i>32,490</i>
<b>100,000</b>	2,020,487		<i>2,020,487</i>	12,408		<i>12,408</i>	12,839		<i>12,839</i>

Constituency spending caps	Number of accounting units taking cuts		Sum total of 3 parties' cuts	
	Constituency bodies	With constituency bodies in related units	Constituency bodies	With related units
<b>25,000</b>	403	430	16,228,210	16,677,699
<b>40,000</b>	288	298	10,961,618	11,135,008
<b>50,000</b>	226	230	8,408,288	8,494,505
<b>60,000</b>	183	185	6,384,637	6,384,637
<b>70,000</b>	132	134	4,833,192	4,864,065
<b>80,000</b>	103	105	3,654,819	3,665,692
<b>90,000</b>	77	77	2,747,600	2,747,600
<b>100,000</b>	59	59	2,045,734	2,045,734

### Annex F - Spending by accounting units in 2005 and 2006 in £10,000 bands

Accounting Unit expenditure (£)	Conservative		Labour		Liberal Democrat	
	2005	2006	2005	2006	2005	2006
0 - 9,999	2	1	1		1	1
10,000 - 19,999	5	1	3	1	5	2
20,000 - 29,999	23	46	16	7	16	19
30,000 - 39,999	45	48	22	5	27	17
40,000 - 49,999	48	28	9	5	16	8
50,000 - 59,999	29	44	8	2	13	6
60,000 - 69,999	39	23	6		8	2
70,000 - 79,999	23	20	4	4	6	4
80,000 - 89,999	25	13		2	2	1
90,000 - 99,999	19	13	1		2	
100,000 – 109,999	18	7	2	1	1	1
110,000 – 119,999	13	9			2	
120,000 – 129,999	8	7				1
130,000 – 139,999	4	2				
140,000 – 149,999	5	1				
150,000 – 159,999	2	2				
160,000 – 169,999	1				2	
170,000 – 179,999	0				1	
180,000 – 189,999	1					
190,000 – 199,999	2	1				
<i>Over 200,000</i>						
203,034						Welsh LDs <sup>1</sup>
228,848		Surrey Heath				
251,563	Aylesbury <sup>2</sup>					
287,458	Surrey Heath					
300,744	Kensington & Chelsea					
342,192	Cities of London & Westminster					
372,423					Scottish LDs	
381,877			National TULO			
437,219			Scottish Labour			
1,677,192					Parliamentary Office of LDs	
1,726,058					LDs in England	
<b>Total number of accounting units</b>	<b>316</b>	<b>265</b>	<b>74</b>	<b>27</b>	<b>104</b>	<b>63</b>

<sup>1</sup> The 2005 spending of the Welsh Liberal Democrats was £162,403.

<sup>2</sup> Aylesbury Conservative Association had expenditure of £251,563 in 2005 but only £73,704 in 2006. Its income in 2005 was £266,782; in 2006 it was £258,063. Over 70% of the Association's income is rental income from its freehold property.



The analysis in Annex E concerned constituency associations and parties and accounting units based on small groups of accounting units that have joined together. Annex F is concerned with accounting units per se. Annex F illustrates the distribution of spending by the accounting units in the three main parties. It is drawn from data for 2005, and, at the request of the Conservative Party, data for 2006. The 2006 data is incomplete and must therefore be interpreted with caution.

#### Distribution of parties resources

Accounting units must submit accounts if their income or spending exceeds £25,000. For both 2005 and 2006 the table includes some below the threshold which nevertheless returned accounts. It is also clear that not all the 2005 accounts of accounting units that meet the threshold are available. The data for 2006 is avowedly incomplete.<sup>3</sup> Accounting units with expenditure over £250,000 are not required to submit their statements until July; none of the units that had expenditure over this amount in 2005 have yet submitted except for Aylesbury and Surrey Heath Conservative associations (both of which spent less than £250,000 in 2006). The 2006 statements of accounting units with expenditure between £25,000 and £250,000 should by now be published on the Commission's website. It is not known how many are late coming in.

Comparisons between the parties need to be made with discrimination. The highest spending accounting units in the table above are

*Conservative:* Aylesbury, Surrey Heath, Kensington and Chelsea, and Cities of London and Westminster constituency associations

*Labour:* National TULO, Scottish Labour

*Liberal Democrats:* Welsh Liberal Democrats, Scottish Liberal Democrats, Parliamentary Office, Liberal Democrats in England.

The equivalent expenditure in the Conservative and Labour parties to the highest spending Liberal Democrat accounting units is accounted for centrally. The expenditure of Scottish Labour is also accounted for centrally (even although the Scottish Party is a separate unit) and the greater part of National TULO expenditure is transfers to Labour regional parties which are then accounted for by the national party.

In 2005 40 single constituency Conservative associations spent over £110,000. No Labour Party constituency based accounting units did so. Two Liberal Democrat accounting units responsible for two constituencies each spent over £110,000.<sup>4</sup>

#### Comparisons between 2005 and 2006 data

Direct comparisons between the numbers of accounting units in each £10,000 band in the two years should not be made in view of the incompleteness of the 2006 data. However comparisons of the distribution patterns show a downward movement in accounting unit expenditure in a non-general election year.

<sup>3</sup> It is based on the statements of account published on the Electoral Commission's website on 30 May 2007.

<sup>4</sup> Islington, and Twickenham and Richmond

# Inter-Party Talks: The Funding of Political Parties

Sir Hayden Phillips GCB, Chairman

## MINUTE

**Date:** 13 June 2007  
**To:** Sir Hayden Phillips GCB  
**From:** David Rowland  
Secretary to the Talks  
020 7210 0535

**Minutes of second session**

**3.30pm 13 June 2007**

**Location: Dover House**

**Attendees:** Sir Hayden Phillips (Chairman)  
Ian Gambles (Secretariat)  
Ted Whybrow CBE (former Certification Officer advising Secretariat)  
Rt Hon Francis Maude MP (Conservative Party)  
Andrew Tyrie MP (Conservative Party)  
Ian McIsaac (Conservative Party)  
Rt Hon Jack Straw MP (Labour Party)  
Peter Watt (Labour Party)  
Declan McHugh (Labour Party)  
David Heath MP (Liberal Democrats)  
Lord Kirkwood (Liberal Democrats)

Also observing the talks but not participating were the following:

Sheridan Westlake (Conservative Party)  
Rob Murphy (Ministry of Justice official)  
Melissa Case (Leader's Office official)  
David Rowland (Secretariat)

1. **Sir Hayden** opened the second session by thanking the participants for their cooperation in the activities undertaken by the Secretariat between the two meetings, which contributed to the papers presented at this session on spending limits and affiliation fees. Sir Hayden recognised that these were complex and politically sensitive issues which would require more than one session of the talks to make significant progress.
2. The minutes from the first session, and their format, were agreed.
3. The order the subjects were taken in was reversed from the previous meeting, with the paper on spending being taken first, before that on affiliation fees. Sir Hayden proposed that the order the papers should be taken in should alternate from one meeting to the next to allow sufficient time for debate.

## Spending

4. **Sir Hayden** identified three main issues on spending:
  - Regulating spending over the whole of the electoral cycle;
  - Regulating all spending, with certain limited exemptions; and
  - The geographical scope of the spending regulation – national versus local.
5. **The Labour Party** stated that an agreement to address the arms race in expenditure was an essential element to an overall agreement. The Neill Report of 1998 and the subsequent legislation had attempted to address this problem, but the objectives had not been achieved, as was clear from the fact that expenditure was rising strongly and had reached about £90 million between the two largest parties at the last general election.
6. The Labour Party stated its view that no party should be disadvantaged by spending controls because of the nature of its constitution. Option 1, regulating national spending only, did not meet this test, because excluding local spending provided an advantage to parties with decentralised structures. In reality the totality of spending was very close, including the money spent in marginal constituencies: however, the Labour Party spent more money from the centre, whereas the other two parties, due to their organisational structure, spent more through their local organisations.
7. They were attracted to Option 2, that of an overall limit tradeable between national and local levels, although they acknowledged that its implementation would present internal challenges for them, including constitutional changes, and perhaps greater challenges for the other two parties.
8. Options 3 and 4 were also attractive, and the level suggested for marginal seats of £50-70,000 seemed reasonable. They were comfortable with proposals to recognise the special circumstances of constituency parties that were large spenders, through arrangements such as those in Option 4, but felt that if Options 3 or 4 were pursued then all staff, whether employed locally or nationally, should count towards the national cap.
9. They felt that the incumbency factor was dealt with adequately by the approach put forward in Annex A. It was important that no party should be disadvantaged because it was or was not the current party of Government. They noted for the record, however, that in the view of the Labour Party the comparison made in Annex A between the value of Special Advisers to the party in Government and the value of Short Money to the party in Opposition was not appropriate, even though both were worth approximately £5 million.
10. **The Conservative Party** felt that it was important to be clear exactly what problem the proposal to introduce further spending controls was seeking to address. In their view the key issue was the decline in public trust of politicians, which was largely due to large donations, and the perception of buying influence. There was a long term increase in total expenditure, such as on billboards, which the parties were agreed did not provide value for money; however at local level the amount spent was decreasing. They did not accept the observation in the Review that spending in marginals was at saturation level.
11. They felt that while a cap on national spending may be reasonably straightforward, a cap on local spending posed greater challenges. Crucially any new regulation should not be disproportionately burdensome on local constituency parties, and should be structured so as not to discourage any increase in spending generated by an increase in local engagement.

12. With regard to categories of spending, the Conservative Party were content to consider a more comprehensive approach, but noted various challenges in the design of a list of exemptions. Pension fund contributions should be considered as part of the staff remuneration package and so should be included in the cap. Capital expenditure tended to have an uneven profile, and more consideration would need to be given to how it was treated. The costs of fundraising, which were relatively small under the current system as large donations were cost-effective, would increase substantially under a system where many small donations were required, and this should not be prevented by any new controls; yet much fund-raising activity undoubtedly did have a campaigning aspect. Careful thought would also need to be given to the treatment of expenditure taken off balance sheet through outsourcing, for example, so that the regulations did not distort the business decisions of the parties.
13. Overall, while the Conservative Party accepted that further measures to control spending would be part of any overall agreement, they were not sure that spending needed to be reduced. Limitation at around current levels might be sufficient. In terms of the options put forward in the paper, while they felt that no approach was wholly right, and indeed all the options would require the Conservative Party to make changes to its constitution, they agreed that national and local spending would have to be taken together, and so they felt that Option 2 was in the right sort of territory.
14. **The Liberal Democrat Party** expressed support for curtailing the arms race in party spending. While they had some difficulties with the various options they did feel that capturing the totality of the spending was important. They expressed the view that the difference between national and local spending was illusory, and that the crucial difference was where such expenditure, such as spending on direct mailings and call centres, was targeted, rather than which body spent the money. They would welcome further consideration of what might be done in addition to the proposals in the paper to ensure that the limits on candidate spending at elections worked as intended and could not be circumvented in this way. They felt the issue of incumbency, although there were some real benefits to the incumbent, was of limited significance to the issues at hand.
15. **Sir Hayden** noted that the Review had recommended reducing spending, not least because it was supported by all the parties in their published policies. Summarising the discussion, he suggested that there were four reasons for further spending controls:
  - There needed to be a “non-proliferation treaty” to prevent an arms race;
  - The perception of excessive spending in marginal constituencies needed to be addressed;
  - The quality of regulation achieved by the current system needed to be improved; and
  - A balanced package was needed to reach an overall agreement.
16. Sir Hayden felt that in the light of the discussion it was possible that Option 2 (tradeable limits) might offer the greatest flexibility for parties to work out their own ways of adapting to the regulatory regime, thus respecting both centralised and decentralised party structures. Further consideration needed to be given to the details of the implementation of controls over the electoral cycle and the detailed treatment of different categories of spending. Moreover, the role of the regulator was crucial in ensuring an effective regime of spending controls, and there was broad agreement on this point. The Financial Services Authority was cited as an example of the calibre of regulator that the Electoral Commission could strive to emulate, and it was suggested that one approach to strengthening the Commission might be to second staff from the

FSA, as well as from the National Audit Office as previously suggested, to help them establish their expertise.

### **Affiliation fees**

17. **Sir Hayden** pointed out that Options 2 and 3 in the affiliation fees paper were based on what was outlined in page 10 of the Report. Options 1 and 4 moved away from the centre ground.
18. **The Conservative Party** stated that in their view the necessary condition for affiliation fees to be treated as individual donations for the purposes of a cap on donations was that there should be genuine positive individual choice. Option 1 was in their judgement the right goal to aim for, because it gave individual trade union members an annual choice – first, whether to donate at all, and second, to which party they wished to donate. Other options might be acceptable as transitional stages to this final outcome. They recognised that this would cause a huge change for the Labour Party and would be controversial, but it was important to understand that acceptance of increased state funding within the wider Conservative Party was contingent on there being genuine positive individual choice in this area.
19. The Conservative Party felt that the key issue was a collapse of trust, and the perception that large donations, including from trade unions, might buy political influence. At the moment union leaders had considerable influence over levels of donation to the Labour Party, while an individual trade union member – who might personally support any political party – was not in most cases free to choose to support the wider political activities of their union whilst not contributing to the Labour Party. These issues had to be addressed.
20. **The Labour Party** stated that Option 1 would cause very serious damage to the Labour Party and was wholly unacceptable. It appeared to represent an unwelcome change in Conservative policy, and a step away from the spirit of consensus which was necessary to the success of the talks. The Labour Party was formed by trade unions and other organisations, and organisational affiliation was a fundamental aspect of the Labour constitution. Options 3 and 4 would not be easy for the Labour Party, and would result in a significant loss of income, and these options stopped a long way short of Option 1. Nevertheless the Labour Party accepted that there was a case for improvement in trade union practices around affiliation fees including increased transparency in the payment mechanism.
21. The Labour Party said that the issue of affiliation was not just about money, which after all amounted to a few pence per individual per week, but the structure of the Labour Party and the way it organised at a local and regional level. Trade Unions did have a collective choice as to whether support the Labour Party or not, and some had disaffiliated, such as the RMT and the FBU.
22. **The Liberal Democrat Party** thanked the Secretariat for the paper. They were now more aware of the differences in practice and the differences between the number of members that paid the political levy and the number of members affiliated, and felt that this needed greatly increased transparency. The UNISON model of two political funds, one affiliated and one not, had attractions. While understanding the appeal of Option 1, they accepted that it would be unacceptable to the Labour Party. Option 4, on the other

hand, seemed to offer too little advance on the current arrangements. So progress needed to be made around Options 2 and 3 if there was to be an agreement.

23. **Sir Hayden** underlined the importance of respecting other parties' structures, traditions and constitutions, and pointed out that the parties were in favour of this when the report was published in March. He stated that the Conservative Party had an understandable position that they wanted to move to, and that the Labour Party had an understandable position that they did not wish to move away from. The issue was whether there was ground in the middle. Sir Hayden urged the parties not to let the best become the enemy of the good.
24. It was agreed that the next meeting would continue discussions around affiliation fees and spending controls. The Secretariat would also circulate a short paper on transitional arrangements.

David Rowland  
Secretary to the Talks

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## **Transitional Arrangements**

Introducing major changes to the donations and spending regimes requires lead-in times, and transitional arrangements to enable the parties and the regulator to adjust to the new system.

The accompanying timeline diagram illustrates one possible transition plan, over a five-year period from 2009 to 2013, based on a number of assumptions. The assumptions made are as follows.

### **Legislation**

A Bill could be drafted over the months following agreement at the Inter-Party Talks, introduced in the new session of Parliament, and receive Royal Assent by mid-2008.

### **Electoral Commission reform**

It is common ground that the Electoral Commission needs to make substantial changes to be able to be an effective regulator of a new and more far-reaching regime covering donations, expenditure, and public funding. These changes will take time, perhaps 18 months to 2 years, and it would be risky to introduce complex new demands on the Commission before it is ready to handle them. The beginning of this reform, however, need not await the passage of the Bill.

### **Donations**

A cap on donations could be introduced almost immediately after the passing of the legislation. However, it would be more straightforward to introduce a cap at the start of the reporting year, that is, the calendar year.

The final level of the cap is yet to be agreed. In this paper an assumption is made for illustrative purposes that this level is £50,000.

A cap could be introduced in a number of ways, including going directly to the agreed level of cap, or introducing a cap at a very high level and reducing it progressively over a number of years. The assumption here is that a cap will be set initially at £500,000, coming into force in 2009, and maintained at this level for three years, before being reduced to £50,000 from the start of 2012.

The introduction of changes to the treatment of trade union affiliation fees would also be likely to require a transitional period, depending on the nature of the agreement, both to allow the trade unions to make the necessary changes to their processes and systems, and to give the Labour Party an opportunity to adjust to any reduction in its income. The timeframe illustrated here allows five years for these adjustments.

## **Spending controls**

If it is agreed that spending should in future be controlled over the electoral cycle, it would be logical to introduce the new spending control regime in one go after the next general election. Any attempt to phase them in would probably be over-complicated and might damage the credibility of the new regime, but it would be possible and desirable to eliminate or at least drastically reduce their use of billboard advertising before the next election if the parties were able to reach a voluntary agreement.

## **Public funding**

An assumption is made, based on the Review's report, that there would be two new schemes of public funding, the internet-based incentive scheme (£5+£5) and the pence-per-vote scheme.

Public funding should only be introduced in parallel with the introduction of a cap on donations, and the chosen schemes should be phased in in step with each other. Thus in this illustrative model, the incentive scheme, £5+£5, would be introduced at the same time as the initial cap of £500,000, to give parties an opportunity to offset the loss of income from the largest donations. The larger pence-per-vote scheme would only be introduced once the cap had reached its final, much lower level. Policy Development Grants (PDGs) would end as the pence-per-vote funding came on stream.

### **NOTE:**

This plan covers Great Britain only, excluding Northern Ireland as it is assumed that it is unlikely the proposed measures could be implemented in NI within five years of the other UK parties.



**Annex A**

The following are the scheduled and possible elections:

May 2008	GLA and London Mayoral English local government and Mayoral Wales unitary local authority
May 2009	Northern Ireland local government English local elections (counties only)
June 2009	European Parliamentary elections
May 2010	English local government
May 2011	Scottish Parliament National Assembly for Wales Northern Ireland Assembly Scottish local government English local government and mayoral

**Note:** A future general election has not been listed, as a date for this cannot be verified until it is called by the Prime Minister. However, there must be a general election at least every five years, and the most recent one was on 5 May 2005. It is likely to be in either 2009 or 2010. The general election following that is therefore likely to be in 2013, 2014, or 2015.

