

Political finance regulation at the June 2017 UK general election

Report on the UK Parliamentary General Election held on 8 June 2017

November 2017

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The Electoral Commission is the independent body which oversees elections and regulates political finance in the UK. We work to promote public confidence in the democratic process and ensure its integrity.

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Summary

Under the Political Parties, Elections and Referendums Act 2000, the Electoral Commission regulates funding and spending by candidates, political parties and non-party campaigners at elections and referendums. We publish information to provide transparency about election spending and donations and work to ensure high levels of compliance with the UK's political finance rules so that voters and the public can have confidence in the outcome of well-run elections.

This report identifies specific issues that emerged during the June 2017 UK Parliamentary general election campaign and highlights the proactive work we undertook to ensure that candidates, political parties and non-party campaigners were informed of, and complied with, the rules.

Having an early and unexpected election presented practical challenges for parties and other campaigners, but we were able to work constructively with many of them. For the most part, we are pleased to observe that parties and other campaigners intended to, and did, comply with election spending and funding rules. We will monitor the spending returns that are due in later this year to check that this was indeed the case.

Candidates, political parties and non-party campaigners made significant use of digital campaigning in this election. This provides new opportunities for campaigners to engage voters. But there are also risks to transparency and confidence for voters, for example, relating to the use of enhanced direct targeting techniques, including 'bots', and there is room to improve election law in this area.

We are ready to work with the UK's governments and legislatures to bring about the changes that are needed to provide further transparency about spending on digital and online campaigns. We repeat our previous recommendations that campaigners should be required to provide imprints on digital and online campaign material, and that staffing costs for all types of campaigners should be regulated. These changes would increase transparency for voters about who is seeking to influence their vote during election campaigns, and what techniques are being used.

We also repeat our calls for having more robust powers in place to deal with breaches of the rules and that our investigative and sanctioning powers at major elections should be extended to include offences relating to candidate spending and donations. Most campaigners follow the rules, but failures to comply can reduce transparency for voters and confidence that an election was well run. It is therefore important that when breaches do occur they are dealt with robustly and effectively.

The time has come for these changes to be implemented by the UK's governments and legislatures, ahead of the next national elections in 2021 and 2022.

1 Political finance regulation at the June 2017 UK general election

1.1 Although the 8 June 2017 election was an early general election, the majority of the UK's political finance rules applied in the same way as for a scheduled general election. Rules were in place which aimed to limit spending and provide transparency for voters about the sources of funding and spending by candidates, political parties and non-party campaigners at the June 2017 general election.

Spending and donation rules at the 2017 election

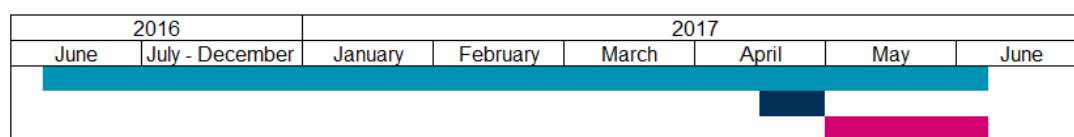
1.2 Electoral law sets out rules that apply to candidates, political parties and non-party campaigners who are aiming to influence the outcome of elections in the UK. These rules aim to limit spending and provide transparency for voters about the sources of funding and spending by campaigners at elections. We explain the rules in guidance which we publish on our website.¹




1.3 The Political Parties, Elections and Referendums Act 2000 (PPERA) sets out the rules on what political parties and non-party campaigners can spend on regulated campaign activity in the lead up to a UK general election. For candidates, the rules are set out in the Representation of the People Act 1983 (the RPA). These rules applied during specific 'regulated periods' ahead of polling day for the June 2017 UK general election, illustrated in Figure 1 on page 3.

1.4 Appendix A sets out the spending and donation rules for campaigners at the June 2017 UK Parliamentary general election in more detail.

¹ Electoral Commission [Guidance for candidates](#) (2017); [Guidance for political parties and non-party campaigners](#) (2017)

Figure 1: Regulated periods for campaigners at the 2017 UKPGE



 The regulated period for political parties and non-party campaigners at the 2017 UKPGE
 The period between parliament announcing the election and candidates being able to officially nominate themselves
 The "short campaign" period for 2017 UKPGE candidates

1.5 As the UK's political finance regulator, the Commission takes a proactive approach to securing compliance with the rules. This section sets out what we did in 2017 to make sure candidates, parties and non-party campaigners understood the rules, and knew what they needed to do to comply.

1.6 When it is necessary and proportionate, we act to investigate and will impose sanctions when the rules are broken. We took this approach throughout this election campaign and continue to do so as we review spending returns from parties and other campaigners.

Looking at the 2017 election in the light of experience from 2015

1.7 At the 2017 UKPGE, there was increased media attention on the rules that allow political parties and candidates to focus spending on targeted constituencies and how parties and candidates should report this in their post-election spending returns.

