

## Political Parties and Elections Bill 2008

The Electoral Commission is an independent body set up by the UK Parliament. Our aim is integrity and public confidence in the democratic process.

This briefing sets out our views on key aspects of the Political Parties and Elections (PPE) Bill ahead of its second reading, which is currently expected in October:

- we welcome and strongly support the provisions to amend our sanctions and investigation powers
- we are concerned by the proposals on the appointment of Commissioners, which we believe are not an appropriate and workable way to provide us with greater access to party political experience; and we are particularly concerned by the proposals for political party nominees

### Sanctions and investigation powers

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We have argued that the regulatory framework needs to be strengthened so we have the tools to do our job. The new suite of sanctions outlined in the Bill will greatly enhance the Commission's ability to act in a proportionate way to ensure compliance with the statutory requirements we regulate. They are set in a framework of procedural safeguards, including new rights of appeal.

The Commission therefore welcomes the proposed changes to its sanctions and investigatory powers proposed in the Bill. Enhanced powers to obtain evidence during investigations, from individuals and organisations not regulated under the Political Parties Elections and Referendums Act 2000 (PPERA) will enable us to conduct complete and robust investigations in conjunction with the relevant prosecuting authorities.

### Forfeiture

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The law currently enables the Commission, in certain circumstances, to apply to a court to order forfeiture of donations which should not have been accepted.

To bring our existing powers into line with the new set of flexible sanctions introduced by the Bill, we would like to see the stand-alone forfeiture provision in PPERA repealed and replaced by an amended forfeiture sanction to be included in the civil sanction regime under Schedule 2 of the PPE Bill.

## [Changes to the Commission](#)

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### **Commissioners with recent party political experience**

There are two elements to the Government's proposal on the make-up of the Commission. The first is the introduction of four new Commissioners who will be directly nominated by political parties in the House of Commons. The second is a reduction of the restriction on involvement in political activity from ten years to five years for **all other** Commissioners.

Our overriding concern is that public confidence in the Commission's independence must be maintained. We believe that, as an independent regulator, whose Commissioners are independent of political parties, the Commission commands greater public confidence and respect than would be the case if some Commissioners were appointed to reflect political party representation. We are deeply concerned that public confidence in the Commission's independence would be undermined as a result of the Government's proposals.

Our statutory responsibilities extend across the whole of the United Kingdom and we take seriously the need to understand and respond to the different political and legislative circumstances across the UK. The proposal that four new Commissioners should be appointed from the three main parties represented in Westminster, plus one from the smaller parties, is not compatible with maintaining the Commission's legitimacy as a UK-wide body. For example, only one of the six smaller parties currently represented in the Scottish Parliament, Welsh Assembly and Northern Ireland Assembly would be represented on the Commission under these proposals.

We believe that the aim of injecting more recent practical political experience into the Commission can be achieved via the proposed changes to the restriction on employment of staff (see below), together with an enhanced and refocused Parliamentary Parties Panel (PPP). The PPP is a statutory body whose function is to submit representations or information to the Commission about such matters affecting political parties as the panel sees fit.

### **Staff with recent party political experience**

In respect of staff, the Government proposes to reduce, from 10 years to one year, the current prohibition on the employment of those who have held office in a political party, made a reportable donation or been in paid employment in a party. The only exception to this rule would be the post of Chief Executive where the limit would be reduced from 10 years to five years.

We agree that we would benefit from being able to employ staff with more recent direct party political experience but would like to see some flexibility for the Commission to extend the proposed five-year rule to posts other than the Chief Executive.

### [Regulated period for candidate expenses](#)

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We have said for some time that we think the current regulated period for candidate spending is too short, but that any change in the rules would need to address the scope for uncertainty and avoidance. We have some concerns about the practicality of the provisions in the Bill as they currently stand, but believe that it may be possible to address these issues with the right combination of statutory rules and Commission guidance. It is important that Parliament ensures the legislation is drawn as clearly as possible to minimise the scope for avoidance or confusion, otherwise it will be difficult for the Commission to deliver effective guidance.

We have previously advocated a fixed regulated period for candidates' expenses of four months prior to Parliamentary general elections. This provision was initially included in the Electoral Administration Bill (2005) but was rejected by Parliament on the grounds that it would be impractical, particularly in the period before agents were appointed. We believe the Bill as drafted would raise some similar problems. We fully appreciate the complexity of this issue and look

forward to further discussions on these clauses as the Bill progresses. Our priority would be to ensure that our guidance works with any changes to the law to achieve a fair framework for all candidates.

### Sources of donations

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The law already prohibits donors from concealing the source of donations by channelling money through other people or organisations. The provisions in the Bill will require all those donating or lending over £200 to a political party to give the party a written declaration about the original source of the funds. When reporting on the donations they have received, political parties will be required to confirm that they have received these declarations and have taken reasonable steps to verify them.

If Parliament wishes to reinforce the existing law on transparency of sources of donations, we think it is sensible to frame any new measures widely, as the Bill does, rather than targeting them only at unincorporated associations as originally proposed in the White Paper. However, we believe that the benefits of these changes will be quite limited, since all they do is place additional procedural requirements on donors and recipients. They will not extend the current restrictions on concealing donations, nor will they add materially to the transparency of party funding as the new declarations will not be sent to the Commission or made public. However, they will impose potentially substantial new regulatory burdens on parties and donors. It is not presently clear whether the benefits of these provisions will be sufficient to justify those new burdens.

### Electoral administration

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We welcome the provision for a new definition of 'Local Returning Officer' for elections to the European Parliament. We also support the policy intention behind proposed changes to elections falling within the canvass period.

#### Further information

[www.electoralcommission.org.uk](http://www.electoralcommission.org.uk)

For further information, or if you would like more detailed briefing on any aspect of the Political Parties and Election Bill, please contact:

Aileen Keyes, Public Affairs Manager, on 020 7271 0628 or [akeyes@electoralcommission.org.uk](mailto:akeyes@electoralcommission.org.uk).

**The Commission will be holding a briefing session on the Political Parties and Elections Bill on Wednesday 8 October 2-3pm in Committee Room 6 of the House of Commons.**

We are an independent body set up by the UK Parliament. Our aim is integrity and public confidence in the democratic process. We regulate party and election finance and set standards for well-run elections. For more information see: [www.electoralcommission.org.uk](http://www.electoralcommission.org.uk)

**The  
Electoral  
Commission**