

Investigation into Momentum

06 March 2019

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We have investigated Momentum for failing to comply with political finance laws, both as a members association and when campaigning in the 2017 general election. We concluded that Momentum committed offences, and we have fined them £16,700.

Non-party campaigners are essential for a healthy democracy. But just as crucial is that after a poll, voters can see complete and accurate spending returns. This is the highest fine that we have to date levied on a non-party campaigner for failing to deliver a complete and accurate spending return. It reflects Momentum's repeated revisions to their spending return, poor record keeping and failure to follow advice given by the Commission prior to the election.

It is incumbent on non-party campaigners and members associations to invest properly in having the right processes and staff to meet their obligations.

Summary

Momentum was a non-party campaigner in the 2017 general election. Afterwards, as required, it submitted a report of its election spending by the required deadline. However, the report was not accurate and Momentum subsequently delivered four further versions after the deadline, each of which reported different amounts of donations and spending.

We opened an investigation on 16 November 2017 to determine whether Momentum broke political finance laws – set out in the Political Parties, Elections and Referendums Act (PPERA) 2000 – when it delivered the inaccurate report. While investigating, we found evidence that Momentum may have committed further offences, this time in its capacity as a members association, in 2016 and 2017. We expanded the investigation accordingly.

We have concluded that Momentum committed a number of offences, and we have imposed fines totalling £16,700. The offences spanned 2016 and 2017. This includes the highest fine that we have to date levied on a non-party campaigner for failing to deliver a complete and accurate spending return.

Offences as a non-party campaigner

We have determined that Puru Miah, the then responsible person for Momentum as a recognised non-party campaigner at the 2017 general election, committed:

- one offence under section 98(4)(b) PERA of failing, without reasonable excuse, to submit a post poll donation report that was complete and accurate. The return omitted £22,958.46 of reportable donations. We have fined Momentum £2,700 for this offence
- one offence under section 98(4)(b) PERA of failing, without reasonable excuse, to provide all required invoices with the spending return. We have fined Momentum £250 for this offence
- one offence under section 98(4)(b) PERA of failing, without reasonable excuse, to submit a spending report that was complete and accurate. We have fined Momentum £12,150 for this offence
- one offence under section 99(1) PERA of failing to provide the required declarations to accompany the post poll donations report. We have fined Momentum £250 for this offence

Offences as a members association

We have determined that:

- Michael Chessum, the then responsible person for Momentum as a members association, and Momentum itself, committed an offence each under paragraph 12(1)(b) of Schedule 7 of PPERA. Mr Chessum failed to report a donation of £10,000 within 30 days of accepting it. The donation was received on 21 July 2016 but not reported to us until 19 January 2019. We have fined Momentum £900 for this offence.
- Mohammed Afridi, the then responsible person for Momentum as a members association, and Momentum itself, committed an offence each under paragraph 12(1)(b) of Schedule 7 PPERA. Mr Afridi failed to report a donation of £8,000 within 30 days of accepting it. The donation was received on 3 May 2017 but not reported to us until 17 July 2018. We have fined Momentum £450 for this offence.

Momentum, Non-party campaigners and members associations

Momentum

Momentum was founded in 2015. In February 2016 the National Steering Committee met and agreed a membership structure, and in January 2017, Momentum introduced a constitution, which states that Momentum activists must also be or become members of the Labour Party.

Momentum campaigned in support of the Labour Party in the UK Parliamentary General Election (UKPGE) held on 8 June 2017.

The Labour Party did not authorise Momentum to spend in excess of the limits for targeted spending.

Non-party campaigners

Non-party campaigners are individuals and organisations that campaign in the run up to elections but do not stand as political parties or candidates.

Under PPERA, there are rules on what non-party campaigners can spend on regulated campaign activity in the run-up to elections. Non-party campaigners which intended to spend in excess of £20,000 in England or £10,000 in Scotland, Wales or Northern Ireland at the UKPGE held on 8 June 2017 were required to register with us.