1.8 This followed on from concerns raised during and after the 2015 UKPGE that the separation of candidate and party spending limits seem confusing or potentially unfair. In our report after the 2015 election, we advised that the legal position on political party spending in constituencies would benefit from clarification. We recommended that Governments and Parliaments should review this, and stated our intention to give it further consideration.²

1.9 Following the submission of the 2015 UKPGE spending returns, we investigated a small number of political party spending returns to ensure compliance with the spending rules. The investigations covered a number of offences under PPERA, and some focused primarily on the completeness of the spending returns.

1.10 The publication of spending returns is intended to provide voters with transparency about campaign spending. Incomplete information undermines that intention and risks harming confidence that elections are well run. Where

² Electoral Commission [UK Parliamentary General Election 2015: Campaign spending report Recommendation 2](#) (February 2016)

failures were identified, we investigated these in line with our enforcement policy³ and, when deemed necessary, imposed financial sanctions on parties that had failed to comply.⁴

Our approach to regulation

1.11 From the announcement of the 2017 election to polling day, we published guidance, offered an advice service for parties, non-party campaigners and candidates and monitored the campaign, proactively contacting organisations and individuals to advise them on the rules. We also registered campaigners, published pre-poll donation and loan reports, considered complaints and allegations that the rules were being broken and took action to bring organisations and individuals into compliance. We found that the majority of parties and other campaigners and individuals we contacted during the campaign welcomed our advice and cooperated with any steps they needed to take to comply with the campaign finance rules.

1.12 During the 2017 UKPGE, we produced additional guidance for candidates, political parties and non-party campaigners to help them comply with the spending rules. This included, for example, publishing a factsheet with topical examples of how the rules work on splitting items of spending between candidate and party spending limits and accounting for this.⁵

1.13 As a matter of routine, we review spending returns after each election to determine whether any action needs to be taken. This can range from conducting investigations to supporting campaigners to comply in future.

Dealing with campaigners who breach the rules

Most candidates, political parties and non-party campaigners comply fully with the rules that they are required to follow. Where they are unsure of specific aspects, they seek advice and guidance from us to help them understand what is required of them. However, a failure to comply can reduce transparency for voters and confidence that an election was well run. It is therefore important that when breaches do occur, they are dealt with robustly and effectively.

Registration of campaigners

1.14 We are the registrar of political parties and non-party campaigners in the UK. We have a duty to maintain these registers, which we publish on our

³ Electoral Commission *Enforcement Policy* (April 2016)

⁴ Case reports and sanctions arising from investigations are available on our website: <https://www.electoralcommission.org.uk/our-work/roles-and-responsibilities/our-role-as-regulator-of-political-party-finances/making-an-allegation>

⁵ Electoral Commission *Examples of splitting spending between the party and the candidate* (May 2017)

website.⁶ We carefully assess registration applications against the criteria set out in PPERA, in order to reach a fair conclusion on registration, within the legislative requirements.

Party registration

1.15 In order to appear on a ballot paper for the 2017 UKPGE, a party's name, description or emblem had to be registered with us by 9 May 2017, two days before the deadline for delivery of nomination papers to the Returning Officer.

1.16 There was a short time between the announcement of the election on 18 April 2017 and that legal deadline. We highlighted this to applicants who wanted to register parties, and provided advice in relation to alternative options for participation in the election, including standing as an independent candidate.

Non-party campaigner registration

1.17 If a non-party campaigner intends to spend money over a certain amount on election campaign activities that could be reasonably regarded as intended to influence voters, they are required to register with us.⁷ Before a non-party campaigner can be registered, we must ensure the application complies with the requirements of PPERA. Between the date that the 2017 election was announced and polling day, we registered 42 non-party campaigners.

Proactive regulation

1.18 We published our core guidance within three days of the election being announced and our complete suite of guidance and forms that explained the rules for parties, candidates and non-party campaigners' was available within two weeks of the election being announced.⁸

Key advice themes

1.19 Our political finance advice service handled almost 600 emails and phone calls during the election campaign. The queries covered a wide range of issues and came from individuals, campaigners, parties and others. The following key themes emerged:

- what constitutes regulated spending

⁶ [Electoral Commission Party and Election Finance Online Registers](#)

⁷ £20,000 in England, and £10,000 in Scotland, Wales and Northern Ireland.

