

Mr Graeme Biggar CBE  
National Crime Agency  
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Tinworth Street, London  
SE11 5EF

Sent by email only

5 December 2023

Dear Mr Biggar,

### **Addressing the UK's enforcement gap in relation to election finance**

We are writing to establish how the National Crime Agency ('NCA') is exercising its functions and making use of its powers and resources in light of the significant threats posed by foreign interference and dirty money to UK elections and the real risks that our democratic processes could be compromised as a result. As the UK approaches a general election, it is imperative for the public to understand if, and to what extent, the current weaknesses in criminal enforcement of electoral finance laws result from decisions about the application and prioritisation of existing enforcement powers, or, and to what extent, they result from gaps in the law.

Spotlight on Corruption ('Spotlight') is a UK-registered charity that shines a light on the UK's role in corruption at home and abroad.<sup>1</sup> As part of our work, we seek to improve the UK's legal framework and enforcement in relation to party political finance. This has included: monitoring court cases involving donors with alleged links to corruption, money laundering and hostile states;<sup>2</sup> working with parliamentarians to raise awareness of gaps in, and to enhance, election finance rules, including through amendments to public bills;<sup>3</sup> developing a 'know your donor' policy for political parties;<sup>4</sup> and publishing briefings to inform public understanding.<sup>5</sup>

#### *Government policy and increased risks of election finance crime*

The current Government has made it a priority to protect the integrity of the UK's democracy – including by preventing foreign interference in our elections – following on from commitments made in the Conservative party's 2019 Election Manifesto.<sup>6</sup>

To meet these commitments, the Government introduced the Elections Act 2022, and has implemented the Electoral Integrity Programme to strengthen the integrity of the UK's democracy.<sup>7</sup> It has also introduced a

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<sup>1</sup> Charity number: 1185872 (England and Wales) [www.spotlightcorruption.org](http://www.spotlightcorruption.org)

<sup>2</sup> Spotlight on Corruption (16 May 2023) [Who is the Conservative Party donor with alleged links to the vast money laundering operation known as the Azerbaijani Laundromat?](#)

<sup>3</sup> Guardian (3 May 2023) [Government defeats move to tighten UK foreign donations law](#); Politico (11 May 2023) <https://www.politico.eu/newsletter/politico-london-influence/foreign-funding-fears-appg-fubar-grassroots-lobbying-drive-2/>; Independent (3 May 2023) [Ministers accused of wanting to keep 'loophole' on foreign donations](#); Metro (10 May 2023) [Foreign money is still influencing British politics – democracy needs protecting from dodgy donations](#)

<sup>4</sup> Spotlight on Corruption (December 2022) [know your donor rules for political parties](#)

<sup>5</sup> See for example, Spotlight on Corruption: 6 January 2023 [Can the next UK General Election be protected from dirty money?](#); (10 May 2023) [Time for a 'Know Your Donor' policy](#); (2 March 2023) [A "modest step in the right direction" – Peers accept amendment requiring UK political parties to identify and manage risks of donations from foreign powers](#)

<sup>6</sup> Conservative and Unionist party (2019) [Manifesto](#)

<sup>7</sup> Department for Levelling Up, Housing and Communities (July 2022) [Electoral Integrity Programme: Senior Responsible Owner appointment letter](#)

series of measures that focus on tackling hostile state interference in the UK's democracy, including the National Security Act 2023,<sup>8</sup> the Defending Democracy Taskforce<sup>9</sup> and the Integrated Review Refresh.<sup>10</sup>

The Elections Act 2022 removed the 15-year limit on British citizens living overseas being allowed to vote in UK elections, extending the franchise to all British citizens who have lived in the UK. Newly eligible voters will be able to register from January 2024 once regulations have passed through Parliament.

The Government estimates that, as a result of the change, between 3.2-3.4 million British nationals living overseas could become eligible to vote, (and therefore donate to candidates and political parties) and form unincorporated associations if they are composed of two or more overseas electors<sup>11</sup> in order to spend potentially significant amounts of money on UK election campaigns.<sup>12</sup>

Concerns have previously been raised by the Electoral Commission that these sorts of measures may increase levels of fraud.<sup>13</sup> This is particularly due to the fact that overseas voters will be able to provide an attestation of their identity by another overseas voter, and it will be difficult for electoral authorities to enforce penalties against those who provide false identity information or false attestations.<sup>14</sup>

The Elections Act 2022 also removed the Electoral Commission's power to institute criminal proceedings although it retains responsibility for civil enforcement.<sup>15</sup> The Government has recognised that it may be difficult for the Electoral Commission to enforce restrictions on foreign spending internationally "*as it is outside of their jurisdiction.*"<sup>16</sup>

At a time of increased risk of electoral fraud overseas, and of donations originating from overseas, it is currently not clear which enforcement body in the UK now has overall responsibility for leading the UK's strategic, national enforcement response to serious criminal offences under Political Parties, Elections and Referendums Act 2000 (PPERA) and the foreign interference regime in the National Security Act 2023.

