



## **Democratic Political Activity (Funding and Expenditure) Bill [HL]** **(HL Bill 10 of 2017–19)**

### **Summary**

The [Democratic Political Activity \(Funding and Expenditure\) Bill \[HL\]](#) is a private member's bill introduced by Lord Tyler (Liberal Democrat). It aims to regulate both the funding and expenditure of political parties by introducing a number of measures, including a cap on donations and an amount-per-vote scheme, which would be funded by money provided by Parliament. The Bill received its first reading in the House of Lords on 27 June 2017 and is scheduled to receive its second reading on 27 October 2017.

Setting out the purpose of the Bill, Lord Tyler stated:

This Bill is based on the cross-party draft published by Andrew Tyrie MP, Alan Whitehead MP and Lord Tyler in April 2003, and seeks to fulfil the objectives of the report on this subject by the Committee on Standards in Public Life published in November 2011. The current Bill updates previous proposals to reflect a series of manifesto commitments from all the main political parties to take the big money out of British politics, and takes account of the recommendations of the 2016 Select Committee on Trade Union Political Funds and Political Party Funding. It also reflects recent widespread concern about the adequacy of current constraints on both party donations and campaign spending.<sup>1</sup>

### **Overview of the Bill**

#### **Provisions**

The Bill is comprised of 29 clauses and three schedules. Clause 1 makes clear that the Bill would build on the requirements set out in the Political Parties, Elections and Referendums Act 2000 (PPERA), which places restrictions on donations and loans to political parties. This includes donations only being accepted from permissible donors, for example, individuals on the electoral register and companies registered under the Companies Act 2006 who are incorporated within the UK or another EU member state.<sup>2</sup> Clause 2 sets out the meaning of the term 'represented registered parties' included in the Bill. Represented registered parties are identified as those with at least two current members of the House of Commons, a devolved legislature or the European Parliament. Clause 3 details the maximum allowable amounts that a party could accept in a year from a single source. The cap would be phased in over a ten year period, with the maximum amount decreasing each year as follows:

- 1 January 2018, £50,000
- 1 January 2019, £40,000

- 1 January 2020, £30,000
- 1 January 2021, £25,000
- 1 January 2022, £22,500
- 1 January 2023, £20,000
- 1 January 2024, £18,500
- 1 January 2025, £15,000
- 1 January 2026, £12,500

From 1 January 2027 and each year thereafter, the maximum allowable amount that a party could accept from a single source would be £10,000. At present, there is no limit for permissible donations.

Clauses 4 and 5 would define what would be considered either a donation or loan. Clause 6 sets out the circumstances in which affiliation fees by trade unions and other membership organisations would be treated as individual funding. However, before this could happen, the Electoral Commission would have to issue a notice under clause 7 that it was satisfied the membership organisation had met the conditions outlined in clause 8 of the Bill. These conditions would include a requirement that members of trade unions and other membership organisations who contributed to an organisation's political fund must be allowed to specify that their contribution could not be paid to a registered party as an affiliation fee. In addition, the conditions would include a requirement that members must be informed of their right to opt-out of the political fund either in person or on the organisation's website. This condition would apply both to trade unions and other membership organisations. Clause 9 relates to the Secretary of State having the power to use statutory instruments to make provision that trade union members shall only make contributions to a political fund by written consent.

Clauses 10 to 18 seek to change the basis on which public funding is provided to political parties. Clause 10 outlines the amount-per-vote scheme. For each financial year, an amount would be paid to each represented registered party out of money provided by Parliament. The amounts would be: 50p per vote for candidates standing at the last general election; and 25p per vote for candidates and party lists standing in either the last European Parliament elections or devolved elections. Clause 11 would provide matched funding for registered supporters of a political party. The Bill specifies that the amount of the matched payment in any tax year would be limited to £5 in respect of each donation to a represented registered political party.

Clauses 12 to 14 detail the application of gift aid to donations to political parties. Clause 15 outlines the spending restrictions that would apply to political parties, with funds only being able to be spent on: the development of policies for manifestos; the promotion of such policies; expenses incurred during elections; ensuring that public duties of elected representatives are carried out; and accommodation and administrative costs.

