**Democratic deficit? The rules on election spending**

Election law prevents political parties and individual candidates from spending more than specified amounts on campaigning- even if it’s their own money. Accounts and receipts [must be produced](http://www.electoralcommission.org.uk/__data/assets/pdf_file/0013/102262/intro-party-treasurer-rp.pdf#page=8) to ensure compliance.

The restrictions that cover spending on individual candidates are [different from](http://www.electoralcommission.org.uk/find-information-by-subject/political-parties-campaigning-and-donations/candidate-spending-and-donations-at-elections) the rules that apply to national campaign spending. A party treasurer could be fined or even imprisoned for [giving false information](http://www.legislation.gov.uk/ukpga/2000/41/section/83). An MP convicted of breaking the rules on individual spending must leave parliament and cannot stand again for [three years](http://www.legislation.gov.uk/ukpga/1983/2/section/173).

All this is meant to ensure that voting is fair. But election expenses law is “[extremely complex](http://www.lawcom.gov.uk/wp-content/uploads/2016/02/electoral_law_interim_report.pdf#page=173)”, according to a report last year from the government’s law reform advisers. Even experts get it wrong.

In March 2017 the Conservatives were [fined £70,000](http://www.electoralcommission.org.uk/__data/assets/pdf_file/0005/222935/Report-in-respect-of-the-Conservative-and-Unionist-Party.pdf#page=4) by the Electoral Commission for various breaches of the law on spending at the 2015 general election and by-elections the previous year. The Crown Prosecution Service [announced](http://www.cps.gov.uk/news/latest_news/cps-statement-on-election-expenses/) in May 2017 that there would be no criminal charges.

**What does the law say?**

Much of the law can be found in two acts of parliament:

* **Political Parties, Elections and Referendums Act 2000**

This imposes [restrictions](http://www.legislation.gov.uk/ukpga/2000/41/section/75) on campaign spending by political parties.

The act also [set up](http://www.legislation.gov.uk/ukpga/2000/41/section/1) the Electoral Commission to [regulate political funding and spending](http://www.electoralcommission.org.uk/our-work/roles-and-responsibilities/our-role-as-regulator-of-political-party-finances/making-an-allegation/what-we-regulate).

* **Representation of the People Act 1983**

This act updated long-standing [restrictions](http://www.legislation.gov.uk/ukpga/1983/2/part/II/crossheading/election-expenses) on spending by *individual candidates* at elections. It [consolidated legislation](http://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN06255) dating back a century or more—but made no mention of political parties.

Both acts have been amended by subsequent legislation.

**Spending by political parties**

At national level, the treasurer of a registered political party [must report](http://www.legislation.gov.uk/ukpga/2000/41/section/80) campaign expenditure to the Electoral Commission. Failure to do so is an [offence](http://www.legislation.gov.uk/ukpga/2000/41/section/82), as is knowingly or recklessly making a [false declaration](http://www.legislation.gov.uk/ukpga/2000/41/section/83) of the expenditure. The treasurer is also under a duty to keep accounting records to “[show and explain the party’s transactions](http://www.legislation.gov.uk/ukpga/2000/41/section/41)”.

Campaign expenditure is [broadly defined](http://www.legislation.gov.uk/ukpga/2000/41/schedule/8) and normally covers spending [in the year](http://www.legislation.gov.uk/ukpga/2000/41/schedule/9/paragraph/3) before a general election. The requirements also cover spending at a by-election.

**At national level**

A registered political party can spend [£30,000](http://www.legislation.gov.uk/ukpga/2000/41/schedule/9/) for each constituency that it contests at a general election. So a party fighting 650 seats could spend up to [£19.5 million](http://www.electoralcommission.org.uk/i-am-a/journalist/electoral-commission-media-centre/news-releases-donations/parties-spend-31-million-at-uk-general-election) across the UK.

However, campaign expenditure does not include spending designed to enhance the prospects of an individual candidate.

**Spending by individual candidates**

At local level, election expenses [include](http://www.legislation.gov.uk/ukpga/1983/2/schedule/4A) advertising, leaflets sent to voters, transport, public meetings, staff, and accommodation and administrative costs. There are exceptions for personal and basic expenses.

All spending [must be channelled](http://www.legislation.gov.uk/ukpga/1983/2/section/73) through a candidate’s agent, who must keep within prescribed limits and report the amount spent to the returning officer.

The maximum permitted local expenditure at a UK parliamentary by-election is [£100,000](http://www.legislation.gov.uk/ukpga/1983/2/section/76).

In a general election, the maximum a candidate can spend in the 25 days before polling day is much lower: [roughly between](http://www.electoralcommission.org.uk/__data/assets/pdf_file/0019/214516/UKPGE-Part-3-Spending-and-donations.pdf#page=9) £10,000 and £16,000, [depending on](http://www.legislation.gov.uk/ukpga/1983/2/section/76) the number of voters and whether it is a borough or county constituency.

Election agents are [required to](http://www.legislation.gov.uk/ukpga/1983/2/section/81) provide a statement of election spending no more than 35 days after the result is declared.

**An example of when it can go wrong: South Thanet & Craog McKindley’s victory over Nigel Farrage**

The Electoral Commission announced on [18 February 2016](http://www.electoralcommission.org.uk/i-am-a/journalist/electoral-commission-media-centre/news-releases-donations/electoral-commission-statement-on-allegations-regarding-conservative-party-spending-return-for-2015-general-election2)  that it was investigating whether the Conservative Party had met its reporting obligations in respect of the general election in 2015. Its investigation was focused on whether spending on hotels in South Thanet during the general election should or should not have been included in the party’s national return, an issue [raised by Channel 4 News](http://electionexpenses.co.uk/) in January 2016.

On [1 March 2016](http://www.electoralcommission.org.uk/i-am-a/journalist/electoral-commission-media-centre/news-releases-donations/electoral-commission-extends-scope-of-investigation-into-conservative-party-campaign-spending-returns-concerning-hotel-bills-at-three-parliamentary-by-elections-in-2014), the Electoral Commission announced that it was extending the scope of its investigations to cover spending at parliamentary by-elections in three constituencies: Newark, Clacton, and Rochester and Strood. Again, this followed allegations reported by Channel 4. The party was accused of not declaring hotel bills for campaign staff working for its candidates. Including those bills would have taken total spending above £100,000 in each case. It was alleged that failure to include these bills is an illegal practice under the *Representation of the People Act 1983.*

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The Conservatives said this was national expenditure and was included in its return to the Electoral Commission. However, the party [said](http://www.channel4.com/news/battlebus-everything-you-need-to-know) that, as the result of an administrative error, it had “omitted to declare the accommodation costs”. It promised to correct this.

**What were the consequences?**

In March 2017, the Electoral Commission [concluded](http://www.electoralcommission.org.uk/__data/assets/pdf_file/0005/222935/Report-in-respect-of-the-Conservative-and-Unionist-Party.pdf#page=4) that the Conservatives had failed to keep adequate accounting records and it fined the party £70,000 and reported the party treasurer to the police over evidence of a false declaration.

The commission has no power to investigate illegal practices relating to individual candidates.

On 10 May 2017, the Crown Prosecution Service [announced](http://www.cps.gov.uk/news/latest_news/cps-statement-on-election-expenses/) that there would be no criminal charges, saying that “although there is evidence to suggest the returns may have been inaccurate, there is insufficient evidence to prove to the criminal standard that any candidate or agent was dishonest”.

