

## Media background briefing - party and election finance investigations

December 2016

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This briefing summarises the process that the Commission follows to conduct assessments and investigations into party and election finance cases, where we have reason to believe that an offence under the Political Parties, Elections and Referendums Act 2000 (PPERA) has been committed. The Commission's Enforcement Policy, which sets out the process in full, can be viewed [here](#).

### 1. The Commission's role as regulator

We have enforcement powers to investigate alleged breaches as well as breaches we identify proactively, and powers to impose a range of sanctions. If we believe that the breach has a significant impact on confidence in the transparency and integrity of party and election finance, we can pass the matter to the police or prosecuting authority.

The aim of our enforcement activity is to ensure compliance with PPERA rules, and public confidence in the integrity and transparency of party and election finance. We publish summaries of the outcomes of all of our casework. The Commission does not investigate allegations relating to candidate expenses. These rules are found in the Representation of the People Act 1983 and are the responsibility of the police.

### 2. Assessments and investigations

#### **On what grounds will you open an investigation?**

We check all potential breaches to determine whether they should be **assessed**. We will not assess potential issues if they are not within our regulatory remit. If our initial enquiries identify that there may have been either an offence or a contravention then we will begin the assessment process.

#### **What's the difference between an assessment and an investigation?**

Assessments are a consideration of the issues and evidence to determine whether to investigate, or whether an issue can be dealt with another way such as the provision of guidance.

The conclusion of an assessment will not always lead to the opening of an investigation. We will open an investigation, following assessment, where we consider that it is in the public interest, proportionate and justifies the use of our resources in this way.

### **How long do investigations take?**

This varies on a case by case basis and depends upon the volume of evidence to collect and assess and the complexity of the investigation. Our first priority is to always conduct a fair and thorough investigation. We will always publish outcomes of our casework as soon as is reasonably practical.

### **3. Concluding an investigation**

#### **What action will you take at the end of an investigation?**

If an investigation is opened then there are three possible outcomes:

- We determine that there is no or insufficient evidence of an offence or contravention to take action
- We are satisfied beyond reasonable doubt that an offence or contravention has been committed
- We decide that it is no longer in the public interest to investigate

Once an investigation has concluded and we are satisfied beyond all reasonable doubt that an offence or contravention has been committed, we will consider what further action to take. If appropriate we may decide to pass the matter to the police or relevant prosecuting authority. However, in most cases this will involve deciding whether to impose a sanction.

### **4. Sanctioning**

#### **What is the process for imposing sanctions?**

If we decide that a sanction is appropriate, we will consider the sanction and – in the case of a monetary penalty – the level of that penalty, based on a number of factors. These include the offence itself and how it occurred; the nature and compliance history of the person or organisation; and the actions taken after the event.

If we decide to impose a sanction, we will follow this process:

- Issue an initial notice
- Allow a period of time for written representations or objections
- Consider any representations or objections
- Either close the matter or issue a final notice

When we issue an **initial notice** the subject of the investigation has the opportunity to make representations against our finding of an offence. At this stage, we won't provide any media comment.

Investigations conclude once a **final notice** has been issued or we have **closed the matter** (for example if we fail to find a breach or if it is no longer in the public interest to continue the investigation). We will then publish a summary of the outcome of the case on our website. In some cases we will also issue a press release.

#### **Can decisions be appealed?**

Yes. An individual or organisation that is issued with a sanction has 28 days to appeal that decision. Any such appeal is made to the County Court. Where the sanction is subject to an appeal we provide this information on our website.

## What sanctions are available to the Commission?

Sanctions available to the Commission since 1 December 2010 include:

- **Fixed monetary penalty;** A £200 fine (this increases if not paid within 28 days)
- **Variable monetary penalty;** A fine ranging from between £250-£20,000 (the fine increases if not paid within 28 days).
- **Compliance notice;** A notice setting out action that must be taken by the person or organisation to ensure future compliance
- **Restoration notice);** A notice setting out actions that must be taken by the person or to restore the position, as far as possible, to what it would have been if they had not broken the rules. We can fine the person or organisation if they do not do what we have asked.
- **Stop notice;** A notice which prohibits a person or organisation from carrying on or beginning a specified activity until the steps set out in the notice are taken.
- **Enforcement undertaking;** An organisation or individual that has broken the rules can propose to take specified actions to ensure restoration and/or future compliance. If we agree to the proposal this will usually mean there is no need for a sanction.
- **Forfeiture of funds;** Forfeiture is not technically a sanction, but is a course of action open to the Commission in certain situations, as well as, or instead of sanctions.

More detailed information on the sanctions that are available to the Commission and when they may apply can be found in our enforcement policy [here](#)

## 5. Disclosure of information relating to investigations

### Assessments

We will not comment on matters being considered for or under assessment—disclosure of information at this stage could be unfair to the subject of the assessment.

### Investigations

During an open investigation we will not provide ongoing commentary. We may confirm if asked, whether an individual or organisation is under investigation and state the suspected offence or contravention. If it is in the public interest we may issue a statement to confirm commencement of the investigation and/or any change to its scope.

Once an investigation is concluded and any sanction has been imposed we will publish the outcome on our website. If the matter is novel, high profile or if the sanction is more than £1000 we will also issue a press release highlighting the investigation. We may also publish more detailed reports on certain cases within these criteria. Prior to issuing the investigation report or media statement, we will notify the subject of the investigation and may notify other named persons.

### Ends

For more information please contact the Electoral Commission press office on 0207 271 0704 or [press@electoralcommission.org.uk](mailto:press@electoralcommission.org.uk). Out of office hours please call 07789 920 414

## Appendix - flow diagram of processes

