



Money And Democracy

Three steps to reform political
funding in the UK

No man can serve two masters.

- Matthew 6:24

KEY POINTS

- The last 18 months of political scandal revealed a fundamental problem in our political system: money exercises, or appears to exercise, a greater influence than votes.
- Democracy is based on the principle that each citizen must have an equal say. Allowing those who can afford it to buy a louder voice is undemocratic.
- The majority of the public support stringent measures to crack down on the perception that political influence can be bought, including capping, or even banning political donations. Politicians are out of step with the electorate on this issue.
- The existing rules on political finance are excessively complex and fail to address the core problem.

Three simple solutions are proposed:

1. Cap political donations at a level affordable to the poorest in society. This will mean that every citizen can afford to make the largest possible donation (if they so choose).
2. Make ministerial ethics and parliamentary standards decisions appealable to the courts so that politicians no longer “mark their own homework” on ethical issues.
3. Prohibit legislators from speaking, advocating, or voting where they have a financial conflict of interest. This brings parliament in line with best practice in the private and charitable sectors.

FOREWORD

The UK is today embroiled in fierce constitutional debate. However, too little thoughtful analysis is happening - at least at Westminster - on how and whether our constitutional system can be reformed. Instead, there is much bellowing of long held positions with little nuance nor evidence that those outwith the Palace of Westminster are being heard. This despite the huge changes sweeping our islands and continent.



Have the Conservatives witnessed an internal battle between English nationalists and unionists with the former triumphing? Does Brexit mean the end of the UK as we know it? English nationalists could be the midwives for yet more constitutional change - a border poll in Northern Ireland and Scotland choosing a different, bigger Union for its post-independence future.

A ferocious war has broken out in mainland Europe, potentially leading to further NATO and EU expansion if Ukraine can secure its freedom. It is clear that people, not just in our islands, have a hunger for self-determination. Democracy, human rights, and freedom inspire people today every bit as much as they did in the last century.

The author is a young barrister rooted both in academia and the practical aspects of the law. Frustrated by some of the crude rhetoric during the post 2019 Brexit parliamentary debates, in particular the constitutionally illiterate notion that MPs could vote for or against a hard Brexit (Governments sign treaties for the UK not parliamentarians) he felt that there should be better informed discussion by parliamentarians about our opaque constitution. He invited a group of cross-party MPs interested in the constitution to form an 'All Party Parliamentary Group For the Constitution' whilst establishing the 'Institute for Constitutional

and Democratic Research'. The aim? A better standard of debate around the constitution and reform.

After a well-received report on the policing of the Clapham Common protests, the Institute, which works closely with the All-Party Parliamentary Group, has now turned its attention to corruption in UK politics. This report could not be more timely.

I am pleased to be the SNP representative on the APPG and commend the report.

John Nicolson MP
Vice Chair of the APPG on Democracy and the Constitution
Shadow Secretary of State for Culture, Media, and Sport (SNP)
Member for Ochil and South Perthshire

This report represents the independent analysis of the author. The ICDR's trustees, donors, supporters, and other fellows have had no influence on its contents. The ICDR believes that, to address constitutional challenges effectively, we must be able to platform a range of views (so long as these are based on good quality analysis).

This report addresses a systemic issue. Given this, where individual donations or actions are referred to, all identifying information has been pseudonymised. Where references could reveal the identity of an individual, they have been collected at the end of the paper rather than in the endnotes.

Nothing in the report is intended or should be construed as an allegation of wrongdoing against any individual or other person or organisation. The only problems identified are systematic and fault is not implied or asserted in the case of any individual. The entirety of this report reflects the considered opinion of the author based on the sources listed.

THE INSTITUTE FOR CONSTITUTIONAL AND DEMOCRATIC RESEARCH

Constitutional and democratic issues are at the forefront of UK politics. They impact every part of our day to day lives, determining who makes decisions, how our vital interests are protected and who we are as citizens. Yet, as a nation, we often misunderstand our own constitution. This leaves government, legislators, and citizens ill equipped to address the challenges we face.

The ICDR aims to improve our constitutional discourse through public education and thought leadership. By opening up the legal and academic bubble it brings the best constitutional minds in the country to legislators, government, and the public at large. The Institute's mission is to:

1. **Advise** – Provide legislators and officials at all levels of government with non-partisan, concise, accessible, and strategic advice on constitutional issues including by acting as secretariat to the APPG on Democracy and the Constitution.
2. **Empower** – Empower citizens to engage in constitutional discourse through public education and providing educational resources for schools.
3. **Lead** – Provide thought leadership on constitutional and democratic issues by offering a platform for the nation's leading constitutional minds to engage with the public and media on our most pressing challenges.

The ICDR is entirely non-partisan. The institute works with legislators of all parties through the newly formed All Party Parliamentary Group on Democracy and the Constitution..

The ICDR believes in diversity of viewpoints and provides a platform for constitutional thought leadership on this basis. The contents of this report represent the author's own analysis and opinions and do not necessarily reflect the views of the ICDR trustees, donors, or supporters.

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THANKS

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EXECUTIVE SUMMARY

The Problem

We are experiencing consecutive years of political scandal. Accusations of “cash for access”, the ennoblement of party donors, and the revelations around MP’s second jobs have repeatedly rocked the public’s faith in our political class and (more importantly) our democratic system. 2022 included with allegations that MPs have accepted donations from an agent of the Chinese government,ⁱ wrote to ministers to warn against stricter rules on gambling, while also working as a “parliamentary advisor” to an industry group (although there is no evidence that the two are linked),ⁱⁱ and accepted money from individuals supposedly linked to the Russian government.ⁱⁱⁱ Underlying all these controversies is a more fundamental issue: Those with financial means are able (or appear to be able) to exert a greater influence on our politics than most citizens. There are five key elements to this problem:

- Parties and politicians have a greater incentive to respond to a small number of donors than to the public they are supposed to serve.
- Donors can appear to influence government policy.
- The executive can appear to give donors “special treatment” not available to ordinary citizens.
- Donations and job offers may appear to buy influence in parliament.
- Loopholes in the law mean that untraceable donations can influence politics and policy.

The majority of (arguably all) MPs act, at all times, with great probity. Scandals around donations and second jobs, however, damage the standing of all MPs in the mind of the public and, perhaps more importantly, damage faith in our democracy as a whole. A strong and functioning democracy must not only be free of undue influence **but also be seen to be so.**

The current system of regulation is overly complex, allows politicians to be judge in their own cause, and fails to address the fundamental problems.

The Solution

Three solutions are proposed which target the fundamental problem, ensure independent enforcement of the rules, and are as simple as possible.

