

Report of investigation into the Conservative and Unionist Party - recording and reporting of payments | Electoral Commission Search Report

of investigation into the Conservative and Unionist Party - recording and reporting of payments You are in the Investigations section Home Investigations On this page Summary of report The investigation Our findings First published: 9 December 2021 Last updated: 9 December 2021 Summary of report Our investigation looked at whether any transactions relating to works at 11 Downing Street fell within the party finance regime regulated by the Commission and whether any such transactions were recorded and reported as required. The evidence showed that the Conservative Party received a donation of £67,801.72 from Huntswood Associates Limited in October 2020 – £52,801.72 of which was to cover the cost of three invoices relating to the refurbishment of Downing Street. £15,000 was reported as a donation in the party's Q4 2020 donation report; the remaining £52,801.72 was not. Our investigation concluded that the full amount of the £67,801.72 was a donation and should have been reported to the Commission. We also concluded that the reference to the payment made by the party for the refurbishment in the party's financial records was not accurately recorded. The investigation found that decisions relating to the handling and recording of these transactions reflected serious failings in the party's compliance systems. The registered treasurer had a responsibility to put in place systems appropriate to a party with a complex internal infrastructure and substantial sums of money coming into its accounts. However, in this instance, the payment was incorrectly described in internal records and the full value of the donation was not correctly identified and reported. Consequently, it was not included in our donation publication. The Commission considered other payments relating to the refurbishment works; they were not judged to be reportable donations, and so we found no offences in relation to those payments. For the offence of failing to accurately report the full value of the donation from Huntswood Associates, the Commission has imposed a penalty of £16,250. For contravening the requirement to keep proper accounting records, a penalty of £1,550 has been imposed. The investigation Opening of the investigation On 5 March 2021, the Conservative and Unionist Party ("the party") contacted the Commission seeking advice on an "urgent query relating to donations". This followed reports in the media about the funding arrangements for works at 11 Downing Street. The party did not initially provide detailed information. During March we sought and obtained further information from the party to establish the facts in order to provide advice. The information related to a specific amount, a payment of £52,801.72, made to the party on 19 October 2020. Throughout, the party said that this payment was not a donation to the party. It described it variously as a donation to the Prime Minister via the party; as a 'gift to the nation' rather than a donation to the party; as a ministerial matter; and as the repayment of a loan. On 29 March we informed the party that, based on the information it had provided to that point, we considered it had likely received a donation that had not been reported to us as required by law. The party then provided additional information to seek to support the position that the sum was the repayment of a loan and not a donation. However, the information provided was not in our view sufficient to support this position, and did not change our analysis of the evidence we had seen at that point. We reached the view on 28 April that there were reasonable grounds to suspect that an offence had been committed, on the basis that a donation had been accepted and not correctly reported. We also considered it in the public interest that we investigate the matter. We therefore opened an investigation. Scope of the investigation Under the Political Parties, Elections and Referendums Act 2000 (PPERA), regulated by the

Commission, registered political parties must identify and report donations they receive above a certain financial threshold. Reports must be made on a quarterly basis and delivered to the Commission within 30 days of the quarter's end, for publication. Our investigation concerned whether the £52,801.72, or any other transactions relating to the works at 11 Downing Street, fell within the political finance regime regulated by the Commission and, if so, whether the party complied with the legal requirements of that regime. The sum of £52,801.72 was part of a total sum of £67,801.72 paid to the party on 19 October 2020 by Huntswood Associates Ltd, a company controlled by Lord Brownlow, who has made a number of donations to the party in the past. The party reported £15,000 as a donation in its report for the fourth quarter of 2020. The balance was not reported. We expanded the investigation, on the basis of the information obtained during it, to consider whether the party had correctly recorded other transactions as per the requirements of the political finance regime. The registered treasurer of a party, in this case Mr Alan Mabbutt, is the person legally responsible for compliance with the donation reporting regime for registered parties. As the subject of our investigation, he is identified by name in this report. Other officials referenced in this report are not named, but roles and areas of responsibility have been explained where relevant to our findings. Huntswood Associates Limited is named as it is identifiable as the donor, and Lord Brownlow as the person with sole control of that company. About donations A donation to a party is defined in PPERA as a gift of money or other property with a value of over £500. When parties receive a donation, they must check that they can accept it, record it, and report it to us if the value is over £7,500. The investigation (continued)