PPERA sets out the limits on controlled expenditure for non-party campaigners. These limits are lower for non-party campaigners that wish to undertake 'targeted spending', if they do not have the authorisation of the political party that they are promoting. This is spending intended to influence people to vote for one particular registered political party or any of its candidates. The limits are:

- £31,980 in England
- £3,540 in Scotland
- £2,400 in Wales
- £1,080 in Northern Ireland

If the political party that is being promoted provides its authorisation, the non-party campaigner is entitled to spend up to the limit authorised by the political party. Any spending by that non-party campaigner up to that limit would count towards the party's national spending limit.

Following the UKPGE, registered non-party campaigners which spent less than £250,000 were required to submit their post poll returns detailing expenditure and donations no later than 8 September 2017.

PPERA requires that the post poll return must include certain information, including:

- a statement of all payments made in respect of controlled expenditure incurred by or on behalf of the non-party campaigner during the relevant period in the relevant part or parts of the United Kingdom
- a statement of relevant donations received by the non-party campaigner in respect of the relevant election which complies with the reporting requirements
- the return must be accompanied by all invoices or receipts relating to payments in excess of £200

It is an offence in each instance for the responsible person to, without reasonable excuse, deliver a return which does not comply with these requirements.

For a non-party campaigner, a relevant donation is one made to them for the purpose of meeting controlled expenditure incurred by or on behalf of that third party.

When the return is delivered to us, it must be accompanied by declarations signed by the person responsible for expenditure and donations.

The declaration for donations confirms that:

- all relevant donations recorded in the return are from permissible donors
- no other relevant donations have been accepted in respect of the relevant election during the regulated period

The responsible person commits an offence if they fail to provide the declaration.

Members associations

A members association is not a political party. It is an organisation made up wholly or mainly of members of a single registered political party. The responsible person for a members association is either the treasurer, if there is one, or the person who is notified to us as the responsible person.

Members associations which accept donations in excess of £7,500 that are provided to support their political activities must report these within 30 days of acceptance. Failure to report such donations to us within the time required, without reasonable excuse, is an offence by the members association and by the responsible person.

Our investigation

We investigated whether Momentum had broken campaign finance laws after we received a non-compliant spending and donation report following the general election.

While investigating, we found evidence that Momentum may have committed further offences, this time in its capacity as a members association in 2016 and 2017. We expanded the investigation accordingly.

On 8 September 2017, Momentum delivered its spending return for the 2017 general election. We identified a number of issues with the return. We corresponded with Momentum, during the course of which Momentum delivered two updated spending reports, on 10 November 2017 and 13 November 2017, and an updated donations report also on 13 November 2017.

As a result, we reasonably suspected that the original return was wrong. We opened an investigation on 16 November 2017, examining:

- issues with Momentum's reporting of donations and spending
- missing invoices
- a missing declaration
- whether Momentum's spending may have exceeded the legal limits

We obtained evidence suggesting that Momentum may have failed to report donations received as a members association, and expanded the scope of the investigation to review this as well.

We also sought to obtain a full and correct record of its election spending.

Evidence in our investigation

During the investigation we obtained evidence from:

- Momentum
- Mr Miah
- the registered trade union, Transport Salaried Staffs Association (TSSA)
- Mr Afridi and Mr Chessum

The evidence we looked at included:

- a third version of the spending report provided by Momentum on 22 January 2018
- advice we provided to Momentum before the general election.
- explanations from Momentum.
- Momentum's financial records including:
 - bank and PayPal statements
 - payroll information
 - credit card statements
 - invoices
 - transaction reports
- internal Momentum documents including:
 - internal reports
 - meeting minutes and agendas
 - internal correspondence and guidance
 - internal financial reporting documentation
- correspondence between Momentum and TSSA
- internal TSSA emails provided by TSSA

Working with Momentum

Momentum did not cooperate fully during the investigation.

Momentum provided some but not all requested information and explanation, but also repeatedly queried the basis for our investigation and the information we requested. Some explanations were contradicted by later explanations and the evidence. Our need to make repeated requests for clarification, as well as a significant number of extensions requested and granted to Momentum to respond significantly added to the length and complexity of the investigation.