This means that there is a grave risk that there is no effective criminal deterrence against rogue actors who may seek to undermine the UK's electoral processes.

### *The NCA's role in relation to election finance offences*

It is clear to us, from a review of the NCA's statutory duties, powers and strategic and operational priorities that there is an overwhelming case that the NCA can and should be leading and coordinating the national response to these crimes, by scaling up its expertise and capacity, investigating and coordinating enforcement activities, making full use of its powers through enhanced collaboration with the Electoral Commission, Metropolitan Police Service ('MPS') and other agencies, and publicly committing to more robust enforcement.

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<sup>8</sup> Home Office (28 April 2022) [Impact Assessment, National Security Bill: Counter state threat measures](#)

<sup>9</sup> <https://committees.parliament.uk/publications/39054/documents/192033/default/>

<sup>10</sup> HM Government (March 2023) [Integrated Review Refresh](#)

<sup>11</sup> Section 26 of the Elections Act 2022 inserted section 89A into PERA; see also Department for Levelling Up, Housing and Communities (13 September 2023) [Non-party campaigner: draft code of practice](#)

<sup>12</sup> Cabinet Office (1 July 2021) [Elections Bill Impact Assessment](#)

<sup>13</sup> Cabinet Office (February 2018) [A democracy that works for everyone: British citizens overseas - Response to feedback to policy proposals](#)

<sup>14</sup> House of Commons Library (16 November 2023) [Overseas Voters; https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/680357/Draft\\_response\\_to\\_Overseas\\_Electors\\_policy\\_statement\\_v2\\_1.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/680357/Draft_response_to_Overseas_Electors_policy_statement_v2_1.pdf)

<sup>15</sup> Section 19 of the Elections Act 2022 amended Schedule 1 of PERA

<sup>16</sup> Cabinet Office (1 July 2021) [Elections Bill Impact Assessment](#)

The Crime and Courts Act 2013 confers significant functions on the NCA – including crime reduction, criminal intelligence and the functions conferred by the Proceeds of Crime Act 2002.

In exercising the NCA’s functions, you must have regard to the priorities set by the Secretary of State, the NCA’s annual plan and the framework document.<sup>17</sup> Current strategic priorities include: *“intensify its work to tackle the threat from hostile states, corrupt elites, cyber and economic crime”* and *“play a full role in delivering the Government’s wider strategy to reduce crime and respond to national security threats.”*<sup>18</sup> Current operational priorities include: *“strengthen our leadership role with partners and the public”*, where success will be measured by a more cohesive, efficient and effective national operational response to threats.<sup>19</sup>

From the strategic and operational priorities, it is clear that the NCA should play a lead role in coordinating the national enforcement response to serious crime in election finance, intensify its work tackling the threat from hostile states to the UK’s democracy and help to deliver the Government’s strategy to respond to national security threats in UK electoral processes. The agency is also uniquely well-placed to tackle money laundering in UK election finance.

The NCA also has considerable tools to deliver on these enforcement outcomes which are not available to other agencies. These include its oversight of the UK’s strategic response to high-end money laundering, powers under the Criminal Finances Act 2017, International Liaison Officers and broader cooperation with overseas law enforcement agencies, human and technical intelligence-gathering capabilities, intelligence-sharing through the International Crime Bureau and access to suspicious activity report data.

The NCA has particular powers, capabilities and networks to investigate foreign interference in the UK’s democracy. The agency’s close working relationship with the Security Service (MI5) is at the heart of *“collective efforts to keep the country safe from all threats to national security”*.<sup>20</sup> This relationship includes sharing intelligence, assessments of current threats and collaboration on investigations to enhance your evidence-gathering capability.

It is essential that the NCA robustly addresses malign influence in electoral finance in order to properly discharge its functions and to have meaningful regard to its strategic and operational priorities. Trust in the administration of the UK’s elections is at stake with only 30% of people thinking the authorities would take appropriate action if a political party is caught breaking the rules.<sup>21</sup>

However, from our review of recent cases, we are very concerned that the NCA appears to have taken a backseat in enforcement. In the few cases that the NCA has commented on in recent years involving alleged donations from foreign sources and/or allegedly linked to money laundering or other criminality, it has expressly ruled out or has taken no further action on every occasion.