1. **Limit political contributions to a level affordable for all** – Most of the public support either capping or banning donations. Many advanced democracies impose a cap. We propose bringing politics in line with public opinion and international best practice. The cap should be set so every voter can afford to make the maximum donation. This ensures that citizens can still express political preferences while ensuring that, just as no one is entitled to additional votes, no one can use donations to disenfranchise others.
2. **Give the courts the final say** – The courts are independent, make decisions based on dispassionate analysis, and ensure that those before them are treated justly. The decisions of the Parliamentary Standards Commissioner and the Independent Advisor on Ministerial Interests should therefore be appealable to the courts rather than to a parliamentary committee or the Prime Minister. This will ensure that decisions are taken on the basis of objective analysis rather than political convenience.
3. **Prohibit MPs from speaking, voting, or advocating on issues where they have a financial conflict** – When an MP has a second job or receives a donation, it creates a conflict of interest. While most MP's act entirely properly, the public is still entitled to wonder whether legislators are representing the interests of their constituents or those of their employer or financial backer. An outright ban on second jobs has undesirable results (MPs would not, for example, be able to write books or take shifts in the NHS during the pandemic), but a partial ban will inevitably lead to arbitrary distinctions between “good” and “bad” jobs. Instead, parliament should adopt best practice from the private and charitable sectors: Where an issue may impact on the interests of anyone to whom a parliamentarian has a financial connection, that parliamentarian should be prohibited from voting, speaking in parliament, or otherwise advocating on that issue.

MONEY AND POLITICS

Introduction: Years of Scandal

1. In October 2021, the International Consortium of Investigative Journalists (“the ICIJ”) published the Pandora Papers. They revealed a “shadow financial world” of offshore devices, shell companies, and trusts.^{iv} The papers also shed light on the level of access given to the largest donors. Those giving upwards of £50 000 can join groups with the right to attend dinners and receptions with the Prime Minister. In the words of one former member: “you get access, you get invitations.”^v It was subsequently reported that donors who give more than £250 000 to the government are invited to join an “advisory board”. The members of which received “more than just access”^{vi}

2. Weeks later Open Democracy broke a new twist in the ongoing^{vii} “cash for honours” story. Between 2016 and 2021, all but one of the governing party’s treasurers who had donated more than £3 million was elevated to the House of Lords. One former treasurer told the Sunday Times, “...once you pay your £3 million, you get your peerage.”^{viii}

3. Finally, the Prime Minister attempted to abolish parliament’s Standards Committee to protect Owen Paterson, a political ally, brought a renewed focus on MP’s second jobs. A number of MPs were revealed to be earning substantial second incomes advising organisations which can benefit from their access and influence as legislators.

4. Yet 2021 is by no means unique. In 2013 the BBC charted some financial scandals going back to the early 1990s. They involved both multiple political parties and included^{ix}:
 - (a) In March 2010 two former cabinet ministers were found to have breached parliamentary rules after accusations that they offered to lobby ministers and officials and obtain key advisory positions for clients in return for payments.

 - (b) “Cash for Cameron” (discussed in paragraph 25) in 2012.

- (c) The Bell Pottinger lobbying scandal, in December 2011, when a senior employee of the firm claimed to have a direct line to the Prime Minister and Chancellor of the Exchequer and to be able to direct them to raise its paying clients' concerns with foreign leaders.
 - (d) In 2011 the Defence Secretary was accused of giving a lobbyist access to foreign trips and a position as an "advisor".
 - (e) In January 2009 a number of peers were accused of offering to make amendments to legislation in return for payments of up to £120 000.
 - (f) In 1998 a lobbyist, and former special advisor, was caught boasting of the access he could provide to senior ministers in exchange for fees.
 - (g) In 1997 Formula 1 was exempted from a ban on tobacco advertising after the governing party received a donation of £1 million from Formula 1 boss Bernie Ecclestone.
 - (h) In 1994 several MPs were accused of asking questions in parliament in exchange for payments ("in brown envelopes").
5. Since 2013 (when the BBC's list ends), the scandals have continued. Boris Johnson, for example, has been investigated three times by the parliamentary watchdog in recent years.^x In the short period since the Patterson scandal, the 20 highest earning MPs have made more than half a million pounds from second jobs.^{xi}
6. These scandals are symptomatic of a much deeper problem. Those with the financial resources can influence and even dominate politics and public policy, leaving most voters disempowered.
7. This report does not single out any party or individual for blame and, indeed, should not be considered as suggesting that any individual or party has acted improperly. It is concerned with a systemic problem that is to the detriment of all parties and voters,

regardless of political beliefs. No allegation of law or rule breaking is made unless the relevant regulator has already made a decision to that effect.

8. Indeed, the mere perception of undue influence is as problematic as such influence itself. If voters believe that those they elect are acting improperly (and getting away with it) then they begin to lose confidence in our democracy. Every time an individual MP or minister is appears to be influenced by money, voters lose faith in the system as a whole. Indeed, polling shows that, after 2021, public trust in politics is at the lowest level on record.^{xii} One bad apple thus, in the minds of the public, spoils the whole bunch.
9. MPs are not like other professionals. The office they hold is one of unique power and public trust. This is even more acute in the case of ministers. Holding MPs to a higher standard is essential for our democracy.

The Problem: Money and Citizenship

10. The fundamental problem goes to the heart of our concept of citizenship. In a functioning democracy all citizens must have a broadly equal say about how the country is governed. It can appear that, in the UK, this is not the case. Those with greater economic means appear to have a greater say in our politics and policy than the average citizen. This undermines the essence of citizenship – that we all have an equal right to a say in the government of the country.

An Unfair Advantage

11. Political parties must win elections. In practice, less than 0.1% of the population determine whether parties can compete in elections at all. This means this tiny group (comprising, primarily, companies, unions, and wealthy individuals) can control and define our politics by determining the options put before the electorate. Only those parties which can attract the support of this small group can raise the funds to compete in elections or even engage in the day-to-day business of politics. The result is that only those parties that conform to the opinions of donors can win elections or, in some cases, exist at all.

