

Rt Hon Cheryl Gillan MP
Secretary of State for Wales
Gwydyr House
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22 July 2010

Dear Secretary of State

Wales Referendum

Spending limits

When we met on 20 July you asked if the Commission could put to you formally the recommendations on spending limits for the referendum on the powers of the National Assembly for Wales that we provided to your predecessor as Secretary of State on 30 March 2010.

I am therefore writing to confirm that the Commission's recommendations remain as set out in March. In summary, the spending limits that we recommend are:

- £600,000 for each designated organisation
- £600,000 for permitted participants that are political parties with more than 30% of the vote at the National Assembly for Wales elections in 2007
- £480,000 for permitted participants that are political parties with between 21% and 30% of the vote at the National Assembly for Wales elections in 2007
- £360,000 for permitted participants that are political parties with between 11% and 20% of the vote at the National Assembly for Wales elections in 2007
- £240,000 for permitted participants that are political parties with between 6% and 10% of the vote at the National Assembly for Wales elections in 2007
- £100,000 for permitted participants that are political parties with not more than 5% of the vote at the National Assembly for Wales elections in 2007
- £100,000 for all permitted participants other than designated organisations and political parties

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The principles underlying these recommendations and the accompanying calculations were set out in our letter of 30 March to your predecessor, and I enclose a copy of that letter for ease of reference.

When we met, you asked if the Commission could set out in writing the reasons why it has recommended setting the £600,000 limit by reference to the maximum campaign limit for elections to the National Assembly for Wales, including both constituency and regional elements, rather than by reference to the constituency element alone. As noted in our letter of 30 March, the Commission's view is that spending limits at referendums should be set at a level which allows effective campaigning for all outcomes of a referendum, while deterring excessive spending.

The sum of £600,000 is the maximum amount that Parliament has agreed it is reasonable for political parties to spend on its total national (rather than individual candidate) campaigning at the elections to the National Assembly. This is not public money; rather it is funds which political parties would have raised themselves for their own campaigning purposes. In the Commission's view, this figure is a fair proxy for the maximum amount that it is reasonable to allow designated organisations – which will be the lead campaigners on each side and therefore expected to put the arguments on each side to voters – to spend during the regulated period. We have not recommended setting the maximum limit by reference to only one of the constituent elements of the spending limit for elections to the National Assembly, because to do so would restrict lead campaigners' spending to a level substantially below the spending limit for all parties at the Assembly elections themselves, and could therefore impair the ability of the lead campaigners to campaign and inform voters effectively.

As we discussed briefly when we met, setting the maximum limit at £600,000 also has the benefit of ensuring that the spending limit for parties with more than 5% of the share of the vote at the most recent National Assembly election is set at a meaningfully higher level than the limit available to other permitted participants that are not designated organisations. This is consistent with the approach taken by PPERA for UK-wide referendums, whereby substantially higher spending limits are available to those parties that can demonstrate significant levels of past support among voters.

Use of public money in referendum campaigning

You also asked us to clarify the position on the use of government or public monies in referendum campaigning. During the final 28 day referendum campaign period, there is a prohibition on publication of material by:

- Any Minister of the Crown, government department or local authority or
- Any other person or body whose expenses are defrayed wholly or mainly out of public funds or by any local authority (excluding the BBC or S4C)

if that material:

- Provides general information about a referendum
- Deals with any of the issues raised by any question on which such a referendum is being held
- Puts any arguments for or against any particular answer to any such question or
- Is designed to encourage voting at such a referendum.

The restriction does not apply to:

- material made available in response to specific requests for information or to access to information by people specifically seeking it
- to anything done by or on behalf of the Electoral Commission
- designated organisations
- the publication of information related to the holding of the poll
- the issue of press notices.

Based on lessons learnt at the referendum in 2004, we have called for an extension of the statutory ban on government publicity about a referendum that currently applies for the 28 day referendum campaign period.

As mentioned in my letter to you of 26 May, we appreciate that Welsh Assembly Government has concerns about the effect that an extension of the statutory ban could have on its wider business and consequently opposes the extension. If there is no extended statutory ban throughout the referendum period, we call on the UK Government and Welsh Assembly Government to adopt a voluntary (self-imposed) restriction on producing publicity about the referendum for at least the 28 days prior to the earliest issue of postal votes, that is, 43 (calendar) days before the date of poll. Again, as mentioned previously, the First Minister has indicated that he is amenable to such voluntary restriction.

Finally, when we met you asked if I could confirm in writing that the Commission would produce guidance for prospective campaigners on the rules affecting campaigning at the referendum. Providing effective advice and guidance on the regulatory regime is a

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core part of our role, and I am happy to confirm that we will publish guidance documents for campaigners and prospective designated organisations in good time before the regulated period begins. We will also provide briefing and training sessions to campaigners on request. The detailed content of our guidance, and the timetable for its publication, will of course depend on the content and timing of the enabling legislation, and Commission staff will continue to liaise with your officials to ensure that our guidance is timely and accurate.

The Commission's approach to our role in the referendum is to be as transparent as possible to inspire confidence in the process. We have therefore previously shared our views on all of these issues with a wide range of stakeholders in Wales, and as we discussed with you on Tuesday, have met with a positive response. I should reassure you that we are careful when we do this to be clear between those areas where we simply offer advice to you, as Secretary of State, and those areas where we have a statutory responsibility to act ourselves.

With best wishes as ever,



Jenny Watson
Chair