

Mr Jim Fitzpatrick
BBC Northern Ireland
BBC TVCA
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2 August 2018

Dear Mr Fitzpatrick

BBC NI Spotlight “Brexit, Dark Money and the DUP”

Thank you for your letter of 17 July 2018, following your programme “Brexit, Dark Money and the DUP”. We have looked at the allegations you made that were about UK electoral law, specifically the 2016 EU referendum. These were broadly about whether particular campaigners in that referendum incurred joint spending but did not declare it.

As our [Enforcement Policy](#) explains, we may open an investigation where we have reasonable grounds to suspect an offence within our remit has been committed. This threshold is applied to every case we assess, and has been applied in this case. I set out below the conclusions of our assessment.

First, please note that under section 71 of the Political Parties, Elections and Referendums Act 2000, I cannot disclose any information about donations that may or may not have been made to the DUP during 2016. We continue to urge the UK Government to bring forward legislation that will enable us to publish the information we hold on donations and loans dating back to January 2014. Transparency is an essential component to increasing public confidence in the democratic process. Our view is that information on how political parties, candidates and other campaigners raise and spend money should be open to timely public scrutiny.

Joint spending rules

The ‘working together’ or ‘joint spending’ rules for the EU Referendum were set out in the European Union Referendum Act 2015. They were known as the ‘common plan’ rules in that Act.

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Under these rules, campaign groups can work together to achieve a particular outcome, but their spending – when combined – must not exceed their individual spending limit. Where a lead campaigner is working together with other campaign groups, all the spending will count towards the lead campaigner's total.

Under the rules, set out by parliament, the following does not count as joint working, as they are permitted and do not dictate how money is spent:

- Donations from an individual or group to multiple campaigners.
- A single supplier working for multiple campaigners.
- Individuals volunteering for multiple campaigners.

When looking at joint spending we are not necessarily looking for a written plan, although we advise campaigners to have something in writing if they are working together. But we are looking for evidence of: joint or coordinated spending; control or influence over spending by another campaigner; or discussions or consultation about campaign activity that affects spending decisions. You may be interested to read a recent blog we posted on this subject: [When does working together break the rules?](#)

You may also be aware that we recently concluded an investigation into Vote Leave where we concluded that its spending return for the EU referendum was incomplete in a number of ways. This included a failure to declare joint spending with the unregistered campaigner BeLeave. You can find the investigation report [here](#).

Outcome of our assessment

We reviewed the information you provided. You explained that there was “no significant evidence” beyond that which was aired in the programme. We also reviewed the programme, and considered whether there were other sources we could locate to evidence the allegations made in it. We also looked at whether we could infer from what we had, a reasonable suspicion of undeclared common plan expenses.

Our conclusion is that we do not have grounds to open an investigation into the allegations about breaches of electoral law in the BBC NI Spotlight Programme “Brexit, Dark Money and the DUP”. As noted above, I am limited by section 71 PPERA as to what I can say here. In general terms it is clear a number of campaign groups had links through personnel or suppliers. This is not unexpected. We have not seen evidence beyond this to give a reasonable suspicion of actual spending to further a coordinated or common plan between any of the individuals or entities named.

As such, this does not meet the threshold for an investigation to be opened. Should evidence of any breaches of the rules for the EU Referendum come to light, we would of course look again.

Yours sincerely

Louise Edwards
Head of Regulation