**Transitional arrangements timeline**

	2007	2008	2009	2010	2011	2012	2013
Legislation	[Green bar]						
Electoral Commission reform	[Cyan bar]			[Hatched bar]			
Donations: Cap			£500,000 cap			£50,000 cap	
Affiliation fees			[Yellow bar]	[Yellow bar]	[Yellow bar]	[Yellow bar]	[Yellow bar]
Spending: Voluntary reduction			No billboards	[Hatched bar]			
Statutory limits				[Hatched bar]	Introduction post-general election		
Funding: incentive scheme (£5+£5)			[Orange bar]	[Orange bar]	[Orange bar]	[Orange bar]	[Orange bar]
pence-per-vote introduced						(PDGs withdrawn)	[Red bar]

# Inter-Party Talks: The Funding of Political Parties

Sir Hayden Phillips GCB, Chairman

## MINUTE

**Date:** 20 June 2007  
**To:** Sir Hayden Phillips GCB  
**From:** David Rowland  
Secretary to the Talks  
020 7210 0535

**Minutes of third session**

**2pm 19 June 2007**

**Location: Dover House**

**Attendees:** Sir Hayden Phillips (Chairman)  
Ian Gambles (Secretariat)  
Ted Whybrew CBE (former Certification Officer advising Secretariat)  
Rt Hon Francis Maude MP (Conservative Party)  
Andrew Tyrie MP (Conservative Party)  
Ian McIsaac (Conservative Party)  
Rt Hon Jack Straw MP (Labour Party)  
Peter Watt (Labour Party)  
Declan McHugh (Labour Party)  
David Heath MP (Liberal Democrats)  
Lord Kirkwood (Liberal Democrats)

Also observing the talks but not participating were the following:

Sheridan Westlake (Conservative Party)  
Pauline Prosser (Ministry of Justice official)  
David Rowland (Secretariat)

1. **Sir Hayden** opened the third session by thanking the participants for their continued participation. He noted the difficulties in scheduling future meetings and the importance of seeking to conclude the talks before the Recess. David Heath said that, if it was necessary to arrange a meeting in his absence abroad, he would be happy for Lord Kirkwood to lead for the Liberal Democrats.
2. Extending the talks into July would give the Secretariat time to produce more detailed propositions on affiliation fees and spending, and also papers on public funding and transitional arrangements, and allow the Ministry of Justice paper on the reform of the Electoral Commission to be considered in the talks.
3. Sir Hayden emphasised that to use the Secretariat productively it would be necessary for them to undertake further work in areas where there was the prospect of agreement, even though such areas might not necessarily represent the preferred policy positions of the parties.

4. It was agreed that any changes to the minutes from the second session should be sent to the Secretariat, which would then produce a set of revised minutes.
5. The order the subjects were taken in was reversed from the previous meeting, with the issue of affiliation fees being discussed first, before that of spending.

#### **Affiliation fees**

6. **Sir Hayden** referred to his letter of the 15<sup>th</sup> June which stated that in his judgement the areas in which an agreement would be possible were Options 2 and 3 of the paper on affiliation fees tabled at the second session of talks, with the detail in Annex B of the same paper proving helpful in illustrating where there may be areas for trade-offs.
7. **The Conservative Party** made the point that it was difficult to have a discussion on the basis that one proposition was not acceptable. The reason that the Conservatives had entered into the process was because they believed that everything was up for discussion, and it was on that basis that they had proposed state funding to make up for any shortfall. The Conservatives were in favour of a long-term durable solution, with their ideal solution prohibiting all institutional funding. On affiliation fees they said that the talks should not rule out the possibility of getting to a long-term end-point of giving individual trade union members a positive annual choice to opt into donating to any political party.
8. **The Labour Party** responded that there had been many changes in its relationship with the trade unions over the last 15-20 years, and that other parties were free to advocate further long-term changes if they wished. However, neither ending all institutional funding, nor opting in, nor individual affiliation to parties other than that to which the union had decided to affiliate was an acceptable long-term outcome from their perspective. They felt that Option 4 should not be ruled out. Option 4 was not in their opinion a no change option, as it would mean massive change for the trade unions. It would create much greater transparency and require unions to affiliate based on an exact number of members who pay into the political fund, something the Labour Party constitution does not currently require them to do. Option 4 would give them internal problems, which would be worse under Options 3 and 2.
9. **The Liberal Democrats** stated that it would not be possible to make progress on caps on donations unless there was sufficient change to remove the perception that donations were controlled by the General Secretaries of the unions. There would need to be two parts to the arrangement: donations that had nothing to do with the affiliation fee should be subject to the cap on donations; while affiliation fees would need to be regularised to maximise transparency, and there would need to be a clear link between the number of members paying into the political fund and the number of members affiliated.
10. **Sir Hayden** returned to the process needed to work up more detailed arrangements, and sought agreement that the Secretariat should discuss bilaterally with the parties practical proposals in the areas he had suggested. This was accepted.
11. **The Conservatives** suggested that there should also be more work on shortfalls due to a donation cap and also on the extent to which there had been an arms race, at national or local level, which had been exaggerated.

## Spending

12. **Sir Hayden** stated that in his judgement Option 2 of the spending paper presented at the last meeting appeared to be the most likely area for an agreement to be reached. It would control spending over the electoral cycle at an aggregate level, thus leaving all spending decisions, including the split between local and national spending, as far as possible in the hands of the parties, and respecting their different structures and constitutions.
13. It was agreed that the Secretariat would undertake more work on trends in spending, and that the parties would provide spending figures from before 1997 to enable this to take place.
14. **The Liberal Democrats** stated that while they felt that Option 2 was in the right area, there was still a missing ingredient, that of controlling national party spending targeted at particular constituencies, particularly spending on phone banks and direct mail. A scheme based on Option 2 could open the door to hyper-expenditure at marginals after the dissolution unless RPA controls were tightened accordingly.
15. **The Labour Party** said that the Secretariat, in developing its proposals further, would need to look at maintaining candidates' election expenses, as set out in the RPA, which would be their preferred position. Overall whatever structure was put in place parties would always attempt to spend more in marginals. They saw some difficulties in implementing Option 2, but did not feel they were insuperable.
16. **The Conservative Party** agreed that maintaining the candidates' election expenses limits in the RPA would be desirable. They emphasised that they were only prepared to consider changes to spending controls in the interests of reaching an agreement. The Constitutional Affairs Select Committee had looked at the issue of spending, and at what was in place in other countries, and had come to the conclusion that only a system regulating expenditure over a Parliamentary cycle could be made to work properly. Whatever system was devised eventually, there needed to be a balance between regulatory scrutiny and practicality. They felt that the overall limits would impact upon the spending in marginals, as there were 100-150 marginals, and so spending would have to be balanced between them, as well as other areas. They felt that there was a way of addressing the Liberal Democrats' point.
17. The Conservatives also stated that if there were to be matched funding from the taxpayer with some proportion of it being collected at a local level, local members would only be incentivised to collect the money if they could spend part of it locally as well.
18. In addition, the Conservative Party pointed out that at a local level their associations held many social events which also fundraised, if only to cover the cost of the event. These activities were devoid of any political content, and were for members. Much of the spending of the larger constituency associations was on such social events, and they should not be penalised for this.
19. The parties accepted the proposal that the Secretariat should work up proposals based on Option 2 but taking account of the points raised in discussion.

### **Transitional arrangements**

20. Sir Hayden pointed out that these were not proposals, but illustrated some of the issues and possibilities.
21. The Labour Party felt that spending controls needed to be capped before donations were capped, otherwise funding would be reduced before spending. Sir Hayden commented that the general public might find it a clearer proposition if caps on donations and new spending controls were to be introduced at the same time.
22. There was a discussion about whether the timetable should be compressed, depending on how radical the reforms were, with Sir Hayden pointing out the importance of ensuring that the regulator had sufficient time to develop the structure and skills necessary to be effective.
23. It was agreed that the Secretariat would undertake a series of bilateral meetings with the parties seeking to develop more detailed proposals on affiliation fees, spending, and transitional arrangements.
24. Draft proposals on the Electoral Commission and public funding would also be distributed in advance of the next meeting.

David Rowland  
Secretary to the Talks

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**RESTRICTED****Agenda for Meeting 4**  
24 July 2007

	<u>Page</u>
1. Process and timetable	
2. <a href="#"><u>Paper 1: Limiting donations</u></a>	2
3. <a href="#"><u>Paper 2: Affiliation fees</u></a>	11
4. <a href="#"><u>Paper 3: Spending controls</u></a>	14
5. <a href="#"><u>Paper 4: Public funding</u></a>	20
6. <a href="#"><u>Paper 5: Anti-avoidance</u></a>	30
7. MoJ paper: Reform of the Electoral Commission	
8. <a href="#"><u>Paper 6: Transitional Arrangements</u></a>	40
9. Draft press release for 25 <sup>th</sup> July	

**Fourth session of the Inter-Party Talks, 24 July 2007****Paper 1: Cap on donations**

This paper invites the parties:

1. To determine the level at which the cap should be set
2. To decide whether there should be a lower cap for donations to accounting units
3. To agree the criteria to determine to which parties the cap should apply
4. To give guidance on how the cap should operate in practice

**1. Level of the cap**

*Strengthening Democracy: Fair and Sustainable Funding of Political Parties* said that, “the parties will want to consider the precise level of the limit on donations. But a ceiling of £50,000 on donations from any one source – whether individual or organisational – seems to me to be a reasonable and attainable target” (p10).

In setting the level of the cap, the following principles should be taken into account:

- A cap on donations should be low enough to provide reassurance that the sum is insufficient for the donor to gain undue influence.
- The cap should be high enough to ensure that parties are financially sustainable once they have made changes to their fundraising strategies to adjust to the cap.
- Where these two criteria cannot be balanced, additional public funding could assist parties in becoming financially sustainable. However, parties should still have an incentive to collect donations and not become over-reliant on public funds.

Trying to put a figure on perceptions of undue influence will be, by its very nature, inexact. In particular, there has been little research into the level at which the public perceive a donation to have gained the donor undue influence. It is worth noting, however:

- that average UK household income is less than £30,000 per annum, and £50,000 will to the great majority of people still seem a very substantial donation;
- that donation caps in other countries (Annex E) are in many cases set at much lower levels than those under consideration here.

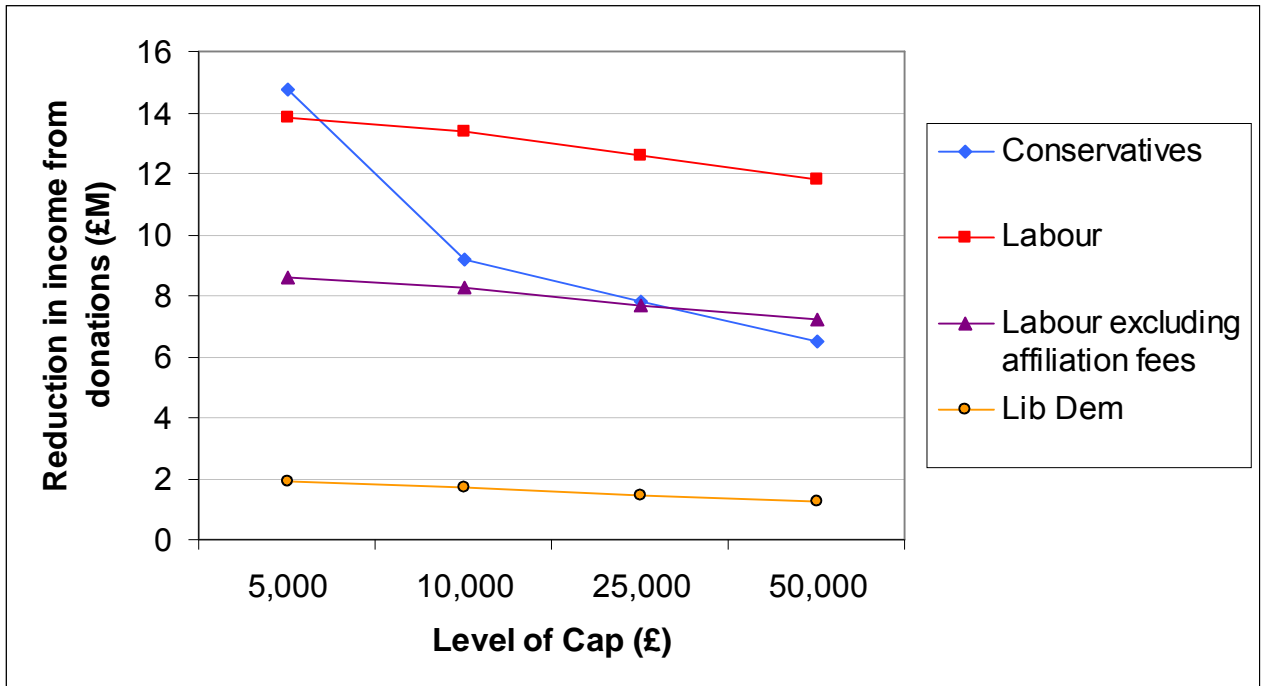
Accordingly the Secretariat has at this stage modelled the impact of four different levels of cap, taking £50,000 as the maximum, and modelling alternatives at £25,000, £10,000, and £5,000. The graph below summarises the reduction in total party income (that is to say both the national party and its accounting units) from donations at these different levels of a cap on donations using the mean of the data from 2001 to 2006. The key points to note from this graph are:

- That significant reductions in the cap from £50,000 to £25,000, or even to £10,000, are likely to have only marginally greater impact (c. £2m in total at each step) on the parties’ total income
- That a cap set as low as £5,000, in contrast, would have a significantly more severe impact on the total income of the Conservative Party



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- That setting the cap at £25,000 would appear to have the most equitable impact on the two largest parties



Annexes B – D set out the financial effect of a cap in more detail while annex A explains how the financial effect was calculated.

The parties may wish to consider whether to stick with the figure of £50,000 which was discussed in the Report, or to signal their determination on this issue and strengthen the presentation of the whole package of reform by setting the cap at £25,000. Transitional arrangements would apply in either case (see Paper 6).

## 2. A lower cap for accounting units?

A lower limit could be set for donations to accounting units, as at a local level smaller amounts are more likely to be perceived as gaining the donor undue influence. This reflects the current distinction made in the requirements for reporting donations where donations over £1,000 to an accounting unit have to be reported but only donations over £5,000 to the national party have to be reported. However, the level would need to be set so it did not adversely affect local engagement, for example through preventing donations in-kind such as printing.

If the cap on donations were set at either £50,000 or £25,000 at a national level, then limiting a donor to giving no more than £10,000 of that amount to any one particular accounting unit would seem reasonable. It may be felt, however, that this additional level of regulation is not necessary.

### **3. Threshold for a limit on donations to apply**

Sir Hayden, in his report, said: “I see no reason at present to include new parties and those smaller parties without elected representatives within the scope of a donation limit. They would come within them if they secure election of a minimum of two representatives to a devolved assembly or parliament, to the European parliament or to Westminster” (p10.) The rationale behind this statement was:

- that all parties with two or more elected representatives at Westminster, the European Parliament, or the devolved administrations should be required to abide by a limit on donations, where it is important to demonstrate that the parties' policies have not been influenced by large donations; but
- that it would be wrong for the limit on donations to make it more difficult for new and smaller parties, which would not benefit from public funding, to emerge and develop.

Parties are invited to decide whether they accept the principle that the eligibility criteria for public funding and the criteria for falling within the scope of the cap on donations should be the same.

### **4. Operation of the cap**

Three proposals for how the cap on donations should operate are made below. Donations to third parties and regulated donees are addressed in the paper on anti-avoidance (see Paper 5).

- The limit on donations would apply to the total a donor could give in any one calendar year to a party, its accounting units and its elected representatives and other regulated donees in connection with their political activities taken together.
- Loans, donations and donations in-kind made in the same year from the same source would be taken together for the purposes of a cap. Commercial loans would be exempt from the cap provided they were made by UK financial institutions registered with the Financial Services Authority. Their source, amount, terms and interest would be declared in the party's quarterly returns to the Electoral Commission.
- Any amount donated over the agreed limit would have to be returned to the donor, or forfeited if this were not possible. The current rules applying to donations from impermissible sources could be adopted.

**RESTRICTED****Annex A****Notes on the data used in annexes B – D**

This data is based on the Electoral Commission register of donations for 2001 – 2006. It records the sum totals of the donations reported each year as follows:

**Total amount of reported donations since 2001**

£m	2001	2002	2003	2004	2005	2006
Conservative Party	13.51	4.53	4.39	10.40	15.11	24.16
Labour Party	12.20	11.07	14.98	15.76	21.79	11.88
Liberal Democrats	1.14	0.68	1.44	2.52	5.07	4.90
Other	1.34	0.86	1.75	3.38	1.94	3.28
<b>Total</b>	<b>28.19</b>	<b>17.14</b>	<b>22.56</b>	<b>32.06</b>	<b>43.91</b>	<b>44.22</b>

Each annex provides two tables based on this data:

- The number of donations that would exceed the cap per party, per year
- The difference between the amount the parties' received, and the amount they would have received if the cap had been in place, referred to as the reduction in income from donations

These figures are based on the donations each party declared to the Electoral Commission (i.e. donations over £1,000 to an accounting unit or £5,000 to the national party). Parties will also have received income from other sources such as commercial activities, investment income, and public funding, and from donations below the reporting threshold, such as membership fees.

Multiple donations from the same person in a calendar year have been aggregated for the purposes of the cap. Where the total amount of the donations has exceeded the cap, it has been assumed that a donation would have been given up to the level of the cap. Public funding, "exempt" donations (e.g. from trusts) and donations made to "regulated donees" (members of registered parties, members associations and holders of relevant elective officers under schedule 7 of PPERA) have been excluded from the data. The data is broken down by party for the three parties that received the most donations, with the remaining reported donations aggregated into the category "other".

For the reduction in income from donations figures for the Labour Party, the first row includes all payments from trade unions to the Labour Party without making a distinction between donations and affiliation fees. The second row gives the reduction in income from donations excluding affiliation fees. In effect it gives the shortfall were affiliation fees to continue at the same level as at present.

These figures are based on historical data so can only give an indication of the likely effect of a cap on donations. When a cap on donations is introduced, parties are likely to change their strategies for seeking donations and individuals are likely to change the way they give.

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Changes to the systems for collecting affiliation fees will result in a change in the amount trade unions collect in affiliation fees. No attempt has been made to quantify these behavioural changes.

This model has been prepared with assistance from Ministry of Justice statisticians based on the work in annex G of the *Interim Assessment* but with subsequent refinements and the inclusion of the data from 2006.