12. As Table 1 (below) shows, the likely total number of donors to political parties represents less than 0.01% of the population. When we account for some donors being representative institutions (like trade unions) the total number likely remains less than 10% of the population. The average donation to any of the three largest parties in the UK is between £17 000 and £18 000. This is more than a person working full time on minimum wage will earn in a year and more than half of what the average UK earner takes home. In practice, therefore, it is simply not possible for the vast majority of the electorate to make donations of a size comparable with the average political donor. Indeed, around 20% of all political donations in the UK come from just 10 men.^{xiii}

13. In the 2019 general election the winning party outspent its rivals by around £4 million, spending around £16 million in total. In the same year, the party received nearly £56 million in donations but only raised just over £12 million from other sources. The party could, therefore, only afford its election campaign because of the support of donors. Had the party not advocated ideas that donors liked, it would not have had the same means to fight the election campaign. The second placed party received donations of £18 million in 2019 and spent around £12 million on its election campaign. Reform UK, the pro-Brexit party, received a donation of £13 million from a single donor in 2019 and spent £5 million on its election campaign (and only £17 million in total that year). A single person's donation thus funded the entirety of the party's election campaign and 76% of its total spending that year. The "Reclaim" party has received extensive media coverage and purports to speak for the "people" of Britain. Yet it is funded entirely by donations from just 24 individuals.^{xiv}

14. It is not suggested, at this stage, that donors necessarily have a say in party policies (although the incentive for such is not insubstantial). Rather, that parties which (even if independently) conform to the views of the those with the means are put in a much more powerful financial position than those which do not. Indeed, it is arguably necessary to win the support of at least one or two large donors to exist as an effective party at all. Nevertheless, it is clear that some donors seek to use their financial power to actively influence policy. In December 2021 a trade union acted on previous threats^{xv} to cut its funding to a political party because that party was not spending sufficient time

promoting the union’s policy goals. The union’s general secretary, commented that it was not getting “value for money” from its donations.^{xvi}

Table 1

		2020	2019	2018
CONSERVATIVE ^{xvii}	Total value of donations	17 228 000	55 706 000	22 904 000
	Estimated average donation ¹	19 689	23 685	24 869
	% income from donations	72%	82%	67%
LABOUR ^{xviii}	Donations	5 679 000	18 122 000	5 801 000
	Estimated average donation	15 997	19 096	15 428
	% income from donations	14%	32%	13%
LIBERAL DEMOCRAT ^{xix}	Donations	1 388 023	19 615 866	1 312 671
	Estimated average donation	2261	17 593	2841
	% income from donations	27%	80%	21%
SNP ^{xx}	Donations	416 186	904 695	323 936
	Estimated average donation	19 818	31 196	14 724
	% income from donations	9%	17%	7%
GREEN ^{xxi}	Donations	1 171 500	1 764 850	892 225

¹ Calculated on the assumption that each donor made a single donation. While this is unlikely to be true in every case, it provides a simple indicative figure.

	Estimated	13 016	16 191	14 870
	average donation			
	% income from donations	43%	51%	45%

Perception of Influence

15. One of the most problematic issues for political equality is the perception in the eyes of members of the public that government policy responds to the interests of donors. The examples explored in this section are by no means a definitive list, we have simply identified some examples of cases which may have contributed to this perception. It should be noted that these are examples of correlation (which is not necessarily the same as causation). At the very least, however, they create the impression that those with the means are able to buy favourable policy outcomes. This report is not intended to assign blame or target particular individuals or parties, but to identify deeper structural issues. For that reason, references to individuals have been pseudonymised unless it is necessary for the analysis.

Property development

16. From January 2010 to March 2020 property developers gave more than £60 million to the governing party.^{xxii} During the same period the government has consistently pursued policies that benefit property developers:

- (a) In 2012 the government’s planning reforms reduced local authorities’ powers to require developers to (*inter alia*) build social housing alongside market housing, provided taxpayer-funded subsidies to the industry in the region of £50 billion.^{xxiii} The Cameron government also restricted legal challenges to unlawful planning decisions.^{xxiv} Ministers claimed these reforms would lead to more houses being built. Before the coronavirus pandemic (which inevitably caused a sharp drop in construction), however, there were still fewer new homes being built than in 2006.^{xxv}

- (b) In 2013 the government launched the “help to buy” scheme. The independent Office for Budget Responsibility (“**the OBR**”) concluded that the policy would push up house prices but do little to reduce demand.^{xxvi} By 2020 the OBR’s prediction had been proved right: The average house price increased by more than £50 000^{xxvii} while the housebuilding increased at a rate of less than half the population growth over the same period.^{xxviii} The primary beneficiary of “help to buy” was, therefore, house builders (who benefitted from increased house prices) rather than house buyers.
- (c) In 2021 the government announced further plans which will (in effect) grant automatic planning decision for certain developments regardless of local objections.^{xxix}
17. It is, again, not for this report to say whether any of these policies should, in themselves, be supported or opposed. It is notable, however, that the property development sector, members of which have contributed around a fifth of the party of government’s donated funds since 2010, has also been a primary beneficiary of government policies during the same period.^{xxx} It is inevitable that some policies will have “winners” and “losers” and part of the government’s job is to make difficult decisions which benefit some and cause others to lose out. The problem, as in this case, occurs when the government may appear to be making such decisions for reasons of financial gain rather than public interest.

Russian interests

18. In 2017, the (then) Prime Minister, Theresa May, warned that Russia was attempting to interfere in the politics and elections of Western states, including the UK.^{xxxi} From 2010-2019, however, the governing party has received more than £3.5 million from Russian donors, many with links to the Russian government. Although ministers have often deployed tough rhetoric against Russia, in 2020 a report by parliament’s Intelligence and Security Committee (“**the ISC**”) revealed that “the UK Government have actively avoided looking for evidence that Russia interfered [in the UK’s democratic processes]”.^{xxxii}

19. Regardless of whether these two things are connected, it certainly appears that the interests of donors (to the extent that individuals with connections to the Russian government have an interest in protecting the image of that government), prevailed over the public interest (in ensuring that foreign powers do not interfere in democratic processes).

Climate change

20. Since the 2019 election the governing party has received more than £1 million from donors with interests in fossil fuels.^{xxxiii} In May 2021 the government permitted new exploration in the North Sea, apparently in contradiction of its climate pledges, prompting an ongoing challenge in the High Court.^{xxxiv} Despite the government rhetoric promising climate leadership, the UK pays a higher public subsidy to fossil fuel producers than any other G20 state^{xxxv} (even though 65% of voters oppose such subsidies.^{xxxvi}) Once again, there is a correlation between donations and policy which protects the interests of the donors (even against the wishes of the electorate).

The Appearance of Favourable Treatment

21. Similar to, but distinct from, the problem of selling policy, is the public perception that “special treatment” is offered to major donors of the governing party. Three examples are identified which may give rise to that impression.