⁸ Electoral Commission [UKPGE candidate guidance](#); [UKPGE political party guidance](#); [UKPGE non-party campaigner guidance](#)

- the public/purpose tests for non-party campaigner spending and how to apply them
- spending limits
- defining party and candidate spending
- the ‘imprint’ rules about stating the source of campaign material
- handling donations
- reporting requirements

The retrospective regulatory period

1.20 We published guidance during the campaign to enable political parties and non-party campaigners to understand the rules on the retrospective regulatory period. We also worked with other bodies to explain the rules, including the National Council for Voluntary Organisations (NCVO), which published a blog helping to explain the rules to non-party campaigners.⁹ We have also published a blog on the Scottish Council for Voluntary Organisations (SCVO) website explaining how the regulated period applies to non-party campaigners, particularly during an early UKPGE.¹⁰

Monitoring

1.21 In addition to providing advice on request, we approached a number of organisations and individuals identified by our campaign monitoring. The types of issues we identified and handled in this way included:

- advising non-party campaigners organising campaign ‘action days’ in particular constituencies or regions on how to record and report spending correctly;
- identifying campaign material without imprints such as posters or banners and advising the promoters to amend the material – these were often the work of people outside the political mainstream;
- identifying campaigns that were risking breaking the rules and advising on required action – there were a number of relatively small campaigns run by companies and individuals that may not have been intended to unlawfully influence voters but which risked having that effect;
- working with the police to resolve issues which fell outside our jurisdiction.

Working with political parties during election campaigns

Before, during and after the 2017 election campaign, we spoke to some of the major parties on particular issues so that we could understand

⁹ National Council for Voluntary Organisations blog [Charities and the Lobbying Act: the Electoral Commission’s view](#) (May 2017)

¹⁰ Scottish Council for Voluntary Organisations blog [Campaigning around a snap election—could the non-party campaign rules affect you?](#) (November 2017)

their campaign finance structures and offer advice where necessary. We were pleased and reassured with the co-operation we received and have since provided further advice to some parties on issues such as identifying campaign spending during the retrospectively-applied regulated period. We continue to liaise with some of these parties on such matters to develop future policy and understanding.

Digital and online campaigning during the election

1.22 Campaigners continued the trend seen in other recent elections and referendums of using social media and other digital campaigning techniques to get their message across to voters. As at other elections and referendums, we gave advice on how the rules apply to digital campaigning and monitored campaigners' spending on such activities. The use of these techniques was profiled in news coverage, while some commentators asserted incorrectly that no rules apply to these types of campaigning. Media coverage also speculated about campaigners' use of data analytics, and whether data services were provided by non-UK-based companies.

Regulation of digital and online campaign techniques

Election law does not restrict where campaigners can purchase services or goods, but campaigning can only be financed by, or supported with in-kind services from, permissible sources. Payments made for digital campaigning must be reported to us, and we publish them as we do with all campaign spending.

The same rules apply to campaign spending on advertising, whether campaigners use long-standing techniques, such as printed mailshots or billboards, or newer ones, such as emails and online adverts.

1.23 During the election, we gathered information to assist with our post-election assurance work with larger campaigners; this includes a digital strand to ensure that the right level of transparency was provided in relation to social media and other digital advertising. In the final chapter of this report, we set out what else needs to be done by ourselves and others to ensure that voters have confidence that digital campaigning is regulated, and our views on how the system can be improved to increase transparency in this area.

Enforcement activity during and after the election

1.24 With proactive monitoring and contacting of parties and campaigners, and general cooperation from them when approached, the need for enforcement action during the campaign was rare.

1.25 As polling day approached, we handled a small number of issues relating to the rules around bribery and treating, as set out in the RPA. The RPA makes it an offence (referred to as 'treating') to seek to influence anyone to vote or not vote, as well as to vote or not vote for a particular candidate, by

offering money or other incentives such as food and drink. There were a small number of cases where incentives, such as artwork or alcohol, were being offered as incentives to vote. We worked with the police to advise individuals of the risk that they were breaking the law.

1.26 The UK's Law Commissions have recently recommended reforming electoral law, and in particular that the electoral offence of treating should be abolished and the behaviour that it captures should, where appropriate, be prosecuted as bribery.¹¹ We support the Law Commissions' recommendation, and continue to urge the UK's governments to implement their package of electoral law reform as quickly as possible.

1.27 Enforcement action in respect of late or un-submitted pre-poll donation and loan reports (see below) is continuing and the outcomes of completed investigations are published on our website.

1.28 There has been media speculation that some campaigners have received foreign money to use towards campaigning, including online and digital forms. As noted earlier, candidates, political parties and non-party campaigners are only allowed to accept donations from UK sources. Any evidence that we find or that is given to us showing that it did occur will be considered as an enforcement matter.

Post-election assurance work

1.29 Since the election, we have been working with a sample of larger parties and campaigners to understand how they campaigned and what spending we expect to see in their spending returns. This focuses on ensuring transparency and confidence in campaigner financial reporting.

1.30 As noted earlier, this work includes a digital strand considering digital and social media advertising. It is also looking at local non-party campaigning and parties campaigning for candidates from other parties.¹² To identify areas of risk that might compromise the completeness and accuracy of their UKPGE spending returns, we are also discussing and reviewing the processes for capturing and compiling expenditure of some major parties, and where appropriate, offering advice.