Mr Miah offered to provide a further version of the return and the outstanding information the Commission had requested. We invited him, on the basis that information would be provided, and he agreed, to attend a voluntary interview to provide explanation. The interview was to take place in October 2018, but Mr Miah did not provide the information and further version of the return he had previously agreed to give us. We did not therefore proceed with the interview.

We were satisfied at that time that we had given Momentum and Mr Miah sufficient opportunity to explain the regulated expenditure at the general election and to provide any explanation they wished us to consider.

We decided to conclude the investigation in November 2018 as we did not consider it proportionate or in the public interest to pursue the investigation further based on:

- the number of offences that we were satisfied were proven beyond reasonable doubt
- Mr Miah and Momentum's failure to provide the outstanding information and explanations
- the time and resource spent on the investigation to date

Our determinations

In November 2018, we were satisfied there was sufficient evidence to make initial determinations on the offences under investigation.

We issued a statutory notice to Momentum under Schedule 19C of PPERA setting out our initial determinations and proposing penalties. The notice invited Momentum to make representations within the statutory 28 day period.

On 17 January 2019, Momentum delivered its representations in respect of the proposed penalties. An outstanding donation report from 2016 and a partial post poll report detailing an outstanding donation were also provided at this time. We considered these carefully before making a final determination on offences and penalties.

We issued our final determinations and penalties to Momentum on 4 March 2019.

Our findings: Offences as a non-party campaigner

Mr Miah committed four offences in respect of the post poll reporting of expenditure and donations following the general election. Momentum and the relevant responsible persons committed offences for failing to report donations received by Momentum in its capacity as a members association during 2016 and 2017.

Mr Miah gave us a general election spending return on behalf of Momentum that was incomplete, as it:

- failed to provide an accurate statement of payments made
- failed to provide all required invoices or receipts
- omitted donations
- failed to provide a required declaration to accompany the donations report

We did not find an offence in respect of incurring expenditure in excess of country limits.

Statement of payments made

The spending return did not comply with the requirement to provide an accurate statement of all payments incurred by or on behalf of Momentum in respect of controlled expenditure.

The statement of payments submitted to us was incorrect because:

- UK-wide spending was attributed to Northern Ireland despite the Labour Party standing no candidates there
- a number of payments were missed from all versions of the return that Momentum submitted
- a number of reported items did not match the contemporaneous financial records of Momentum
- a large number of items, including salaries, were split between regulated and unregulated expenditure, using a different formula to split them in each version of the return we received. In all cases, a number of the formulae were incorrect and in direct contradiction to our advice and guidance

The overall amendments made to the statement of payments by each version of the report were:

- 8 September 2017 Momentum listed spending of £40,186.92 in their statement of payments made. However the form itself stated the total was £32,316.57 as a large number of figures were given as negative amounts or miscalculated totals.
- 10 November 2017 Momentum amended 29 lines of spending and declared £36,033.37 in their statement of payments made.
- 10 November 2017 a further 13 lines of expenditure were amended bringing the amount declared on their statement of payments to £34,917.06.
- 22 January 2018 Momentum submitted a further statement of payments which amended 43 lines of expenditure, in some cases reinstating previously removed amounts which declared a total of £32,591.14.

These refer only to the statement of payments made and do not include notional expenditure which is reported elsewhere in the return but which does count towards the spending limits

Northern Ireland

Each return Momentum provided to us had apportioned UK wide expenditure to Northern Ireland. The Labour Party did not stand candidates in Northern Ireland, and so no controlled expenditure can be attributed to it. This expenditure should have been apportioned across England, Scotland and Wales where the Labour Party did stand candidates.

Items that did not match the financial records

The reported salaries of two press officers who worked on the Stoke and Copeland by-elections did not match any salaries paid during that period according to Momentum's internal records. Momentum failed to provide the names of those press officers so that we could reconcile the figures.

