

Investigation in respect of the Labour Party 2015 UK Parliamentary General Election campaign spending return

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1. Introduction

The Electoral Commission

1. The Electoral Commission (“the Commission”) is the statutory regulator with power to set and enforce standards in relation to elections, including the regulation of political party finances and campaign spending.
2. The Commission has an important role in the regulation of political party finances and has a number of investigatory and enforcement powers in this regard. It has the general function, under section 145 of the Political Parties, Elections and Referendums Act 2000 (PPERA), of monitoring and taking all reasonable steps to secure compliance with the restrictions and other requirements relating to campaign spending.
3. The Commission’s aim is to ensure integrity and public confidence in the UK’s democratic process by working to support a healthy democracy, where elections and referendums are based on its principles of trust, participation and no undue influence. In furtherance of this aim, the Commission publishes information to provide transparency about election spending and donations, and works to ensure high levels of compliance by campaigners.

The Labour Party

4. The Labour Party (“the Party”) is a registered political party in Great Britain.
5. The 2015 United Kingdom Parliamentary General Election (“the 2015 UKPGE”) took place on 7 May 2015. Under PERA and given that the Party’s campaign spending exceeded £250,000, the registered treasurer of the Party, Mr Iain McNicol, was required to deliver to the Commission a financial return including all campaign spending incurred by the Party during the 2015 UKPGE campaign period. Mr McNicol delivered this return in advance of the statutory deadline of 7 November 2015. The Commission published this return on 20 January 2016.
6. Shortly after its publication, the Commission’s attention was drawn to potentially missing items of spending from the report. After initial discussions with the Party, on 22 January 2016 the Commission opened an investigation.
7. This is a report of that investigation. It is being published alongside the publication of the outcome of the investigation and the sanction imposed. In summary, the Commission found that the Party’s 2015 UKPGE campaign spending return was not a complete return and failed to include all of the invoices and receipts required by PERA. Accordingly, Mr McNicol committed two offences under PERA and the Party has been fined a total

of £20,000.

2. Issues under investigation

The scope of the investigation

8. On 20 January 2016 the Commission published the Party's 2015 UKPGE spending return on the Commission's online registers database. The return listed 2,517 items of spending incurred in Great Britain, totalling £12,087,340.
9. Immediately after publication the Commission received enquiries from journalists who had been unable to identify any reference to spending items incurred on a stone tablet - referred to in the media as the 'Ed Stone' - which had been the subject of some media attention during the general election campaign¹. The tablet had been used by the Party to promote the Party leader's pledges at a media event in the final week of the campaign.
10. After initial enquiries with the Party, which confirmed these items were missing, the Commission assessed the available information and launched an investigation on 22 January 2016.
11. The scope of the investigation expanded over time as evidence of further omitted campaign spending and omitted invoices in relation to spending declared in the return came to light. However, it remained focused throughout on the following two matters:
 - Whether the Party's campaign spending return for the 2015 UKPGE was a complete statement of all campaign payments made. Failures, without reasonable excuse, in relation to this constitute an offence under section 82(4) of PPERA.
 - Whether the Party's campaign spending return for the 2015 UKPGE contained all invoices or receipts related to the statement of payments of over £200 made. Failures, without reasonable excuse, in relation to this constitute a separate offence under section 82(4) of PPERA.

¹ It is the legal responsibility of the party's registered treasurer to ensure a party's spending return is a complete statement of all payments made. The Commission does not proactively review on a line by line basis whether a party's spending return is complete and accurate prior to publication. However, the Commission will take appropriate action where it has credible evidence that a failure to comply has occurred and where it is proportionate to do so.