¹¹ Law Commission of England and Wales, Scottish Law Commission, Northern Ireland Law Commission *Electoral Law: An Interim Report* (February 2016)

¹² A small number of parties, notably the Greens and Scottish Greens, and some local Liberal Democrat associations were reported as campaigning for candidates from other parties at this election

Reporting of spending and donations

Pre-poll donations and loans

1.31 Political parties standing candidates at a UKPGE must submit details of any donations and loans of over £7,500, as part of weekly reports to us. For the 2017 UKPGE, we published six separate reports about donations during the pre-poll period.¹³ Parties must notify us if they are not standing candidates, in order to be exempt from weekly reporting. These pre-poll reporting rules are important as they allow voters to see political parties' sources of funding during the campaign period. In October 2017, we fined a party £1,000 for the late delivery of one of its weekly donations and loans reports.¹⁴

1.32 Non-party campaigners must also submit pre-poll donation reports to us if they have received any amounts above £7,500 to use for the purpose of their regulated election campaign activity.¹⁵

Campaigner spending returns

1.33 Candidates are required to submit their campaign spending returns to the Returning Officer for the constituency in which they stood. Political parties and registered non-party campaigners are required to submit post poll spending returns to us and there are two different deadlines depending on how much they have spent.

Figure 2: Reporting periods for campaigners at the 2017 UKPGE



¹³ Electoral Commission [General Election: sixth and final weekly set of donations and loans to political parties published](#) (June 2017)

¹⁴ Electoral Commission [Fines issued by Electoral Commission for breaches of campaign finance rules](#) (October 2017)

¹⁵ Electoral Commission [General Election: sixth and final weekly set of donations and loans to political parties published](#) (June 2017)

Campaign spending at the 2017 election

Candidate spending returns

1.34 A total of 3,304 candidates stood for election at the 2017 UKPGE. This was fewer than at the 2015 UKPGE (3,971 candidates) or the 2010 UKPGE (4,133 candidates). Returning Officers were required to make candidate spending returns available for public inspection locally, and also to forward copies to us as soon as practicable. To date we have received 3,252 candidate returns, representing nearly 98 % of the expected total.

1.35 The spending returns that we have received to date show that just over £13.7 million was spent by candidates during the short campaign for the 2017 UKPGE. We have published a summary of the data from the returns received to date on our website.¹⁶

Political party spending returns

1.36 A total of 75 political parties stood candidates at the 2017 UKPGE. This was significantly lower than the 142 which campaigned at the 2015 UKPGE.

1.37 Of those, 64 parties submitted spending returns below the £250,000 reporting threshold, by the deadline in September 2017. The total spending reported by these 64 parties was just under £310,000. We have published these spending returns on our website.¹⁷ The spending returns for political parties that spent over £250,000 are due to be submitted in December 2017, and we will publish them in early 2018.

Non-party campaigners

1.38 A total of 17 non-party campaigners submitted spending returns for the 2017 UKPGE below the £250,000 reporting threshold. We have published these spending returns on our website.¹⁸ The total spending reported by these 17 non-party campaigners was over £1.8 million. The spending returns for non-party campaigners that spent over £250,000 are due to be submitted in December 2017, and we will publish any returns that we receive in early 2018.

¹⁶ [Summary of candidate spending returns received to date](#)

¹⁷ [Spending returns for political parties that have reported spending under £250,000](#)

¹⁸ [Spending returns for non-party campaigners that have reported spending below £250,000](#)

Campaign spending by non-party campaigners at the 2017 UKPGE

The total amount of spending reported to date by non-party campaigners at the June 2017 general election (just over £1.8 million) highlights the significant role that they can play during election campaigns, and illustrates why it is important that there are rules about their funding and spending.

1.39 As well as publishing these spending returns, we check them to identify any potential issues requiring further examination. This work is underway and if we conduct any investigations as a result, the outcomes will be published on our website.

1.40 If we also identify issues or trends further to those identified in this report, we will publish a further report on them, and include any recommendations for changes to the system that we might make. If breaches of the campaign finance rules do occur then it is important that we have robust powers to deal with them and in the final section of this report, we set out where we have previously called for improvements to be made to our powers.

2 Looking ahead: regulation at future elections

2.1 The June 2017 UK Parliamentary general election followed a period of intense electoral activity which began in 2014. We are now looking ahead to elections in 2021 and 2022 which will be regulated under PPERA, and we want to bring greater clarity to the law and rules for campaigners at those elections.

2.2 This chapter highlights the proactive steps that we are already taking, and our recommendations about what should be done by others to improve compliance with the political finance rules for future elections.

Transparency in digital and online election campaigns

2.3 Recent years have seen rapid increases in the use of digital and online campaign techniques at elections in the UK, including increasingly sophisticated uses of data, more personalised and targeted messaging, and the capacity for campaigners to reach more voters at a lower cost than ever before.

2.4 Political parties and other campaigners can determine how best to use the campaign techniques available to them and it is not our role or our desire to restrict lawful permitted campaigning. Our priority is to make sure that the rules are followed and appropriate transparency of campaign spending is maintained in order to ensure voters' confidence in the political finance rules.