Items not included in the return

Our analysis of Momentum's financial records indicated that spending totalling at least £1,075.06 was missing from the return. The figure may in fact be higher, because we are not satisfied that salary costs included in this amount are correct.

Spending split between regulated and non-regulated expenditure

Momentum amended various formulae used to calculate reportable elements of larger payments, for example, in relation to a text messaging service.

Momentum was unable to provide records from the time of the campaign period to explain the way it split salaries for staff between regulated spending (which forms a significant proportion of their reported expenditure) and non-regulated spending.

In the case of the apportionment of staff time to campaigning emails sent to both members (not reportable) and non-members (reportable), Momentum used a formula contrary to the one we advised, which gave a significantly lower attribution to regulated

spending than would have been the case had it followed our advice. There are other issues regarding the apportionment of spending, including staff salaries and smaller items, in which an incorrect apportionment formula was applied contrary to our guidance.

Momentum was unable to provide any documentation from the time of the campaign which would have allowed us to correctly apportion the spending, due to a failure to keep and maintain records from that time.

Conclusions

We are satisfied that the report of regulated payments made for the 2017 general election submitted to us by Momentum was inaccurate in numerous ways.

The failure to keep and maintain proper records of the split of expenditure between regulated and unregulated expenditure mean that we are still not satisfied that either we or Momentum have an accurate record of regulated expenditure by Momentum at the 2017 general election.

Omitted invoice

Mr Miah failed to comply with the requirement to provide all required invoices or receipts with Momentum's spending return. An invoice for a payment to Facebook of £492.41, incurred on 30 May 2017 and paid on 3 June 2017, was not included. Mr Miah said that the omission was due to human error and inadequate systems.

Omitted donations

Momentum was required to include a donations report as part of the post poll return.

On 8 September 2017 Mr Miah stated that Momentum had received no donations in excess of £7,500 and had received £7,300 of donation in excess of £500 (but less than £7,500). The amount received was amended to £7,500 by Mr Miah on 13 November.

However the donations report did not include a further five cash donations with a combined value of £12,620, and one non-cash donation of £10,338.46.

Cash donations

During the investigation, Momentum confirmed that the cash donations were not reported to us in the post poll report as required. All cash donations were reported in an amended post poll return on 17 July 2018.

Non-cash donation

Momentum received a non-cash donation in the form of office space from the registered union the Transport Salaried Staff Association (TSSA) with a value of £10,338.46 on 27 April 2017.

In respect of this donation, Mr Afridi, Momentum's secretary as a non-party campaigner at the time, appears to have attempted to report it to us on 16 May 2017 in a pre-poll report, but did not complete the submission. The pre-poll reporting period did not in any case

begin until 3 May 2017 and this donation was received on 27 April 2017, so it did not need to be reported during the pre-poll reporting period. However, Momentum then failed to report this donation in the post poll report as was required.

Momentum told us that this donation was not made for the purposes of the general election. However, we saw evidence to the contrary, including internal Momentum documentation citing the donation as provided following the announcement of the general election. We also saw correspondence between Momentum and TSSA in which a senior representative of Momentum requested the use of the ground floor of Walkden House “*for the duration of the general election campaign*”.

Momentum reported this donation on 19 January 2019.

Declaration accompanying donations report (spending return)

When Mr Miah delivered the report of donations that formed part of Momentum’s general election spending return he was required to sign a declaration that confirmed that the donations reported in the return were from permissible donors and that no other relevant donations had been accepted. He did not do this. On 13 November 2017 Mr Miah provided an amended report, this time using our correct form, with a signed declaration.

Spending limits

The spending limits in each nation for Momentum at the 2017 UKPGE (excluding Northern Ireland where there were no Labour candidates) were:

- £31,980 in England
- £3,540 in Scotland
- £2,400 in Wales
- **£37,920 in total**

Momentum’s original return disclosed spending that exceeded country limits. However, Momentum’s subsequent amendments had the effect of reducing the reported spending but still reported an excess above the limit of expenditure in Wales.