Cash for honours

22. The issue of “cash for honours” has already been highlighted, but it is not isolated to 2021. The sale of peerages is a criminal offence.^{xxxvii} Yet the Crown Prosecution Service has generally declined to bring charges on the basis that such a prosecution cannot succeed without “direct evidence” of an “agreement”.^{xxxviii} Through 2006 and 2007 a number of cabinet ministers, including the then Prime Minister, Tony Blair, was questioned by police in connection with an alleged promise of peerages to donors who sponsored academy schools. No charges were brought.^{xxxix}

23. 22 of the governing party's donors have been made lords since 2010. The sheer numbers involved makes it statistically unlikely that this occurred by coincidence. Ben Parker of Brunel University has calculated the odds of this are the equivalent to those of entering the National Lottery 12 times in a row and winning every time.^{xi}
24. The impression created is that a place in the House of lords can be purchased for the price of £3 million. An illustrative example is that of Donor B. He began giving to the Conservative party in 2004 but substantially increased his donations from 2014-2016. In the summer of 2016, he made a donation of £261 900, which took his total donations to the party over the £3 million threshold. He was elevated to the House of Lords just five weeks later.
25. Donor C, who also served as Conservative party treasurer, was elevated to the Lords by Boris Johnson. The Lords Appointments Commission refused to support Donor C's appointment. In 2012, while party treasurer, Donor C was alleged to have offered two Sunday Times journalists access to David Cameron in exchange for donations to the party. Donor C sued the Sunday Times but, while he succeeded on some parts of his case, key allegations were upheld by the Court of Appeal. Johnson opted to ignore the advice of the Appointments Commission. Three days after his ennoblement, Donor C donated a further £500 000 to the party in government.
26. Donors have spoken of a "tradition" of ennobling former treasurers while a former party chairman is reported as confirming "once you pay your £3 million, you get your peerage."

Expedited planning permission

27. A recent event that is likely to have undermined public trust in politics is the case of Donor D. This donor was seeking planning permission for a development in Tower Hamlets said to be worth around £1 billion. The local authority opposed the plan. In such circumstances the developer is entitled to apply to the Secretary of State for a determination. Secretary of State then appoints a suitably qualified planning inspector

to examine the issue and make a recommendation (which is almost always accepted). The inspector recommended that permission be refused.

28. Donor D subsequently met the Secretary of State at a fundraising dinner. In a series of subsequent text messages, he pressed the minister to grant permission before a new rule came into force which would have required an even greater contribution to affordable housing. Although the Secretary of State declined to discuss the matter via text, he subsequently ignored his inspector's conclusions and granted permission. He insisted that officials issue the decision quickly so as to avoid the new rule. Two weeks later, Donor D donated £12 000 to the Secretary of State's party. The government was subsequently forced to accept that the Secretary of State's decision to grant planning permission was unlawful, and it was quashed by the High Court.

Pandemic procurement

29. It is well documented that billions of pounds were spent, without competitive tender, on materials relating to the coronavirus pandemic. Part of this procurement involved a "VIP lane", through which ministers and government MPs could refer companies and individuals for express approval. A substantial portion of the materials procured through this system were either defective or unusable.
30. Donors to the governing party appear to have benefited from the "VIP lane". For example, one company was given contracts, worth around £160 million, without public tender after a Donor E reportedly lobbied the government minister responsible directly. While Donor Es conversations with the minister may have been entirely unrelated to the relevant contracts, this could easily be seen as a government donor using his privileged access to a minister to request a favour, then receiving that favour (at substantial cost to the public purse).
31. Beyond procurement, donors to the governing party appear to have benefitted from other coronavirus measures. Donor F was awarded a taxpayer-funded loan (which was converted into equity amounting to £3.5 million) in the same month that it donated £20 000. Donor F has donated more than £70 000 since 2015. It was selected for an

exclusive (government organised) showcase for investors in 2021 and signed a contract to build a water treatment plant in Egypt, worth £20 million, at 10 Downing Street.

Lobbying foreign governments

32. Cash for favours The impression of favourable treatment for donors appears to go beyond domestic policy. Donor G made donations to the governing party in 2009 and 2017. In 2017, while Prime Minister, Theresa May lobbied the Bharani government in support of Donor G's bid to win a contract from the Gulf state. David Cameron made the company's CEO a business ambassador (a position which gives privileged access to foreign states and governments) and, after leaving office, lobbied Bahrain on the company's behalf.

Impacts in Parliament?

33. The job of an MP is threefold: to vote on legislation, hold the government to account, and advocate for their constituents. In all of these tasks, they are responsible to those who elect them. If they fail in their duties then their constituents can vote them out (resulting in, inter alia, the loss of their salary). MP's thus have a structural incentive to act in the interests of their constituents.
34. When an MP has a second job, working for a company or interest group, they can vote (and even lobby ministers) on issues that affect their employers. As such they may have (or may be perceived as having) a personal, professional, and financial interest in the outcome of certain votes and policies that is quite apart from those of their constituents.
35. Similarly, donations to MPs may create (or may be perceived as creating) an incentive to vote or advocate in a way that either benefits their existing donors or will help them attract new ones.
36. An examination of the activities and voting patterns of some MPs with second jobs or in receipt of donations demonstrates how apparent conflicts of interests can arise even when every existing rule has been properly followed: none of the MPs referred to below

have been found to have broken any rules, and there is no suggestion that their relationships with second employers and donors in any way influenced their voting in parliament.

- (a) MP A – Owns a stake in, an insurance company that, *inter alia*, provides private health insurance. MP A proposed amendments to the health and care levy “to create incentives for investment into some kind of modern insurance scheme”.
- (b) MP B received a donation of £10 000 from Donor H in September 2019. In October 2019 MP B asked a question in the Commons about measures that Ofgem (the energy regulator) could take to “protect” companies like Donor H. MP B was reprimanded by the Standards Commissioner and required to apologise to the House. But they were not required to return the donation and the question remained on the record.
- (c) MP D, a former energy minister, has worked for an oil firm since 2018, earning approximately £50 000 per year. MP D has compared climate protestors to “radical Islam”, advocated for delaying a ban on new petrol and diesel cars, and against a ban on fracking. MP D has voted on numerous issues that affect his employer’s interests. According to “theyworkforyou.com” their voting record indicates they have “generally voted for” lower taxes on fuel, and “generally voted against” measures to prevent climate change and incentivise low carbon energy.
- (d) MP E took on roles at an investment bank and a software company. These paid a combined annual salary of more than £300 000. MP E has “always voted against” a tax on finance sector bonuses, almost always voted against increasing the tax rate applied to income over £150 000, and generally voted for reducing capital gains tax. All of these votes would benefit their former employers.
- (e) MP F, in 2021, earned around £350 000 from his work for a wealth management firm. MP F has voted “consistently against” raising taxes on incomes over £150 000, “consistently against” a mansion tax, and “generally voted against” higher taxes on banks.