### *The current enforcement gap in election finance*

The Electoral Commission works with the National Police Chiefs’ Council (‘NPCC’) and the City of London Police to provide support and training to a network of police specialists in election crimes, and the NPCC has a Lead for Financial Investigations and Elections.<sup>22</sup> However, the Electoral Commission has identified that:

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<sup>17</sup> Section 4(2) of the Crime and Courts Act 2013

<sup>18</sup> NCA [Annual Plan 2022/23](#)

<sup>19</sup> NCA [Annual Plan 2022/23](#)

<sup>20</sup> MI5 [partnerships](#)

<sup>21</sup> Electoral Commission (2023) [Public Opinion Tracker](#)

<sup>22</sup> Electoral Commission (7 February 2023) [Parliamentary Parties Panel minutes](#); City Week 2023 [speaker bio](#)

*“...the overall system is not coherent and does not provide an effective deterrent. For offences which involve intent or recklessness, the only option is police investigation and then criminal prosecution. This means there is still an ‘enforcement gap’ for cases which are intentional but which are not, from a police perspective, in the public interest to take forward. Police forces’ pressured resources are understandably commonly prioritised to both more traditional police work and importantly serious victim-based crimes.”<sup>23</sup>*

The MPS Special Enquiry Team investigates allegations of electoral fraud and malpractice within London.<sup>24</sup> However, the Team does not have the NCA’s broad national-level powers or suite of legal tools to tackle national security risks and money laundering in election finance, or significant alleged breaches of UK political finance law that originate from complex agency-based or corporate overseas-based movements of funds.

The MPS has carried out no investigations into possible offences under sections 54(7) or 61(1) of PPERA since 2010 and has recently proposed that it fully withdraw from enforcing election finance offences.<sup>25</sup> The Electoral Commission has raised concerns about the lack of criminal enforcement, emphasising that, *“Voters and campaigners should be able to know that non-compliance will be identified and dealt with proportionately and swiftly. The absence of any criminal prosecutions undermines the ability to deter or punish offences.”<sup>26</sup>*

The Electoral Commission shares information about potential criminal offences with other investigating or prosecuting authorities,<sup>27</sup> but both the Electoral Commission and MPS have said that the current information-sharing powers are inadequate.<sup>28</sup> The NCA’s broad information-sharing powers, and the functions conferred by the Crime and Courts Act 2013, underscore the need for it to step up to fill the UK’s current enforcement gap, and to take a lead in coordinating a national enforcement response to serious crime in election finance – including foreign interference and money laundering.

#### *Election finance offences include serious crimes that cause significant harms*

Political party funding from donors with links to corruption, money laundering or hostile states represents a fundamental threat to the UK’s democracy and national security. Dirty money leaves parties and MPs exposed to malign influence and the criminals and politically exposed persons who provide it, risks fostering dependence on criminal funds and undermines the integrity of our democratic processes. The risks are compounded by the limited statutory requirements on political parties to run checks on donations.<sup>29</sup>

Independent bodies and MI5 have issued a series of warnings that hostile states have sought to influence our democratic processes by donating to political parties. For example, a report by the Intelligence and Security Committee (ISC) in 2020 identified that members of the Russian elite linked to Vladimir Putin had donated to UK political parties.<sup>30</sup> In January 2022, MI5 warned that an alleged Chinese agent had sought to influence UK parliamentarians on behalf of the Chinese Communist Party, having donated to Labour and the Liberal Democrats.<sup>31</sup> The ISC’s recent report on China said the country has sought to influence UK political thinking and decision-making, including through channelling donations to political parties.<sup>32</sup>

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<sup>23</sup> Electoral Commission (24 July 2020) [response to the Committee on Standards in Public Life review of electoral regulation](#)

<sup>24</sup> Metropolitan Police Service [response to CSPL consultation on the review of the regulation of election finance in the UK](#)

<sup>25</sup> Metropolitan Police Service [response to CSPL consultation on the review of the regulation of election finance in the UK](#)

<sup>26</sup> Electoral Commission (24 July 2020) [response to the Committee on Standards in Public Life review of electoral regulation](#)

<sup>27</sup> Electoral Commission (5 April 2016) [Enforcement Policy](#)

<sup>28</sup> Metropolitan Police Service [response to CSPL consultation on the review of the regulation of election finance in the UK](#)

<sup>29</sup> Spotlight on Corruption (10 May 2023) [Time for a ‘Know Your Donor’ Policy](#)

<sup>30</sup> Intelligence and Security Committee (21 July 2020) [Russia report](#)

<sup>31</sup> Guardian (13 January 2022) [MI5 accuses lawyer of trying to influence politicians on behalf of China](#)

<sup>32</sup> Intelligence and Security Committee (13 July 2023) [China report](#)

Changes resulting from the Elections Act 2022 to the franchise for overseas voters meanwhile have created new risks of potentially suspect funds or funds linked to foreign influence operations entering UK electoral finance through donations made from abroad.<sup>33</sup> These are risks that the NCA is more suited than any other enforcement body in the UK, with its wide international reach and proactive surveillance powers, to monitor and investigate.

