

## **Case Summary: Case review concerning campaign expenditure return in respect of Chris Huhne MP**

### **1. Background**

- 1.1. The Electoral Commission has concluded its review in respect of Chris Huhne MP's election expenses return for his campaign for the 2010 UK Parliamentary General Election (UKPGE).
- 1.2. The Commission commenced a case review on 27 May 2011, following receipt of an allegation that Mr Huhne's return may have omitted or under reported certain costs and that he may have exceeded the spending limit.

### **2. The requirements in relation to candidate expenditure returns**

- 2.1 The Representation of the People Act 1983 (RPA) sets out limits on candidate campaign expenditure for the "short campaign period" and the "long campaign period" respectively<sup>1</sup>.
- 2.2 Under the RPA candidates and agents are required to submit a return detailing the expenses incurred during each campaign period, as well as a statement confirming that the return is complete and accurate, to the best of their knowledge and belief.

### **3. Key issues in this case and our findings in relation to those issues**

- 3.1 The review concerned Mr Huhne's campaign for election as MP for the Eastleigh parliamentary constituency. Mr Huhne's election agent was Anne Winstanley who was also the election agent for 11 candidates who stood in the Eastleigh Borough Council elections, the poll for which took place on the same day as the UKPGE poll.

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<sup>1</sup> The long campaign period began on 1 January 2010 and ended on the date parliament was dissolved, 12 April 2010. The short campaign period began on 13 April 2010 and ended on the date of the poll, 6 May 2010.

- 3.2 Mr Huhne declared £18,608.56 in expenses for the long campaign against a spending limit of £28,874.80 and £10,911.05 in expenses for the short campaign against a limit of £11,024.80.
- 3.3 It is an offence for a candidate or election agent to incur or authorise expenses in excess of the limits if they knew or ought reasonably to have known that the limit would be exceeded.
- 3.4 Under the RPA candidates and agents are required to submit a return detailing the expenses incurred during each campaign period, as well as a statement confirming that the return is complete and accurate, to the best of their knowledge and belief. It is an offence for a candidate or election agent to knowingly make a false declaration as to election expenses.
- 3.5 The RPA requires that proceedings in respect of any offence under the RPA must be commenced within one year from the date of the offence. The allegations were not brought to the Commission's attention until 26 May 2011. By this time, the time limit in respect of proceedings for the relevant offences had either elapsed or was close to elapsing.<sup>2</sup>
- 3.6 In view of this, the purpose of the case review has been limited to establishing the facts of the matter, for the purposes of transparency and future guidance, rather than considering whether the matter should be referred to the police for investigation.
- 3.7 Our review has therefore focused on the question of whether Mr Huhne's campaign under reported costs incurred during his campaign. Based on our findings of fact, we also considered issues in relation to imprints on election material used in Mr Huhne's campaign.
- 3.8 The review considered four areas of concern in relation to Mr Huhne's expenses return as follows:
- Costs in relation to unsolicited material (letters) sent to electors
  - National party expenses referred to in Mr Huhne's return which were alleged as not appearing in the party's campaign expenditure return
  - Costs in relation to Mr Huhne's website
  - Costs in relation to campaign staff

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<sup>2</sup> The date of any offence in respect of section 76 (1)(b) RPA would be the date that the agent or candidate knowingly incurred or authorised election expenses which would exceed the limit. As all campaign expenditure would have had to be authorised and incurred within the campaign period, i.e. before 6 May 2010, the time limit in respect of proceedings related to any offence under section 76 (1)(b) had elapsed by the time the allegation was made. The date of any offence in respect of section 82 (6) RPA would be the date of the declaration accompanying the expenses return which in this case was 10 June 2010; therefore the time limit for commencement of proceedings would be 10 June 2011.

## **Did Mr Huhne's campaign fail to declare all expenditure in respect of letters sent to electors?**

- 3.9 During Mr Huhne's campaign a number of letters were distributed to electors, including letters sent during the short campaign period which bore an imprint indicating they were printed by Park Communications Ltd. Mr Huhne's return for the short campaign included one invoice for £1,555 from Park Communications Ltd for the cost of printing 90,000 leaflets.
- 3.10 However, according to Ms Winstanley, letters which accompanied the leaflets were printed in-house by Itchen Valley Printing Society (IVPS) on headed paper that had been obtained from Park Communications, and so had an imprint stating: 'Printed by Park Communications Ltd'. The production of the material, including printing the text and individual names and addresses, and enveloping the letters, was done by IVPS.
- 3.11 According to Ms Winstanley, the headed paper and ink used in the printing process were treated as stationery supplies purchased by IVPS and incorporated into the invoices submitted by IVPS for the cost of printing and enveloping the letters.
- 3.12 Ms Winstanley also pointed out that she had included the total cost of the 90,000 leaflets produced by Park Communications but only 76,674 were actually used. Had she declared only the cost of the leaflets used, the cost for Mr Huhne's campaign would have been reduced by £194.
- 3.13 Whilst it is not explicit in the return how the cost of the Park Communications headed paper was accounted for we are aware of no evidence that would cause us to doubt Ms Winstanley's explanation that the cost of the paper was incorporated in the respective invoices from IVPS. On the information available to us we have no reason to conclude that costs in relation to the relevant letters were omitted from the return.