2.5 It is important to emphasise that the current political finance rules apply equally to digital and online campaigning as they do to traditional campaigns. Voters are entitled to expect the same transparency about spending by campaigners at elections, regardless of whether that spending relates to online and social media advertising or other more familiar types of political advertising such as leaflets and billboards.

2.6 While online campaigning is subject to regulation in exactly the same way as other, more traditional campaign methods, it does present some specific regulatory challenges. We want to make sure that electoral law appropriately reflects changes in campaigning techniques, and we have made several recommendations for improvements following previous elections. Requiring imprints on digital or online campaign material, for example, would enable voters and the public to be confident about who is trying to influence them during election campaigns.

2.7 There was commentary and concern raised during and after the election about the use of enhanced direct targeting techniques and software such as

'bots' as campaign tools. A 'bot' (or web robot) is an online automated software program. On social media networks, they are designed to simulate human behaviour.

2.8 Voters and others should be reassured that spending on creating or using such campaigning techniques to produce and disseminate election campaign material is covered by the existing expenditure rules. Greater transparency is needed about who is responsible for producing and publishing the actual campaign material generated by such techniques. New requirements for imprints on digital or online campaign material should also apply to material disseminated by 'bots', and it should be an offence to use 'bots' in this way without making clear who has caused the material to be created and on whose behalf it is disseminated.

Improving transparency and the regulation of online campaigns

We want to see changes to electoral law to help improve transparency and the regulation of online campaigns at UK elections.

We first recommended in 2003 that online campaign material produced by political parties and non-party campaigners should – like its printed equivalent – be required to include an imprint stating who has published it. This would enable voters to identify who is spending money on trying to influence them at elections.¹⁹

Our recommendation would require secondary legislation to be introduced by the UK Government and approved by the UK Parliament. It will also require secondary legislation to be made by the Scottish Parliament and National Assembly for Wales in relation to elections to those legislatures.²⁰

We have also highlighted how the rules could be improved to ensure that campaigners report more detailed breakdowns of spending, including on different types of advertising such as online and social media promotion.²¹

The UK Government, the Scottish Government and the Welsh Government should take steps to amend electoral law so that these changes are in place ahead of the next major elections in 2021 and 2022.

¹⁹ Recommendation 42, page 75 [A regulatory review of the UK's party and election finance laws](#) (June 2013) (following a previous recommendation made in 2003).

²⁰ Following the implementation of the Smith Commission and St David's Day Agreement most matters relating to electoral law came under the remit of the Scottish Parliament and Welsh Assembly in relation to elections to the Scottish Parliament and National Assembly for Wales and local government elections.

²¹ Recommendation 3, page 56 [UK Parliamentary General Election 2015: Campaign spending report](#) (February 2016).

2.9 There are other organisations that will also play important roles in improving transparency and confidence in digital and online campaigns ahead of the next UK Parliamentary general election. In April 2017, the Information Commissioner’s Office (ICO) published guidance for political parties about political campaigning and the use of personal data which covered rules on data protection and electronic marketing.²² It also covered parties’ use of data analytics and other technologies for campaigning purposes.

2.10 In May 2017, the Information Commissioner also announced that she had opened a formal investigation into the use of data analytics for political purposes.²³ We welcome the Information Commissioner’s interest and involvement, and we will continue to engage with and support her work.

2.11 Some social media companies have also recognised that there are growing concerns about the transparency of political advertising and campaign activity which is carried out through their platforms and networks. Several major companies have issued public statements explaining their plans to improve transparency and support the regulation of online and digital election campaign activity, particularly in response to concerns raised in the United States following the 2016 Presidential election.²⁴

Working with digital and social media companies

As a proactive regulator, we are already in dialogue with major social media companies in the UK to discuss the changes they plan to make to improve the transparency of political advertising on their platform.

We will identify whether there are specific steps that they could take to support transparency and compliance with the UK’s political finance rules. We will also explore what support they could provide to us to ensure our regulatory and enforcement work relating to digital and online campaign activity is as effective as possible.

2.12 There are also wider questions about social media in elections that go beyond the rules for which the Electoral Commission is responsible.

2.13 First, we do not regulate the content of political campaign messages or advertisements, including mis-information; nor are we seeking an extension to our remit to include these issues. We have been clear that asking us to act as a political advertising ‘truth commission’ would risk damaging our ability to carry out our political finance regulatory role.

²² Information Commissioner’s Office [Guidance on political campaigning](#) (April 2017).

²³ Information Commissioner’s Office [The Information Commissioner opens a formal investigation into the use of data analytics for political purposes](#) (May 2017).

²⁴ Facebook [Update on Our Advertising Transparency and Authenticity Efforts](#) (October 2017); Google [Security and disinformation in the U.S. 2016 election: Our work going forward](#) (October 2017); Twitter [New Transparency For Ads on Twitter](#) (October 2017).

2.14 Second, the UK's political finance rules have never sought to regulate wider political speech in our democratic society, and we do not regulate spending on activities which are not intended to influence voters' choices at UK elections.