### *Potential loopholes in our election finance laws*

It may be that the NCA is unable to exercise any significant role in enforcing the UK's current electoral finance laws because of the serious weaknesses in them. If that is the case, it is crucial for the public and policymakers to understand how enforcement in this area is being affected by the legal framework and what needs to change.

Some of these weaknesses may include that:

- The NCA has stated that it is lawful for a permissible donor to make a donation that comes from funds derived from someone overseas as long as it is the donor's decision to donate.<sup>34</sup>
- The Electoral Commission has identified that UK elections law *"is silent on whether or not money obtained from crime would make a political contribution unlawful"*.<sup>35</sup>
- There are no requirements under the PPERA<sup>36</sup> for parties and MPs to undertake due diligence on donations or to identify the true source of donated funds.<sup>37</sup>
- A UK-registered company or limited liability partnership may donate money to a UK political party provided it *"carries on business in the UK"*,<sup>38</sup> with no requirement for this to come from profits generated in the UK.<sup>39</sup> The Electoral Commission has identified this as creating a risk of political parties accepting proceeds of crime.<sup>40</sup>
- Unincorporated associations are not required to ensure that those who make donations to them are lawful donors,<sup>41</sup> and only need to disclose whatever details they know of the name and address of a person who makes any political gift above £7,500.<sup>42</sup>

### *Next steps*

Given the seriousness of the issues raised in this letter and the critical need to restore public trust going into the general election, we would be grateful if you could acknowledge receipt by return and provide a full response with reasons to the following questions within 28 days of the date of this letter, by 2 January 2024:

1. How does the NCA view its remit in relation to election finance, and what is that role in relation to other enforcement bodies such as local police authorities?
2. Has the NCA identified specific gaps in the current election finance laws that have impinged on its ability to undertake election finance investigations under PPERA?

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<sup>33</sup> House of Commons (31 January 2023) [Overseas voters](#)

<sup>34</sup> New York Times (10 June 2022) [UK officials won't investigate political donations flagged for Russian origins](#)

<sup>35</sup> openDemocracy (1 April 2019) [Why the Electoral Commission didn't investigate Vote Leave and DUP donation](#)

<sup>36</sup> Section 54 of PPERA

<sup>37</sup> Spotlight on Corruption (10 May 2023) [Time for a 'Know Your Donor' Policy](#)

<sup>38</sup> Section 54 of PPERA

<sup>39</sup> Electoral Commission [guidance on donations and loans](#)

<sup>40</sup> CSPL (July 2021) [Regulating Election Finance](#) pg. 50

<sup>41</sup> openDemocracy (5 June 2017) [How dark money is drowning British democracy](#)

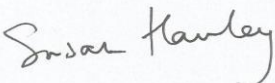
<sup>42</sup> PPERA, Schedule 19A

3. How many investigations into election finance offences under PPERA has the NCA carried out in the past five years and how many of these were referrals from the Electoral Commission?
4. Which factors (and please confirm if they are set out in a policy, guidance or otherwise) inform or constrain the NCA's discretion of whether to investigate cases involving possible corruption, proceeds of crime and/or suspected foreign influence in UK election finance?
5. Have any (and, if so, please specify how many) otherwise viable investigations into corruption or suspected foreign influence in UK election finance been refused or curtailed because of the NCA's resource constraints or operational capacity?
6. What steps did the NCA take to investigate the possibility that the Azerbaijani Laundromat may have been used as part of a foreign influence operation in the UK, and whether donations made by Javad Marandi were part of this operation?
7. What is the basis for the NCA's reported interpretation of PPERA, such that it declined to carry out further investigations into Ehud Sheleg's donation of £450,000 to the Conservative party in February 2018 and does not appear to have investigated any of his other donations?<sup>43</sup>
8. What steps has the NCA taken to investigate whether donations from companies owned by Karan Chanana and Peter Virdee Singh were from laundered funds or part of a money laundering operation?

We would welcome the opportunity to meet with you to discuss these issues.

We look forward to hearing from you.

Yours



Susan Hawley

Executive Director

Spotlight on Corruption

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<sup>43</sup> New York Times (10 June 2022) [UK officials won't investigate political donations flagged for Russian origins](#)