

Written evidence from Nick Burton (TEC46)

Public Administration and Constitutional Affairs Committee The Work of the Electoral Commission inquiry

1. This submission deals with two of the questions that the PACAC inquiry is considering:

What powers should the Electoral Commission have? Should the existing powers of the Electoral Commission be changed?

What, if any, reforms of the Electoral Commission should be considered?

2. It is also evidence for the Committee's enquiry into the Election Bill.
3. The Electoral Commission is responsible for promulgating financial limits on non-party local campaigning that have not changed since it was established over 20 years ago and which do not reflect the changes in local government structures in that time.
4. The original limits were in the 1983 Representation of the People Act in Section 75. This was updated by the Political Parties, Elections and Referendums Act 2000 Section 131 to the current limit described as the "permitted sum". It is of note that the permitted limits for most other election spending are now annually updated on the recommendation of the Election Commission reflecting its inappropriate bias in favour of national political parties over local no-party campaigns.
5. It is also relevant that in *Bowman v United Kingdom* in 1998 the European Court on Human Rights adjudged that "The [Representation of the People Act 1983](#) section 75 was an indirect restriction freedom of expression. The judgement stated "The restriction was prescribed by law, and pursued a legitimate aim of protecting others' rights: candidates and the electorate, by seeking to secure equality among candidates. Freedom of expression and the right to free elections were the foundation of a democratic system, but election spending could undermine equal elections. However, a £5 spending limit was practically an absolute bar on distributing information to influence voters. Given the lack of restrictions on political parties, it was not a proportionate response to secure equality between the candidates." The limit was subsequently increased to £500, for parliamentary elections, but the current much lower limit for local elections. I would contend that the current limit remains a restriction on freedom of expression.
6. The current limit for local non-party campaigns is £50 + 0.5p per voter, set over 20 years ago. So for a typical local government ward or division of not more 10,000 voters that is no more than £100. In reality that is less than 1000 leaflets or around 200-300 responses via Facebook adverts. Thus any non-party campaign can only reach less than 10% of voters.
7. The Charity Commission's guidance on political campaigning by charities specifically forbids them from aligning themselves to any party so any expenditure above the limit in the above para is effectively forbidden as it has to be declared to a specific political party.
8. The effect of this limit is to prevent serious campaigning in local wards/divisions on local specific issues, unless aligned to a bureaucratic nationally directed party machine full of compromises on its policies to suit vested interests – forbidden to

charities whatever their public benefit. This is not democracy in practice, and injurious to effective governance.

9. This negative effect is further compounded by the changes in local authority structures:
 - a. An increasing proportion of local authorities are now being amalgamated into unitary authorities as directed by central government. This has significantly increased the responsibilities, authority and remuneration of individual councillors, but not the size of their electorate. Some are now fulltime politicians.
 - b. An increasing proportion of councils now have some form of cabinet governance with councillors managing individual portfolios worth £10s or even £100s of millions.
 - c. There is an increasing tendency for council leaders and others to be members of super regional groups - Growth Boards, LEPS, Arc Leaders Group, Transport Authorities etc again with responsibility for or influence over even larger budgets. There is no requirement for these large scale roles to be part of any manifesto or individual election statement so they are largely unaccountable to those with responsibility for electing them.
10. If the councillor fails in these responsibilities then the worst they face is not getting re-elected. If I or the Stop The Arc Group spend £110 on a campaign then this is NOT enforced by the Electoral Commission but by the police. So I face arrest, a criminal conviction and a fine. This seems grossly disproportionate in effect and an unmerited attack on democratic campaigning.
11. The success of initiatives such as “Flat Pack Democracy” in Frome demonstrate the value in non-party based local government that such an opening up of campaigning to non-party interests can lead to.
12. Although the authority to upgrade the current spending limit would appear to require primary legislation it is with the remit of the Election Commission to seek such a change and there is an opportunity within the current Election Bill to do so.
13. The required change should reflect the number of voters and the current cost of contacting each one of them. The minimum cost of 10,000 A5 single sided flyers is around £700. It is important to maintain the option of physical information to avoid digital exclusion. This would give a **minimum limit of 7p per voter**. This would enable a more effective holding to account of councillors with their increasing authority, particularly in authorities with a dominance of single political parties who operate without challenge over decades. The ability to further increase the limit on an annual basis, in line with other election limits, would be a sensible change.
14. It is recommended that the Committee recommend that the Election Bill is amended as in the above paragraph or the Election Commission further examine this matter.

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