Also assessed – the transport of activists

12. A matter which was also assessed under the Commission's Enforcement Policy, but which did not form part of the investigation, was allegations relating to the inclusion in the Party's spending return of costs incurred on the transport of activists during the 2015 UKPGE campaign. It was alleged that this was not wholly Party spending, and that it should, in whole or in part, have been reported as election expenses by the candidates whose constituencies were visited. If true, this would mean the Party's spending return contained spending that was not properly reported within it. Again, this would make the return not a complete statement of all payments made but in fact a return of those payments and others. Again, it would constitute an offence under section 82(4) of PPERA.
13. As explained below, after assessing these allegations, the Commission concluded that it would not be appropriate to include this matter within the scope of the investigation.
14. The Commission does not enforce the rules on the reporting of election expenses by candidates. These are set out in the Representation of the People Act 1983 ("the RPA") and it falls to the police to investigate and enforce them. The Commission did however inform a number of police forces of its conclusions, at their request.

The legal framework

15. Section 80(2) of PPERA requires the registered treasurer of a party to prepare a campaign spending return at the conclusion of a UKPGE campaign period. Section 80(3) requires that the return contains:
 - a statement of all payments made in respect of campaign spending incurred during the campaign period;
 - a statement of all disputed claims (where the treasurer refuses to pay the claim) of which the treasurer is aware; and
 - a statement of all the unpaid claims (if any) of which the treasurer is aware
16. Section 80(4) requires that the return contains:
 - all invoices or receipts related to the payments (of value greater than £200); and
 - a declaration of all notional spending.
17. Section 82(1) of PPERA requires the registered treasurer of a party which incurred more than £250,000 of campaign spending to deliver the campaign spending return within six months of the end of the relevant campaign

period. For the 2015 UKPGE, which took place on 7 May 2015, the deadline for delivering the return was 7 November 2015.

18. Under section 82(4)(b) of PPERA, the registered treasurer commits an offence if, without reasonable excuse, he or she delivers a return which does not comply with the requirements of section 80(3) or (4) of PPERA.

3. The investigation

19. The Party cooperated with the Commission's enquiries throughout the investigation. However, some relevant information in respect of a matter associated to the investigation was obtained from the Party following the issue of a Disclosure Notice to the Party treasurer. This became necessary when the Party failed to respond to the Commission's queries on this matter within a reasonable timeframe.²

Offence related to missing campaign spending

Missing spending identified by Party review

20. At the Commission's request, the Party provided an explanation as to why the two payments related to the stone tablet were missing, and of how its internal campaign spending processes were designed to work. The Party also conducted a review of all expenditure which had been incurred during the 2015 UKPGE campaign period to identify any which was not in the Party's campaign spending return. This review, which was completed in March 2016, identified a further 24 items of campaign spending which should have been, but were not, included in the Party's return. In total, the 24 items of expenditure had a value of £109,777.

Missing spending identified by Commission review

21. Under its monitoring functions set out in section 145 of PPERA, the Commission had reviewed a sample of candidate returns from the 2015 UKPGE. These candidate returns were required by the RPA to include all election expenses incurred by those candidates. The review included a small number of Labour Party candidates, as well as candidates from other parties.
22. One Labour Party candidate had included details of two items of spending

² Under Schedule 19B paragraph 1 of PPERA the Commission may issue a notice requiring the recipient to produce for inspection any document and/or information or explanation relating the income and expenditure of the regulated individual or organisation in question.

that had been apportioned between Party and candidate spending. A total of £1,743 should have been included in the Party's campaign spending return. However, the Commission was unable to locate the items.

23. Upon enquiry, the Party confirmed that the items were missing from its spending return.

Allegations concerning the transport of activists – and further missing spending identified