2.15 Third, the PPERA rules apply only to individuals or organisations in the UK or to conduct that takes place within the UK. We cannot use our own civil sanctioning powers on non-UK based individuals or organisations or on conduct that takes place outside the UK, although we can of course look to track and reach conclusions where non-UK individuals or organisations can be shown to have been involved in UK election-related activity.

Working with others to understand and regulate digital campaigning

Campaigners are making increasing use of digital tools at elections and outside of election periods. This provides new opportunities for civic and democratic engagement. But we recognise that it also raises important questions for the UK's wider democratic environment.

The UK's governments and legislatures will no doubt wish to consider these matters further. We are ready to inform any future discussions and contribute evidence and our expertise as the UK's political finance regulator.

Clarifying the spending rules

2.16 We are also considering how we can strengthen and better explain the current spending rules for candidates, political parties and non-party campaigners, to provide assurance that the rules will be followed at future UK elections.

Codes of practice

2.17 Alongside the power to publish guidance explaining the rules, we also have powers to make Codes of Practice outlining the kinds of expenses that are election expenses for the purposes of reporting by registered political parties and candidates.²⁵ We are currently preparing Codes of Practice on aspects of party and candidate spending. These Codes will clarify areas of relevant legislation for candidates, parties, and for non-party campaigners as well. We intend to consult with relevant stakeholders on these Codes.

2.18 While we are responsible for drafting and preparing any Codes of Practice, the UK Parliament is responsible for approving them. If approved, they would have a statutory status and campaigners would be required to comply with them.

²⁵ [Paragraph 3 of Schedule 8, PPERA.](#)

Reporting spending

2.19 Campaigners have to submit spending returns to demonstrate that they have stayed within their spending limit. In some circumstances, spending can be accounted for by a different campaigner than the one who actually paid for it. These practices are commonly referred to as “splitting spending” between different campaigners (for example, between a candidate in an individual constituency and the political party which supports them), and “notional spending” by someone on behalf of a campaigner.

2.20 Campaigners may split how they allocate the costs of some items, so that they record and report the value spent on each campaign correctly. They have to make an honest assessment of the proportion of the cost that can be fairly attributed to each campaign spending limit. Notional spending is where someone else undertakes spending on behalf of a party, candidate or non-party campaigner. For example, if a political party arranges and buys services on behalf of one or more of its candidates, the spending must be accounted for in the candidates’ returns.

2.21 We have noted that the supporting information submitted with spending returns sometimes does not provide a full and complete picture of the actual spending undertaken on the candidate’s behalf. This has implications for transparency around how some candidates raise and spend money, and we are looking at how to address this via guidance and Codes of Practice. In setting out a better approach, we will be informed by evidence from recent elections and discussion with parties. We will seek to ensure that all spending is properly reported and documented to ensure transparency and compliance with the spending limits for candidates and political parties.

The rules for non-party campaigners

2.22 In 2016, Lord Hodgson of Astley Abbots made a number of recommendations for changing the rules on non-party campaigning, including some changes introduced by the Transparency of Lobbying, Non-party Campaigning and Trade Union Administration Act 2014.²⁶

2.23 We worked to assist and inform his review of the law after the 2015 election, and published a response to the recommendations.²⁷ We agree that many of Lord Hodgson’s recommendations would have improved the regulatory framework for non-party campaigners, although we also believe that some of his proposals would be impractical to implement.

²⁶ Third Party Election Campaigning Review [Third party election campaigning: getting the balance right](#) (March 2016).

²⁷ [Response to Lord Hodgson’s Review of Third Party Campaigning](#) (October 2016).

2.24 In October 2017, however, the UK Government indicated that there was unlikely to be sufficient legislative time available to consider and implement Lord Hodgson's recommendations.²⁸

2.25 In the absence of any changes to the rules for non-party campaigners, we will continue to look for ways to work with governments and representative bodies to ensure that campaigners understand the rules and are confident about campaigning during election periods.

2.26 In particular we want to address misplaced perceptions about the rules that might cause a 'chilling effect' amongst campaigners. UK Government Ministers have made clear that they want to work with the charity and voluntary sectors to tackle any confusion and erroneous perceptions about the rules, and we are happy to continue to play our part in improving awareness and understanding.

Ensuring that campaigners understand the rules

We aim to ensure that candidates, political parties and non-party campaigners can understand and follow the political finance rules. We will work with them to ensure that the rules are clear so that they know what is expected of them during election campaigns.

Changes to the rules

2.27 There are several areas where we have already identified issues and recommended changes to legislation to improve the regulation of political finance for future elections in the UK.