Engagement with the party and others We served a legal notice on the party requiring it to provide evidence to the investigation. We also served notices on Cabinet Office and Lord Brownlow (as the sole person with significant control of Huntswood Associates), as we believed that both held further relevant evidence. The notices required recipients to provide all information held relating to the financial arrangements and transactions for the funding of the works at 11 Downing Street. The scope of the notices was wide to ensure that any transactions involving the party, directly or indirectly, were covered. The material provided was analysed to determine what was relevant to the investigation, and only relevant evidence is referenced in this report. We received over 2,400 pages of evidence in response to the notices by the deadline we set. This included financial records such as invoices, bank statements, credit card bills, and communications including letters, emails, meeting minutes and WhatsApp messages. We subsequently sought explanations from the party in relation to aspects of the evidence, including any possible reasonable excuse for the apparent failure to correctly report a donation. We offered the registered treasurer the opportunity to discuss matters in person, though this was not taken up. The party requested and was granted extensions to some deadlines. Outline of the transactions In order to establish whether or not an offence had been committed, we needed to establish whether the party had accepted any donations which had not been reported as required by law. We therefore examined the series of transactions which occurred in relation to the works in Downing Street. We understand that costs for works to the private residence at 11 Downing Street are met by the Cabinet Office up to a sum of £30,000 per annum. On the basis of the evidence we obtained, we established the following sequence of events took place. 21 January 2020: the supplier of the refurbishment work provided to a senior adviser at 10 Downing Street a detailed proposal for works to the residential areas of 11 Downing Street. February 2020: officials from the Cabinet Office and 10 Downing Street considered options for how

these works could be funded, beyond or instead of the £30,000 annual public grant already available. The option settled on was for a trust to be set up using anonymous donations. 1 May 2020: Lord Brownlow was approached by a senior party official to lead the process of establishing a trust, subsequently known as the Downing Street Trust, and, once it was established, to be its Chair. Lord Brownlow agreed and met with Cabinet Office officials to begin the process. 11 and 12 June 2020: the senior party official, the senior adviser at 10 Downing Street, and Lord Brownlow spoke by telephone about work already being undertaken at 11 Downing Street and the bills arising from this. They agreed an arrangement that was then relayed to and agreed with Cabinet Office officials by email on 22 and 23 June 2020. The supplier would be told to send the outstanding invoices to Cabinet Office, which would pay them and be subsequently reimbursed by the party, on the basis that the party would then be refunded by the proposed trust once that was set up. 23 June 2020: the Prime Minister formally offered Lord Brownlow the role of Chair of the Downing Street Trust. 24 June 2020: the supplier sent Cabinet Office three invoices totalling £52,801.72. One of those invoices, for a deposit on items of furniture, indicated that a further invoice would follow for the balance. 29 June and 2 July 2020: Cabinet Office paid the three invoices on the basis of the arrangement that the party would then refund it. July 2020 onwards: a series of meetings and discussions took place involving Lord Brownlow and Cabinet Office officials, to progress work on the proposed trust. 20 July 2020: Cabinet Office invoiced the party for £52,801.72. 6 August 2020: the party made a payment of £52,801.72 to Cabinet Office. September 2020: Cabinet Office received a further invoice from the supplier for £12,967.20, for the balance referred to in the earlier invoice of 24 June. Cabinet Office forwarded this to Lord Brownlow, who then forwarded the invoice to the senior party official. There was then further correspondence between the senior party official, the senior advisor at No 10 Downing Street and Lord Brownlow regarding who would pay this invoice. 24 September 2020: at a meeting of the group working on setting up the Downing Street Trust, including Cabinet Office and No 10 Downing Street officials and Lord Brownlow, it was resolved that no more works were to be commissioned for the residence without prior authorisation by Lord Brownlow. 13 October 2020: Lord Brownlow emailed the senior party official, asking: "...could you advise me of the total that The Conservative Party has 'lent' The Downing Street Trust? I will then make a donation to The Party to clear the 'debt.'" A party finance officer advised Lord Brownlow that "£52,801.72 was processed on behalf of the Trust". 19 October 2020: Huntswood Associates, a company solely controlled by Lord Brownlow, paid the party £67,801.72. Lord Brownlow stated in his email notifying the party of the payment: "I will be making a donation to The Party today for £67,801.72. That includes the £15,000 you and I have agreed and £52,801.72 to cover payments The Party has made on behalf of the soon to be formed 'Downing Street Trust' of which I am Chairman." On the same day Lord Brownlow also paid £12,967.20 direct to the supplier for the invoice received in September. 19 October 2020: the party's finance team received the £67,801.72 and notified a range of party officers of this by email, including compliance staff under Mr Mabbutt and a senior officer in the fundraising team. £15,000 was identified as a donation. The balance was described as being for the "No10 fund" and by a senior finance officer as "funds for reimbursement". 22 October 2020: at a meeting with Cabinet Office officials relating to the proposed trust, Lord Brownlow confirmed that he had made the payment of £52,801.72 to the party and had paid the invoice for £12,967.20 directly to the supplier. 26 October 2020: in the course of an email chain relating to the payment of £67,801.72, a junior member of staff in the treasurer's department