Clause 16 would repeal section 12 of PPERA, consequently ending the Policy Development Grants scheme, although no date is given as to when this would take place. Clause 17 would change the requirements on candidates to secure valid nominations at parliamentary elections. As a result, the Bill would change the basis for securing a valid nomination from previously requiring a £500 deposit to needing 100 registered supporters for parliamentary elections.

Clause 18 would give the Secretary of State the power to bring the provisions of clauses 10 to 17 into force on a particular date made by statutory instrument. Clause 19 would provide for an annual limit on "non-election expenses" incurred by political parties. It would also stipulate that no more than

0.5 percent of the limit—set by the Secretary of State—could be spent communicating directly with electors in any one constituency in any given year. The clause also mentions schedule 1, which details the qualifying expenses. Clause 20 seeks to increase the candidate limit at general elections by amending the Representation of the People Act 1983. Clause 21 would bring into effect schedule 2 of the Bill which contains amendments to PPERA.

Clause 22 seeks to remove restrictions on pre-candidacy election expenses for certain general elections by also amending the Representation of the People Act 1983. During the general election 2017, candidates were restricted to spending a fixed amount of £8,700 on election expenses, with a variable top up of 6p per registered voter in a borough constituency and 8p in a county constituency.<sup>3</sup>

Clause 23 and schedule 3 would provide for free delivery of candidate election addresses for each candidate or party list in elections to either the UK or European Parliaments compiled into one booklet.

Clause 24 would provide for the Secretary of State to give more powers to the Electoral Commission, an independent body which regulates political finance in the UK, that the Secretary of State considers necessary to give effect to the Bill. Clause 25 outlines that a review of the effects of the Bill would take place no later than 1 January 2020, and then every two years from that date. Clauses 26 to 28 set out a number of general matters, including interpretations and order and regulation-making powers. Lastly, clause 29 contains the commencement provisions and states that the Bill would extend to the whole of the United Kingdom.

## **Background**

Party political funding comprises of many different forms. Firstly, eligible political parties are entitled to public funding. This is usually in the form of Policy Development Grants, which are designed to assist parties with the development of policies for inclusion in a manifesto. Under the Policy Development Grants scheme, a total of £2 million is shared equally among the eligible parties. To be eligible for the grant, a party must have at least two sitting MPs in the House of Commons, with those MPs having taken the oath of allegiance provided by the Parliamentary Oaths Act 1866.<sup>4</sup> Other examples of public funding include both Short Money and Cranborne Money.

Political parties are also funded by donations. However, donations over £500 to political parties can only be accepted from “permissible donors”, for example, individuals on the UK electoral register or most UK-registered companies.<sup>5</sup> It is the responsibility of political parties to report certain donations to the Electoral Commission and make them public. Some of the donations that must be reported by political parties include: all impermissible donations; all permissible donations over £7,500; and all permissible donations and loans that total £7,500 from the same source in the calendar year.<sup>6</sup>

According to the Electoral Commission, political parties received a total of £53.5 million in donations in 2016.<sup>7</sup> The figure represents a decrease on 2015 figures, with a total of £86.7 million donated to political parties. The Electoral Commission also reports that during the 2015 general election campaign, political parties spent a total of £37.6 million.<sup>8</sup> This included spending £15.2 million on unsolicited material to the electorate, £7 million on advertising and £2 million on overheads and general administration.<sup>9</sup> At the time of writing, spending figures for the 2017 general election had not been published.

In November 2011, the Committee on Standards in Public Life published its report into political party finance. The Committee found the current party funding arrangements “unsustainable”, citing that the main political parties depend on funding from a “relatively small number of individuals, trade unions or

other organisations".<sup>10</sup> As a result, the Committee made a number of recommendations. These included the introduction of limits of £10,000 on donations from any individual or organisation in any year to any party with two or more elected representatives; and cutting party spending on election campaigns by 15 percent.<sup>11</sup>

In addition, the Committee recommended supplementary public funding to political parties, based on the number of votes secured in the previous election. The funding would be at a rate of approximately £3 per vote in Westminster elections and £1.50 per vote in devolved and European elections.<sup>12</sup> The Committee on Standards in Public Life calculated that the cost of the additional support would total approximately £23 million a year.<sup>13</sup> Clauses 10 to 18 of the Democratic Political Activity (Funding and Expenditure) Bill [HL] follow on from recommendations by the Committee. However, some clauses do not replicate them exactly. For example, the Committee recommended that a cap of £10,000 be placed on donations to a political party from any individual or organisation in any year. In contrast, the Bill seeks to introduce a cap, which would be phased-in over a ten year period, with the maximum amount starting at £50,000 and decreasing every year.