- (f) MP G earns £49 140 in salary and £25 000 in bonuses in 2021 as a director of a wealth management firm based in Bermuda. MP G voted against a variety of measures designed to prevent individuals and companies benefitting from low-tax jurisdictions like Bermuda or using them for tax avoidance.
 - (g) MP H earns £65 000 per year advising a “leading provider of investment products”. His duties involve work on Covid 19 and the provider’s “portfolio companies”. One such company is a private health firm which was handed an NHS contract in March 2021 without competition.
 - (h) MP I has declared £50 000 per year from a gambling firm. MP I has “generally voted against” regulation of gambling.
37. These are just a few examples. It is likely that more can be found. 43 peers, for example, are known to have interests in fossil fuels but we did not have sufficient data to identify a correlation between these interests and their voting records. More than 200 MPs have second jobs and are fully entitled to vote on matters concerning their commercial interests.
38. Moreover, a number of cabinet ministers appear to have accepted employment in industries that they previously oversaw. In June 2022 the Guardian revealed that Gavin Williamson, the former Education Secretary (now a backbench MP), accepted a position with a “firm that runs private schools, university courses, and education investments.” While there is no suggestion that Mr Williamson will act improperly, he now be able to vote on education issues while employed by a firm that stands to profit from the outcome of those votes. The Guardian also noted:

Other former cabinet ministers to have gone on to lucrative jobs in the sectors they formerly governed include the former transport secretaries Patrick McLoughlin, who took a role with Airlines UK, an industry lobbying body, and XRail, a railway services company, and Chris Grayling, who took a £100,000-a-year job as a strategic adviser to a ports company.

Nicky Morgan, a former culture secretary, Treasury minister and now a peer, took on roles on the board of Santander bank, as a consultant to the corporate law firm Travers Smith, and as a senior adviser to the lobbying and PR firm Grayling, as well as becoming the independent chair of the Association of British Insurers.

Several former ministers have taken up roles advising foreign governments or their state organs, including the former Foreign Office minister Mark Field, who was approved for a job advising the Cayman Islands, and Philip Hammond, the former chancellor and now a peer, who took roles advising Kuwaiti and Bahraini financial authorities.

Analysis by the Guardian in November found half of all ministers who had left office in the Boris Johnson or Theresa May governments had later taken up posts with companies relevant to their former government jobs.

39. The most this analysis demonstrates is the existence of possible conflicts of interest. There is no suggestion that the MPs referred to in the examples above were in any way influenced in their parliamentary voting by their relationships with other employers and donors. But the mere existence of a conflict is enough to create a serious problem. In practice, we can almost never tell whether an MP with a conflict is voting based on a sincere belief in the public interest or to advance their own financial position. There are very few professions in which such conflict would be tolerated (a lawyer, for example, cannot accept a brief where there is even the appearance of a conflict). Citizens have a right to be sure that legislators are acting solely in the interests of their constituents.

Dark Money

40. We were able to identify the examples explored above because, to their credit, there was a degree of transparency about the income sources of those involved. But this is not always the case. A substantial proportion of our political funding may be classed as “dark money”: funds from unknown sources which can influence politics.^{xii} The result is that individuals, companies, or groups can exert influence without ever being identified (or held to account).

41. A common conduit for dark money is the “unincorporated association” (“UI”). Unlike charities or companies, are not required to be registered, are not governed by any rules, and can give substantial amounts of money to political parties and candidates. The Committee on Standards in Public Life has warned that UI are not transparent and can be used to channel funds from unlawful donors (such as foreign citizens or criminal groups). During (and since) the 2019 general elections, UI have been used to channel untraceable funds into marginal seats. Around £800 000 has been given to candidates in “Red Wall” seats since 2019. During the 2016 Scottish elections, one group (which previously claimed that it did not exist) spent half a million pounds in marginal seats.^{xlii}
42. UI are not necessarily problematic. They are a way for groups of people to come together around common interests, without going through the extensive steps required to register a charity or company. Many local sports clubs, drama societies, and interest groups operate as UI entirely straightforwardly. UI present a challenge for our democracy, however, when they are used to subvert the rules that govern political donations.

The Current System: Kafkaesque and Ineffective

43. The current system of rules and sanctions around donations and second jobs is not fit for purpose. This is clear from the fact that “scandals” around donations and second jobs have been occurring for decades yet, despite various revisions to the rules, they continue to happen on a regular basis.
44. The fact that such scandals keep occurring suggests that we cannot clean up our politics simply by adjusting the rules. Rather, the system itself is flawed. We identify three key problems:
 - (a) The system of rules and sanctions is both complex and ineffective.
 - (b) MPs and ministers are, ultimately, only accountable to themselves for compliance with the rules.

- (c) The current system does not deal with the fundamental problem that those with means can buy special influence.

Complex and Ineffective

45. The current set of rules governing donations and second jobs manage, in the words of Open Democracy's Martin Williams, "to be laughably lax and absurdly complex at the same time."^{xliii} As Williams describes:

For instance, if an MP is paid a lump sum of £150, they must declare it. But a £200 payment does not need to be declared if it's divided into two instalments of £100.

It is also within the rules to keep quiet about shareholdings worth less than £70,000. Even if you own a million pounds worth of shares in the same sector of the economy, you can avoid declaring it by simply splitting it up into several smaller investments.^{xliv}

46. The rules on lobbying appear similarly Kafkaesque. MPs are not, for example, entitled to "initiate" proceedings or approaches to public officials for the purposes of lobbying but they are allowed to conduct lobbying activities if they simply "participate" in existing meetings or interactions.^{xlv} This requires those charged with enforcing the rules splitting hairs about who contacted who first rather than focusing on the substantive issue: that those charged with representing the public are using their position to advocate on behalf of those with the means to pay them instead.
47. Similarly, MPs required to put the public interest first and forbidden from acting as a "paid advocate" in the House.^{xlvi} It is, however, almost impossible to prove that a legislator breached these rules. If, for example, an MP who received donations from (or was employed by) a fossil fuel extractor voted against measures to combat climate change, there is no way to tell for sure whether they did so because they truly believed that the measures were not in the public interest or because they were paid to do so. It's likely that the only real evidence of the MP's state of mind would come from the MP

themselves. The criminal law (and, indeed, civil law) has evolved effective mechanisms for addressing problems such as these but MPs are not accountable to the courts for their conduct.

48. Further, if (for example) an MP voted against raising the level of benefits for those with disabilities because they genuinely believe that such a policy is not in the public interest, such a stance may attract donations and/or employment from lobby groups who oppose public spending. No one would suggest that these payments influenced their vote but, by adopting the position of those with means, the MP will find themselves better funded and thus better able to advocate for their ideas (even when, as in this example, their position does not reflect that of the majority of voters ^{xlvii}).
49. The Ministerial Code is even more vague. While it imposes requirements for ministers to “scrupulously avoid any danger of an actual or perceived conflict of interest between their Ministerial position and their private financial interests.”^{xlviii} It makes no mention of conflicts created by donations to their party. The requirements for ministers to declare financial interests are actually less stringent than those imposed on MPs.^{xlix}
50. The sanctions imposed on MPs found to have breached the rules are both complex and ineffective. There are fifteen different possible sanctions (including four different types of apology). With the exception of expulsion (which has been used only five times in the last century)ⁱ, none are of sufficient seriousness to provide a genuine deterrent. Even if an MP is suspended from Parliament (the second most severe sanction, which can last no more than 30 days), they are able to go about their business as normal (including by continuing to solicit donations or work on second jobs). While the most serious suspensions can trigger a recall petition, this requires that 10% of all eligible voters sign the petition before a by-election is triggered. Given that the average turnout for by-elections is less than 50% since 1997, this seems unlikely to occur. Indeed, only 3 recall petitions have ever been held.ⁱⁱ
51. In reality, however, the complexity of the sanctions system is but an ancillary problem. The central issue is that any sanction on a member of parliament (of sufficient severity to provide a deterrent/change behaviour) is, in effect, a sanction on their constituents.