of the party asked about the nature of the remaining £52,801.72 received from Huntswood Associates. They were told by a senior fundraising officer of the party that the £15,000 related to “events” and the balance was for “something else” and “don’t worry”. 29 November 2020: the Prime Minister messaged Lord Brownlow via WhatsApp asking him to authorise further, at that stage unspecified, refurbishment works on the residence. Lord Brownlow agreed to do so, and also explained that the proposed trust had not yet been set up but that he knew where the funding was coming from. 30 November 2020: Lord Brownlow confirmed to the senior party official his intention to cover the further refurbishment costs personally. December 2020: Lord Brownlow discussed further proposed works with the supplier, approved the work, and requested invoices. 6 December 2020: Lord Brownlow confirmed to the Prime Minister that he had approved further works. 18 December 2020: Lord Brownlow paid £33,484.80 to the supplier. Cabinet Office officials were informed of the payment by Lord Brownlow at a meeting regarding the proposed trust on 21 January 2021. 12 February 2021: Lord Brownlow paid a further £13,295.40 to the supplier. He sent a detailed update on the proposed trust to the Prime Minister. This brought the total sum paid by Lord Brownlow and Huntswood Associates combined to £112,549.12. £59,747.40 of this was paid directly to the supplier by Lord Brownlow and £52,801.72 was paid to the party by Huntswood Associates. 9 March 2021: a senior Cabinet Office official stated in an internal email that the Prime Minister has confirmed he has now paid all bills with the supplier personally. On that basis, the supplier was now £112,549.12 overpaid. Following discussion and agreement between Cabinet Office, 10 Downing Street, the party and Lord Brownlow, between 9 and 23 March 2021: the supplier paid Lord Brownlow £112,549.12, of which Lord Brownlow returned £52,801.72 to the supplier the supplier then paid £52,801.72 to Cabinet Office, the sum Cabinet Office had originally paid to the supplier Cabinet Office then paid the party £52,801.72, the sum the party had paid Cabinet Office originally the party paid £52,801.72 to Huntswood Associates. The net effect was that Lord Brownlow, Huntswood Associates, Cabinet Office and the party had been repaid. Any payments between the Prime Minister and the supplier are outside the scope of our investigation. Our findings

Determination relating to the payment of £52,801.72 being a donation The Commission is satisfied that the full amount of the payment of £67,801.72 by Huntswood Associates to the party on 19 October 2020 constituted a donation under electoral law. A donation is defined in the Political Parties, Elections and Referendums Act 2000 (PPERA) as “any gift to the party of money or other property”. ‘Gift’ has its usual common usage; that the giving is voluntary, without receiving anything of value in return and without enforceable conditions attached. The payment of £52,801.72 made by Huntswood Associates to the party meets this definition. The evidence includes multiple instances where, at the time, Lord Brownlow, as Director of Huntswood Associates, described the payment as a donation. The payment was reimbursing the party for money it had paid to Cabinet Office. He explicitly stated that the donation was to ensure the Downing Street Trust, when created, would not have a debt to the party to settle. The payment was made voluntarily, without receiving anything of value in return, and without conditions attached. It was a gift, and a donation. The party said that the transaction was a repayment from Huntswood Associates following on from an arrangement under which the party had lent £52,801.72 to the unformed Downing Street Trust, by way of a payment of that amount to Cabinet Office. The Commission therefore considered whether this payment was made in respect of a loan or other similar arrangement. The Commission is satisfied there was no loan to the proposed trust. Legally, a loan only exists where there is a lender and another

