

Report: The regulation of campaigners at the referendum on the UK's membership of the European Union held on 23 June 2016 | Electoral Commission Search

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Enforcing the rules Download our full report First published: 13 June 2019 Last

updated: 9 August 2019 About the referendum Our first report on the EU referendum,

published in September 2016 1 , focused on the administration of the referendum,

including the experience of voters and campaigners, the management and delivery of

the poll, the regulation of campaigners at the referendum and the provision of

information for voters. This second report includes information on the use of our

investigatory and sanctioning powers and analyses the funding and spending of those

people and organisations that registered to campaign. Where appropriate, we make

recommendations to inform the regulation of future referendums based on the

information campaigners were required to submit in their spending and donation

returns 2 . Funding the campaigns and campaign spending After the EU referendum,

registered campaigners were required to submit a campaign spending and donation

return to the Commission. The returns included details of the spending that the

campaigners incurred campaigning at the referendum and all donations and loans they

accepted over £7,500. s were also required to provide a total figure of any donations

and loans of £7,500 or below, but over £500. Anything with a value of £500 or less

was not counted as a donation or loan for the purpose of the referendum rules. s that

are registered political parties were required to submit details of the spending they

incurred campaigning at the referendum. They were not, however, required to report

donations or loans towards that spending during or after the referendum (unless they

are minor parties). The regulatory rules on political parties ensure there are

controls on the sources of their funding and transparency of where that funding has

come from 3 . The data in this report is taken from the statutory returns submitted

by campaigners on the 23 September 2016 and 23 December 2016. Any changes in the

campaign finance data resulting from our on-going compliance work will be available

on our website. In summary: 123 campaigners registered with the Commission from 1

February 2016 - 63 indicating they supported 'Remain' and 60 supporting the 'Leave'

side. Appendix 1 provides a list of the campaigners that registered for each outcome.

Registered campaigners reported spending a total of £32,642,158 campaigning at the EU

referendum and reported having accepted donations totalling £30,714,106 and loans of

£6,071,940. s that registered to campaign for the UK to remain in the EU reported

spending £19,309,588. s that registered to campaign for the UK to leave the EU

reported spending £13,332,569. The two designated lead campaigners reported total

spending of £13,510,049 - The In Campaign Ltd reported spending £6,767,584; and Vote

Leave Ltd reported spending £6,742,466. Political parties that registered to campaign

at the EU referendum reported spending of £9,030,300. 58 other registered campaigners

reported spending of £10,101,809 4 . Out of total reported donations of £30,714,106,

the reported donations to those that registered to campaign for the 'Leave' outcome

amount to £15,854,432 and for the 'Remain' outcome to £14,859,674; 52% and 48% of

total reported donations respectively. More information on campaign funding and

spending of the registered campaigners at the EU referendum can be found on our

website. Our website also contains charts that allow users to analyse the data 6 .

Regulation and enforcement Our regulatory activity during the referendum campaign was