To suspend an MP is to deprive their constituents of representation for the duration of their suspension. Even if constituents are given the chance to vote in a by-election (by way of a recall petition) then they are deprived of a representative while the election is scheduled and organised.

Accountable to No One But Themselves

52. Compliance with the parliamentary and ministerial rules is, ultimately, only enforced by parliament and ministers themselves. While, at first instance, breaches may be investigated by the Independent Parliamentary Standards Commissioner or the Independent Advisor on Minister's Interests, MPs, and the Prime Minister (respectively) have the final say. The conclusions of Standards Commissioner are subject parliament's Standards Committee (and, for the most serious cases, the relevant House) while the Prime Minister is the ultimate arbiter of the Ministerial Code.

53. MPs, when it comes to breaches of the rules, are thus accountable to no one but themselves. Several MPs found to have broken the rules now sit on the Standards Committee in judgment on others.^{lii} Many members of the Committee, which must rule on the propriety of MPs' second jobs and donations, themselves have second jobs and receive large amounts of money from donors. One earned £34 000 beyond his MP's salary from November 2020 to November 2021.^{liii} The same MP declared a number of donations, including an expenses paid trip (worth £7357.67) to Qatar, funded by the autocratic state's Ministry of Foreign Affairs.^{liiv} They were one of several MPs who received such donations. They came as Qatar prepares to host the 2022 Football World Cup amid increasing concerns around human rights abuses in the state.^{liv} While there is no suggestion that the donation influenced the MPs involved, it is in Qatar's interests to ensure lawmakers in major football markets, like the UK, are positively disposed towards it.

54. It is notable that Owen Paterson was able to vote in the Commons on proposals for his own suspension.

55. Similarly, the Prime Minister appears rarely to enforce against breaches of the ministerial code. Nine members of the current government have been found or alleged (after which there was no investigation) to have breached the ministerial code.^{lvi} Not one has been penalised. Indeed, the Prime Minister's approach appears illustrated by the case of Priti Patel. When Patel was accused of breaching the code after holding secret meetings with a foreign government in 2017^{lvii}, she was reappointed to the cabinet in a more senior role just months later. When she was found to have breached the code for a second time, in November 2020, the Prime Minister's (then) ethics advisor (who made the finding) was forced to resign while Patel retained her position. Patel was accused of breaching the code a third time in September 2021, there does not even appear to have been an investigation.^{lviii} It is understood that the Prime Minister has prohibited his advisor from launching investigations without first obtaining his permission.^{lix}

Missing the Fundamentals

56. All of the rules and sanctions discussed in this section seek to regulate the payment of donations, salaries, and fees to MPs and ministers. Yet, as the discussion in the pages above shows, all of the rules can be followed to the letter and still produce problematic results. The fundamental problem is not that some MPs don't follow the rules on payments and donations, it is that those with greater financial means can achieve outsize influence over our politics.
57. Political donations are not inherently problematic. They can, indeed, be an important form of political speech. In the same way that a citizen can vote for a political party or cause, they should be able to donate their money to that party or cause. The problem occurs because we all have the same opportunity to vote for a political party, but we do not all have the same opportunity to make political donations. Some people have more money than others. We are, of course, mostly entitled to spend our money however we want. The fact that Person 1 makes (or even inherited) more money than Person 2 means that Person 1 will likely be able to buy more and nicer things. That is the reality of a capitalist economy. There is a practical and moral difference, however, between what one is entitled to do as a consumer, and one's rights as a citizen in a

democracy. As consumers, we are inherently unequal because we all have different spending power. As citizens, we are supposed to be politically equal.

58. No one is entitled to buy extra votes. Yet, the ability to funnel money to ensure executives and legislators agree with us (or advantage those who already to) has, in practice, the same effect. We need, therefore, a system in which citizens have an equal opportunity to make political donations in the same way we have an equal opportunity to vote.

59. As Daniel Bruce, chief executive of Transparency International, put it:

Rules alone are not sufficient to also tackle the corrupting influence of money in UK politics. Some parties still remain unhealthily dependent on a relatively small number of big donors, which opens up the risk of cash for access and even favours.^{ix}

60. It might be argued that political donations are better compared to political volunteering than votes. Not everyone has the same capacity for advocacy and volunteering. Working hours, childcare, mental health, and even an independent income can all affect our ability to advocate for political beliefs or volunteer for parties and causes. There is a substantive difference, however, between the impact of volunteering or advocacy and the impact of large donations. Even if an individual had no need for a job or childcare and was thus able to volunteer all their waking hours advocating for an MP, it would have, at best, an ancillary impact on whether that MP was elected. Even if that MP believed they owed that volunteer a moral debt and thus undertook to campaign on these issues they thought important, they would still be but one voice amongst 650. If, by contrast, an individual could give sufficient sums to a party that agreed with them on a particular social issue, then they have a real prospect of creating change (as shown by the example of Donor B, discussed above). Nothing in our current system addresses this fundamental issue.

Fiddling around the edges

61. Current proposals for reform seem insufficient. The government proposal was to prohibit MPs from acting as paid lobbyists or political consultants (any attempt to address this issue has since been abandoned by the government).^{lxvi} The Standards Committee makes a similar proposal, although suggests adding a mandatory “boilerplate” clause to all contracts to the same effect.^{lxvii} While these may catch some of the most obvious offenders, they fail to address almost all of the problems identified above. It is estimate that, of the more than 200 MPs with second jobs, only 10 would be caught by the proposal^{lxviii}. Indeed, given that Owen Paterson was not technically employed as a lobbyist, neither proposal would have prevented the scandal that prompted them.^{lxix} Both proposals fail to address the central issue: any second job creates a perceived or potential conflict of interest.
62. The Labour Party’s proposal, to ban all second jobs (save a few deemed to be in the “public interest”) was rejected by the House of Commons.^{lxx} It is, in any case, similarly unsatisfactory. It does nothing to address the problem of donations and appears to leave the question of which jobs are in the “public interest” to MPs or ministers themselves. The Leader of the Opposition, Keir Starmer, gave the example of NHS workers and reserve police officers. This would mean that an MP could act as a police officer (and therefore is entitled to vote on law and policy that benefit the police, such as the Police Crime Sentencing and Courts Bill, which substantially increased officers’ powers) but not work for a law centre helping the victims of police brutality. Under this proposals MPs and ministers will continue to “mark their own homework”.