24. In May 2016, the Commission's attention was drawn to media reports concerning the transport of activists by the Party to marginal seats during the 2015 UKPGE campaign. Shortly thereafter, the Commission received a letter of complaint from another registered political party concerning the same issues. The reports and the complainant alleged that the Party had paid for a number of operations to transport activists around the country to campaign, and that those activists campaigned for local Party candidates as well as for (or instead of) the Party. As such, it was alleged that the spending on the transport was inaccurately included in the Party's spending return and omitted from the relevant candidates' returns setting out their election expenses.
25. PPERA is intended to ensure transparency about the campaign payments made by parties. Including within a Party return items of spending that are not campaign payments obscures that transparency, in the same way that failing to include campaign payments does.
26. The Commission assessed these allegations and concluded that it did not have reasonable grounds to suspect any PPERA offences had been committed in this respect. It did not therefore launch an investigation into them. The assessment did, however, identify further missing spending from the Party's campaign spending return.
27. The media reports and the complainant raised the following campaign activities by the Party:
 - Spending on the transport of activists to marginal seats in an activity known to the Party as the 'Labour Express' tour.
 - Spending on the transport of student activists to marginal seats by four small vehicles, known to the Party as the 'Labour Students' tour. The media articles and the complainant also suggested that Party spent money on accommodation for those students while they were campaigning.
 - Spending on the transport of activists to marginal seats in an activity known to the Party as the 'Woman to Woman' campaign.

- Spending on the transport of activists to marginal seats by a Trade Union and Labour Party Liaison Organisation (“TULO”) vehicle.
28. As well as carefully considering the material provided by the complainant, the majority of which comprised social media posts referencing the various tours, the Commission met with the Party to discuss the Labour Express tour, its purpose, activities and funding. It also met with Jon Ashworth, the Labour MP who led the tour. Following these meetings the Commission obtained further material from the Party. The Party provided the Commission with details of the purpose and activities carried out by activists who were part of the Labour Express, Labour Student and Women to Women tours. This included tour schedules and the detailed plans for visits to individual constituencies.
 29. The evidence in respect of the Labour Express and the Women to Women tours consistently supported the Party’s position that these tours were intended to promote its national policies and/or to motivate volunteer activists within individual constituencies. There was little evidence to suggest that those on the tour carried out campaigning for individual candidates in constituencies. No spending was incurred on accommodation costs for these activists.
 30. In relation to the Labour Students tour, the Party described its purpose as “...*promoting the electoral success of the party by the election of Labour candidates*”. It stated that this necessarily involved a focus on marginal constituencies and carrying out activities such as doorstep canvassing, leafletting and street stalls. This was consistent with the evidence seen by the Commission of what these activists were doing, via social media posts for example. These activities had the potential to constitute campaigning to procure the electoral success of an individual candidate rather than the Party.
 31. The Commission considered whether to make further enquiries on this point. However, on the basis of the information available, there was insufficient evidence that actual candidate campaigning took place such that the Party acted unreasonably in attributing these costs fully to Party spending. Furthermore the tour was small in scale and spending associated with it was limited: the Party reported £12,122 of spending associated with the Labour Student tour in its 2015 UKPGE campaign spending return. Given the evidence did not give the Commission reasonable grounds to suspect any offence; it would not have been proportionate to engage in further enquiries in respect of the matter.
 32. The Party confirmed that it did not fund the TULO tour and so no spending in relation to it was included in its campaign spending return. The

information provided by the complainant did not, in any event, disclose evidence of any significant candidate campaign spending. Further, the Commission noted that the associated costs identified by the complainant amounted to only £280.

33. Given the conclusions the Commission drew on these matters it did not refer any potential RPA offences to the police. It did, however, inform a number of police forces of its conclusions, at their request.
34. However, whilst compiling their response to the Commission's Disclosure Notice, the Party declared that they had identified that part of the Labour Express tour and Labour Student tours' total spending ought to have been included in the Party's 2015 UKPGE campaign spending return but had been omitted. The missing spending comprised the following:
 - £2,369 relating to the Labour Express tour –five payments relating to vehicle hire;
 - £8,988 relating to the Labour Students tour – comprising of seven payments relating to hotel accommodation (totalling £5,526) and 37 payments relating to rail travel, student expenses and fuel (totalling £3,462). The latter 37 payments each had a value less than £200.
35. These 49 further missing payments were included within the scope of the investigation.