### **The imprints on the letters**

- 3.14 Some of the sample letters which Ms Winstanley provided to Eastleigh Borough Council with the return had an imprint which stated: 'Printed, published and promoted by R Wharram' rather than the Park Communications imprint.
- 3.15 Ms Winstanley has explained that that this headed paper was purchased in 2007 when materials were purchased in expectation of a general election that

autumn. R Wharram was the constituency organiser in 2007 and, had the anticipated general election been called, would have been the election agent.

- 3.16 Ms Winstanley said she was reasonably sure that none of the old 2007 stock was used and that all letters sent listed her as the promoter and included the Liberal Democrats' Eastleigh address. On the information available to us we are unable to conclude whether any letters were distributed with the R Wharram imprint.
- 3.17 However, given the use of headed paper bearing the Park Communications imprint it follows that some of the letters sent out during Mr Huhne's campaign may have had an incorrect imprint. The imprints on the letters printed by IVPS on Park Communications paper correctly identified the promoter of the material as well as the person on whose behalf the material was being published and the only inaccuracy therefore was the name and address of the printer. In the circumstances we have written to Ms Winstanley to advise her of the importance of ensuring that imprints on future election material are accurate, in the interests of transparency.

### **Did Mr Huhne's campaign report national party expenses appropriately?**

- 3.18 The invoices included with Mr Huhne's return included handwritten calculations by Ms Winstanley showing how certain costs totalling £5,429.18 were apportioned to take into account the fact that part of these costs were attributed to the national party campaign. £4,100.64 of this amount was spent during the short campaign. The calculations of apportionment appear to be reasonable and consistent with guidance issued by the Electoral Commission.
- 3.19 Ms Winstanley reported the expenditure to the party on 7 June 2010, for inclusion in the party's expenditure return. We are satisfied that Ms Winstanley reported the expenditure to Liberal Democrat Party Headquarters appropriately.
- 3.20 However, the campaign expenditure return submitted by the Liberal Democrats in November 2010 did not include any of the expenditure reported by Ms Winstanley. We have contacted the party to request that they review their procedures for identifying, recording and reporting party campaign expenditure and inform the Commission of the measures they will implement in order to avoid recurrences in the future.

### **Did Mr Huhne's campaign under report website costs?**

- 3.21 Mr Huhne's return for the short campaign included £35 for 'Hire of photographs and website'. Ms Winstanley explained that this included a contribution of £3.50 towards the costs of taking and storing photographs and that £31.50 related to a proportion of the cost of re-designing the website in early 2010 which was

spread over five years, the expected life of the site. This amount also included a proportion of that year's hosting costs.

- 3.22 Ms Winstanley provided a copy of the invoice from the company who re-designed the website, for £1,762.50. The invoice included development migration costs of £900.00, design costs of £300 and £300 for 12 months hosting of the site. All of these costs were subject to 17.5% VAT.
- 3.23 We would have expected the whole hosting cost of the website for the short campaign period (24 days) to have been included in the return. Based on the figures provided we have calculated this to be £23.17. We have calculated that the design and development costs apportioned to the 24 day short campaign period should have been £18.48, based on the total of £1,410 (£1200 plus VAT) being spread over five years. After adding the £3.50 for photographs we consider that the total website costs declared should have been £45.15 rather than the £35 declared.

### **Staff costs**

- 3.24 The Eastleigh Liberal Democrat 2010 Statement of Accounts includes staff costs of £11,433.70, covering the salary and associated costs for a part-time organiser.
- 3.25 Mr Huhne's return included £1,025.24 for agent and other staff costs during the long campaign period and £225.90 for the short campaign.
- 3.26 Ms Winstanley stated that the paid organiser worked on the campaigns for the 11 Liberal Democrat candidates in the Eastleigh Borough Council election as well as Mr Huhne's UKPGE campaign. The organiser's salary costs were therefore apportioned between the UKPGE and the 11 local campaigns.
- 3.27 The returns for the local candidates have been examined and show that five candidates in two member wards each declared staff costs of £37.65 and six candidates in three member wards each declared £56.48, producing a total of £527.13.
- 3.28 Ms Winstanley has explained that the apportionment between the parliamentary campaign and the 11 local campaigns was on the basis of 30% of the organiser's time being spent on the parliamentary campaign and 70% on the local campaigns. The weekly staff costs were taken as £231.69 and the length of the parliamentary campaign as 3.25 weeks.
- 3.29 On the basis of this explanation and the absence of any other evidence that the costs reported were not accurate we do not consider that the staff costs were under reported.

## **4. Conclusion**

- 4.1 Whilst we consider that the website costs were slightly under reported the amount involved is minimal and even if the costs had been reported in accordance with our calculations, the total expenditure for Mr Huhne's campaign would still have been within the spending limit. We also note that the cost of leaflets appears to have been over-declared by £194.
- 4.2 We have written to Ms Winstanley and Mr Huhne, in the interests of transparency, to advise them of the importance of ensuring that imprints on future election material are accurate and the importance of taking into account all current guidance in relation to the use of websites during election campaigns. We are satisfied with her explanations as to the accuracy of the return in other respects.
- 4.3 We have contacted the Liberal Democrat Party to request that they review their procedures for identifying, recording and reporting party campaign expenditure, and inform the Commission of the measures they will implement in order to avoid recurrences in the future.