The Solution: Rules that are Simple, Fair, and Independently Enforced

63. In view of the above we have sought to identify proposed policy that meets three criteria:
- (a) Target the fundamental problem;
 - (b) Ensure independent enforcement;

- (c) As simple as possible.

1. Cap political contributions at a level all voters can afford

64. A cap on political donations balances the principles of freedom of expression and political equality. It preserves the right to make donations as a form of political speech while, at the same time, ensuring that no one is unfairly entitled to a “louder voice” than others. In essence, it brings the right to donate in line with the right to vote, thereby addressing the perception that money gives some people special influence over politics.
65. The vast majority of the electorate supports a cap on political donations. By far the largest group (between 26% and 36%) favour banning donations entirely.^{lxvi} 72% of states have some form of limit on political donations. Nearly half of states worldwide (and 70% in Europe) completely ban companies with government contracts from making political donations and many also ban donations from trade unions.^{lxvii} The table below shows the level of the cap on donations in four comparable democracies similar to the UK.

STATE	CAP (£)
Canada	871
France	6373
Ireland	836 (individuals) 2091 (parties)
United States	2213 (individuals) 7375 (local and state parties) 26 180 (national party)

66. Once the principle of a cap on donations is accepted, the next step is to identify the level at which it should be set. Four approaches can be identified from comparable democracies:
- (a) Politicians negotiate and agree amongst themselves based on political preferences (for example, USA, France, Ireland).
- (b) The cap is set at a proportion of spending limits (for example, Argentina).

- (c) The cap is pegged to average income levels (for example, Serbia).
- (d) The cap is pegged to minimum income levels (for example, Portugal).
67. The first two approaches are unsatisfactory because they fall into the trap of allowing politicians to “mark their own homework”. Using average income levels as a benchmark (or benchmarking at many times the annual minimum wage income, as done, for example, in Russia) runs the risk of creating a political underclass comprised of those on the lowest incomes, compounding their existing deprivation of economic power with a deprivation of political power compared with the majority of the population.
68. Benchmarking the cap at the level of the lowest income has the advantage of ensuring that every voter can express their political preferences by making donations and no group of citizens is granted additional political power based on their wealth. The level of the cap must also be set independently of politicians. We therefore recommend that the Electoral Commission is empowered to set the cap (on either an annual or, possibly more practically, electoral cycle basis) on the principle that **“the maximum donation must be affordable to every eligible voter in the UK”**. The Commission’s existing public law duty, to take all material considerations into account, will ensure that it considers a wide range of relevant information when assessing the level.
69. The cap would include all sums paid to political parties or candidates (for any reason, including donations in cash or kind, or payments for defined benefits such as conference stands or memberships) or any other entity which conducts activity in relation to political issues.² The cap would apply to natural persons and would be accompanied by a rule that only natural persons may make political donations (to prevent the circumvention of the cap by donating through companies or UI).
70. As an illustrative exercise we have calculated the level of the cap based on the income of a single person earning minimum wage. This is for the sake of argument only and it is

² This would include unincorporated associations but, in the case of charities that engage in political issues as ancillary to their charitable purpose, the cap would only apply so far as the money is used for political purposes.

likely that, should this proposal be implemented, the Electoral Commission will take a far wider range of factors into account when determining the level at which the cap should be set.

71. The illustrative cap is set at the level one month's disposable income for a single person working full time on minimum wage. The average monthly cost of living, for a person living on minimum wage in the UK is estimated at £1334. The average monthly income of a person working full time on minimum wage is around £1399. This leaves a disposable income of around £65 per month. We suggest that the cap may be set at this level.
72. It might be argued that there is a case for exempting certain democratic and representative organisations from the "natural persons only" rule and even permitting a higher cap in respect of such groups. This would acknowledge that such organisations are an expression of their members' views, rather than a single private interest. To the extent that such organisations genuinely represent their members (and are open to all), therefore, this may be considered.
73. This reform would strike at the heart of the problems explored in this report by making undue influence unviable. It would eliminate the perception that donors can influence policy or receive special treatment. At the same time, it would all but eliminate the problem of "dark money" by preventing UI and other vehicles from making donations altogether.
74. Perhaps more importantly, it would mean that a single or small group of individuals would no longer be able to buy power by equipping politicians they support with the means to outspend their rivals. Every citizen would have the same donating power and politicians would, once again, be fully incentivised to protect the interests of voters because they would be funded based on genuine popular support rather than the ability to appeal to one or two rich benefactors.
75. The impact of this proposal can, perhaps, be best understood by examining whether the "three scandals" of 2021 could have occurred if it had been in place:

- (a) The Pandora Papers would not have created the same political scandal. The central harm (in relation to politics) was the funnelling of donations from problematic sources. If these donations had been limited to £65 each, then they would have been unlikely to either provide or appear to provide an incentive sufficient to influence policy.
 - (b) The “cash for peerages” scandal would not have happened. It would take an individual 46 000 years to reach the £3 million “threshold” to be appointed to the House of Lords. If all donations are limited to the same affordable level, then it becomes almost impossible to buy one’s way to a peerage.
 - (c) While this proposal would not have prevented the Patterson scandal, this would be prevented by our second and third proposals (below).
76. This proposal would have a substantial impact on party funding. The table below gives a broad indication of how the finances of five main parties would have been affected in the years 2018-2020 (this provides a broadly representative sample because it includes an election year and the years either side). In general, those parties which rely primarily on membership for their funds are substantially less affected than parties which rely heavily on wealthy donors. This is a democratic outcome. It means that the financial resources of political parties will reflect the extent to which they are able to attract an active and engaged membership (i.e., appeal to the public) rather than a small number of wealthy donors (no party charges more than £65 per year for membership).
77. All parties would see a reduction in their incomes. It has been argued that limiting political donations would mean that the public would need to fund parties. This is a poor argument for three reasons. First, and most obviously, the public already provides substantial funding. Each year, for example, the Electoral Commission provides funding of £2 million.^{lxviii} Opposition parties receive “Short Money” (around £10.3 million in 2019-20),^{lxix} while the governing party has the advantage of the publicly funded Government Communications Service (which, while technically non-partisan, is entitled to promote government policy and enhance the image of the government. This has the inevitable effect of assisting the party in government). Parties can also access a range of

discretionary and entitlement grants.^{lxx} While it is true that these proposals may force politicians to grasp the nettle of public funding a little more firmly, this is a matter of developing existing practices rather than introducing new ones.