Offence related to Outstanding invoices

36. Whilst the investigation was ongoing, the Commission additionally checked the Party's 2015 UKPGE spending return to establish if it had any other areas of concern. In April the Commission identified 71 invoices that appeared to be omitted by the Party, albeit that the associated spending had been declared. The Commission therefore discussed this matter with the Party to ascertain whether or not these invoices should have been provided. Its findings are set out below.

4. The Commission's findings

Offence related to missing spending

37. The Commission found that the Party's 2015 UKPGE campaign spending return did not contain all campaign payments made by the Party. The payments set out in the table below were missing.

Number of payments	Total	Related to	Explanation
1	£5,400	Stone tablet	Procedural error
1	£2,214	Stone tablet	Procedural error
1	£1,500	Candidate return	Not provided to Party
1	£243	Candidate return	Not provided to Party
1	£5,000	Identified by internal review	Not provided to Party
22	£104,007	Identified by internal review	Procedural error
1	£770	Identified by internal review	Procedural error
5	£2,369	Labour Express	Other error
44	£8,988	Labour Students	Other error

38. As the table indicates, these omissions arose in a number of different ways. In all instances the Commission found no reason to doubt the Party's statement that it had not omitted these payments and invoices intentionally.

Internal financial procedure failures

39. The Commission found that the two missing payments relating to the stone tablet, and 23 of the 24 missing payments identified by the Party's internal review, were missing from the Party's campaign spending return as a result of internal financial process failures. These payments totalled £112,391.
40. The Party's treasurer set out his analysis of why certain payments were not reported in the campaign spending return. The Party's internal campaign spending guidance document set out the instructions for staff on how to enter purchase orders and invoices on the party's finance system. It included assigning a code to each one corresponding to categories of campaign spending, or conversely, a code for payments that were 'not campaign spending'. The two payments relating to the stone and 23 of the 24 missing payments identified in the Party's internal review had erroneously been assigned to 'not campaign spending' code. This had occurred as a result of human error, or because some invoices to new or foreign suppliers

were settled outside of the Party's routine purchase order system.

41. Large and complex political parties will require complex financial procedures to manage and account for all their transactions. The Commission appreciates that in such complex financial procedures there is a risk of mistakes or other type of human error occurring. However, these risks can be mitigated through the creation and review of adequate financial procedures, through training and through oversight and supervision of staff. The registered treasurer of a party has a legal duty and responsibility to meet the financial management and reporting obligations in PPERA.
42. The Commission found that the treasurer did not therefore have a reasonable excuse for these missing payments. Consequently the failure to include them was grounds for an offence under section 82(4) of PPERA.
43. One payment of £5,000 (of the 24 payments identified by the Party) was not reported due to the Party's registered treasurer not being provided with correct information by an affiliated body. This was not therefore considered as within the scope of the offence.
44. During the investigation, the Party's registered treasurer acknowledged that the current computer system for monitoring campaign expenditure, which had been in use for several years, was "*...vulnerable when staff are very pressured in the later stages of the campaign*". The registered treasurer commissioned an internal review of the system and produced a report for the Commission's benefit. In it a number of recommendations were made to improve the system. The Commission will continue to engage with the Party about how these changes and improvements are made.

Missing apportioned costs from candidate return

45. The Commission found that two payments totalling £1,743 were missing from the Party's campaign spending return. These payments comprised the amount apportioned to the Party from spending on campaigning that was included on a Party candidate's election return.
46. The Party treasurer confirmed that the apportionment was correct and that the spending had been incurred by a member of staff with the necessary authority. However, according to the treasurer the relevant constituency had failed to provide the invoices to the Party and so they had been unaware of them. The Commission did not consider there to be grounds for including this matter as part of the offence.