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**RESTRICTED****Annex B****The effect of a £50,000 Limit on Donations****Number of donations exceeding cap (per party, per year)**

	2001	2002	2003	2004	2005	2006
Conservative Party	21	17	12	41	51	67
Labour Party	26	23	31	24	38	19
Liberal Democrats	3	1	3	8	5	14
Other	4	4	5	11	5	17
<b>Total</b>	<b>54</b>	<b>45</b>	<b>51</b>	<b>84</b>	<b>99</b>	<b>117</b>

**Reduction in parties' income from donations if cap had been in place in previous years**

£m	2001	2002	2003	2004	2005	2006
Conservative Party	9.54	1.99	1.34	4.21	6.28	15.73
Labour Party	9.65	8.79	12.24	12.93	17.76	9.38
Labour Party – Excluding affiliation fees	5.44	4.67	7.36	7.18	11.35	n/a
Liberal Democrats	0.21	0.08	0.52	0.82	3.01	2.92
Other	0.70	0.30	0.90	1.95	0.94	1.5
<b>Total*</b>	<b>15.89</b>	<b>7.04</b>	<b>10.12</b>	<b>14.16</b>	<b>21.58</b>	<b>n/a</b>

\* using Labour Party reported donations figures excluding affiliation fees

**RESTRICTED****Annex C****The effect of a £25,000 Limit on Donations****Number of donations exceeding cap (per party, per year)**

	2001	2002	2003	2004	2005	2006
Conservative Party	39	26	27	70	96	118
Labour Party	34	31	39	38	47	30
Liberal Democrats	7	3	4	14	15	20
Other	6	6	9	11	7	26
<b>Total</b>	<b>86</b>	<b>66</b>	<b>79</b>	<b>133</b>	<b>165</b>	<b>194</b>

**Reduction in parties' income from donations if cap had been in place in previous years**

£m	2001	2002	2003	2004	2005	2006
Conservative Party	10.27	2.50	1.79	5.71	8.35	18.15
Labour Party	10.40	9.48	13.12	13.69	18.81	10.00
Labour Party - Excluding affiliation fees	5.80	4.96	7.95	7.63	12.12	n/a
Liberal Democrats	0.31	0.12	0.61	1.10	3.26	3.38
Other	0.82	0.43	1.06	2.23	1.07	1.96
<b>Total*</b>	<b>17.20</b>	<b>8.01</b>	<b>11.41</b>	<b>16.67</b>	<b>24.80</b>	<b>n/a</b>

\* using Labour Party reported donations figures excluding affiliation fees

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**RESTRICTED****Annex D****The effect of a £10,000 Limit on Donations****Number of donations exceeding cap (per party, per year)**

	2001	2002	2003	2004	2005	2006
Conservative Party	85	57	81	149	194	187
Labour Party	58	54	63	73	106	66
Liberal Democrats	15	10	15	39	47	28
Other	18	15	23	35	31	51
<b>Total</b>	<b>176</b>	<b>136</b>	<b>182</b>	<b>296</b>	<b>378</b>	<b>332</b>

**Reduction in parties' income from donations if cap had been in place in previous years**

£m	2001	2002	2003	2004	2005	2006
Conservative Party	11.17	3.11	2.51	7.35	10.55	20.41
Labour Party	11.07	10.14	13.88	14.47	19.95	10.68
Labour Party - Excluding affiliation fees	6.16	5.33	8.49	8.23	13.03	n/a
Liberal Democrats	0.46	0.22	0.71	1.42	3.67	3.72
Other	1.02	0.58	1.26	2.51	1.32	2.49
<b>Total*</b>	<b>18.81</b>	<b>9.24</b>	<b>12.97</b>	<b>19.51</b>	<b>28.57</b>	<b>n/a</b>

\* using Labour Party reported donations figures excluding affiliation fees

**Annex E**  
**Limits on Donations in Other Jurisdictions**

<b>Country</b>	<i>Level of the limit on donations</i>	<i>Approx sterling equivalent</i>	<i>Notes</i>
<b>Belgium</b>	€500 to an individual party and €2,000 in total, per annum	£338/£1,351	Donations from companies are banned.
<b>Canada</b>	CAN \$1,100 per annum	£516	
<b>France</b>	€4,600 over electoral cycle	£3,107	Donations from companies and TUs are banned.
<b>Ireland</b>	€6,349 per annum	£4,289	
<b>Portugal</b>	€10,500 per annum	£7,091	Donations from companies and TUs are banned. Limited to €28,000 over the electoral cycle
<b>Spain</b>	€5,000 per annum	£37,151	
<b>USA</b>	\$10,000 - \$28,000 per annum to different levels of party.	£4,965 - £13,092	Donations from companies and TUs are banned.



**RESTRICTED****Fourth session of the Inter-Party Talks, 24 July 2007****Paper 2: Affiliation fees**

This paper outlines a proposal for the minimum legal requirements which should apply to the collection of affiliation fees from trade union members in order for them to qualify as individual donations for purposes of a cap on donations. Some trade unions already go further than this, while others may choose to. It would apply to all trade unions with political funds, and would retain the political fund as the source of funding for all the trade union's political activities.

This proposal satisfies the tests outlined in *Strengthening Democracy: Fair and Sustainable Funding of Political Parties* p10, which said that, "these payments may be regarded as individual donations for the purposes of the new limit if, and only if, the decisions reached are clearly transparent and it is possible to trace payments back to identifiable individuals."

**1. An individual's decision on joining the trade union**

On the membership application form, the following information should be provided:

- The nature and purpose of the union's political fund
- Details of any political parties to which the union is affiliated
- How much money will be collected from the individual member, and how much of that contributes to the union's affiliation fee
- The member's right to decide not to make the contribution into the political fund at any stage
- That if the individual decides not to contribute, their subscription will be reduced by the amount of the political fund contribution

The application form should also provide a clear, simple, and prominently displayed means of opting out, so that applicants can if they so choose indicate on the form that they do not wish to contribute towards the political fund.

While it would not be appropriate for the regulations to specify to any greater level of detail the precise wording or design of a trade union's membership application form, the Secretariat has been developing examples for illustrative purposes of what a compliant application form might look like and would be happy to discuss these with the parties if they would find that helpful.

## **2. Annual information to union members to remind them of their right to stop contributing towards the affiliation fee**

The information which trade unions are already required to provide to members at present should be extended to include:

- A reminder of what the political fund is and the union's affiliation to a political party
- A reminder of how much individual members contribute to the political fund and towards the union's affiliation fee
- A reminder of how a member can stop contributing to the political fund and the union's affiliation fee, and that a member can do this at any time
- A reminder that if a member stops contributing, their membership subscription will be reduced

This information would be communicated as at present either by direct contact with members or by any other means which the union usually uses to communicate with its members.

## **3. Existing members who pay the political levy**

When the new scheme is introduced, members who had previously paid the political levy would be informed of the changes to the law and how the union would be operating its political fund and payment of the affiliation fee in future. Members would be told how much they would be contributing under the new scheme and how to stop contributing if they so wished.

## **4. Regulation of the system**

The Certification Officer would:

- ensure that all individual contributions from members towards the affiliation fee are paid to the party to which the union affiliated
- ensure that a trade union did not affiliate on the basis of more or fewer members than contributed towards the political fund
- retain his current role in ensuring that the information required by law is appropriately communicated to members, which would be extended to include the information provided to members on joining and annually thereafter
- rule on whether an application form provided with sufficient clarity the information outlined at point 1 above
- offer guidance to unions on compliance with the regulations, and afford them a reasonable opportunity to correct non-compliant practices.

The Electoral Commission would be responsible for ensuring that any donations from trade unions do not exceed the cap and are properly declared. The Certification Officer would submit a report on these matters to the Electoral Commission, identifying any cases where the rules permitting affiliation fees to qualify as individual donations for purposes of the cap had been breached and the union had failed to rectify the breach. In that event, the payment of that union's affiliation fees would be treated as a single organisational donation and any amount in excess of the cap on donations would have to be returned by the party.

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The increased transparency and choice contained in this proposal may mean that the current statutory requirement for a ten-year review ballot on the existence of the political fund would no longer be necessary.

**5. Transitional Arrangements**

Many unions do not at present collect enough money from their members in contributions to the political fund to affiliate the total number of members who contribute at the level of affiliation fee specified by the party to which they affiliate. These unions and the Certification Officer would need time to adapt to the changes proposed. There would be no such need to delay the introduction of measures around the individual decision.

**Fourth session of the Inter-Party Talks, 24 July 2007****Paper 3: Spending Controls**

It was agreed at the Inter Party Talks on 19 June that the Secretariat would develop specific proposals based on option 2 in the paper on spending controls, discussed at the meeting on 13 June, in the light of further discussion with the parties.

The parties are invited to consider agreeing to the Secretariat's proposals on the following:

- Nature of the limit
- Scope of the limit
- Compliance
- Level of the limit
- Candidate controls

**1. Nature of the limit**

Spending controls would apply to the whole of a Westminster Parliament electoral cycle. The maximum limit for a full cycle would comprise a five-year running costs figure and a general election premium. The running costs figure would be adjusted by the relevant fraction of 61 months depending on the actual life of the parliament, and the premium would be added back to calculate the enforceable limit.

A single overall limit would apply to the expenditure of each party, including all its constituent organisations whether national, regional, local or other.

It would be a matter for the parties to decide how to disaggregate their spending within the overall limit between the years of the parliament and among the various organisations in the party.

**2. Scope of the limit**

The limit would apply to all party spending except for the following exempt categories: contributions to party employees' pension funds to make up for past shortfalls, interest on debt, repayments of debt incurred prior to the introduction of the new spending controls, legal expenses (including the cost of compliance with electoral law), expenditure of trading companies (provided they are operated as a going concern on an arm's length basis), accounting units' expenditure on social functions for members of the party, and intra-party transfers.

Expenditure which under accounting standards would be classified as capital expenditure would be depreciated as usual in party accounts in accordance with accounting policies and with an appropriate asset life; only the depreciation figure would count towards the limit.

Accounting units whose expenditure in any given year fell below £40,000 would be excluded from the controls in that year and their expenditure would not count towards the party limit; such excluded accounting units would have to cover a Westminster constituency or larger

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geographical area. The likely number of constituency bodies whose expenditure would be included within the limit on this basis is indicated in Annex B.

**3. Compliance**

Annual accounts would be filed with the Electoral Commission as they are now, and an annual return made reporting expenditure against the limit.

The national treasurer would be responsible for compliance with the limit, and for ensuring that the central party had appropriate systems in place to monitor overall party spending, but it would be assumed under a principle of “safe harbour” that the national treasurer had accepted accounting units’ statements of accounts in good faith.

A system of graduated penalties would be available, with the Electoral Commission required to ignore non-material breaches, and to discriminate on a range from self-declared inadvertent errors to large-scale or systematic evasion. The normal sanctions for errors, misdeclarations and small-scale or opportunistic avoidance would be financial penalties levied on the national party, which would then be free to determine whether it paid the penalties from central funds or passed them onto the accounting unit(s) responsible for the breach. Criminal sanctions would be available for serious evasion and charges would have to be brought against the individual actually committing the offence.

There would be a general duty not to avoid the limit, and the Electoral Commission would have investigatory powers to audit compliance, identify avoidance of the provisions specified in the statute, and order expenditure returns to be restated if necessary.

**4. Level of the limit**

The electoral cycle limit proposed is £150M, including a general election premium of £20M. Supporting calculations are provided in Annex A.

The limit would be the same for all parties putting forward candidates in at least 90% of Westminster constituencies at the general election at the end of the cycle. The limit would fall pro rata, in steps of 10%, for parties fielding fewer candidates, with a floor (to allow for fixed costs and to avoid over-regulation of smaller parties) set at 20% of the total limit.

**5. Candidate controls**

Existing controls on candidate spending under the Representation of the People Act would continue, and would be tightened so as to bring the costs of direct mail targeted at a constituency and an apportionment or allocation of the costs of phone bank activity targeted at a constituency within the scope of reportable spending.

The candidate’s limit is not included in the overall limit as this expenditure is already adequately controlled under the RPA, and the proposed overall limit has been reduced correspondingly.

## **Annex A**

### **Electoral cycle limit**

The paper on spending controls considered by the Inter Party Talks on 13 June proposed a ceiling of £140 million per party over a full electoral cycle. Since electoral cycles are of uncertain duration the paper proposed that the following formula should be used to calculate the exact amount available:

$\text{life of the Parliament} \times \text{agreed annual steady state spending} + \text{general election premium}$ $= \text{electoral cycle limit}$
--

The figure of £140m was generated by calculating for the period 2002-2005 the total spending of the national parties and their accounting units with income or expenditure greater than £25,000, and then using that data to calculate a notional five year cycle.

		<i>4 electoral year cycle: 2002-2005</i>	<i>Notional 5 year cycle using 2002-2005 data</i>
<i>Conservative Party</i>	National party spending	£74.5m	£88m
	Total national party and accounting unit spending	£135.5m	£163m
<i>Labour Party</i>	National party spending	£126.5m	£152m
	Total national party and accounting unit spending	£132.5m	£159m
<i>Liberal Democrats</i>	National party spending	£21m	£25m
	Total national party and accounting unit spending	£34.5m	£41m

Fig 1

Since the Review of Party Funding recommended that the Conservative and Labour parties should each reduce their spending by £20m over a full Parliament a ceiling of circa £140m was calculated from the total notional spending of the Conservative and Labour parties.<sup>1</sup>

The paper of 13 June proposed that accounting units comprising a constituency or larger geographical area with annual expenditure below £25,000 should be excluded from the controls. The above calculations of party spending therefore exclude accounting units with expenditure below £25,000. In order to ease the compliance burden by taking an additional tranche of over 100 accounting units out of the scope of the controls, the current proposals recommend that accounting units with expenditure below £40,000 should be excluded.

The table on the next page (fig 2) therefore shows the expenditure of the three main parties over a notional 5 year electoral cycle using 2002-2005 data but with accounting units with annual expenditure of less than £40,000 excluded.

<sup>1</sup> The spending for the notional fifth year was calculated by taking the average annual spending in the three years 2002 to 2004.

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		<i>Stated Expenditure</i>					<i>Full 5-year cycle estimate</i>
		<i>2002</i>	<i>2003</i>	<i>2004</i>	<i>2005</i>	<i>Total</i>	
<i>Conservative</i>	National	10,486,000	16,034,000	26,238,000	39,206,000		
	less Govt grants	3,304,000	4,551,000	4,579,000	5,011,000		
	<i>sub</i>	<i>7,182,000</i>	<i>11,483,000</i>	<i>21,659,000</i>	<i>34,195,000</i>	<i>74,519,000</i>	87,960,333
	Accounting Unit	10,867,959	12,373,328	15,188,514	20,038,392		
	less internal transfers	1,598,476	1,696,200	1,570,211	2,477,889		
	<i>sub</i>	<i>9,269,483</i>	<i>10,677,128</i>	<i>13,618,303</i>	<i>17,560,504</i>	<i>51,125,417</i>	62,313,722
	<b>Total</b>	<b>16,451,483</b>	<b>22,160,128</b>	<b>35,277,303</b>	<b>51,755,504</b>	<b>125,644,417</b>	<b>150,274,055</b>
<i>Labour</i>	National	22,085,000	24,281,000	32,109,000	49,804,000		
	less Govt grants	448,000	439,000	440,000	440,000		
	<i>sub</i>	<i>21,637,000</i>	<i>23,842,000</i>	<i>31,669,000</i>	<i>49,364,000</i>	<i>126,512,000</i>	152,228,000
	Accounting Unit	1,310,720	2,158,846	1,297,074	2,655,118		
	less internal transfers	678,846	1,499,911	658,183	955,319		
	<i>sub</i>	<i>631,874</i>	<i>658,935</i>	<i>638,891</i>	<i>1,699,800</i>	<i>3,629,499</i>	4,272,733
	<b>Total</b>	<b>22,268,874</b>	<b>24,500,935</b>	<b>32,307,891</b>	<b>51,063,800</b>	<b>130,141,499</b>	<b>156,500,733</b>
<i>Liberal Democrats</i>	National	3,387,002	4,005,149	4,614,418	8,783,485		
	<i>sub</i>	<i>3,387,002</i>	<i>4,005,149</i>	<i>4,614,418</i>	<i>8,783,485</i>	<i>20,790,054</i>	24,792,244
	Accounting Unit	2,569,729	5,422,350	6,817,032	7,168,469		
	less Govt grants	1,437,947	1,437,947	1,438,167	1,671,609		
	less internal transfers	1,539,501	1,659,088	1,678,743	1,726,058		
	<i>sub</i>	<i>-407,719</i>	<i>2,325,315</i>	<i>3,700,122</i>	<i>3,770,802</i>	<i>9,388,520</i>	11,261,093
	<b>Total</b>	<b>2,979,283</b>	<b>6,330,464</b>	<b>8,314,540</b>	<b>12,554,287</b>	<b>30,178,574</b>	<b>36,053,336</b>

Fig 2

**Expenditure of the three main parties over the last electoral cycle with accounting units spending less than £40,000 excluded**

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Accordingly when the total notional spending of the parties is recalculated, with accounting units spending less than £40,000 per annum excluded, the starting-point for calculating the appropriate expenditure limit for a full electoral cycle is the highest expenditure figure attributable to a national party, which is £156.5 million.

The first adjustment to be made to this is to reduce this headline figure by £20M as proposed in the Report of the Review. While the various exemptions proposed will considerably reduce the real financial impact of such a reduction, some commitment by the largest parties to a meaningful reduction in spending forms is an important part of the overall case for public funding. This gives us a revised figure of £136.5M.

We then need to estimate the division of this provisional figure into a running costs allocation and a general election premium. In the period 2002-05 the three main parties spent approximately twice as much in the general election year 2005 as their mean expenditure in the non-election years 2002-2004:

	<i>Conservative</i>	<i>Labour</i>	<i>Liberal Democrats</i>
<i>Mean annual spending 2002-2004</i>	24,629,638	26,359,233	5,874,762
<i>Spending in 2005</i>	51,755,504	51,063,800	12,554,287
<i>Mean annual spending as % of general election year spending</i>	47.5%	51.6%	46.7%

Fig 3

In simple terms, expenditure doubles in an election year. The general election premium should therefore be equal to one year's steady state spending. The formula

$\text{life of the Parliament} \times \text{agreed annual steady state spending} + \text{general election premium} = \text{electoral cycle limit}$
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expressed numerically using £136.5 million as the spending limit is

$$(5 \times 22.75m) + 22.75m = £136.5m$$

The next step in establishing an appropriate cash limit for the electoral cycle after the next general election is to adjust these figures for inflation. If we assume inflation is steady at the current CPI rate of 2.5%, and the electoral cycle begins in 2009, then the adjusted electoral cycle limit would round to £156M<sup>2</sup>. Recalculating, this would give a general election premium of £27M. Both these figures must be reduced, however, by the total amount a party contesting 627 seats in Great Britain can spend in candidates' expenses under the RPA, which is £6.9 million<sup>3</sup>, as this amount is not under these proposals within the scope of party spending controls. Thus the proposed limit is £150M, including a general election premium of £20M.

<sup>2</sup> Calculated by uprating the average annual running costs figure of £22.75M for three years' inflation to 2009, and a further year's inflation for each subsequent year of the cycle, plus a general election premium uprated to apply at the end of a full five-year cycle.

<sup>3</sup> The candidates expenses allowance at a general election comprises £7150 per constituency + 5p per voter in a borough constituency or 7p per voter in a county constituency. In constituencies with the national average of 70,000 registered electors the allowance is therefore £10,650 or £12,050. There are 628 constituencies in Great Britain. The Speaker's constituency is by convention not contested, giving a total of 627 seats contested. 627 x 11,000 = £6,897,000.



**RESTRICTED****Annex B****The number of constituency bodies included if the threshold for spending controls is £40,000**

Raising the threshold for excluding accounting units from spending controls from £25,000 to £40,000 will reduce significantly the compliance burden on local associations and parties. The table below shows the number of constituency bodies included with thresholds of £25,000 and £40,000 expenditure respectively, in both a non-general election year and a general election year.