aimed at preventing breaches of the campaign spending rules before they occurred. To do this we used a range of regulatory tools, including the provision of an advice service for campaigners and the public as well as monitoring the campaigns to identify and engage with activity that risked breaking the rules. Where appropriate, proportionate and necessary, we took regulatory or enforcement action including investigations leading to sanctions. Further details are given in Chapter 2. We are confident that our regulatory activity during the campaign prevented major breaches of the rules. We are, however, considering a number of issues under our Enforcement Policy following an initial inspection of the spending and donation returns submitted by campaigners. Lessons for future referendums As had been the case at previous referendums held under the Political Parties, Elections and Referendums Act 2000 (PPERA), a number of changes and improvements were made to the regulatory controls specifically for the EU referendum. These changes were made by Parliament through the specific EU Referendum Act 2016 and associated secondary legislation, rather than updating the standard referendum rules set out in PPERA. This means that those changes will not apply for future referendums, unless they are again included in the specific referendum legislation. Overall, the financial controls that applied at the EU referendum worked well and improved on the rules that applied at previous referendums. We did, however, make a number of recommendations intended to improve the regulation and reduce the burdens on campaigners at future referendums in our first report published in September 2016. We have identified further lessons that can be learnt from the information campaigners were required to submit in their spending and donation returns to further refine the legal framework in relation to campaign funding, spending and reporting. These include important recommendations to increase transparency during the months before the referendum by providing that pre-poll reporting should apply at all future referendums in the UK, and to help ensure the integrity and effectiveness of the referendum spending rules by clarifying the controls that apply when campaigners incur joint spending. Our ongoing compliance activity may also result in lessons for future financial regulation. We have also restated a number of our previous recommendations. These include that the statutory restrictions on the publication of promotional material by Governments and other publicly funded bodies should be significantly redrafted before any future referendum, and that campaign-related staff costs should be included in the limits on political party election and referendum campaign spending. We have provided below an overview of all the recommendations made in this report, which build on the 15 recommendations made in our first report (these are also repeated here, in appendix 2). Where appropriate, we recommend that certain changes should be incorporated into PPERA so that they apply for all future referendums. Recommendations: Campaign funding Recommendation 1: Loan controls should be incorporated into PPERA. The absence of loan controls in the PPERA referendum rules is a significant gap in the regulation of referendums. The UK Government should bring forward the relevant secondary legislation to introduce loan controls at all future referendums held under the PPERA framework. Recommendation 2: The individuals and bodies eligible to register to campaign at referendums should be the same as the eligible non-party campaigners at elections. The ability of the additional eligible campaigners to donate and lend to other referendum campaigners should also be considered. The list of individuals and bodies eligible to register as a referendum campaigner should be realigned with the list of eligible registered non-party campaigners under PPERA. The ability of the additional eligible campaigners to donate and lend to other referendum campaigners should also be considered. It will be important that any changes to the

categories of permissible donors and lenders are clearly defined, particularly in relation to political parties that register to campaign at a referendum.

Recommendation 3: The Government and Parliament should re-visit the permissibility controls on companies. In light of the fact that the PPERA permissibility controls on companies do not fully reflect the recommendations from the Committee on Standards in Public Life, and the implications of the current company permissibility test

highlighted by our investigations, the Government and, in due course, Parliament should re-visit the issue of the permissibility controls on companies to ensure that they meet the underlying policy intention of preventing donations and loans from foreign companies. Recommendation 4: The Commission's ability to pay the lead campaigner grant in instalments should be incorporated into PPERA. In order to safeguard public money and to ensure efficient administration of the grant, the Commission's ability to pay the grant available to lead campaigners in instalments should be incorporated into PPERA so that it applies for all future referendums.

Recommendations: Campaign spending Recommendation 5: The Government and Parliament should take into account the evidence from the EU referendum when considering whether the PPERA referendum spending limits remain appropriate. The Commission does not have a specific statutory role in advising on spending limits at UK-wide referendums held under PPERA. It is nevertheless important that the Government and Parliament take into account the evidence from the EU referendum when considering whether the PPERA referendum spending limits, including the registration threshold, remain appropriate in the context of any future UK-wide referendum. Recommendation 6: Campaign-related staff costs should be included in the limits on political party election and referendum campaign spending. To provide consistency between the controls on referendum campaigners, party campaign staff, candidates and non-party campaigners, as well as close a gap in a large strand of election and referendum campaign spending, campaign-related staff costs should be included in the limits on political party election and referendum campaign spending. Recommendation 7: Joint spending controls should be incorporated into PPERA. To help ensure the integrity and effectiveness of the referendum spending rules, appropriate controls should be incorporated into PPERA to regulate campaigners that engage in joint spending so that they apply for all future referendums. To improve transparency and enforceability, the controls should include a requirement that campaigners must include the names of those they worked with and how much they each spent in their post-referendum spending return. To reduce complexity and allow the Commission to provide clearer advice and guidance to campaigners, the Government and Parliament should clarify what constitutes joint spending for the purposes of regulating referendum campaign expenditure. This should specifically include: Making clear the scope of the legal term 'a plan or other arrangement' Defining what is meant by the fact that referendum expenses must be incurred 'by or on behalf of' those involved in the joint spending, and Exploring whether or not the joint spending rules should explicitly say that regulated expenses should be incurred by every party involved, in order for those rules to apply. In addition to the above clarifications, when the joint spending controls are incorporated into PPERA, the Commission should be given a Statutory Codemaking power to enable us to clarify any further matters should they arise in the future. Recommendation 8: An appropriate level of imprint information should be required on online and electronic referendum campaign material. To ensure that campaigners' identity is clear to voters, an appropriate level of imprint information should be required on online and electronic referendum campaign material. However, before applying such requirements, the Government and Parliament should give careful