Improving transparency and accessibility of candidate spending returns

2.28 Following previous UK general elections, we highlighted that transparency about candidate spending would be improved if Returning Officers were required to publish candidates' election spending returns online as well as through the existing methods of local public inspection.²⁹

2.29 The UK's Law Commissions have previously recommended that secondary legislation should prescribe in detail the process for Returning Officers to publicise and make available for inspection expenses returns

²⁸ Civil Society Media [Tracey Crouch: I want to give charities confidence to speak out](#) (October 2017)

²⁹ Electoral Commission [UK Parliamentary General Election 2015: Campaign spending report](#) (February 2016)

(including non-receipt of a return), paving the way for publication online.³⁰ The Association of Electoral Administrators has also recommended that there should be an online facility for submitting and publishing candidate spending returns.³¹

Ensuring effective deterrent sanctions for breaches of PPERA

2.30 Under PPERA, the Electoral Commission is responsible for enforcing the rules for political parties and non-party campaigners. We can investigate breaches of those rules and impose sanctions and fines where relevant. When necessary, we will refer breaches of the RPA candidate rules to the police for them to investigate.

2.31 In 2009, the Commission was given powers to issue fixed penalties of £200 and, for more serious breaches of PPERA, fines of up to £20,000 for each offence. The current rules allow us to apply a fine to a party, an organisation or an individual.

2.32 We have previously highlighted the impact of the current limit to the maximum fine we can impose: following the conclusions of our investigations into party spending returns at the 2015 UKPGE, we expressed concern about the risk that some political parties might come to view the payment of these fines as a cost of doing business.³²

2.33 We continue to recommend that the Commission should be able to impose sanctions that are proportionate to the levels of spending now routinely handled by parties and campaigners.³³

Enforcement and sanctioning for breaches of the candidate spending rules

2.34 While the Commission is responsible for enforcing the rules for political parties and non-party campaigners, the UK's police forces and prosecuting authorities are currently responsible for enforcing the rules for candidates set out in the RPA and investigating breaches.

2.35 We continue to strongly recommend that the Electoral Commission's investigative and sanctioning powers at major elections should be extended to

³⁰ Law Commission of England and Wales, Scottish Law Commission and Northern Ireland Law Commission *Electoral Law: A Joint Interim Report* (February 2016)

³¹ Association of Electoral Administrators *It's time for urgent and positive Government action* (September 2017)

³² Electoral Commission news release *Conservative Party fined £70,000 following investigation into election campaign expenses* (March 2017)

³³ Electoral Commission *UK Parliamentary General Election 2015: Campaign spending report* Recommendation 5 (February 2016)

include offences relating to candidate spending and donations, as well as for political party and non-party campaigners. This would help ensure compliance with the rules at national elections and strengthen voters' trust in the regulatory system.³⁴

Spending on staff time dedicated to election campaigning

2.36 The election spending rules provide insufficient transparency and limits on the money that political parties spend on staffing their election campaigns. The money that is spent on activities such as producing campaign material or market research is regulated. But many of the staffing costs of parties are exempt from the rules, whilst the staffing costs of candidates and non-party campaigners are included.

2.37 We have previously recommended that this inconsistency should be addressed in the interests of transparency and ensuring that relevant election spending is controlled by spending limits. We recognise the challenges for parties of estimating or recording the costs of their staff time on a year-round or election basis, and have proposed some solutions that could be developed into legislative proposals.³⁵

Improving the UK's political finance rules for future elections

Implementing the recommendations highlighted in this chapter would bring clarity and consistency to campaigners and voters about how the rules are enforced and would increase transparency and accessibility about how candidates raise and spend money for future elections.

The UK Government, the Scottish Government and the Welsh Government should take steps to amend electoral law so that these changes are in place ahead of the next major elections in 2021 and 2022.

³⁴ Electoral Commission [UK Parliamentary General Election 2015: Campaign spending report](#) Recommendation 1 (February 2016)

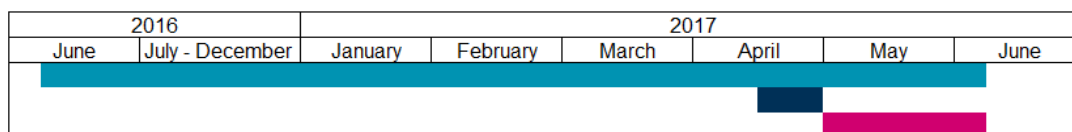
³⁵ Electoral Commission [UK Parliamentary General Election 2015: Campaign spending report](#) Recommendation 4 (February 2016)

Appendix A: Spending and donation rules at the June 2017 UK general election

Electoral law sets out rules that apply to candidates, political parties and non-party campaigners who are aiming to influence the outcome of elections in the UK. These rules aim to limit spending and provide transparency for voters about the sources of funding and spending by campaigners at elections. We explain the rules in guidance which we publish on our website.

The Political Parties, Elections and Referendums Act 2000 ('PPERA') sets out the rules on what political parties and non-party campaigners can spend on regulated campaign activity in the lead up to a UK general election. For candidates, the rules are set out in the Representation of the People Act 1983 (the RPA). These rules applied during specific 'regulated periods' ahead of polling day for the June 2017 UK general election.