	<i>Constituencies included if threshold is £25,000</i>		<i>Constituencies included if threshold is £40,000</i>	
	<i>2003</i>	<i>2005</i>	<i>2003</i>	<i>2005</i>
<i>Conservative</i>	255	322	168	236
<i>Labour</i>	12	56	4	19
<i>Liberal Democrat</i>	32	73	10	36

Fig 5

**Fourth session of the Inter-Party Talks, 24 July 2007****Paper 4: Public Funding****General Principles**

The Review of the Funding of Political Parties' Report *Strengthening Democracy* states that there are three reasons for introducing a higher level of public funding to political parties:

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

Second, our political parties all face long-term financial instability because of the rising costs of their business, and it is this which has prompted them to follow the trend among large non-profit making groups to pursue large donations from wealthy individuals and organisations. Financial instability is the enemy of healthy politics, and an injection of public funds is merited if we are to maintain public confidence in our democracy.

Third, there is a widely discussed and lamented decline in democratic engagement in this country, manifested in falling election turnouts and falling party membership rolls. Properly targeted, public funding can make some contribution to reinvigorating the parties' drive to involve and engage more members of the public in political debate.

The Review argues further that the parties eligible for public funding should be those that are subject to the cap on donations, that is, parties with two or more elected representatives at Parliament, the European Parliament, or the devolved administrations.

It proposes that the new schemes for public funding should take two basic forms:

- one, based on public support, primarily designed to bear the brunt of ensuring financial stability, in line with the first two reasons for public funding cited above; and
- one, based on a limited form of matched funding, designed to help stimulate democratic engagement, involving new people in politics, in line with the third reason cited above.

The Report argued that the cost should be kept to the minimum necessary, and estimated the net cost of all the proposals when fully implemented, including reform of the Electoral Commission, at no more than £20–25 million per annum. It was agreed at the outset of the talks that any agreement reached should respect this ceiling.

**RESTRICTED****Specific proposals**

The two specific proposals contained in the Report published in March this year are an internet-based incentive scheme, designed to help stimulate democratic engagement, and a pence-per-vote scheme, primarily designed to bear the brunt of ensuring financial stability. The Secretariat continues to believe that taken together these two schemes represent the best approach to public funding. The level of support provided through them does need to be reviewed in the light of the whole package of reform.

*Level of public funding*

Public funding should be set at a level which does not exceed the expected loss of income from donations. This is of course not a figure which it is possible to predict with any confidence, both because each party's income from large donations tends to vary so sharply from year to year and because the behavioural impact of the cap is not known. Precise calculations would therefore be misleading. The following set of estimates forms the basis of the level of funding proposed in this paper:

- Approximate average annual future impact of a cap on donations (£25K or £50K) on each of the two larger parties<sup>4</sup>: £8-10M (£8M is the point estimate given in Paper 1, but figures in the last two years suggest the trend is upward)
- Total impact over a five-year electoral cycle: £40-50M
- Deduct £10-20M over the cycle saved by reducing expenditure (£20M is the headline applied in Paper 3, but some of this will be displaced by exempt spending): £20-40M
- Annual income to each of the larger parties to be replaced by public funding: £4-8M
- Assume Conservative and Labour parties are each able to sign up 2-300,000 people to a £5+£5 scheme: £1-1.5M
- A further £0.5M of public funding from Policy Development Grants to each of the two largest parties will also need to be replaced.
- This gives us the following range for the funding gap to be filled in respect of each of the two largest parties by the pence per vote scheme: **£3-7.5M**

This range supports the level of funding proposed in the Report, namely 50p per vote for elections to Westminster and 25p per vote for elections to the devolved administrations and the European Parliament, which would give each of the two largest parties between £5M and £6M per annum, although a lower figure such as 40p/20p may also be supportable if that were felt to be desirable.

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<sup>4</sup> The impact on other parties is of course no less important, but it is in every case likely to be significantly less than the level of public funding they would receive under these proposals.

*Internet-based incentive scheme*

The scheme proposed in the Report builds on the current trend towards public political engagement and subscription through the internet. Parties eligible for public funding would be invited to establish a scheme, primarily using the internet, through which any elector could pay a minimum of £5 to support the party, which would then be matched with £5 of public funding.

The level of funding available to eligible parties through this scheme would therefore be directly related to their ability to attract paying supporters, and the energy they put into doing so. The scheme would not discriminate between those able and willing to pay a lot and those only wishing to subscribe a small amount, as all donations would be matched by £5. Once parties had established a supporter scheme, they would be able to communicate with a wider group of voters. Parties would also be able to encourage existing members to enrol in the supporter scheme in addition to paying their membership subscriptions.

In order to encourage local engagement, a key part of increasing democratic engagement as outlined in the third reason for additional public funding above, it would be beneficial if the national parties chose to share their income from the scheme with their constituency parties. One way of doing this would be to allow local parties to direct their members' payment of membership fees through this scheme and to keep the public funding thereby generated. This could be done either through the internet or through an alternative paper-based scheme. A satisfactory audit trail is necessary in any case.

Annex B contains further detail of how an internet-based incentive scheme could work.

*Pence-per-vote*

Eligible parties would receive 50p each year for every vote cast for them in the most recent general election, and 25p for every vote cast for them in the most recent elections for the devolved administrations in Scotland and Wales and for the European Parliament.<sup>5</sup>

This formula recognises the primacy of Westminster and it acknowledges that the legislatures in Edinburgh and Cardiff, and the European Parliament, now play a significant part in policy-making.

Local elections would be excluded as the costs of participating in them are relatively modest and it would introduce unnecessary complexity to the scheme if all local elections were to come within it.

The level of funding available to each eligible party would therefore fluctuate with their performance at the ballot box, and voters would know that they were directly influencing the allocation of public funds to the party of their choice.

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<sup>5</sup> As voters in Scotland and Wales have two votes at the elections for their devolved administrations, one for a constituency representative and one for a regional representative, the parties will receive 12.5p per vote, equivalent to 25p per voter.

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## **Policy Development Grants**

It is proposed that Policy Development Grants be discontinued. The Grants are ring-fenced funding which can only be used on policy development. £2 million is divided among parties with two or more sitting MPs. Currently the Conservative, Labour and Liberal Democrat parties each receive £457,997. The amount of money currently available through the Policy Development Grants would be more than compensated for by the amount of additional public funding proposed, which could be used for any purpose the parties choose.<sup>6</sup>

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<sup>6</sup> If payment per vote was set at a level lower than 50p/25p, the amounts payable to Plaid Cymru on the basis of most recent election results would in fact be marginally less than they receive in the form of Policy Development Grants.

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## **Annex A**

### **Pence-per-vote scheme**

This annex shows the amount parties would receive were a pence-per-vote scheme along the lines of the model suggested above to be in place now.

#### *Payment per vote*

	£
Payment per Westminster vote	0.50
Payment per Scotland and Wales vote	0.125
Payment per European vote	0.25

#### *Great Britain*

<i>Party</i>	<i>Payment per vote (£)</i>
Labour	5,936,850
Conservative	5,622,558
Liberal Democrats	3,707,970
Plaid Cymru	180,376
SNP	426,213
Greens	403,003
UKIP	976,270
Scottish Greens	32,058
Total (excluding Northern Ireland)	17,285,119

#### *Northern Ireland*

At a later date the scheme could be extended to Northern Ireland. Below are the amounts parties would receive under such a scheme were it to be in place now, at a rate of 25p per vote in elections for the Northern Ireland Assembly.

DUP	216,799
Sinn Féin	168,544
SDLP	110,994
UUP	112,285
Alliance	23,180
Total Northern Ireland only	631,801

#### *Total amount including Northern Ireland*

TOTAL (including Northern Ireland)	17,916,920
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**RESTRICTED****Annex B**  
**Internet-based incentive scheme***Objective*

This scheme is intended to encourage parties to engage directly with more people, to broaden their supporter bases, and consequently to increase the number of people engaged in politics.

The party, in addition to benefiting by receiving the money both from the individual and from the state, would be able to contact the supporter.

*Mechanism*

Supporters of a political party would be able to give at least £5 online using their credit card/pay pal etc, using the political parties' websites. Each such contribution of £5 or more, whether as part of an individual's membership fee<sup>7</sup> or as a donation<sup>8</sup>, would attract £5 of funding from public funds, subject to the condition that the individual is on the UK electoral register.

*Identifier*

In order to verify that the individual is on the electoral register, the person would have to give their name and address as well as payment.

*Verification*

The party would be responsible for checking the person's name against the electoral register on a sample basis. They would then pass these names on to the Electoral Commission.

The Electoral Commission would then run a verification check on some of the individuals on the list, on a sample basis, to check they matched the names on the electoral register. They would then allocate the appropriate funds for the parties, which could be distributed on a quarterly basis.

In the case of an individual not matching an entry on the electoral register, the Electoral Commission would refuse the application and ask the party for more details. There could be an allowable margin for error, say 2% of all names, but if this were exceeded then the party would not receive the public funding for the percentage error found in the sample. Thus a 5% error in the sample would lead to 5% of the total amount payable being withheld.

Were an automated system possible, potentially using the Co-ordinated Online Record of Electors (CORE), then the checking of names might be simpler and a larger sample could be checked, possibly even up to 100%.

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<sup>7</sup> Affiliation fees from trade unions and socialist societies would be excluded.

<sup>8</sup> Commercial transactions should be excluded.

*Multiple donations*

The public funding would be available only for the first donation of the calendar year from any individual, and not for subsequent donations. Donations in subsequent years would again be able to attract public funding.

*Accuracy of electoral registers*

Due to concerns about the accuracy of the electoral registers, there needs to be a margin for error in applications for public funding. There is also the issue of people who move during the year, or who are registered in two different places, and so could give from two different addresses, once they have changed their entry on the electoral register. Without unique identifiers it is difficult to prevent this. The individual amounts of public funding involved are small (£5) so that the risk and effect of fraud would be minimal.

*Non-internet based scheme*

There would need to be a paper route as an alternative mechanism, including for people who do not use the internet. This could involve the party collecting a person's details, checking them against the electoral register, and passing the details on to the Electoral Commission for verification. Such a method is likely to be more costly for the parties to administer, as opposed to the automaticity involved in the internet-based system.

While there may be some concern about those who can't get credit cards being excluded, there is a growing market in prepayment cards and the PayPal system designed to enable people who don't have credit cards to make purchases on the internet.

*Cap on total amount available*

The amount payable through the pence per vote scheme is predictable, even given fluctuations in party support and turnout, however, the amount that would be paid through this scheme is less easily predicted. Capping the total amount available would have the benefit of limiting how much public funding would be paid out, and so it may be desirable to set such a limit.

The cap should be set at a level realistic enough that parties could reach it, and not so low that it discourages them gaining support, or is easily met. The combined membership of the parties that would be eligible for public funding<sup>9</sup> is around 600,000, so that even if they were able to get all their members to pay their membership fees through this way the total cost would amount to only £3m. A cap of £5m would therefore encourage parties to reach beyond their membership bases. It would be less than a third of the amount spent on the pence-per-vote grant, which is designed to provide financial stability. Of course, if the scheme were to prove popular it might be necessary to raise the level of the cap, or to alter the balance with the pence-per-vote scheme.

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<sup>9</sup> That is, parties with two or more elected representatives in Westminster, the European Parliament, or the devolved administrations.



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If the cap is reached or is likely to be reached then the amount of money available could be distributed pro rata according to the total number of supporters each party had. Although this could end up being almost a means of distributing a grant rather than an incentive scheme (although parties will still have to work to get supporters up to the cap), an adjustment of the amount available through the incentive scheme and through the pence-per-vote scheme could then be undertaken.

*Mechanisms for Future Review*

Six months after each general election, an independently chaired inter-party review could be conducted to see where the pressure points on party finances are, to look at trends in campaigning and check whether changes need to be made as a result. This should not be a full scale revisiting of the system, rather checking that the system is working smoothly and dealing with any specific issues that have arisen.

Included in this review could be the amount of public funding that is provided, and whether the matched funding should be increased from £5, and the level of the cap.

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*Information that will be required from the individual*

- Name and address – this scheme will be open to individuals on the UK electoral register only<sup>10</sup>
- An email address so the party can keep in contact with the subscriber (optional, although the subscriber could be required to validate the transaction from their email address to confirm it is genuine)
- Payment details
  - If paying by credit card, will require address to validate credit card transaction
  - PayPal – security already in place on PayPal accounts
  - Pre-paid voucher/credit card which work like mobile phone top ups
  - Bank details if wanting to set up a direct debit

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<sup>10</sup> Under current law a donor does not have to be on the electoral register to give a donation of less than £200. This means that, for instance, people from outside the UK can donate up to £200 to a political party. However, public funds would only be able to be attracted for donors that are on the electoral register in the UK.

**Annex C  
Tax Relief**

An alternative way of encouraging small donations to political parties would be to give the tax an individual has paid on their donation to the political party in question. An equivalent matched funding scheme for non-taxpayers would also need to be established, to ensure that parties were able to benefit from donations from all electors.

This might operate in a manner similar to the Gift Aid scheme which allows charities to reclaim the basic rate tax paid on donations from taxpayers. This might help to encourage donations, and would have the advantage of following an existing model, although there could be a ceiling put on the amount of the donation that would be eligible for tax relief.

On the other hand, some argue that it would be better to ensure a clear distinction between the scheme for charities and the scheme for political parties, which do not enjoy charitable status.

The Neill Committee recommended that a system of tax relief should be introduced, limited to the basic rate of tax, on donations of up to £500 a year to eligible, registered political parties. This is the only substantive recommendation of the Neill Committee that was not accepted by the Government. The Government said this was because the administration and cost of tax relief to HMRC and political parties would potentially be too burdensome relative to any prospective take-up.

A limit on the amount of a donation eligible for tax relief would need to apply to all donations from an individual to one party in a particular year, to avoid people making a large number of donations up to the eligible amount for tax relief and so in effect avoiding the tax relief limit. The Conservative Party in their proposal of March 2006 suggested that income tax relief at the basic rate should be introduced for donations of up to £3,000, and a similar scheme set up for non-taxpayers. The Constitutional Affairs Committee in its December 2006 Report suggested tax relief for donations of up to £250.

In addition to setting a limit as to the amount of a donation on which tax relief can be paid, the total amount that could be paid through such a scheme might also need to be capped, in order to keep the total charge on public funds under control.

The rationale for the amount the state would give is clear, and the idea that it is an individual's tax that is being refunded to the party, rather than public funding coming from general state funds, might diminish the concerns some have that parties which they do not support are being funded through their tax contributions.

The administrative system used to currently pay Gift Aid could be built upon to pay tax relief and the non-taxpayer scheme, although the cost of this, and its complexity, would be more than that for an internet-based incentive scheme.

There are just over 29 million income taxpayers in the UK, while the population of the UK is just over 60 million, although not all these people will be "permissible donors". Only a minority of taxpayers complete annual tax returns. This would make any scheme that relied on agreement through the tax return difficult to administer.

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Two systems provide a model for how tax relief could work administratively: the Gift Aid scheme for charitable donations and the Mortgage Interest Relief At Source payment system (MIRAS) that operated until April 2000.

*Gift Aid*

Charities can claim back from HMRC the income tax at basic rate that a donor has paid on the amount donated. The charity has to show an audit trail back to a specific donor and a Gift Aid declaration. There is no minimum amount that Gift Aid can be claimed on, although charities may choose not to if the costs in administration will be greater than the amount they will gain. There is no maximum amount that Gift Aid can be claimed on.

There are detailed rules explaining exactly what is eligible and for how much. Gift Aid claims are subject to risk-based or randomly selected audit and HMRC recovers wrongly submitted claims.

The legislation that established Gift Aid uses a different meaning of a donation to that defined in the Political Parties, Elections and Referendums Act 2000, requiring donations to be made through free will and not through paying for a benefit. For example, the admission fee to attend an event over and above the actual cost of putting on the event would be a donation if arranged by a political party under the Political Parties, Elections and Referendums Act 2000, but would not be eligible for Gift Aid if put on by a charity.

*MIRAS*

For the MIRAS scheme, the borrower paid interest to the lender minus the tax. HMRC refunded the tax to the lender directly. If the borrower was not a taxpayer, they would also pay interest minus the tax, but the lender would be refunded and the refund was treated as public expenditure rather than income tax recovery. A tax relief scheme for political donations need not prevent non-taxpayers from participating.

*Conclusion*

The costs both to the parties and HMRC in processing claims may be high. The Gift Aid rules show how complex a system could end up being. A study commissioned by the Inland Revenue showed that Gift Aid does not significantly encourage new donors, even though it has proved popular with existing donors and charities.<sup>11</sup> It is therefore arguable whether such a scheme would increase participation, especially those completely new to politics, or whether it would be used solely by existing donors.

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<sup>11</sup>Deborah Smeaton and Alan Marsh, *Individuals' Donations to Charities and their Use of Tax Relief*, Policy Studies Institute, October 2004

**Fourth session of the Inter-Party Talks, 24 July 2007****Paper 5: Anti-avoidance, third parties, and regulated donees***Introduction*

The report of the Review on Party Funding made a series of recommendations about anti-avoidance measures and the regulation of third parties. This paper discusses those recommendations, and, in addition, makes recommendations about regulated donees. The Review also argued that if there is to be effective, transparent and proportionate regulation of the finances of political parties the Electoral Commission must renew its whole approach to regulation. The reform of the Electoral Commission is the subject of a separate paper by the Ministry of Justice and is not discussed in this paper.

This paper is a preliminary review, and the Secretariat would welcome suggestions for improvement, including areas of concern not yet identified. Anti-avoidance will have to be carefully considered in preparation of the Bill to implement the reform of party funding, and the objective proposed for the Inter-Party Talks is not to resolve all the issues which will need to be considered at that stage, but to identify the main areas of concern and agree preferred high-level approaches to addressing them.

*Donations*

The Review on Party Funding recommended that a cap on donations should be accompanied by the following anti-avoidance measures:

- Political parties should be legally liable if they knowingly accept multiple donations from a single source exceeding the cap, whether in cash or in kind.
- Unincorporated associations should be required to identify the persons who make the decisions to donate money.
- The Electoral Commission's donor database should ensure that donors are registered consistently and should include the total amount a donor gave to third parties or to political parties so that the donor's total financial influence may be judged.

Making political parties liable in law for knowingly accepting multiple donations from a single source over the limit would discourage parties from colluding with donors to avoid regulation, and it defeats the objective of donors who wish to exercise improper influence since the donor can only do so by revealing to the party that he or she is the source of the multiple donations. This should include instances where money has been given by a donor to intermediaries with the sole purpose that the intermediaries should give it to a particular political party. The same legal liability should be extended to third parties and to regulated donees.

It would not be right to prevent spouses and members of the same family from each making separate donations to the same party. This might become a minor avoidance route but providing the cap was not set too high it would not allow individuals to exercise undue influence.

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Requiring unincorporated associations to identify persons who make the decisions to donate money would make it harder for donors who want to be anonymous from using such bodies to conceal their identities. Some donors might, however, try to create multiple associations in order to use them as vehicles for avoiding the donations' cap. The sums donated by an unincorporated association should both count towards the association's annual donation limit and should also be divided by the number of decision makers and count against the individual decision makers' annual donation limits. The same principle should apply to donations by private companies, in which case the directors would be treated as the decision makers.

*Third parties*

The position of third parties is discussed in Annex A; their campaign expenditure and the donations they received for the 2005 general election are discussed in Annex B and Annex C.

The Report recommended that:

- the cap on donations should apply to third parties, and that
- controls of expenditure by third parties should be in line with changes to overall regulation of spending.

