

Briefing in Support of Amendment to the National Security Bill: UK Political Parties Required to Identify and Manage the Risks of Donations from Foreign Powers

Lord Carlile of Berriew has tabled an amendment to the National Security Bill at Report stage which would require UK political parties to identify and manage the risks of donations from foreign powers.¹

This briefing sets out:

- the vulnerabilities of UK-registered political parties to donations from foreign powers; and
- how Lord Carlile’s amendment would help to address those vulnerabilities.

What is the problem?

The UK’s laws, enforcement and regulatory framework do not provide a sufficiently effective safeguard to protect our electoral system from foreign money. Donations from foreign sources are a significant threat to national security and undermine the integrity and credibility of our democratic processes.

The National Cyber Security Centre’s 2020 Annual Review noted that states seek to interfere in UK elections.² A 2020 report by the Intelligence and Security Committee identified that members of the Russian elite linked to Vladimir Putin have donated to UK political parties.³ There has been extensive media coverage of donations which appear to have originated from foreign sources or which pose reputational risks to parties.⁴

The Home Office’s impact assessment for the National Security Bill emphasised that foreign interference in the UK’s democracy and elections are a direct attack on our sovereignty, national interest, institutions and values. And yet the Bill fails to address a chronic weak spot that enables foreign money to enter the system.⁵

Weaknesses in the law designed to prohibit foreign donations

The Political Parties, Elections and Referendums Act 2000 (PPERA) requires political parties to check the ‘permissibility’ of donors, but not the source of their funds. Permissible donors include, among others, individuals on a UK electoral register, companies that are incorporated in the UK and carrying on business in the UK, and UK-based unincorporated associations that carry on business or other activities in the UK.⁶

These rules, which are intended to prohibit foreign donations, have significant weaknesses:

- As set out further below, PERPA does not require UK political parties to take a risk-based approach to donations or to identify the true source of their funds, just to check the status of donors.⁷
- A donation will be lawful providing it is from a permissible source and it was the donor’s decision to donate, even where the funds derived from a foreign source.⁸

¹ National Security Bill, [amendment to be moved on Report](#)

² National Cyber Security Centre (2021) [Annual Review](#)

³ Intelligence and Security Committee (21 July 2020) [Russia report](#)

⁴ See for example, New York Times (12 May 2022) [Major donation to UK Conservative party was flagged over Russia concerns](#); Daily Mail (19 June 2016) [Offices of Conservative Party’s biggest donor Lycamobile are raided by French police and nine people are charged on suspicion of money laundering and tax fraud](#); BuzzFeed News (5 October 2015) [This Tory Donor Was Secretly Filmed Dropping Cash-Stuffed Rucksacks At Post Offices](#); Guardian (21 September 2020) [Tory donor’s husband ‘given \\$8m by Kremlin-linked oligarch](#); The Times (22 March 2022) [Peter Virdee: Tories and Labour kept taking dirty cash from fraud tycoon](#); Business Standard (21 October 2017) [Bofors scam: A timeline of the 31-year-old, Rs 1,437-cr India-Sweden deal](#); Guardian (17 July 2014) [Inquiry that cleared fraudster’s donation to Lib Dems severely criticised](#); BBC (18 August 2019) [Michael Brown regrets ‘stupid’ £2.4m Lib Dem donation](#)

⁵ Home Office (28 April 2022) [Impact Assessment, National Security Bill: Counter state threat measures](#)

⁶ Electoral Commission (November 2021) [Donations and Loans - guidance](#)

⁷ Spotlight on Corruption (August 2020) [submission to the Committee on Standards in Public Life Consultation on Electoral Regulation](#)

⁸ New York Times (October 2022) [UK officials won’t investigate political donations flagged for Russian origins](#)

- A UK-registered company or limited liability partnership may donate to a party provided it “*carries on business in the UK*”.⁹ There is no requirement to donate from profits made in the UK. The Electoral Commission has said that this broad test exposes parties to risk, like accepting the proceeds of crime.¹⁰
- Parties are not required to carry out enhanced due diligence on donors which operate in the high-risk countries listed in the Money Laundering and Terrorist Financing Regulations 2022.
- Unincorporated associations can donate money to parties that they receive from foreign sources. In July 2021 it was reported that the UK’s main political parties accepted £12.9 million in donations from UAs in the past 5 years, none of which can be connected to the original donor.¹¹
- The maximum fine that the Commission can impose for each offence under PPERA is £20,000. This is not sufficient to deter offences or to incentivise parties’ compliance with the rules.

Political parties should take a risk-based approach to donations

Whilst the UK’s anti-money laundering (AML) framework has been progressively tightened over the last decade, with other non-regulated entities such as charities required to take a risk-based approach,¹² the minimal checks that parties are required to undertake on donations are a glaring anomaly.¹³

In 2018 the Electoral Commission argued that risk management principles adapted from AML regulations undertaken by businesses “*could prevent foreign money being used in UK politics*”.¹⁴

In their July 2021 report, *Regulating Election Finance*, CSPL recommended that:¹⁵

- PPERA should be updated to require parties and non-party campaigners to have appropriate procedures in place to determine the true source of donations; and
- parties and non-party campaigners should be required to develop a risk-based policy for managing donations, proportionate to the level of risk that they are exposed to.