However, there are also some differences between the Committee's recommendations and the provisions in the Bill. In its report, the Committee recommended that Policy Development Grants be made available to parties with "significant representation" in the devolved legislatures, whereas the Bill seeks to end the grants by repealing section 12 of PPERA.<sup>14</sup> At present, the Policy Development Grants total £2 million per year and in order to be eligible for one, a political party must have at least two sitting Members of the House of Commons.<sup>15</sup>

Responding to the Committee on Standards in Public Life's report, the then Deputy Prime Minister, Nick Clegg, told the House of Commons:

The Government believe that the case cannot be made for greater state funding of political parties at a time when budgets are being squeezed and economic recovery remains the highest priority.<sup>16</sup>

In February 2012, Mr Clegg invited representatives from the Conservative, Labour and Liberal Democrat parties to participate in cross-party discussions regarding the reform of political party funding, as recommended in the Committee's report. However, the parties could not reach an agreement.<sup>17</sup>

In May 2013, Andrew Tyrie (then Conservative MP for Chichester and chair of the Treasury Committee) and Alan Whitehead (Labour MP for Southampton Test), along with Lord Tyler, published a draft bill on party funding, based on some of the recommendations made by the Committee on Standards in Public Life. The draft Bill included a number of provisions which sought to reform the party funding system, including introducing a cap on donations and an amount-per-vote scheme.<sup>18</sup> Thus, many provisions in that draft Bill mirror those in the Democratic Political Activity (Funding and Expenditure) Bill [HL], such as a cap on donations and changes to the public funding of political parties.

On 28 January 2016, the Trade Union Political Funds and Political Party Funding Committee was appointed by the House of Lords to examine party funding in the context of the Trade Union Bill which was then before the House, including the recommendations made by the Committee on Standards in Public Life into the issue. The Committee published its report on 1 March 2016, among its recommendations was a call for political parties to "give effect to their manifesto commitments on party funding".<sup>19</sup> In the Conservative Party's 2015 general election manifesto, it stated that it would "continue to seek agreement on a comprehensive package of party funding reform".<sup>20</sup> Whilst, the Labour Party's 2015 general election manifesto affirmed the Party's stance to reform political party funding.<sup>21</sup> The Liberal

Democrat's manifesto committed to taking "big money out of politics" by capping donations at £10,000 per person each year and to introduce reforms based on the 2011 report into political party finance.<sup>22</sup>

In addition, the Committee's report urged the Government to "convene cross-party talks with a view to making a renewed and urgent effort to reach agreement".<sup>23</sup> In its response to the Committee's report, the Government stated:

Despite a decade of talks, there is still no cross-party consensus on the separate and broader issue of party funding at this time. This is ultimately a matter for the political parties—the Government cannot impose consensus from Whitehall [...] More broadly, the Government wants a democracy that works for everyone, and is committed to taking steps to further increase transparency and accountability.<sup>24</sup>

The Trade Union Bill was introduced in the House of Commons on 15 July 2015. The Bill included a provision making it unlawful to require a union member to opt-in to payments contributing towards a union's political fund, unless they gave their written consent to do so. During the Bill's report stage, Lord Burns (Crossbench), who chaired the select committee examining the effect of some of the Bill's provisions on political party funding, moved an amendment on union members funding. The amendment sought to: limit the opt-in process to new members, rather than existing members; increase the transition period for new members opting-in from a minimum of three months to twelve months; and remove the requirement on trade union members to renew a decision to opt-in every five years. The Lords voted in favour of the amendment by 320 to 172, defeating the Government on the issue, subsequently forming part of section 11 of the Act.<sup>25</sup> The Bill gained royal assent on 4 May 2016 to become the Trade Union Act 2016.