consideration to the lessons learnt from the drafting and practical application of the imprint rules in the Scottish Independence Referendum Act 2013. We would welcome the opportunity to work with the Government on this.

Recommendations: Reporting

Recommendation 9: Pre-poll reporting requirements should be incorporated into PPERA so they apply for all future referendums. To increase transparency during the months before the referendum poll and help encourage campaigners to ensure that they only accept donations from permissible sources, pre-poll reporting requirements should be incorporated into PPERA so they apply for all future referendums. If the referendum legislation is passed but does not immediately come into force, the legislation should provide for the pre-poll reporting requirement to commence as early as possible.

Recommendation 10: s that incur low levels of spending should only be required to submit a 'nil return' or declare the amount of spending incurred if below the registration threshold. To provide an appropriate balance between reducing the administrative burdens on campaigners that registered but only incurred low levels of spending, and providing transparency to campaign spending: The requirements for registered campaigners to submit a 'nil return' or a declaration that they have spent less than the relevant registration threshold, rather than complete a full spending return, should be incorporated into PPERA so they apply for all future referendums. Where a campaigner submits a declaration that they have spent less than the relevant registration threshold, they should be required to provide a figure of the total regulated spending incurred.

Recommendation 11: s should be required to include itemised information for pre-registration spending in their return. To improve transparency and reduce a potential incentive to delay registration, registered campaigners that submit a full spending return should be required to include itemised information for all regulated expenditure, including spending incurred before a campaigner registers with the Commission.

Recommendation 12: The return declaration requirements in the EU Referendum Act 2015 should be incorporated into PPERA. To enable campaigners to sign truthfully the return declaration when they have accepted an impermissible donation, the return declaration requirements in the EU Referendum Act 2015 should be incorporated into PPERA so they apply for all future referendums.

Recommendations: Enforcing the rules

Recommendation 13: The Commission's current fine limit should be reviewed and increased. To ensure that our sanctioning regime provides a strong deterrent to noncompliance, our sanction limit of £20,000 should be reviewed and increased to a level that would act as a suitable deterrent reflecting the level of fines available to other commensurate statutory regulators and financial regulation regimes.

Download our full report [Our report on the regulation of campaigners at the EU referendum](#)

1. Report: 23 June 2016 referendum on the UK's membership of the European Union ■ [Back to content at footnote 1](#)

2. Further background information on the EU referendum is contained in our first report. ■ [Back to content at footnote 2](#)

3. Information on the donations and loans made to political parties is available on our finance database. ■ [Back to content at footnote 3](#)

4. A further 48 campaigners submitted either 'nil' or declarations of spending below the registration threshold, including 10 other political parties. 7 campaigners failed to submit returns and are the subject of enforcement activity ■ [Back to content at footnote 4](#)

6. The data in this report is accurate at the time of publication. However, depending on the specific filters users apply, the results produced following analysis of the data on our website may not always match the figures in this report. Additional or substituted data may also be included on our website following the outcome of our compliance activity. ■ [Back to content at footnote 6](#)

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