CSPL identified broad support for AML-style regulations from Labour, the Liberal Democrats and the Scottish National Party. The Conservative party’s view was that “*current regulations for donations are sufficient*”.¹⁶

Responding to these recommendations, the Government said “*it is very important to balance the need for parties and other campaigners to generate funds against the cost of actually carrying out checks on donations, to ensure they come from permissible sources. We think the current rules are proportionate and achieve this balance.*”¹⁷

At the same time, the Government said it was considering issuing guidance to help campaigners “*take a risk based approach to donations, similar to ‘know your customer/client’ guidelines used in financial services, and undertake enhanced checks where appropriate*” to further reinforce the integrity of the system. Despite recognising the need, the Government has since confirmed that it no longer plans to produce that guidance.¹⁸

In addition, the Government rejected amendments to the Elections Bill that would have given effect to CSPL’s recommendation above, on the basis that they felt the current rules to be adequate.¹⁹

⁹ Section 54 of PPERA

¹⁰ CSPL (July 2021) [Regulating Election Finance](#)

¹¹ OpenDemocracy [report](#) (July 2021)

¹² Charity Commission (2016) [Compliance toolkit: Protecting charities from harm, chapter 2: Due diligence, monitoring and verifying the end use of charitable funds](#) pg. 4

¹³ Spotlight on Corruption (December 2022) [‘know your donor’ rules for political parties](#)

¹⁴ Electoral Commission (2018) [Report: Digital campaigning - increasing transparency for voters](#)

¹⁵ CSPL (July 2021) [Regulating Election Finance](#), pg. 56

¹⁶ CSPL (July 2021) [Regulating Election Finance](#), p.56

¹⁷ [Government response to Regulating Election Finance](#) (September 2021)

¹⁸ [Government’s response to PACAC report on the work of the Electoral Commission](#) (January 2023)

¹⁹ [Elections Bill debate](#) (28 March 2022)

The National Security Bill

Section 16 of the National Security Bill seeks to address foreign interference in elections. It applies where a person commits a 'relevant electoral offence' and where the 'foreign power condition' is met:

- Relevant electoral offences include offences in PPERA relating to donations and the source of funds, including false declaration about the source of donations (S.54A(5)) and evading restrictions (S.61).
- The foreign power condition is met if a person's conduct, or a course of conduct of which it forms part, is carried out for or on behalf of a foreign power, and the person knows that, or ought reasonably to know.

However, the Bill does not require political parties to identify or manage the risk of donations from foreign powers. Section 16 of the Bill will not achieve its purpose of tackling foreign interference in elections if political parties in the UK remain free to accept donations that originate from foreign powers.

How Lord Carlile's amendment would help to address the problem

Lord Carlile's amendment would insert a new clause after section 16, which would require:

- UK political parties to publish, and keep updated, a policy statement to ensure the identification of donations from a foreign power, whether made directly or through an intermediary;
- the Secretary of State to publish guidance on this policy statement; and
- UK political parties to provide an annual statement of risk management to the Electoral Commission that identifies how risks relating to donations from a foreign power (whether made directly or through an intermediary) have been managed and what measures have been put in place.²⁰

This amendment would go some way to improving the system, but it would not fully address the risks posed by proceeds of crime and other suspect funds given to parties from those other than foreign powers.²¹

Lord Carlile tabled a similar amendment to the National Security Bill at Committee stage. That would have required parties to publish a statement of risk management in their annual accounts.²²

Lord Sharpe rejected the amendment on behalf of the Government, on the basis that:

- UK electoral law has a "*stringent regime of controls on political donations to ensure that only those with a legitimate interest in UK elections*" can donate and that donations are transparent; and
- requiring political parties to publish a statement of risk management in their accounts would make it easier for impermissible donors to make an impermissible donation.²³

The Government's concern around publishing statements of risk management has been addressed by the new amendment, which would require parties to report privately to the Electoral Commission.

For the reasons set out above, the Government's position that the UK's controls on donations are stringent and ensure that only those with a legitimate interest in UK elections can donate, is unsustainable and damaging. By focusing on the donor only, they disregard the risks of donations originating from foreign powers.

Lord Carlile's amendment would fill this hole at the heart of our democracy and help to avoid lasting damage to the UK's national security and the integrity of our political system.

²⁰ National Security Bill, [amendment to be moved on Report](#)

²¹ Spotlight on Corruption (5 December 2022) [Could 'know your donor' rules for political parties help stop the endless scandals about dodgy donors?](#)

²² Spotlight on Corruption (6 January 2023) [Can the next UK general election be protected from dirty money?](#)

²³ National Security Bill (21 December 2022) [debate at Committee stage](#)