Missing payments relating to the transport of activists

47. As mentioned above, the Party had identified that it had not included within its 2015 UKPGE campaign spending return all the payments associated with

the Labour Express and Labour Students tours. Consequently, the Commission found that 49 payments totalling £11,357 were missing from the Party's campaign spending return. These comprised:

- £2,369 relating to the Labour Express tour –five payments relating to vehicle hires.
- £8,988 relating to the Labour Students tour – seven payments relating to hotel accommodation (totalling £5,526) and 37 payments relating to rail travel, student expenses and fuel.

48. The Party treasurer could not state categorically how these payments came to be omitted. However, he stated it was likely to have resulted from accidental deletions whilst the Party was compiling and removing irrelevant items from its campaign spending return. Further omissions may have occurred due to a lack of understanding by the Labour Students team about the campaign spending rules.
49. The Commission therefore found that the treasurer did not have a reasonable excuse for these missing payments.

Offence relating to missing invoices

50. The Commission identified a total of 71 invoices that appeared to be missing from the Party's 2015 UKPGE campaign spending return. It found that that 33 of the invoices were simply missing, as follows:
- 11, totalling £26,244, were not provided with the spending return and without any explanation. The Party is either yet to locate them, or they were only provided during the investigation.
 - 22, totalling £8,148, were not supported in the spending return by the required receipt or invoice, but were supported by a monthly VISA statement listing transactions incurred during the month (highlighted purple). The Party considered this to be adequate. It is not. PPERA is clear that invoices and/or receipts are required.
51. The Party did not provide evidence of any reasonable excuse for these 33 invoices, totalling £34,392 being missing. Consequently, the failure to include them was an offence under section 82(4) of PPERA.
52. Of the remaining invoices which were omitted, the Commission did not determine that there was no reasonable excuse:
- Five of the apparently missing invoices, totalling £10,174, were not required as the payments they would relate to were included in the return in error as duplications or similar.

- Two, totalling £1,015, had in fact been provided.
- 22, totalling £96,798 related to 'internal transactions', for which there were no invoices or receipts.
- Nine of the potentially omitted invoices, totalling £14,823, have not been located by either the Party or the Commission, although the Party states that they were provided to the Commission with the spending return. In view of the potential for them to have been provided to the Commission and the relatively low value of them in comparison with total spending of £12 million, no offence was found in respect of these invoices being missing.

5. Conclusions

Offences under section 82(4) of PPERA

53. Mr McNicol failed, without reasonable excuse, to deliver to the Commission a campaign spending return which was a statement of all payments made by the Party in respect of its campaign for the 2015 UKPGE. In total 74 payments totalling £123,748 were missing from the Party's 2015 UKPGE campaign spending return without a reasonable excuse.
54. Further and in respect of the same return, Mr McNicol failed to deliver to the Commission all invoices and receipts for campaign payments of more than £200. Thirty three invoices and/or receipts were missing (in addition to those associated with the missing 74 payments), with a combined value of £34,392.
55. The Commission concluded that the registered treasurer of the Labour Party, Mr Iain McNicol, committed an offence under section 82(4)(b) of PPERA in respect of the missing payments and committed a further offence under section 82(4)(b) in respect of the missing invoices.

Penalty imposed

56. The Commission has imposed a financial penalty on the Labour Party of £20,000.
57. In determining this penalty the Commission took into account the extent and value of the missing payments and invoices, the fact that the Party is an established organisation and that this is not the first occasion where the Party has failed to deliver a complete campaign spending return. The Commission also took into account that the Party cooperated with the Commission's enquiries. Furthermore, the Commission considered that,

although it had concluded that two offences had been committed (in respect of the missing payments and the missing invoices), the overall detriment to transparency was primarily tied to the total value of financial information omitted from the report. In the circumstances— recognising the potential damage to public confidence in the controls the Commission regulates, and the importance of ensuring future compliance both by the Labour Party and others – the Commission considered that a variable monetary penalty of £20,000 was an appropriate and proportionate penalty in this case to act as a deterrent to this and other parties.