Regulated periods for campaigners at the 2017 UKPGE



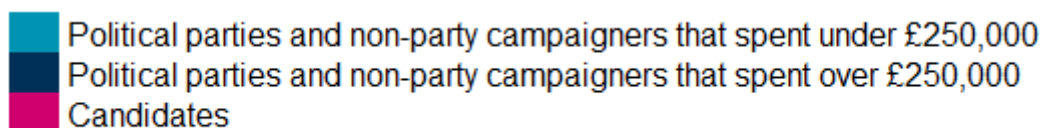
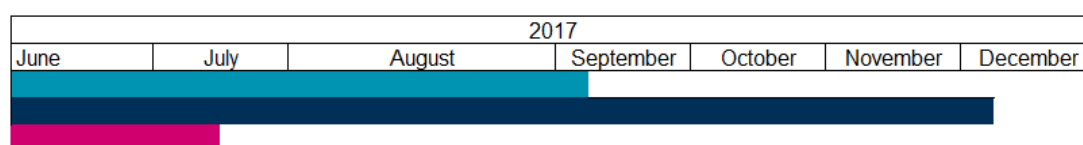
- The regulated period for political parties and non-party campaigners at the 2017 UKPGE
- The period between parliament announcing the election and candidates being able to officially nominate themselves
- The "short campaign" period for 2017 UKPGE candidates

The limits apply to certain types of campaign spending, including advertising, unsolicited material sent to voters, manifestos, party policy publications and party political broadcasts, market research, press conferences, transport, rallies and public meetings. Spending on these activities during regulated periods must be accounted for in post poll spending returns.

There are also donation controls for candidates, political parties and non-party campaigners in the UK. Only donations from permissible UK-based sources can be accepted. Parties and non-party campaigners are required to submit pre-poll reports for the six-week period before the poll detailing any donations and loans received over £7,500. Candidates are also required to report any donations accepted above £50 as part of their expenses return.

Candidates, political parties and non-party campaigners are required to submit returns detailing their spending during the regulated period. There are different deadlines for submitting spending returns for political parties and non-party campaigners who spent up to or more than £250,000.

Reporting periods for campaigners at the 2017 UKPGE



Under PPERA, the Electoral Commission is responsible for enforcing the rules for political parties and non-party campaigners. We can investigate breaches of those rules and impose sanctions and fines where relevant. The UK's police forces and prosecuting authorities are currently responsible for enforcing the rules for candidates set out in the RPA and investigating breaches.

The rules for candidates

The regulated period for candidates at the June 2017 general election began on 4 May 2017, the day after Parliament had been dissolved and five weeks before polling day.

At both the 2010 UKPGE and the 2015 UKPGE there were two regulated periods for candidates, often referred to as the 'short campaign' and the 'long campaign':

- The 'long campaign' period typically commenced three and a half months before an individual officially became a candidate at the general election, and ended the day before they officially became a candidate.
- The 'short campaign' period began on the day after an individual officially became a candidate and ended on polling day. Because an individual could only officially become a candidate after Parliament had been dissolved, this period could cover up to five weeks.

Because the June 2017 UK general election was not a scheduled general election, electoral law meant that there was no long campaign period for candidates, and the rules only applied during the short campaign period from 4 May 2017 until polling day.

There was a period of just over two weeks between the announcement of the 2017 general election and the start of the short campaign during which the candidate spending rules did not apply. During this period parties had to properly authorise campaign spending at a local level and ensure that it was included in their post-election spending return.

The rules for political parties

The regulated period for political parties at the June 2017 general election covered the 365 days before polling day: it began on 9 June 2016 and ended on 8 June 2017. The length of this regulated period is specified in PPERA. The Fixed-term Parliaments Act 2011 does not affect the timing or the length of regulated periods for early or scheduled elections and we do not have a role in setting the timing or its length.

Any spending on relevant campaign activity during this 365 day period was regulated under the rules for the general election. Because the regulated period covered the 365 days before polling day, it also included activity relating to the scheduled local government elections that took place across Scotland and Wales and in parts of England in May 2017 and the unscheduled Northern Ireland Assembly election that took place in March 2017.

The rules for non-party campaigners

The regulated period for non-party campaigners also covered the 365 days before polling day, from 9 June 2016 to 8 June 2017. Non-party campaigners are individuals and organisations that campaign in the run up to elections but do not stand as political parties or candidates. They play an important role during election campaigns by providing voters with access to a wide range of opinions and voices.

Activity undertaken by non-party campaigners during a regulated period is only likely to be regarded as controlled expenditure if it meets two legal tests about the audience for the activity and its intent: our guidance for non-party campaigners refers to these as the 'public' and 'purpose' tests. Because the 2017 UKPGE was an early election which had not been expected to take place, it is unlikely that many non-party campaigners would have incurred spending on activity prior to the announcement of the election that would have met the 'purpose' and 'public' tests. We outline the advice that we provided and the guidance and resources that we published to explain the rules to non-party campaigners in Chapter 1 of this report.