No changes beyond the application of the donations cap to any third party which campaigns at a qualifying election (Westminster, devolved administration, or European Parliament) are necessary at this stage, although spending limits could be tightened if the parties so wished.

*Regulated donees*

To prevent regulated donees becoming a vehicle for uncapped donations and spending it is recommended that:

- The cap on donations should also apply to donations to regulated donees.
- Any donations to a political party's regulated donees should count towards the donor's annual limit for that party.
- Donations and donations in kind provided by regulated donees to parties and their accounting units should be subject to the controls on donations.
- The Electoral Commission should be empowered to classify a regulated donee as an accounting unit or third party if it has good reason to believe that the donee is acting as a vehicle for campaigning outside the party (except for candidates' election campaign spending already regulated under the RPA).

The position of regulated donees is discussed in more detail in Annex D.

## **Annex A**

### **Third parties**

#### *Third party general election activity*

At the 2001 general election there were nine registered third parties and they spent between them a total of £1.17m. At the 2005 general election there were twenty-six registered third parties and they spent a total of £1.7m. In Annex B there is a list of the twenty-six third parties registered with the Electoral Commission for the 2005 general election, together with details of their 'controlled expenditure' under PPERA. Controlled expenditure is expenses in connection with the production or publication of 'election material'. Election material is material intended to promote or prejudice the electoral success or the standing of any party or candidate. Third parties spending less than £10,000 are not required to register with the Electoral Commission.

At the 2005 general election four third parties spent over £50,000 in Great Britain:

UNISON	679,893
Conservative Rural Action Group	550,370
USDAW	71,810
GMB	53,164

The other registered third parties which declared expenditure spent an average of £17,370 each.

It is reasonable to conclude, therefore, that at present registered third parties do not significantly distort the balance of expenditure on election campaigning. Experience in the United States in particular, however, cautions that they may represent an important avoidance opportunity, and the position will need to be kept under review. For the present the priority should be to ensure that third parties do not offer an obvious way of circumventing the reforms to party funding.

#### *Third parties and donations*

The Review recommended that any cap on donations should also apply to third parties. Under PPERA third parties are subject to the same rules for declaring donations as political parties, including the requirement to report to the Electoral Commission donations over £5000. The reported donations for the 2005 general election are listed in Annex C. For the 2005 general election the donations of two individual donors corresponded to 32% of third party controlled expenditure.

Applying the cap on donations to third parties would therefore have a significant impact on certain organisations, and would reinforce the role of political parties as the primary vehicles of election campaigning, as well as preventing any attempts to use third parties as a device to undermine the cap on donations to political parties.

**RESTRICTED***Third parties and campaign expenditure*

Under PPERA the financial limits and controlled periods for third parties are:

	<i>General election</i>	<i>European Parliament</i>	<i>Scottish Parliament</i>	<i>National Assembly of Wales</i>	<i>Northern Ireland Assembly</i>
<i>England</i>	793,000	159,000			
<i>Scotland</i>	108,000	18,000	75,800		
<i>Wales</i>	60,000	11,259		30,000	
<i>Northern Ireland</i>	27,000	6750			15,300
<i>Controlled period up to polling day</i>	365 days	4 months	4 months	4 months	4 months

The general election controls amounts to £1500 per Westminster constituency, or 5% of the PPERA limit for controlled expenditure by political parties.<sup>12</sup>

The Secretariat has proposed that spending controls on political parties should be calibrated so as to achieve a reduction in party spending over the cycle of approximately £20m maximum in real terms. It would be possible to propose a comparable reduction in third party expenditure as well, but as the current limits have been unchanged in cash terms since PPERA in 2000 and are therefore continuing to fall in real terms, this may not be necessary.

Spending controls on third parties, unlike spending controls on political parties, should continue to be limited to the current definition of spending on election material during the controlled period. Since many of the third parties that were registered at the 2005 general election exist independently of the election campaign and routinely devote resources to campaigning for particular causes, it would be neither appropriate nor desirable to impose the more comprehensive expenditure controls over the whole electoral cycle proposed for political parties.

It is also recommended that the RPA controls on third parties should be retained. Third parties' activities in relation to promoting or disparaging individual candidates in the period between the dissolution of Parliament and polling day are controlled by the Representation of the People Act which imposes a spending limit of £500.

<sup>12</sup> The limit for general election spending in Scotland was calculated before the number of Scottish Westminster constituencies was reduced from 72 to 58.

**RESTRICTED****Annex B****Third parties at the 2005 general election**1. Controlled expenditure by third parties

	<i>Controlled spending in England</i>	<i>Controlled spending in Wales</i>	<i>Controlled spending in Scotland</i>	<i>Total controlled spending in Great Britain</i>
Alliance Party of Northern Ireland	The Alliance Party submitted a return of controlled expenditure as a political party and was therefore not required to submit a separate return as a third party.			
Amicus	500.00	66.00	90.00	<b>656.00</b>
British Declaration of Independence	12,775.98			<b>12,775.98</b>
Campaign for an Independent Britain	189.00	13.50	22.50	<b>225.00</b>
Community	20,662.65			<b>20,662.65</b>
Conservative Rural Action Group	550,370.00			<b>550,370.00</b>
Evershed, Mr Patrick	48,456.99			<b>48,456.99</b>
Gilpin, Mr Zaccheus	405.00			<b>405.00</b>
GMB	53,164.00			<b>53,164.00</b>
Howard's End Ltd	7,980.00	420.00		<b>8,400.00</b>
League Against Cruel Sports Ltd	17,958.00	2,086.00	899.00	<b>20,943.00</b>
Musicians Union <sup>13</sup>	0	0	0	<b>0</b>
Muslim Friends of Labour	15,444.10	2,005.55	4,000.00	<b>21,449.65</b>
National Autistic Society	12,120.00	915.00	1,650.00	<b>14,685.00</b>
Searchlight Information Services	42,761.00			<b>42,761.00</b>
Society for the Protection of Unborn Children	2,761.00	232.00	369.00	<b>3,362.00</b>
TMVO Ltd	20,953.00		3,204.00	<b>24,157.00</b>
Transport & General Workers Union	20,128.00			<b>20,128.00</b>

<sup>13</sup> Although registered as a third party at the 2005 general election the Musicians Union did not spend any money campaigning.

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Transport Salaried Staffs' Association	8,354.60	46.00	855.00	<b>9,255.60</b>
Uncaged Campaigns Ltd	9,950.00	716.00	1,062.00	<b>11,728.00</b>
Union of Shop, Distributive & Allied Workers (USDAW)	57,858.03	6,163.48	7,789.11	<b>71,810.62</b>
UNISON – The Public Service Union	534,916.00	24,733.00	120,244.00	<b>679,893.00</b>
Unite Against Fascism	17,628.00	1,024.00	1,691.00	<b>20,343.00</b>
Vote-OK	36,207.00			<b>36,207.00</b>
Waging Peace	26,634.00	2,208.00	1,498.00	<b>30,340.00</b>
Working Hound Defence Campaign	470.00			<b>470.00</b>
<b>Total</b>	<b>1,518,646.35</b>	<b>40,628.53</b>	<b>143,373.61</b>	<b>1,702,648.49</b>

2. Third parties classified by issue and cause

<i>Classification</i>	<i>Names of third parties</i>	<i>Total spending in Great Britain</i>
Animal rights, anti-hunting	League Against Cruel Sports Ltd, Uncaged Campaigns Ltd,	32,671.00
Pro-hunting	Conservative Rural Action Group <sup>14</sup> , Vote-OK, Working Hound Defence Campaign	587,047.00
Anti-abortion	Society for the Protection of Unborn Children	3362.00
Anti-Iraq War and related causes	Waging Peace	30,340.00
Anti-racist <sup>15</sup>	Searchlight Information Services, Unite against Fascism	63,104.00
Withdrawal from EU	British Declaration of Independence, Campaign for an Independent Britain	13,000.98
Individual Conservative Party donor	Mr Patrick Evershed	48,456.99
Pro-Conservative Party	Conservative Rural Action	550,370.00

<sup>14</sup> The Conservative Rural Action Group appears twice in this table, once as a pro-hunting organisation, once as a pro-Conservative Party organisation.

<sup>15</sup> Amicus and the TGWU also made donations to Searchlight Information Services and Unite against Fascism. The figure for total spending by anti-racist third parties does not include the trade unions or Muslim Friends of Labour.

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	Group <sup>16</sup>	
Pro-Labour Party <sup>17</sup>	Muslim Friends of Labour Amicus, Community, GMB, TGWU, TSSA, UNISON, USDAW	877,019.52
Tactical voting against the Conservative Party	Howard's End Ltd	8400.00
Trade Unions <sup>18</sup>	Amicus, Community, GMB, Musicians Union <sup>19</sup> , TGWU, TSSA, UNISON, USDAW	855,569.87
Non-political campaigning	National Autistic Society	14,685.00
Unknown	TMVO Ltd, Mr Zaccheus Gilpin	24,562.00

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<sup>16</sup> See note 3.

<sup>17</sup> The trade unions appear twice in this table, under the heading pro-Labour party and as a separate category.

<sup>18</sup> See note 6

<sup>19</sup> See note 2

**RESTRICTED****Annex C****Donations over £5000 to registered third parties in relation to the 2005 general election**

The list below comprises all the donations to registered third parties reported to the Electoral Commission in relation to the 2005 general election. The reported donations were made to five of the twenty-six registered third parties. The five appear to have relied heavily upon a total of twelve donors for their general election controlled spending. Donations over £5000 to these five third parties amounted to a sum equal to 43% of total third party controlled expenditure at the 2005 general election. The twelve donors comprised six individuals and 6 trade union or other corporate bodies. Two of the individuals donated £200,000 and £350,371 respectively and between them gave a sum equal to 32% of total third party controlled spending.

<i>Donor</i>	<i>Date of donation</i>	<i>Amount</i>	<i>Controlled spending by third party</i>
<b>Conservative Rural Action Group</b>			
Lord Daresbury	18/03/2005	20,000	
Mr John Cook	30/03/2005	200,000	
Mr Peter Harris	27/05/2005	350,371	
<b>Total</b>		<b>570,371</b>	<b>550,370</b>
<b>Muslim Friends of Labour</b>			
Mr Imran Khand	29/03/2005	15,000	
Mr Mohammed Sarwar MP	14/04/2005	15,000	
<b>Total</b>		<b>30,000</b>	<b>21,449.65</b>
<b>Searchlight Information Services Ltd</b>			
The Joseph Rowntree Reform Trust Ltd	06/04/2004	20,775	
Trade Union Congress South & East Region	06/04/2005	9,000	
Unison	06/04/2005	19,500	
Amicus	31/05/2005	10,000	
<b>Total</b>		<b>59,275</b>	<b>42,761</b>
<b>Unite Against Fascism</b>			
Transport and General Workers Union	28/04/2004	8,500	
Communication Workers Union	09/06/2004	13,500	
Transport and General Workers Union	29/04/2005	7,500	
Amicus	05/05/2005	7,000	
<b>Total</b>		<b>36,500</b>	<b>20,343</b>
<b>Waging Peace</b>			
Mr Henry Cole Tinsley	10-17/02/2005	37,232 <sup>20</sup>	
<b>Total</b>		<b>37,232</b>	<b>30,340</b>

<sup>20</sup> This sum includes a donation in kind of £7232.

## **Annex D**

### **Regulated donees**

PPERA requires regulated donees to report to the Electoral Commission donations received in connection with the donees' political activities. Regulated donees are:

- Members of registered political parties;
- Members of the House of Commons,;
- Members of the Scottish Parliament and the Welsh and Northern Irish assemblies;
- Members representing the UK in the European Parliament;
- Members of local authorities;
- Elected mayors; and
- Members' associations, that is to say, organisations consisting wholly or mainly of members of a registered political party and closely associated with that party.

Donations to regulated donees are controlled in order to prevent donors avoiding the regulation of donations to political parties and third parties. There are no controls on the spending of regulated donees.

Since PERA was implemented the regulated donees have received:

<i>Type</i>	<i>Number of donations</i>	<i>Total amount</i>
Cash	487	£ 5,611,364.64
Non-cash	403	£2,471,422.21
Donations from permissible donor exempt trust (primarily of cash)	161	£1,273,786.11

A large number of the donations have been to candidates in party leadership elections. There were for instance donations amounting to £1,011,500 to candidates in the Conservative Party leadership contest of 2005, and £206,285 to candidates for the Labour Party deputy leadership in 2007. The largest amount has been received by Constituency Campaigning Services Board which provides support services, such as printing and an advice centre, to Conservative constituency associations. Since September 2004 the Board has received £1,301,140.06 in cash and £167,251.64 in kind.

#### Donations cap

In order to prevent regulated donees becoming a means of avoiding the donations cap it is recommended that:

- the cap on donations should also apply to donations to regulated donees; and
- any donations to a political party's regulated donees should count towards the donor's annual limit for that party.

**RESTRICTED**Regulated donees and spending controls

Discussion of political party spending controls has proceeded on the basis that:

- controls should apply to a whole of a party's activities, except for a small number of exempt categories; and
- RPA controls should continue to apply during the period from the dissolution of Parliament to polling day.

There does not seem to be any justification for the state to seek to limit expenditure on internal party elections and members' associations that exist to contribute to internal party debates. However there is a clear risk that parties might seek to avoid spending controls on political parties by using regulated donees to undertake campaigning activities for them. It is therefore recommended that:

- donations and donations in kind provided by regulated donees to parties and their accounting units should be subject to the controls on donations, and
- the Electoral Commission should be empowered to classify a regulated donee as an accounting unit or third party if it has good reason to believe that the donee is acting as a vehicle for external campaigning.

**Fourth session of the Inter-Party Talks, 24 July 2007****Paper 6: Transitional arrangements**

The accompanying timeline diagram illustrates the proposed transition plan, over a five-year period from 2009 to 2013. The elements of the plan are as follows.

**Legislation**

Sufficient time will need to be allowed for legislation to be drafted and passed by Parliament. The plan assumes that such legislation, including any necessary secondary legislation, could be concluded by autumn 2008.

**Electoral Commission reform**

It is common ground that the Electoral Commission needs to make substantial changes to be able to be an effective regulator of a new and more far-reaching regime covering donations, expenditure, and public funding. These changes will take time, perhaps 18 months to 2 years, and it would be risky to introduce complex new demands on the Commission before it is ready to handle them. The beginning of this reform, however, need not await the passage of the Bill.

**Donations**

There are many possible variations on the theme of phasing in a cap on donations. The option recommended here is to introduce the cap at a reasonably high initial level such as £500,000 after the next election, and roughly halve it every year until it reaches the agreed target level (whether £50,000 or £25,000). Depending on the timing of the election, this could give a timetable such as:

2009: £500,000

2010: £250,000

2011: £125,000

2012: £50,000

[2013: £25,000]

This would give the parties a substantial period of adjustment, while putting an immediate stop to the very largest donations. It would of course be possible to provide for a degree of flexibility in the transition timetable through secondary legislation.

The introduction of changes to the treatment of trade union affiliation fees would also be likely to require a transitional period, both to allow the trade unions and the Certification Officer to make the necessary changes to their processes and systems and to give the Labour Party an opportunity to adjust to any reduction in its income. Five years is suggested here for the full transition (although the increase in transparency should be introduced earlier).

**RESTRICTED****Spending controls**

There are both financial and political arguments for introducing a cap on donations alongside new restrictions on spending. The new system for spending controls could be brought fully into force after the next general election, at the same time as a cap on donations was introduced.

Introducing a new system of controls designed for the whole electoral cycle only a short time before the next election might lack credibility, especially if the Electoral Commission were not yet ready to regulate it effectively. A more desirable option, if action on spending before the next election was considered a necessary part of the reform package, would be for some form of voluntary restraint to be declared by the parties.

**Public funding**

Public funding should only be introduced in parallel with the introduction of a cap on donations, and the level of public funding during the transitional period should broadly keep pace with the expected loss of donation income.

In the step change model for the introduction of a cap on donations, the internet-based incentive scheme could be introduced after the general election at the same time as the initial cap of £500,000, to give parties an opportunity to offset the loss of income from the largest donations. The larger pence-per-vote scheme could then be introduced once the cap had reached a much lower level. It would be possible to phase in pence-per-vote funding by introducing it at a lower level such as 25p/12.5p in 2011 and moving to 50p/25p in 2012, but this would cause unnecessary presentational and administrative complexity. A better alternative would be to introduce pence per vote at its final level on say 1 July 2011, effectively producing the same result. Policy Development Grants (PDGs) would end as the pence-per-vote funding came on stream.

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Annex A - Transitional arrangements timeline													
		2007	2008	2009	2010	2011	2012	2013					
Legislation													
Electoral Commission reform													
Donations	Cap				£500K	£250K	£250K	£125K	£125K	£50K	£50K	[£25K]	
	Affiliation fee changes												
Spending controls				Voluntary	Statutory								
Funding	internet based												
	pence-per-vote							(PDGs stop)					

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## **The Electoral Commission –Proposals for Reform**

### 1. Introduction

#### *1.1 Foundation and mandate*

The Electoral Commission was established as an independent statutory body on 30 November 2000, following the recommendations of the Committee on Standards in Public Life's Fifth Report, *The Funding of Political Parties in the United Kingdom* and the subsequent commencement of the Political Parties, Elections and Referendums Act 2000 (PPERA).

The mandate of the Electoral Commission has an impact on key issues such as electoral administration, conduct of elections and the regulation of the financing of political parties.

#### *1.2 The need for reform*

Over six years after its creation, there is now widespread agreement that the Electoral Commission needs to reform its approach to the regulation of the funding of political parties. Three separate reports have concluded that the Commission needs to refocus its regulatory role in relation to party funding: the Committee on Standards in Public Life (CSPL) Review of the Electoral Commission (published in January 2007); the Constitutional Affairs Committee inquiry into party funding (published in December 2006) and the Government commissioned review by Sir Hayden Phillips (published in March 2007).

Each of these recent reviews acknowledged the achievements of the Electoral Commission during its first five years in establishing itself as a new regulatory body that was required to police a set of complex rules that were new to both the regulator and the political parties. But each of these reviews has also concluded, as the Commission itself now agrees, that a reformed approach and structure for the regulation of political party funding is now required if those rules are to be policed effectively.

Specifically, the recommendations of the three reviews of party funding regulation have concluded that the Electoral Commission needs to focus on the following reforms or activities as it continues to develop its regulatory role.

- Re-focussing of the Commission's mandate, moving towards a more investigative and tougher stance with the aim of ensuring integrity and public confidence in the system of party funding.
- The development of a team of staff within the Commission with the specific skills and responsibilities for pro-active investigation of allegations or suspicions of failures to comply with the regulatory framework.
- Enhancing the advisory role of the Commission, with a view to assisting parties' compliance with the law and issuing timely and sound advisory opinions where necessary.

- Review of the penalties and sanctions at the Commission's disposal, including both consideration of existing sanctions and their effectiveness and the consideration of a new, graduated system of penalties / sanctions.
- A risk-based approach to reporting requirements, including proportionate reporting requirements for very small political parties that have no representation at European, national, devolved or local level.
- Greater political experience in both the Commissioners and staff, lifting the ban on employing individuals with political experience as either Commissioners or staff. Allow former politicians to serve as Electoral Commissioners.
- Improvements to the publication of information in donation registers, for example, via the Electoral Commission's website.