person who agrees to borrow money. In this case there was no such relationship. The trust did not exist as a legal entity and could not agree to borrow money, and there was no loan agreement. Further, whatever arrangement the party considered to exist did not involve Huntswood Associates. There was no evidence that Huntswood Associates received anything of value in return for its payment to the party. The Commission has therefore concluded that the payment of £52,801.72 was the voluntary payment to the party, by Huntswood Associates, of the sum the party had previously paid to Cabinet Office. The Commission is satisfied beyond reasonable doubt that the payment by Huntswood Associates was a gift of money, within the definition of a donation set out in PPERA. Determination regarding inaccurate reporting of the donation The Commission is satisfied that the registered treasurer of the party failed to report, without reasonable excuse, the full value of the donation of £67,801.72 from Huntswood Associates on 19 October 2020. Under section 65(4) PPERA, the treasurer of a registered party commits an offence if, without reasonable excuse, he delivers a donation report to the Commission which does not comply with any requirements of PPERA as regards the recording of donations in such a report. For cash donations from a company, the report must give the name and registered address of that company, the amount of the donation and the date it was accepted. The £67,801.72 from Huntswood Associates was received by the party as a single payment. But during processing by the party it was separated: £15,000 was treated as a donation, and the remaining £52,801.72 was not. It was not reported as required by law so the Commission considered whether there was evidence of a reasonable excuse for this omission. Mr Mabbutt, as the registered treasurer of the party, is responsible for reporting donations as part of his legal duties under PPERA. It is therefore his responsibility to ensure sufficient checks are made on any payments to the party so that all reportable donations are identified. Mr Mabbutt has consistently stated that he did not know at the time about either the payment to Cabinet Office on 6 August 2020, or the £52,801.72 part of the donation received on 19 October 2020. The evidence supports this. However, the Commission is satisfied that Mr Mabbutt's lack of awareness arose from the party having inadequate systems in place which, as those systems are within his control and form a part of his duty as registered treasurer, does not amount to a reasonable excuse. The burden is on those responsible under PPERA to put in place appropriate systems that are sufficiently robust and to maintain a control and oversight so that the systems are sufficient to ensure compliance with the regime. The registered treasurer is answerable for the system and acts done in their name. The mechanics of the systems will vary depending on the financial size and complexity of the party concerned, but must be effective. For a large party with a complex internal infrastructure and substantial sums of money moving through its accounts, these systems will need to be sufficiently robust to ensure compliance in that context. Therefore, in order to comply with his PPERA obligations, Mr Mabbutt must have systems in place that allow him to ensure that any sums of money received by the party that are reportable donations are reported in line with the law. That system must be appropriate and proportionate to his party. The evidence in this case was that the finance and fundraising staff of the party did not have the necessary knowledge to recognise that the full payment from Huntswood Associates was required to be reported under PPERA, and did not ensure that others with that knowledge, such as compliance staff, were asked for advice. A senior member of the party's compliance team was copied into the email of 19 October 2020 in which the £67,801.72 payment was referred to as being only in part a donation. However, there is no evidence to suggest that the compliance team took any steps at the time

the donation was made to query why only a part of the payment was being treated as a donation. When a more junior member of the treasurer's department did later query what the remainder was for, they accepted without further inquiry the statement from a senior member of fundraising staff that it was "something else". This is despite the fact that the role of that senior member of staff was in fundraising and not in ensuring compliance with PPERA. The compliance systems the registered treasurer had in place failed to ensure the necessary checks. The fact that Lord Brownlow clearly expressed his view that he was making a donation is a further reason why concerns should have arisen in this particular case. Mr Mabbutt told us that as soon as he was alerted to the situation in March 2021 he contacted the Commission for advice, and the evidence supports this. By that stage though, any request for advice was too late to assist the party in deciding whether it needed to report a donation – the donation had been accepted and the relevant deadline for reporting had passed. Accordingly, the Commission has determined that there was no reasonable excuse for Mr Mabbutt's failure to report this donation. Mr Mabbutt failed to accurately report the full value of the £67,801.72 donation received from Huntswood Associates on 19 October 2020, and there was no reasonable excuse for this failure. The Commission is therefore satisfied beyond reasonable doubt that Mr Mabbutt committed an offence under section 65(4) PPERA.