We have not found evidence that Mr Miah committed an offence of incurring controlled expenditure in excess of the limit set out in Schedule 10 PPERA where he knew or ought reasonably to have known that the spending would exceed that limit, which is an offence under section 94E(2) PPERA.

We found some evidence indicating spending in excess of the limits. However, we were unable to make a finding of an offence as the information Momentum provided, and which we believe they hold, was not adequate to provide a reliable record of their controlled spending.

Our findings: Offences as a members association

Momentum was, and is, a members association as defined by PPERA. Mr Michael Chessum volunteered to be treasurer of Momentum shortly after February 2016. He was thus its responsible person under electoral law. On 17 February 2017 Mohammed Afridi became the responsible person.

£10,000 cash donation from Transport Salaried Staffs Association

Momentum received and accepted a cash donation from the Transport Salaried Staffs Association (TSSA) on 21 July 2016. Mr Chessum and Momentum were therefore required to deliver a report of this donation to us by 21 August 2016.

This donation from TSSA was reported to us on 17 January 2019, almost two and a half years after it was received and accepted, and following an investigation and the issuing of the notice of proposed sanctions to Momentum.

Momentum stated that there was confusion amongst its staff as to whether this donation was reportable. The donation was accepted by Momentum, and Mr Chessum was, as a matter of fact, the responsible person at the time, even signing a report relating to another donation on 15 July 2016.

Had the evidence supported the statement that half the donation was intended for a separate organisation, Momentum and Mr Chessum would still have been required to report the £5,000 as it would have aggregated with other amounts received from TSSA.

Mr Chessum and Momentum both committed an offence in failing, without reasonable excuse, to deliver a report of that donation of £10,000 to us within 30 days of it being accepted.

£8,000 cash donation from Transport Salaried Staffs Association

Mohammed Afridi became the responsible person for Momentum, as a members association, on 17 February 2017.

Momentum received a cash donation of £8,000, also from the TSSA, on 3 May 2017.

On 16 May 2017 Mr Afridi tried to report this donation under the pre-poll reporting requirements for the 2017 general election, using our online reporting system. But not all of the required information was provided, and he failed to complete the submission. In any event, the donation was not reportable under those requirements and needed to be reported as made to a members association.

Mr Afridi and Momentum gave us conflicting accounts about this donation including that the organisation and Mr Afridi were unaware of receiving this donation. However, we are

satisfied on the evidence that Mr Afridi was made aware of the donation prior to 16 May 2017. This was clear in a number of internal Momentum documents from the time, as well as his own unsuccessful attempt at reporting the donation in a pre-poll return.

The donation was reported on 17 July 2018.

Mr Afridi and Momentum both committed an offence in failing, without reasonable excuse, to deliver a report of that donation to us within 30 days of it being accepted.

Sanction decision

We took our findings and Momentum's representations on these offences into account and have issued a penalty of:

- £2,700 for the failure, without reasonable excuse, to report all donations in the spending return
- £250 for the failure, without reasonable excuse, to provide an invoice with the spending return
- £12,150 for the failure, without reasonable excuse, to provide a complete spending return.
- £250 for the failure to provide the required declaration to accompany the post-poll donations report
- £900 for the failure, without reasonable excuse, to report a £10,000 donation from TSSA
- £450 for the failure, without reasonable excuse, to report a £8,000 donation from TSSA.

Where you can find more details

You can find PPERA on the [government's legislation website](#). The relevant sections and schedules are:

- Section 86 (valuing notional expenditure)
- Section 88(1) (definition of a recognised third party)
- Section 94D (limits on controlled expenditure)
We also provided [guidance](#) on this.
- Section 94E (exceeding targeted expenditure limits)Section 96 (controlled expenditure return, requirements)
- Section 98 (controlled expenditure return, offence)
- Section 99 (donations declaration, requirement)
- Schedule 7 (definition of a members association and rules associated with reporting)
- Schedule 10 Paragraph 2 (attribution of expenditure to different parts of the UK)
- Schedule 11 Paragraph 1(4) (donations declaration, relevant donation)
- Schedule 11, paragraph 5 (valuing in kind donation)