## 2. The investigatory role of the Electoral Commission

### 2.1 The mandate of the Commission

Since being established in 2000, the Commission's mandate as set out in PPERA 2000 has been recognised as extremely broad, ranging from the regulation of political donations and expenditure by third parties through to promoting greater participation in the democratic process. The Commission's capacity has also been further stretched by their own wide interpretation of the powers in the PPERA. This, for example, has resulted in extensive reviews of electoral policy being undertaken on the back of their duty to report on the conduct of specific elections.

The Committee on Standards in Public Life Review of the Electoral Commission recommended that the mandate of the Commission be tightened to focus on two statutory duties: as regulator of political party funding and campaign expenditure and as regulator of electoral administration in the United Kingdom. The CSPL also recommended that PPERA should be amended to make it clear that the Commission has a duty to investigate pro-actively allegations or suspicions of failures to comply with the regulatory framework, replacing the term "monitor" with "regulate". The CSPL noted that, in advocating this change, it was not suggesting that the Commission should continually, or disproportionately, intervene in the financial affairs of parties but that it should re-focus its mandate to remove any uncertainty that the Commission is able to proceed and investigate allegations or suspicions of regularity failure.<sup>1</sup>

Sir Hayden Phillips also backed up this recommendation in his March report, stating that "it is right that the Commission should be under a statutory duty to investigate breaches which seem to be systemic or serious".<sup>2</sup>

The Commission has accepted the need for a re-focussing of its role in this way, with or without a specific change in the legislation. The Government acknowledges that whilst the Commission could re-focus and re-define its investigatory role without specific change to the Commission's statutory duties in PPERA 2000, re-defining the

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<sup>1</sup> The Committee on Standards in Public Life, 11<sup>th</sup> Report 'Review of The Electoral Commission' Recommendation 2.

<sup>2</sup> The Review of the Funding of Political Parties, *Fair and Sustainable Funding of Political Parties*, March 2007, p.22.

Commission's role in the legislation would send a clear signal to all concerned that the Commission both can be expected to and intends to intervene robustly where it has reason to suspect wrongdoing.

### **ACTIONS WHICH MIGHT FOLLOW:**

- PPERA 2000 amended to include specific statutory duty for the Electoral Commission to focus on the Commission's statutory duty as regulator of political party funding and campaign expenditure.
- Cultural, organisational and operational change within the Electoral Commission to ensure that a clear signal is sent that the Commission intends to intervene robustly where it has reason to suspect wrongdoing. Government to work with the Electoral Commission to ensure that change is underway and that cultural and organisational change is achieved.

#### 2.2 Building the capacity to investigate

Both Sir Hayden Phillips and the CSPL recommended significant changes to the structure of the Commission to enable it to mount the kind of effective investigations that would be required of it under a new mandate to "investigate" allegations or suspicions of regularity failure.

The CSPL recommended the establishment of a specific compliance unit within the Commission which can take prompt investigative action.<sup>3</sup> Sir Hayden Phillips recommended that the Commission should develop the necessary core expertise needed to launch and run investigations, to determine whether breaches have been committed and to learn lessons for the future.<sup>4</sup> In terms of personnel, Sir Hayden Phillips' report suggested that – as a minimum – the Commission should have at its disposal forensic accountants, auditors, trained investigators and lawyers.

The Commission has acknowledged that a strong investigative capability is central to its success as a regulator. In its response to the CSPL, the Commission stated that it has already begun to move towards a tougher and more pro-active approach to regulation that the Committee recommended. The Commission stated that it already has a Compliance Team and that its newly appointed Director of Party and Election Finance is reviewing how the Commission can develop the existing structure within the one-year timeframe recommended by the CSPL.

The Government has established a close working relationship with the Electoral Commission at all levels of the organisation. Whilst the structure and organisation of the Electoral Commission is a matter for that organisation as an independent body, the Government intends to work closely with the Commission to assist it in developing the appropriate structures, personnel and ways of working to ensure that it responds effectively to the recommendations of both CSPL and Sir Hayden Phillips' report.

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<sup>3</sup> CSPL ref. Recommendation 3.

<sup>4</sup> The Review of the Funding of Political Parties, *Fair and Sustainable Funding of Political Parties*, March 2007, p.22.

## **ACTIONS WHICH MIGHT FOLLOW:**

- Electoral Commission is currently conducting a review of its existing structure, including the place of its current compliance team, with a view to recommending an appropriate design for the future.
- Electoral Commission to communicate and publish in full the precise changes that it has made in order to enhance its systems for assessing the potential seriousness of any allegation and for taking robust enforcement and investigative action.
- Government to monitor the progress of the Electoral Commission in reviewing its capacity to investigate wrongdoing.

### *2.3 Enforcement – ensuring appropriate penalties and sanctions*

Both the CSPL and Sir Hayden Phillips noted in their reports that the Electoral Commission is in need of a more flexible and graduated system of penalties and sanctions. At present, the Commission has at its disposal a rather unwieldy range of criminal penalties for non-compliance that are inappropriate and extreme except in the most serious cases. In most cases, the Commission chooses to “name and shame” an offending party rather than resort to referring the matter to the Crown Prosecution Service for a criminal prosecution. The CSPL has recognised that in virtually all cases, the Commission has been reluctant to refer a matter to the CPS because, usually, such a move would be out of all proportion to the offence committed and a prosecution unlikely to be judged in the public interest.<sup>5</sup>

Sir Hayden Phillips’ March report concluded that a more graduated system of fines would be likely to provide a more effective deterrent.<sup>6</sup> The Commission itself is undertaking work to identify the powers, penalties and sanctions that it currently has at its disposal with a view to identifying those which are ineffective and would be usefully bolstered by a graded system of fines. Such a change would clearly require substantial change to the regulatory framework set out in PPERA 2000, but this could be achieved alongside the necessary inclusion of additional or alternative penalties and sanctions that a new system of donation and expenditure control would demand.

The Commission has indicated in its response to the CSPL that it would welcome changes to the range of sanctions it has at its disposal, taking the view that a more proportionate and flexible penalties regime will bring benefits, including the opportunity to apply a range of sanctioning options in response to the needs of the particular case and underlying offence.

## **ACTIONS WHICH MIGHT FOLLOW:**

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<sup>5</sup> CSPL ref. Recommendation 7.

<sup>6</sup> The Review of the Funding of Political Parties, *Fair and Sustainable Funding of Political Parties*, March 2007, p.22.

- Electoral Commission to review the range of sanctions and penalties currently at its disposal, with a view to identifying where a graduated system of fines would be more appropriate.
- Legislative changes to PPERA 2000 to be made to provide the Commission with a more proportionate range of sanctions to act as a more effective deterrent.

#### 2.4 *Proportionate regulation*

The CSPL acknowledged that – if the regulatory context is widened as a result of new systems of party funding emerging from Sir Hayden Phillips’ report – the Commission would need to adopt a lighter touch approach for very small political parties that have no representation at European, national, devolved or local level.<sup>7</sup> Concern has also been expressed by the major parties that any increased regulatory burden will place onerous requirements on their largely volunteer treasurers in constituencies. Parties are already experiencing difficulties in recruiting party workers and the fear of extra bureaucracy and of falling foul of new offences may exacerbate this situation.

Previous discussions during the Inter Party talks have included suggestions that the Commission might benefit from an approach similar to that of the Financial Services Authority.

The Commission has indicated that it would support a two-tier approach to regulation, adopting a risk-based approach that would focus primarily on larger parties with more complex funding arrangements. Concerns were raised in both Houses during the passage of the Electoral Administration Bill at the burden of compliance on smaller parties and small branches of larger parties that would need to be addressed with a proportionate reporting regime. These concerns were repeated by the Constitutional Affairs Committee in its December report on party funding and would need to be taken account of in developing the regulatory system.<sup>8</sup>

#### **ACTIONS WHICH MIGHT FOLLOW:**

- Electoral Commission and Government to establish clear criteria and triggering policy for two tiers of reporting requirements. Electoral Commission to lead this work, based on clear assessment of risk across a spectrum of political parties.

### 3. Advisory role of the Electoral Commission

#### 3.1 *Advisory opinions*

Both the CSPL and Sir Hayden Phillips registered concern at the reluctance of the Commission to issue advisory opinions to the political parties on the legal interpretation of the rules of party and election funding. In particular, the CSPL criticised the Electoral Commission heavily for failing to clarify what it interpreted

<sup>7</sup> CSPL ref. Recommendation 8.

<sup>8</sup> Constitutional Affairs Select Committee – *Party Funding*. Recommendation 11.

the PPERA definition of a “commercial loan” to be, when the issue of loans to political parties was first raised publicly in April 2005.<sup>9</sup>

Sir Hayden Phillips also concluded that “at present – the Commission is reluctant to issue advisory opinions on the interpretation of the rules of party and election funding... if the Commission were to adopt the practice of issuing early advisory opinions it would help the parties to avoid infringements and it would, over time, reduce its own compliance casework”<sup>10</sup>.

The Government agrees that the Commission must be prepared to issue accurate and timely advice to political parties to assist them in complying with an often complex regulatory framework. There may be benefit in consulting with other independent regulators such as the Financial Services Authority or the Office of the Information Commissioner to learn from their experience in assisting those they regulate with advisory opinions and formal guidance.

The Commission has indicated in its response to the CSPL that it is committed to ensuring that requests for advice are handled in a consistent manner and within prescribed timeframes. The Commission is currently developing a protocol which will address the proactive publication of advice in areas where no specific request for advice has been received, but where the Commission believes the law is open to misunderstanding or misapplication.

#### **ACTIONS WHICH MIGHT FOLLOW:**

- Electoral Commission to develop further its proposals in relation to increasing its advisory capacity. Ministry of Justice to co-ordinate with Electoral Commission to assist in developing such proposals.

#### **4. Increased transparency**

##### *4.1 Existing functions*

Both Sir Hayden Phillips and the Constitutional Affairs Committee made recommendations for improving the way in which the Commission publishes the information it receives about the sources of parties’ income and the nature of their expenditure.

Specifically, Sir Hayden Phillips concluded that “at present, there is no consistency in the way in which parties’ and accounting units’ annual statements of accounts are presented to the Electoral Commission. The CASC identified this as an obstacle for those seeking to understand the comparative position of the parties. For any but the most expert, the financial data presented on the Commission’s website is opaque and potentially misleading”<sup>11</sup>.

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<sup>9</sup> CSPL ref. p.32

<sup>10</sup> The Review of the Funding of Political Parties, *Fair and Sustainable Funding of Political Parties*, March 2007, p.22.

<sup>11</sup> The Review of the Funding of Political Parties, *Fair and Sustainable Funding of Political Parties*, March 2007, p.23.

In response to the criticisms of Sir Hayden Phillips and the CASC, the Commission will need to establish a common standard for party accounts and it should require parties to observe this standard. Sir Hayden Phillips also recommended that the Commission should offer training and advice to the political parties to support the introduction of such new standards, establishing a team of advisors across the country charged with giving regulatory and accounting advice to the parties. Such a measure would be particularly welcome in the event that the current regulatory requirements are expanded to include further donation and expenditure controls.

#### **ACTIONS WHICH MIGHT FOLLOW:**

- Electoral Commission to establish new common standard for political parties for the submission of accounts. Common standard to be applied to the published data on the Electoral Commission's website, allowing for simpler comparison of information.
- Electoral Commission to establish a network for training and advice across the country for the introduction of new standards of reporting, providing regulatory and accounting advice to the parties.
- Electoral Commission to consider how to enhance transparency of the information on its website to make the information easier to access and interrogate.

#### 5. Audit of state funding

Sir Hayden Phillips' March report made a number of recommendations for new models of state funding in the event that tighter controls on donations and expenditure are agreed.

New models of state funding would include a pence-per-vote funding scheme based on the number of votes parties receive at elections and a matched funding scheme to encourage parties to attract paying supporters.

Sir Hayden Phillips recommends that – if such schemes were introduced – the Electoral Commission should take responsibility for managing these schemes and subjecting the expenditure of additional state funding to public audit. This would require the Commission either to buy in appropriate auditors to manage the process effectively or to develop the necessary expertise within the organisation. Sir Hayden noted in his March report that the National Audit Office had offered to assist the Commission in developing its expertise in this area.<sup>12</sup>

#### **ACTIONS WHICH MIGHT FOLLOW:**

- Depending on whether controls on donations and expenditure are agreed, the Government and the Electoral Commission would need to work together to assess and implement the necessary organisational changes required to administer such a scheme.

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<sup>12</sup> The Review of the Funding of Political Parties, *Fair and Sustainable Funding of Political Parties*, March 2007, p.23/24.

- The Government would be required to consult extensively with the Electoral Commission as it commences work to design new systems of state funding based on Sir Hayden Phillips' recommendations, and draft the necessary legislation.

## 6. Increased understanding of political parties

### 6.1 Electoral Commissioners

Both the CSPL and Sir Hayden Phillips' reports identified a need for the Electoral Commission to develop a closer, better informed understanding of the operation of political parties. Sir Hayden Phillips acknowledged that "since its establishment it [the Electoral Commission] has developed considerable expertise, but it has, by law, been denied immediate and direct access to the one resource which would most help it."<sup>13</sup>

Sir Hayden Phillips' March report therefore agreed with the CSPL's recommendation that four individuals with "recent experience of politics and the political process"<sup>14</sup> should serve as Electoral Commissioners. The CSPL further recommended that the background and political experience of the four new Commissioners must respectively represent the three main political parties (Labour, Conservative and Liberal Democrat) and one of the minor parties in the House of Commons<sup>15</sup>.

The Constitutional Affairs Committee's December report on party funding also concluded that the provisions in PPERA 2000 "should be changed to allow a minority of Commissioners to be people with practical past experience of politics from across the political spectrum"<sup>16</sup>. Such a change has generally been welcomed and it is likely that the Government will wish to take this recommendation forward.

The Electoral Commission has indicated in its response to the CSPL that it would support a removal of the restriction on Commissioners with recent experience of politics and the political process. The Electoral Commission stated that, in making such a change, it would be important to consider what the appropriate minimum period between an active political role and appointment as a Commissioner should be and welcomed further debate on this point. The Commission set out several further key safeguards that would be required to ensure that greater political experience within the Commission would not compromise the Commission's political independence. Specifically, the Commission was of the view that any Commissioners appointed with recent experience of politics would need to:

- be in a minority among the wider group of Commissioners;
- not be eligible for appointment as Chairman of the Commission;
- contribute to Commission proceedings and decision-making on the same basis as any other member as part of a unitary board;
- not be nominated as formal representatives of their political party;

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<sup>13</sup> The Review of the Funding of Political Parties, *Fair and Sustainable Funding of Political Parties*, March 2007, p.24.

<sup>14</sup> CSPL ref. Recommendation 29.

<sup>15</sup> CSPL ref. Recommendation 30.

<sup>16</sup> CASC ref. Recommendation 12.



- be appointed through a transparent appointment process;
- demonstrate the competencies required of any other Commissioner;
- ensure adequate representation of minority parties especially those active in Northern Ireland, Scotland and Wales;
- not be eligible to Chair the Boundary Committee for England.

#### **ACTIONS WHICH MIGHT FOLLOW:**

- Amendments to be made to PPERA 2000 to allow for the appointment of a minority of Commissioners with practical experience of politics and covering the political spectrum. Appropriate safeguards should be built in to ensure that greater political experience is not gained at the expense of the overall impartiality of the Commission.

#### *6.2 Political experience of Electoral Commission staff*

The reports of CSPL and Sir Hayden Phillips also concluded that the current ban on employing individuals at the Commission who have been politically active over the previous ten years should be reduced. The CSPL recommended reducing this to one year for most staff, and five years for senior management and regional electoral officers<sup>17</sup>. Sir Hayden Phillips' March report agreed with this approach.

In its response to the CSPL, the Electoral Commission agreed with this approach and expressed support for going further to remove any restriction whatsoever except for senior managers. The Commission recognised the benefits of employing staff with political experience. The Government is likely to agree with the CSPL's recommendation.

#### **ACTIONS WHICH MIGHT FOLLOW:**

- Amending PPERA to remove the restriction on the employment of staff within the Electoral Commission who have been politically active over the previous ten years
- Reduce the restriction on the employment of senior staff who have been politically active over the previous ten years in line with the recommendations of the CSPL.

#### **7. Conclusion**

There is widespread agreement that the Electoral Commission needs radically to change its approach to how it regulates the funding and expenditure of political parties. The greatest priority is for the Commission to change the body language of its approach from one of monitoring the compliance of political parties to investigating pro-actively suspected wrongdoing and taking swift and appropriate action where a political party or individual has broken the rules.

To achieve this shift in approach will require action in a number of areas:

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<sup>17</sup> CSPL Recommendation 27

- Leadership and commitment from the Electoral Commission to make the cultural change required of it.
- Legislative changes to ensure that the Commission is better equipped to undertake a more robust, but proportionate, regulatory role.
- Organisational and operational changes within the Commission to ensure that it is able to deploy its resources towards enhanced policing of the regulatory framework.

The Electoral Commission indicated in March 2007 that it would be in a position to implement the organisational changes required of it within a period of twelve months.

Legislative changes to the powers and sanctions available to the Commission would need to be taken forward at the earliest possible legislative opportunity.

**MINISTRY OF JUSTICE JULY 2007**

# Inter-Party Talks: The Funding of Political Parties

Sir Hayden Phillips GCB, Chairman

## MINUTE

**Date:** 26 July 2007  
**To:** Sir Hayden Phillips GCB  
**From:** David Rowland  
Secretary to the Talks  
020 7210 0535

**Minutes of fourth session**

**1pm 24 July 2007**

**Location: Selborne House**

**Attendees:** Sir Hayden Phillips (Chairman)  
Ian Gambles (Secretariat)  
Ted Whybrew CBE (former Certification Officer advising Secretariat)  
Rt Hon Francis Maude MP (Conservative Party)  
Andrew Tyrie MP (Conservative Party)  
Ian McIsaac (Conservative Party)  
Rt Hon Jack Straw MP (Labour Party)  
Peter Watt (Labour Party)  
Declan McHugh (Labour Party)  
David Heath MP (Liberal Democrats)  
Lord Kirkwood (Liberal Democrats)

Also observing the talks but not participating were the following:

Sheridan Westlake (Conservative Party)  
Pauline Prosser (Ministry of Justice official)  
Paul Kett (Ministry of Justice official)  
David Rowland (Secretariat)

1. **Sir Hayden** opened the fourth session by welcoming the positive comments that had been made in the press over the last few days about the need to reform the system of political party funding, and the support expressed for the talks in resolving this issue.
2. As time was limited he proposed going through the papers in order and getting an inventory of where the most sensitive issues were. The Secretariat would then do its best to find acceptable solutions to these issues, and would circulate a draft agreement by the middle of August.