On 6 June 2016, Lord Tyler introduced a private member's bill, the [Political Parties \(Funding and Expenditure\) Bill \[HL\] 2016](#). During the Bill's second reading, the Lords Spokesperson for the Cabinet Office, Lord Young of Cookham, stated that the Government would not be supporting the Bill. He contended that:

The Bill proposes a number of reforms to political party funding, including caps on donations and new schemes for public funding. These are complex structural reforms which could be taken forward only on the basis of a cross-party consensus. No such consensus exists at this time, so the Government believe that it is premature to consider a Bill at this time.<sup>26</sup>

The Bill failed to complete its remaining stages in Parliament prior to the end of the 2016–17 parliamentary session. It had many similarities to the provisions of the Democratic Political Activity (Funding and Expenditure) Bill [HL], with the only differences being the inclusion of clause 20 which seeks to increase candidate expenditure at general elections and the removal of a requirement to secure valid nominations at European Parliamentary elections. In the Political Parties (Funding and Expenditure) Bill [HL] 2016, the Bill would have changed the basis for securing a valid nomination from previously requiring a £500 deposit to needing 1,000 registered supporters for European Parliamentary elections.

In the 2017 general election, the Liberal Democrats reaffirmed their commitment to reform political party by introducing the same measures outlined in their 2015 manifesto.<sup>27</sup> However, neither the Labour Party nor the Conservative Party outlined plans for party funding in their [2017 general election] manifestos.

## Further Information

- House of Lords Library, [Party Funding: Summary of Developments in 2016](#), 28 October 2016
- House of Commons Library, [Political Party Funding: Controversies and Reform Since 1997](#), 24 March 2016; and [Political Party Funding: Sources and Regulations](#), 8 January 2016

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<sup>1</sup> Text provided by Lord Tyler on request from the Library.

<sup>2</sup> Political Parties, Elections and Referendums Act 2000, ss 54–57A.

<sup>3</sup> Electoral Commission, [UK Parliamentary General Election 2017—Guidance for Candidates and Agents: Spending and Donations](#), 11 May 2017, p 7.

<sup>4</sup> Electoral Commission, '[Public Funding for Parties](#)', accessed 10 July 2017.

<sup>5</sup> Electoral Commission, [Overview of Donations to Political Parties](#), September 2010, p 6.

<sup>6</sup> *ibid*, p 8.

<sup>7</sup> Electoral Commission, '[Overview of Donations and Loans Since 2001: Chart 2](#)', accessed 10 July 2017. Please note that sums have been rounded.

<sup>8</sup> Electoral Commission, '[Spending](#)', accessed 27 September 2017. Please note that sums have been rounded. At the time of writing, spending figures for the 2017 general election have not yet been made available.

<sup>9</sup> As of 27 September 2017, the Electoral Commission has not published spending figures for the 2017 general election.

<sup>10</sup> Committee on Standards in Public Life, [Political Party Finance: Ending the Big Donor Culture](#), November 2011, Cm 8208, p 8.

<sup>11</sup> *ibid*, pp 8–9.

<sup>12</sup> *ibid*, p 9.

<sup>13</sup> *ibid*, p 10.

<sup>14</sup> *ibid*, p 14.

<sup>15</sup> Electoral Commission, '[Public Funding for Parties](#)', accessed 27 July 2017.

<sup>16</sup> [HC Hansard, 23 November 2011, col 26WS](#).

<sup>17</sup> [HC Hansard, 4 July 2013, col 62WS](#).

<sup>18</sup> Andrew Tyrie, Alan Whitehead and Lord Tyler, [Funding Democracy: Breaking the Deadlock—A Draft Bill for Consultation](#), May 2013.

<sup>19</sup> House of Lords Trade Union Political Funds and Political Party Funding Committee, [Report](#), 2 March 2016, HL Paper 106 of session 2015–16, p 34.

<sup>20</sup> Conservative Party, [The Conservative Party Manifesto 2015](#), April 2015, p 49.

<sup>21</sup> Labour Party, [The Labour Party Manifesto 2015](#), April 2015, p 63.

<sup>22</sup> Liberal Democrat Party, [Manifesto 2015](#), April 2015, p 131.

<sup>23</sup> House of Lords Trade Union Political Funds and Political Party Funding Committee, [Report](#), 2 March 2016, HL Paper 106 of session 2015–16, p 34.

<sup>24</sup> Cabinet Office, [Memorandum to the House of Lords Select Committee on Trade Union Political Funds and Political Party Funding](#), December 2016.

<sup>25</sup> [HL Hansard, 16 March 2016, cols 1865–8](#).

<sup>26</sup> [HL Hansard, 10 March 2017, col 1622](#).

<sup>27</sup> Liberal Democrat Party, [Manifesto 2017](#), May 2017, p 9.

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