Determination relating to other invoices The Commission is satisfied that the payment of other invoices relating to the refurbishment works were not reportable donations under PPERA, and so we found no offences in relation to those payments. Three further payments were made directly to the supplier by Lord Brownlow towards the costs of the refurbishment of 11 Downing Street. Money spent in paying expenses incurred directly or indirectly by a party is classified as a donation under PPERA. We considered whether these payments were meeting costs incurred by the party. The payment of £12,967.20 on 19 October 2020 was for the balance of an earlier invoice and was made by Lord Brownlow to the supplier, and the evidence did not support a conclusion that party had agreed to pay this invoice. In the case of the payments of £33,484.80 on 18 December 2020 and £13,295.40 on 12 February 2021, Lord Brownlow had previously made clear that his authorisation should be obtained before any further costs were incurred. His authorisation was sought and given, and he paid the invoices. There is no evidence of any agreement that these expenses were incurred by, or would be paid by, the party. The evidence does not support a conclusion that any of those further three payments made by Lord Brownlow met costs incurred by the party.

Determination relating to the recording of transactions The Commission is satisfied that the party failed to keep accurate financial records in relation to the payment of £52,801.72 it made to Cabinet Office. Section 41(1) PPERA sets out the requirement that the registered treasurer must ensure accounting records are kept in respect of the party which are sufficient to show and explain the party's transactions. Those accounting records must show, with reasonable accuracy, the financial position of the party at that time. In particular, the records must contain entries showing from day to day all sums of money received and expended by the party, and the matters in respect of which the receipt and expenditure take place; and a record of assets and liabilities. There is no offence associated with failing to comply with this requirement, but the Commission may impose a penalty for non-compliance with it. The £52,801.72 payment made to Cabinet Office on 6 August 2020 was recorded in various internal party records as a "blind trust loan". We are satisfied that the payment to Cabinet Office was not a blind trust loan, the party had no legal right to repayment of the sum, and the recording of this by the party was materially inaccurate. Internal accounting records are

essential for ensuring that the party is able to comply fully with other statutory requirements. That is particularly the case for a party with a significant volume of financial transactions. The references to this transaction as a “blind trust loan” did not accurately reflect the circumstances. As a result, the party’s records indicated that it would be reimbursed when it had no guarantee of that, and therefore misrepresented its financial position. We are therefore satisfied beyond reasonable doubt that the party failed to keep accurate records as per the requirement of section 41(1) in respect of the payment to the Cabinet Office of £52,801.72 on 6 August 2020. We did not identify any further inaccurately recorded transactions amongst those in the evidence we considered. Sanctions For the inaccurate reporting of the donation of £67,801.72, the Commission imposed a penalty of £16,250. For failing to keep accurate financial records, the Commission imposed a penalty of £1,550. Before the final determination of the offence and contravention was made and the level of penalties was set, the party had the opportunity to make representations as to the Commission’s provisional findings and proposed penalty. We carefully considered those representations, and that consideration is reflected in the findings above. The Commission also noted that the party acknowledged some failings in its systems, and proposed some changes to those systems. We have offered to work with the party to support improvements. The penalties imposed reflect the seriousness of the offence and contravention. The Commission noted in particular that transparency in political finance relies on the accurate recording and reporting of donations by political parties, as does voters’ ability to understand how parties are funded. In this instance, the party conducted its financial affairs in a way which shows a lack of regard for the law that the party is bound to comply with. The Commission has a reasonable expectation that registered political parties will co-operate openly and effectively with the Commission to ensure that there is transparency in political finance. However, at various points before the investigation when communicating the situation to the Commission, the party described the payment as a loan, a commercial transaction and an agency arrangement. Similarly, at various times the payment was described as coming from either Lord Brownlow or Huntswood Associates, which are not the same entity. The party also made statements to the Commission which were not supported by the evidence subsequently obtained. It said that there was a written agreement between Huntswood Associates, the party and Cabinet Office that the Cabinet Office invoice cost would be covered by Huntswood Associates, and that the party’s finance team facilitated a transfer of funds from Huntswood Associates to Cabinet Office. Finally, this is not the first time the party failed to deliver an accurate quarterly donation report. Two penalties were previously imposed on the party in 2019 and 2020 for failures by Mr Mabbutt to report donations, and there have been previous failures. Such repeat non-compliance risks undermining public confidence in the political finance regime. Related content How investigations work As the regulator of political finance in the UK, we ensure that parties and campaigners follow the law. If we believe that the law may have been broken we take action so that voters, parties and campaigners can be confident in the fairness of the system. about our enforcement work Political parties, campaigners and other groups have to report their finances to us. Find out about campaign spending, donations and loans and annual accounts. How we make decisions Find out about our Board, committees and groups