### Limiting donations

3. **Sir Hayden** expressed his view that a limit of £50,000 seemed reasonable, and this was agreed by the parties. In addition it was agreed that a lower cap for accounting units was not necessary.
4. There was a discussion as to the parties to which the cap should apply. The **Conservatives** raised the question of whether it should be possible for a party to opt-out of the cap and therefore not receive any public funding. The **Labour Party** raised the issue as to whether the cap was triggered by whether a party receives public funding or by a public interest case, in a similar manner to which the Political Parties, Elections and Referendums Act 2000 was driven by public interest. They understood that all the parties around the table were signed up to a cap so it was less of an issue for them. The **Liberal Democrats** expressed the view that there was a clear public interest in curbing the perception that influence can be bought by large donations, and that the public funding that would flow was a consequence of this public interest case.
5. The **Liberal Democrats** also raised the issue as to whether the cap should apply to a wider range of parties than that suggested in the paper (all parties with two or more elected representatives at Westminster, the devolved administrations or the European Parliament), to prevent a party such as the Referendum Party being formed by a very rich individual and not being subject to a cap on donations. The **Labour Party** expressed the view that if a millionaire wanted to fund a new party then that person had the right to do so.

**Action: The Secretariat has been asked to produce a short note as to whether the Human Rights Act posed any issue for a limitation on donations, including looking at possible parallels between the First Amendment in the U.S. and the Human Rights Act.**

### Affiliation fees

6. The **Labour Party** said they agreed that full and transparent information should be provided to trade union members. However a formal tick-box on an application (either opting in or opting out) regarding the political levy went well beyond the scope of the current legislation. What was important, what the Labour Party was prepared to accept and what the options paper in large part proposed, was a requirement for trade union members to be given clear information – both at the time of joining and in subsequent annual communications – that the union was affiliated to a political party, how much affiliation fees amounted to, that they had a right to opt-out of paying the political levy and had information about how to do so. The Labour Party said that they were open to ideas about how that information could be provided, for example through internet links to the relevant section of a trade union Rule Book. By such means, and in addition to the commitment to affiliate fully all levy paying members, the trade unions would have met the requirements of transparency and traceability that Sir Hayden set out in his March 2007 report.
7. The **Liberal Democrats** said that they understood the Labour Party's concerns on this issue, and that it would be helpful to see examples as to how information could be provided to trade union members.

8. The **Conservative Party** agreed that the clear and transparent presentation of information to members was of crucial importance in resolving this matter. They also raised two further points. First, regarding the annual information provided to members about their right to opt-out: they took issue with the phrase that information could be provided by direct contact or by “any other means which the union usually uses to communicate with its members”. It was pointed out that was the form of words currently used in legislation, and that this allows trade unions to communicate by letter, by magazine, by email etc, and not in informal meetings. Second, the Conservatives wanted the whole system to be overseen by the Electoral Commission, rather than the Certification Officer, as they felt that it was a matter of Party Funding law rather than Trade Union law.
9. **Sir Hayden** acknowledged that this was a sensitive area and said that the Secretariat would review the options for presentation of the relevant information to a new member. He added that it was important to remember that some trade unions would need time to make the necessary changes, to ensure that the number of members paying into the political fund matched the number of members on which the trade union affiliation to the Labour Party was based.

### Spending

10. The **Conservative Party** said that the level below which accounting units’ expenditure should be disregarded for the purposes of a cap on spending was set too low at £40,000, as in general this impacted upon the Conservative Party disproportionately, and that this exemption limit should apply per constituency and not per accounting unit. Transitional arrangements would be needed for the implementation of such a limit. In addition, expenditure not just from trading companies operating on an arm’s length basis should be excluded, but all trading activity.
11. The **Liberal Democrats** stated that raising the thresholds for the exemption of accounting unit expenditure increased the risk of avoiding national controls, as a very large amount of expenditure would not fall to be included under the cap.
12. The **Labour Party** made the point that although more Conservative expenditure took place locally, the Labour Party would be hit more by a national cap. They needed to consider further the issue of exclusion of trading activity expenditure, as even when they run party conferences they aim to make a profit, and the precise amount of that profit depends upon the costs of the campaigning activity they undertake.
13. The **Conservative Party** stated that any matched funding raised locally should be exempt from the expenditure limit, otherwise it could serve as a real disincentive to local parties to raise money, a point the **Liberal Democrats** agreed with. In addition, the **Conservatives** would like to see transitional funding for additional compliance costs covered, building on the precedent in the 2000 Act, as it would be necessary to implement extensive new control processes and systems.
14. On candidate controls under the Representation of the People Acts, the **Conservative Party** doubted whether this regime would be necessary under the new system. The **Liberal Democrats** and the **Labour Party** were both in favour of keeping the regulation on candidates as removing it would allow for increased expenditure in marginals. The RPA controls were well established and it would be imprudent to remove controls which were seen to be effective.

15. **Sir Hayden** said that the Secretariat would take these points into account in preparing the draft agreement.

### **Public funding**

16. The **Conservatives** raised a general point about the hostility in the media and the public to increased public funding, and stated their view that there needed to be more emphasis on matched funding, perhaps by increasing the amount to £10, and less emphasis on the pence-per-vote scheme. This would have the beneficial effect of encouraging the parties to involve more people and thus increasing participation in politics. The introduction of matched funding should take place prior to the introduction of pence-per-vote funding, which could indeed be held in reserve until it was shown to be necessary.
17. **Sir Hayden** remarked that the pence-per-vote scheme was intended to provide financial stability. In the transitional arrangements section it was proposed that this take place only when the final level of the cap on donations was reached, and that the matched funding scheme should be introduced earlier.
18. Both the **Labour Party** and the **Liberal Democrats** said that pence-per-vote funding was an essential part of the overall package. If it were not enacted at the same time as the restrictions on donations and on spending it would be much more difficult to secure popular acceptance for introducing it at a later date. The **Labour Party** made the point that although there would probably be some negative headlines, they needed to make the point that British politics was very clean and transparent, and that political parties were an essential part of democracy. As such they needed funding, and this came both from supporters and the taxpayer. There needed in effect to be a bargain between funding being provided by the supporters of parties, who were partisan, and those who should support democracy generally, the taxpayers. In addition the Labour Party said that pence-per-vote and matched funding could be introduced at the same time.
19. The **Conservative Party** argued that public funding should therefore be restricted to those parties at Westminster and not linked to elections for the devolved administrations and the European Parliament. **Labour** and the **Liberal Democrats** disagreed.
20. **Sir Hayden** noted that when the report was published in March there was more general acceptance of the need for increased public funding than he had expected, although there may well have been some hardening of attitudes since then. On the issue of the eligibility criteria for public funding, Sir Hayden said that due to the changes that had taken place since 1997 it would not, in his view, be realistic to exclude parties represented in the devolved administrations.

### **Anti-avoidance and third parties**

21. **Sir Hayden** made the point that these were high level proposals. Detail would have to be worked up in the preparation of the Bill.
22. The **Labour Party** raised the issue of allowing family members to make donations to the same party. There could be an issue around the definition of family members, especially in the case of extended families.

23. The **Conservative Party** put down a marker for the future that the new system would create a greater pressure on third party spending and so vigilance would be necessary to detect avoidance.

### **Electoral Commission**

24. **Sir Hayden** recognised the importance of the Electoral Commission's independence, but he also recognised that the parties needed to be satisfied that a new system would be regulated effectively and proportionately. It was agreed to send the Chairman of the Electoral Commission, Sam Younger, the draft agreement that the Secretariat will produce, on the basis of it being work in progress, and to invite the Electoral Commission to give a presentation at the talks. The Speaker's Committee, as a matter of courtesy, should be made aware of this invitation.

**Action: The Secretariat would send the Electoral Commission the draft agreement, on the basis of work in progress, and invite the Electoral Commission to give a presentation at the next set of talks.**

**Jack Straw would inform the Speaker's Committee that the Electoral Commission will be invited to the talks.**

### **Transitional arrangements**

25. **Sir Hayden** stated his view that there was a real risk that the system would not be able to cope with the introduction of donation and spending controls immediately on Royal Assent, and that it needed time to adapt.
26. The **Labour Party** said that the timetable should be compressed if practical, and the **Liberal Democrats** agreed with this, while the **Conservatives** didn't think it would be practical, due to the need for the regulator to adapt and also for the political parties themselves to make the necessary changes.
27. The **Labour Party** raised the possibility of a voluntary agreement prior to the next general election which could in effect introduce the new system for spending on the 1<sup>st</sup> January 2008. An alternative would be to have surrogate spending controls, such as an agreement to restrict billboard advertising, and it was pointed out that such a move would be popular with the public. The **Conservatives** felt that such a speedy introduction of one part of the new system would be impractical, and that surrogate arrangements needed further consideration.

### **Press Notice**

28. It was agreed that the second version of the Press Notice be issued with minor amendments.

**Any other business**

29. The **Conservative Party** said that they would like to audit the figures contained in the Secretariat's propositions, and the Secretariat agreed that such an opportunity would be arranged on request.
30. It was agreed that the next set of meetings should be in early September, and that the final meeting would take place by the middle of October. The Secretariat would be available to meet bilaterally with the parties if so requested, and would produce a draft agreement to be circulated among the parties by the middle of August.

**Action: The Secretariat will produce a draft agreement which will be circulated among the parties.**

**The Secretariat will arrange meetings for early September and the second week of October.**

David Rowland  
Secretary to the Talks

NOT A AGREED



**Background papers**

**August 2007**

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**Paper 1: Spending controls: Threshold for excluding constituency associations and parties from the controls**

**Paper 2: Anti- Avoidance and donations from members of the same family**

**Paper 3: Public funding figures**

**Paper 4: Legal advice on cap on donations**

Note: this advice has been provided by Ministry of Justice Legal Group. It is for the use of the political parties involved in the Inter-Party Talks. It must not be further disseminated without the agreement of the Ministry of Justice Legal Group.

## Paper 1: Spending controls: Threshold for excluding constituency associations and parties from the controls

### Introduction

This paper provides

- estimates of the number of constituency associations and parties that might be included in spending controls with thresholds ranging from £40,000 annual spending to £100,000, and
- describes how a gradual transition to a threshold of £40,000 would operate.

It is supported by an annex that describes the basis for the estimates.

### Number of constituency associations and parties included in the spending controls

The meeting of the Inter Party Talks on 24 July discussed the level at which the threshold for including constituency associations and parties in the spending controls should be set.<sup>1</sup> The table below (figure 1) shows for thresholds of £40,000, £50,000, and so on in increments of £10,000, up to £100,000, the number of constituency bodies per party that would have been covered by the controls, in both the non general election year of 2003, and the general election year of 2005, had they been in operation. The estimates have been made on the assumption that the categories of exempt expenditure, discussed at the Talks, had been excluded.

<i>Threshold</i>	<i>Non-general election or general election year?</i>	<i>Conservative</i>	<i>Labour</i>	<i>Liberal Democrats</i>
<i>40,000</i>	2003	136	5	8
	2005	203	17	36
<i>50,000</i>	2003	93	3	2
	2005	166	12	24
<i>60,000</i>	2003	61	2	
	2005	125	8	13
<i>70,000</i>	2003	42		
	2005	98	2	8
<i>80,000</i>	2003	23		
	2005	72		2
<i>90,000</i>	2003	11		
	2005	45		1
<i>100,000</i>	2003	8		
	2005	29		1

Fig 1

<sup>1</sup> For the avoidance of doubt the proposal in the paper on spending controls, tabled at the Talks on 24 July, for disregarding accounting units with expenditure under a certain threshold, relates to accounting units based on Westminster constituencies or small groups of constituencies which have joined together to form a single accounting unit. It does not relate to accounting units covering a part of a constituency; otherwise there would be an incentive for parties to fragment their constituency bodies into multiple units to avoid spending controls. Nor does it relate to accounting units based on sections of the electorate (such as party student organisations) which would equally have an incentive to fragment into smaller units.

The basis for these estimates is described in Annex A.

### Transitional arrangements

In the draft heads of agreement it is proposed that:

- E3 Spending controls will be introduced the day after the next general election, or from 1 January 2010, whichever is the later.
- E4 To allow the accounting units and the central parties time to adapt and put in place the necessary systems and processes, the threshold of accounting unit expenditure above which it is counted against the overall party limit (see B4) will be set at £100,000 in its first year or part-year, then reduced in equal increments so as to reach its final level of £40,000 in 2012.

Since the next general election must be held no later than 2010 the new controls must commence on 1 January 2010 or the day after a general election during that year. The table below shows the scheme in operation and provides estimates of the number of constituency associations and parties that might be affected. For 2010 two sets of estimates are given

- (1) estimates on the assumption that 2010 is the first or second year after a general election, and
- (2) estimates on the assumption that 2010 is a general election year.

For the purposes of these estimates it has also been assumed that 2011 and 2012 will be non-general years.

<i>Years</i>	<i>Threshold</i>	<i>Estimates of number of constituency bodies included in the controls</i>			
		<i>Conservative</i>	<i>Labour</i>	<i>Liberal Democrats</i>	<i>total</i>
2010 – non-general election year	£100,000	8			8
2010 – general election year	£100,000	29		1	30
2011	£70,000	42			42
2012	£40,000	136	5	8	149

Fig 2

The figures used for these estimates have been taken from the 2003 and 2005 figures set out in figure 1 above.<sup>2</sup>

<sup>2</sup> 2003 was the mid point between 2001 and 2005 general elections. Constituency body spending was higher in 2003 than in 2002 and less than in 2004. Depending upon when the next two general elections are held 2010, 2011, and 2012 could each be at points in the electoral cycle other than the mid point represented by 2003. The number of Labour and Liberal Democrat constituencies parties involved is not sufficiently large for this variable to be significant in a non general election year. For the Conservative Party if 2012 was the penultimate year in a four year electoral cycle (that is to say equivalent to 2004 in the last electoral cycle) the number of associations covered by the controls would be 165.

## Annex A

### Estimates of number of constituency associations and parties that would be included in the spending controls (figure 1)

The draft heads of agreement (B5) lists the following areas of expenditure as exempt from controls:

- contributions to party employees' pension funds to make up for past shortfalls,
- interest on debt and repayments of debt,
- legal expenses,
- cost of compliance with electoral law,
- expenditure on trading activities and income generation,
- accounting units' expenditure on social functions for members of the party,
- intra-party transfers.

Annex B to the paper on spending controls (24 July) showed the number of constituency bodies that would be covered by the spending controls if the threshold was set at £25,000 and at £40,000, based on total expenditure declared to the Electoral Commission for 2003 and 2005. It made no allowance for the categories of exempt expenditure listed above. It is not possible to calculate precisely how much expenditure that is currently declared to the Commission would become exempt expenditure, since constituency accounting units' statements of accounts do not currently classify expenditure under the relevant headings. Nevertheless estimates can be made from the headings that are used. An analysis of the statements of accounts of constituency accounting units for each of the three main parties indicates that the following percentages of their current total expenditure might fall within the categories of proposed exempt expenditure:

	2003	2005
<i>Conservative</i>	16% <sup>3</sup>	15% <sup>4</sup>
<i>Labour</i>	51% <sup>5</sup>	15%
<i>Liberal Democrats</i>	10%	6.5% <sup>6</sup>

The figures for each party in figure 1 above include constituencies that are currently joined with other neighbouring constituencies in single accounting units. This is because it has been assumed that parties will organise themselves so as maximise the number of constituency bodies that fall below the threshold, and, so for reporting purposes, they will break such accounting units down into units comprising a single constituency. The expenditure of these current accounting units has been divided by the number of constituencies in the unit to see whether or not the constituencies in question would be covered by the controls. The number of constituencies that fall into this category is not significant for any of the three parties.

<sup>3</sup> Based on a 10% sample consisting of 18 constituency associations

<sup>4</sup> Based on a 10% sample consisting of 26 constituency associations

<sup>5</sup> Based on all four Labour constituency parties with annual spending over £40,000 in 2003. The exceptionally high percentage of expenditure that would be exempt expenditure is due to spending resulting from property transactions.

<sup>6</sup> Based on a 50% sample consisting of 18 constituency parties.

## **Paper 2: Anti- Avoidance and donations from members of the same family**

The paper on anti-avoidance presented on 24 July contained the following passage:

Making political parties liable in law for knowingly accepting multiple donations from a single source over the limit would discourage parties from colluding with donors to avoid regulation, and it defeats the objective of donors who wish to exercise improper influence since the donor can only do so by revealing to the party that he or she is the source of the multiple donations. This should include instances where money has been given by a donor to intermediaries with the sole purpose that the intermediaries should give it to a particular political party. The same legal liability should be extended to third parties and to regulated donees.

It would not be right to prevent spouses and members of the same family from each making separate donations to the same party. This might become a minor avoidance route but providing the cap was not set too high it would not allow individuals to exercise undue influence.

In this scheme political parties which accepted donations from multiple members of the same family knowing that they originated with a single source would be guilty of an offence.

The law could be framed so as to treat spouses and civil partners as one for the purposes of donations to political parties but this would be contrary to all parties' social and tax policies. There is little that can be done to prevent donors giving money to their spouses or civil partners so that those funds can be passed onto a political party. However there are tax constraints which inhibit the large scale disbursement of funds by donors to members of their families or to friends<sup>7</sup>:

- If the donor dies within seven years of making the transfer the donor's estate will be liable to Inheritance Tax of 40% on the value of the transfer.
- Transfers of funds made in the form of capital may also be liable for Capital Gains Tax.

Accordingly any donor who wanted to avoid the annual cap on donations by using his friends or members of his family as conduits for donations in excess of the cap would have to successfully conceal his involvement from the political party of his choice and might increase his tax liability in a way likely to inhibit many donors.

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<sup>7</sup> Transfers to spouses and civil partners are exempt from taxation.

### Paper 3: Public funding figures

The following tables illustrate the expected outcomes of two possible arrangements for public funding for parties in Great Britain. The first, Table 1, is based on an incentive scheme matching funding of £10 or more from an individual on the electoral register with £10 of public funding, and providing a pence-per-vote scheme based on votes at general elections receiving 40p, and votes for European Parliamentary elections and devolved administration elections 20p. The current funding through the Policy Development Grants scheme would no longer be available.

The second option, Table 2, is based on an incentive scheme matching funding of £5 or more with £5 of public money, and a pence-per-vote scheme of 50p for general elections and 25p for European Parliamentary elections and devolved administration elections. Again, Policy Development Grants would be discontinued under this option.

Table 3 compares the outcomes of the two options and shows the difference in the amounts parties would expect to receive between the two options.

The amounts given for the incentive scheme are necessarily approximate and are based on parties achieving the same number of matched donations as they have members. Table 4 gives the approximate numbers of party members.

**Table 1**

#### **Incentive scheme £10, pence-per-vote 40p / 20p, end Policy Development Grants**

	<i>£10</i>	<i>40p/20p</i>	<i>PDGs</i>	<i>Total</i>
Labour 2	,000,000	4,749,480	-457,997	6,291,483
Conservatives	2,500,000	4,498,047	-457,997	6,540,050
Liberal Democrats	700,000	2,966,232	-457,997	3,208,235
Plaid Cymru	85,000	144,301	-151,894	77,407
SNP 120,0	00	340,971	-162,542	298,429
Greens 7	0,000	322,403		392,403
UKIP 170,0	00	781,016		951,016
Scottish Greens	10,000	25,646		35,646
<b>Total</b>	<b>5,655,000</b>	<b>13,828,096</b>	<b>1,688,427</b>	<b>17,794,669</b>

**Table 2****Incentive scheme £5, pence-per-vote 50p / 25p, end Policy Development Grants**

	£5	50p/25p	PDGs	Total
Labour 1,0	00,000	5,936,850	-457,997	6,478,853
Conservatives	1,250,000	5,622,558	-457,997	6,414,561
Liberal Democrats	350,000	3,707,790	-457,997	3,599,793
Plaid Cymru	42,500	180,376	-151,894	70,982
SNP 60,00	0	426,213	-162,542	323,671
Greens 35,00	0	403,003		438,003
UKIP 85,00	0	976,270		1,061,270
Scottish Greens	5,000	32,058		37,058
<b>Total</b>	<b>2,827,500</b>	<b>17,285,118</b>	<b>1,688,427</b>	<b>18,424,191</b>

**Table 3****Comparison of £10, 40p/20p option (Table 1) and £5, 50p/25p option (Table 2)**

The difference is the amount that parties would receive under the £10, 40p/20p compared with the £5, 50p/25p option.

	£10, 40p/20p	£5, 50p/25p	Difference
Labour 6,2	91,483	6,478,853	-187,370
Conservatives	6,540,050	6,414,561	125,489
Liberal Democrats	3,208,235	3,599,793	-391,558
Plaid Cymru	77,407	70,982	6,425
SNP 29	8,429	323,671	-25,242
Greens 39	2,403	438,003	-45,600
UKIP 9	51,016	1,061,270	-110,254
Scottish Greens	35,646	37,058	-1,412
<b>Total</b>	<b>17,794,669</b>	<b>18,424,191</b>	<b>-629,522</b>

It can therefore be concluded that, while the £10/40p variant proposed in the draft Agreement is likely to be somewhat less advantageous to the Liberal Democrats as compared to the £5/50p variant, the differences are otherwise negligible and any or all of them could be reversed as a result of parties achieving different degrees of success in persuading individual citizens to donate through the matched funding scheme.

**Table 4**

**Incentive scheme figures**

Information available to the Secretariat indicates that the approximate numbers of members of the eligible political parties are as follows.

	<i>Members</i>
Labour 20	0,000
Conservatives	250,000
Liberal Democrats	70,000
Plaid Cymru	8,500
SNP 12	,000
Greens 7,	000
UKIP 17	,000
Scottish Greens	1,000
Total	565,500



# **Inter-Party Talks: The Funding of Political Parties**

Sir Hayden Phillips GCB, Chairman

## **Agreement**

### ***Preamble***

The Conservative Party, the Labour Party, and the Liberal Democrat Party have reached agreement on a new approach to the funding of political parties in the United Kingdom. This new approach aims to restore public trust in the probity of party finances by setting a limit on the amount which any individual or organisation can donate to a political party. To enable political parties to continue to operate effectively under these new restrictions, there will also be new controls to limit the spending of political parties, and the possibility of additional public funding related to their success in collecting small donations and winning the support of voters at elections.

This agreement is fully consistent with the proposals made in the independent report by Sir Hayden Phillips “Strengthening Democracy”, which was published on 15<sup>th</sup> March 2007.

With the exception of the spending controls, the agreement is only intended to apply in the first instance to parties registered in Great Britain. The application and full extension of the agreement to Northern Ireland will be the subject of separate discussions between the Government and the Northern Ireland parties.

The Government has agreed to prepare legislation to enact the principles set out in this agreement, consulting in an appropriate manner with other parties, and to bring a Bill before Parliament in the next session.

### **Donations**

### **Section A**

- A1. There shall be a cap on donations and loans to all political parties that reach the threshold specified at A2.
- A2. The cap shall apply to all parties registered in Great Britain with two or more elected representatives to Parliament, the Scottish Parliament, the National Assembly for Wales and the European Parliament. It shall apply to the party, its accounting units, and regulated donees.
- A3. The final level of the cap will be £50,000.
- A4. Commercial loans will be exempt from the cap provided they are made and declared in accordance with existing applicable law.

- A5. Any amount donated over the limit will have to be returned to the donor, or forfeited if this is not possible.
- A6. Affiliation fees paid by trade unions will be treated for the purposes of the cap as individual donations of the members, provided the conditions at A7-A10 are all met.
- A7. The amounts paid by individuals into a union's political fund as their contribution to the union's affiliation fee, and the money paid by that union to a political party as its affiliation fee will be the same. This one-for-one link will be transparent and auditable.
- A8. The following information will be provided on all union membership application forms:
- an explanation of what the political fund is and the union's affiliation to a political party;
  - an explanation of how much individual members contribute to the political fund and towards the union's affiliation fee;
  - an explanation of the trade union member's right at any time to stop contributing to the political fund and the union's affiliation fee and clear information about how they can do this; and
  - an explanation of the fact that if a member stops contributing, their membership subscription will be reduced accordingly.
- A9. Trade union members will be reminded annually of the amount they are contributing to the union's affiliation fee and of their right to opt out of contributing to the political fund, including how they may do so.
- A10. The requirements of transparency and choice set out here will be overseen by the Certification Officer acting in concert with the Electoral Commission, which will have the power to order affiliation fees to be repaid if they are not compliant with the requirements.
- A11. Due to the increased transparency and choice for trade union members the ten-year review ballot on the existence of the political fund is no longer necessary and should be removed.

## **Spending controls**

## **Section B**

- B1. All registered political parties will be subject to the spending controls.
- B2. Spending controls will apply to the whole of a Westminster electoral cycle. The maximum limit for a full cycle will comprise a five-year running costs figure and a general election premium. In calculating the limit for parliaments which run for less than the maximum permitted cycle of 61 months, the running costs figure will be adjusted by the relevant fraction of 61 months depending on the actual life of the parliament, and the general election premium will be added back to calculate the enforceable limit.

- B3. A single overall limit will apply to the expenditure of each party, including all its constituent organisations whether national, regional, local or other. It will be a matter for the party itself to decide how to disaggregate its spending within the overall limit between the years of the parliament and among the various organisations in the party.
- B4. The expenditure of accounting units (equivalent to or larger than a Westminster constituency) with expenditure less than £40,000 (after transitional arrangements) in any given year will not count in that year towards the overall limit.
- B5. Spending controls will cover all of a party's spending except certain defined categories:
- contributions to party employees' pension funds to make up for past shortfalls;
  - interest on debt and repayments of debt;
  - legal expenses;
  - costs of compliance with electoral law;
  - expenditure on trading activities and income generation;
  - accounting units' expenditure on social functions for members of the party, and
  - intra-party transfers.
- B6. Expenditure which under accounting standards would be classified as capital expenditure will be depreciated as usual in party accounts in accordance with accounting policies and with an appropriate asset life; only the depreciation figure would count towards the limit.
- B7. The limit will be £150m for the full term of the next Parliament, including a general election premium of £20m.
- B8. The limit will be the same for all parties putting forward candidates in at least 90% of constituencies at the general election at the end of the cycle. The limit would fall pro rata, in steps of 10%, for parties fielding fewer or no candidates, with a floor (to allow for fixed costs and to avoid over-regulation of smaller parties) set at 10% of the total limit.
- B9. Existing controls on candidate spending under the Representation of the People Acts will continue, and will be tightened so as to bring the costs of direct mail targeted at a constituency and an apportionment of the costs of phone bank activity targeted at a constituency within the scope of reportable spending.
- B10. The current limit for by-elections of £100,000 should be maintained.

**Public funding****Section C**

- C1. Two new schemes for public funding of political parties will be introduced:
- A scheme designed to encourage parties to engage the active participation of the electorate based on a form of matched funding; and
  - A scheme based on public support, pence-per-vote, primarily designed to help provide for financial stability following the introduction of a cap on donations.
- C2. Only parties subject to the cap on donations will be eligible for these public funding schemes.
- C3. A matched funding scheme will enable parties to receive £10 of public funding for each donation of £10 or more that they secure from any one person on the electoral register in any one year.
- C4. The amount of money that can be paid out through this scheme will initially be capped at the equivalent of donations from 1 million individuals, that is, £10 million.
- C5. The matched funding scheme will be primarily internet-based, with a paper-based alternative. Parties will set up their own internet schemes, adapting their current systems if they so wish. The Electoral Commission will be responsible for auditing the scheme and the release of money to the parties.
- C6. Under the pence-per-vote scheme, parties will receive 40p each year for every vote cast for them in the most recent general election, and 20p for every vote cast for them in the most recent elections for the Scottish Parliament, National Assembly of Wales, and for the European Parliament. As voters in Scotland and Wales have two votes at the elections for their devolved administrations, one for a constituency representative and one for a regional representative, the parties will receive 10p per vote regardless of whether it is a vote for a constituency representative or a list representative, equivalent to 20p per voter.
- C7. The Policy Development Grants currently received by the political parties will be abolished.
- C8. Public funding will also be made available on a once-off basis to parties to assist them in meeting the costs of compliance with the new regulations. This funding will be distributed by the Electoral Commission following the precedent set in PPERA 2000, and will not exceed £1.5m in total.

**Compliance****Section D**

*General*

- D1. The Electoral Commission should move towards a more investigative and tougher stance with the aim of ensuring integrity and public confidence in the system of party funding, and should take a pro-active approach to the investigation of apparent non-compliance.
- D2. Legislation should where necessary provide the framework, including a graduated system of sanctions, for the Electoral Commission to become a more effective regulator.
- D3. The Electoral Commission should issue advisory opinions where appropriate, and should seek to work with the parties at both national and local level to facilitate compliance with the law.
- D4. Further anti-avoidance provisions should be developed in the course of the preparation of the legislation, and the Electoral Commission should regularly review their adequacy.

*Donations*

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

*Spending*

- D10. There will be a general duty on the parties not to avoid the spending limit, and the Electoral Commission will have investigatory powers to audit compliance, identify avoidance of the provisions specified in the statute, and order expenditure returns to be restated if necessary.

- D11. Annual accounts will continue to be filed with the Electoral Commission as they are now, and an additional annual return will be made reporting expenditure against the limit.
- D12. The national registered treasurer will be responsible for compliance with the limit, and for ensuring that the central party has appropriate systems in place to monitor overall party spending, but it will be assumed under a principle of “safe harbour” that the national treasurer has accepted accounting units’ statements of accounts in good faith.
- D13. A system of graduated penalties will be available, with the Electoral Commission required to ignore non-material breaches, and to discriminate on a range from self-declared inadvertent errors to large-scale or systematic evasion. The normal sanctions for errors, misdeclarations and small-scale or opportunistic avoidance would be financial penalties levied on the national party, which would then be free to determine whether it paid the penalties from central funds or passed them onto the accounting unit(s) responsible for the breach. Criminal sanctions would be available for serious evasion and charges would have to be brought against the individual actually committing the offence.

#### **Transitional arrangements and review**

#### **Section E**

- E1. The cap on donations will be reduced to £50,000 over a period of time to give the parties time to adjust to the new system. The cap will be set at £500,000 in 2009, £250,000 in 2010, £100,000 in 2011, and reduced to its final level of £50,000 from 1 January 2012. These dates are obviously subject to the Parliamentary timetable.
- E2. The introduction of changes to the treatment of trade union affiliation fees will be phased in over time. Transitional arrangements will be developed in consultation with the trade unions and the regulatory authorities, with a view to implementing the changes as quickly as possible and in no event later than 1 January 2012.
- E3. Spending controls will be introduced the day after the next general election, or from 1 January 2010, whichever is the later. The parties have agreed to continue discussions with a view to agreeing some measure of voluntary restraint on expenditure before the next election.
- E4. To allow the accounting units and the central parties time to adapt and put in place the necessary systems and processes, the threshold of accounting unit expenditure above which it is counted against the overall party limit (see B4) will be set at £100,000 in its first year or part-year, then reduced in equal increments so as to reach its final level of £40,000 in 2012.
- E5. The matched funding scheme will be introduced on 1 January 2009, at the same time as the initial cap on donations.

- E6. The pence-per-vote scheme will be introduced on 1 January 2012, when the cap has been reduced to its final level. Policy Development Grants will end at the same time.
- E7. The Electoral Commission will report annually on progress with the implementation of the system introduced by the Act which brings this agreement into force. The effectiveness of the system will be reviewed in all its aspects, including its regulation, by a comprehensive independent review in seven years' time reporting to all parties affected. This review will specifically consider whether the candidate limits imposed by the Representation of the People Act continue to serve a useful purpose in the context of the new system of spending controls.

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# Inter-Party Talks: The Funding of Political Parties

Sir Hayden Phillips GCB, Chairman

## MINUTE

**Date:** 31 October 2007  
**To:** Sir Hayden Phillips GCB  
**From:** David Rowland  
Secretary to the Talks  
020 7210 0535

**Minutes of fifth session**

**4pm 30 October 2007**

**Location: House of Commons**

**Attendees:** Sir Hayden Phillips (Chairman)  
Ian Gambles (Secretariat)  
Ted Whybrow CBE (former Certification Officer advising Secretariat)  
Rt Hon Francis Maude MP (Conservative Party)  
Andrew Tyrie MP (Conservative Party)  
Ian McIsaac (Conservative Party)  
Rt Hon Jack Straw MP (Labour Party)  
Peter Watt (Labour Party)  
Declan McHugh (Labour Party)  
David Heath MP (Liberal Democrats)  
Lord Kirkwood (Liberal Democrats)

Also observing the talks but not participating were the following:

Sheridan Westlake (Conservative Party)  
Pauline Prosser (Ministry of Justice official)  
Paul Kett (Ministry of Justice official)  
David Rowland (Secretariat)

1. **Sir Hayden** opened the fifth session by informing the parties that since the party conferences he had held bilateral meetings with each of the parties. He stated that he did not wish to be the interpreter of each party's views, but that the three parties needed to speak directly to each other.
2. The **Conservative Party** stated that they were totally committed to any genuine reform which would restore the trust of the electorate in political parties. The source of that mistrust was the belief that big donors bought influence, therefore an essential element must be the ending of big individual, corporate and union donations. There would be a big prize for the political process if it could be achieved. They stated that it was worth considering lengthy transitional arrangements to enable parties to adjust.
3. As far as trade union affiliation fees the Conservative Party argued that the changes on affiliation fees contained in the draft agreement would only take people to where they



believed the situation was at the current time regarding individual choice. Their view was that individual trade unionists should be able to make clearly voluntary donations to any party of the individual's choice. They hoped the Labour Party would be willing to continue the Talks on the basis of further proposals which could be developed with this as the endpoint of reform, even if it was implemented only after a long transition. The Conservative Party saw no necessity for further controls on party spending, which they stated were not part of Sir Hayden's Terms of Reference, but would continue to discuss them as part of a package of this nature. The Conservative Party regretted what in their view was a decline in enthusiasm from the Labour Party for meaningful reform over the summer.

4. The **Labour Party** expressed their disappointment at the Conservative Party's unhelpful approach. There had been no decline in Labour's enthusiasm for reform over the summer. Rather, it was the Conservative party that had disengaged from the process. All parties had engaged constructively at the outset of the talks, and all had moved from favoured positions in the interests of reaching consensus on a comprehensive package of reform. But the mood changed when the Conservative Party suddenly withdrew from a long-scheduled meeting to discuss the draft agreement on 3 September 2007, and apparently had enormous difficulty in re-scheduling until 30 October. Then, on 19 October, the Leader of the Opposition made an extraordinary intervention, writing to the Prime Minister – and making the letter public – to dismiss Sir Hayden's draft agreement before the parties had even had an opportunity to discuss it.
5. The Labour Party expressed their sadness that the Leader of the Opposition had chosen to break the confidentiality of the talks in this manner. They also expressed surprise at the Leader of the Opposition's claims that spending limits had never been up for discussion and that excessive spending was not a problem. The Labour Party noted that the spending arms race was the heart of the problem, and that three parties had until recently been close to consensus on the issue of spending limits. They were keen to see reforms implemented which would more effectively limit both national and local party expenditure.
6. They stated that each party needed to make some move away from its favoured propositions, and that they had spent a long time within the Labour Party trying to achieve this. On donation caps, the Conservatives preferred option had been discussed in the second session of the talks, and had not been accepted. The Labour Party understood and believed that the Conservatives accepted that something along the lines of section A in the draft agreement was where the talks would end up. The Labour Party said that it was willing to discuss the proposals contained in the draft agreement.
7. The Labour Party noted that in the draft agreement as it currently stands paragraph A7 is misleading, as it appears to state that the whole of the political fund is used to pay affiliation fees, which is a factual inaccuracy. They understood that this was not the intention of paragraph A7, as it came from previous discussions at the Inter-Party Talks. They understood the principle behind paragraph A7 was that a union should affiliate to the Labour Party based on the exact number of members that pay the political levy. Finally, the Labour Party noted that the issue of caps on donations had always been linked to state funding, and there was no consensus on increasing state funding.
8. The **Liberal Democrats** said that the parties had moved a considerable way forward. The draft agreement comprises the result of significant movements on all sides. There was a need to deal with public disquiet regarding donations and spending. There was a need for better policing of the system, and agreement had been reached on it. The letter

from the leader of the opposition had not been shared with the Liberal Democrats, which was not acceptable, as there were three parties involved in the talks. The breach of confidentiality involved was also not acceptable. The Liberal Democrats were not about to abandon the basic draft agreement, and supported an overall package of reform. They felt that if all-party agreement could not be reached then it would be in the public interest to try to reach agreement by other means.

9. In terms of affiliation fees, the Liberal Democrats disagreed with the Conservatives' view of the proposals contained in the draft agreement, and stated that they represented a clear step forward, as they would mean that the payments would be made by trade unionists, not by trade unions.
10. **Sir Hayden** said that there were three alternatives to consider. First, if there was a realistic prospect of agreement along the lines of the proposals contained in the draft agreement then it would be worthwhile continuing conversations and undertaking substantive work. Second, if the other two parties were willing to accept the Conservatives' proposals made in this meeting as the basis for further work, then it would be worthwhile asking the Secretariat to prepare further papers. Third, if there was no realistic prospect of an agreement at the present time on either basis, then the Talks should be suspended. Sir Hayden reiterated his view that there should be a comprehensive package of reforms, and that nothing was agreed until everything was agreed.
11. **Sir Hayden** proposed publishing the draft agreement that had been put to the parties. The **Conservative Party** responded that, rather than just publishing the latest proposals, it would be useful to put all the proposals contained in the previous papers into the public domain, to show the process by which the proposals contained in the draft agreement were arrived at. The **Labour Party** said that there was an argument that publishing the working papers would be a breach of the confidentiality agreed upon at the start of the Talks process. In their view the draft agreement was the culmination of the consideration of the proposals contained in the working papers, and the stated that it was regrettable that the Talks were not able to discuss the proposals contained in the draft agreement, but that the Leader of the Opposition's letter had sought to reopen areas where it appeared that agreement had been reached.
12. The **Liberal Democrats** responded that the public reference by the Leader of the Opposition to the current proposals prompted their call for the publication of the draft agreement. Neither the Labour Party nor the Liberal Democrats supported publishing the working papers that had led up to the draft agreement, although they did support publishing the draft agreement.
13. **Sir Hayden** stated that in his view it would be responsible at this moment to publish the draft agreement so that the public could see the point at which the talks had arrived. He questioned whether further material, in addition to the draft agreement, March 2007 report and October 2006 Interim Assessment, would assist in the public's understanding of the issues involved.
14. As it was clear that there was no realistic possibility of agreement for the time being, the Talks were suspended.

David Rowland  
Secretary to the Talks