78. Second, a substantial portion of political parties' income is spent in ways that do little to enhance our public discourse. Some examples from the 2019 general election include:

- (a) £458 688^{lxxi} on the services of a company is said to specialise in “political shitposting” and “trolling”. It makes pictures and slogans for supporters to share on Twitter. One of their employees boasted on making a product that was “... really basic and deliberately lame because they'd get shares and lift our reach.”. The company was also responsible for re-naming the Conservative Party twitter account “Fact Check UK” during one of the 2019 election debates.^{lxxii}
- (b) £22 735.14 on fast food deliveries.^{lxxiii}
- (c) £44 975 for a personal photographer to follow the party leader around over the course of the campaign.^{lxxiv}
- (d) £1 million on Facebook advertisements.^{lxxv} Around 88% of these were found to be misleading (but are generally impossible to effectively refute because they are targeted at those most likely to be convinced).^{lxxvi}
- (e) £500 on a single taxi journey to an undisclosed location.^{lxxvii}

79. In 2018 and 2019 the Conservatives spent nearly £1 million per year on fundraising, while Labour spent between £40 000 and £140 000. These costs would be saved almost entirely if parties became less reliant on donor funding. It thus seems unlikely that substantial additional public funding will be required but, rather, political parties will simply need to focus their spending more sensibly.

80. Third, to the extent that additional public funding may be required, this is likely to have a positive impact on our public discourse. It is suggested that, rather than providing

additional cash, additional platforms for politicians to advocate for and debate their ideas should be provided. This could include, for example, an increase in the number of television debates (including outside general election periods), the addition of publicly funded radio and livestream debates and “townhalls” (these could include debates between equivalent ministers as well as party leaders) annual publicly funded mailshots, increasing the existing entitlement to party political broadcasts, or even a publicly funded website on which parties could publish policy positions (or even debate in writing). All of these platforms would encourage debate on substantive issues and enable effective fact-checking. They, consequently, contrast positively with much of the 2019 general election spending outlined above. The increased availability of for a such as this (in the context of decreased opportunity for “shitposting” and misleading social media adverts) would force politicians to focus on debating substantive issues and therefore provide the public with better information on which to choose between them.

Table 2³

		2020	2019	2018
CONSERVATIVE UNDER PROPOSED RULES	Income under current rules ^{lxxviii}	24 039 000	67 995 000	34 270 000
	Total value of donations	43 750	127 600 ⁴	46 050
	Total income	6 854 750	12 416 600	11 412 050
LABOUR UNDER PROPOSED RULES	Income under current rules ^{lxxix}	41 580 000	57 295 000	45 667 000
	Donations	17 750	47 450	18 800
	Total	35 918 750	39 267 900	39 884 800
LIBERAL DEMOCRAT	Income under current rules ^{lxxx}	5 316 746	24 617 942	6 202 599

³ Source: Electoral Commission data

Assumptions:

Each “donation” reflects a single donor who only makes one donation per year.

Each donor would give the maximum amount of £50 (assuming that none of this amount was taken up by their membership fee)

Limitations:

Does not account for variations in income from conference because the data held by the Electoral Commission does not include a breakdown of conference income (i.e., tiers of tickets, cost of stands).

⁴ Total value of donations on the assumption that (a) each donor made one donation per year, and (b) each donor made the maximum donation of £50

UNDER PROPOSED RULES	Donations	30 700	55750	23 100
	Total	3 959 423	5 057 826	4 913 028
SNP	Income under current rules ^{lxxxii}	4 427 421	5 290 815	4 748 450
UNDER PROPOSED RULES	Donations	1050	1450	1100
	Total	4 012 285	4 387 570	4 425 614
GREEN	Income under current rules	2 748 506	3 454 562	1 998 824
UNDER PROPOSED RULES	Donations	4500	5 450	3000
	Total	1 581 506	1 695 162	1 109 599

2. Give the courts the final say on parliamentary standards and the ministerial code

81. This proposal targets the problem of ministers and MPs “marking their own homework”. While those in power are responsible to no one but themselves for unethical behaviour, they will almost certainly continue to behave unethically. At the same time, many legislators have complained that the existing standards system is not in line with “natural justice” because it does not include a right to appeal.^{lxxxii} Similarly, members of the public who complain about unethical behaviour by ministers or MPs are not permitted to participate in the process at all. This proposal will remedy both of those problems.
82. In respect of standards, parliament is essentially asked to operate in the same way as a court. It must examine evidence, consider the proper meaning of the relevant rules, reach a conclusion on guilt or innocence, and identify the proper sanction. As the Paterson affair demonstrated, parliament is institutionally incapable of doing this

effectively. A court is, by its nature, a dispassionate forum, prising objectivity, independence, and fairness above all else. Parliament is, by its nature, a highly partisan forum. If asked to do the job of a court, it will almost inevitably do it badly.

83. The decisions of the Commissioner for Parliamentary Standards and the Prime Minister's Ethics Advisor should, therefore, be subject to appeal to the courts. The most appropriate is the First Tier Tribunal ("the FTT"). This handles certain questions of administrative law (including regulatory matters). It sits with a professional judge and two specialist "wing members" (selected for subject expertise and given extensive training to sit in the tribunal). It examines questions of both fact and law. Appeal (on a point of law only) is to the Upper Tribunal and from there to the Court of Appeal.
84. The FTT is relatively low-cost forum and operates in such a way as to ensure that non-lawyers can fully understand and participate in proceedings. This will ensure that complainant members of the public can play a full part in proceedings (should they want to) and that MPs and ministers can, if they choose, represent themselves. The Tribunal should have the power to make initial decision (without a hearing) as to whether the matter raises a genuinely arguable question worthy of a full trial. This will eliminate nuisance complaints. The FTT does not generally make costs awards but is empowered to do so where one party acts unreasonably (such as by attempting to disrupt proceedings or running unarguable points).
85. This proposal may be seen as breaching parliamentary privilege but that is not an argument to its detriment. Parliamentary privilege is a collection of norms and laws developed at a time when the executive largely controlled the judiciary. This allowed the executive to use the courts to persecute its opponents. It was certainly not ever intended to facilitate legislators acting unethically and was not designed to protect ministers at all. Given that we now have an independent court system, there is no reason not to subject MPs and ministers to it in the same way as any other citizen.
86. Had this system been in place in 2021 then Owen Paterson could have appealed the decision of the Standards Commissioner to the FTT. He would have had the chance to present evidence and argument on his own behalf (or have counsel do so for him) and,

if the tribunal erred in law, appeal to the Upper Tribunal and Court of Appeal. His case would have been dealt with based on analysis of the evidence, and his sanction would have been determined based on its propriety and fairness rather than whether he retained the political support of the Prime Minister.

3. Prohibit MPs from speaking, voting, or advocating on any issue on which they have a financial conflict

87. The essential harm in MPs having second jobs is that it can create a conflict (whether actual or perceived). An outright ban on second jobs is undesirable because it would prohibit activities which are generally thought to be appropriate for MPs, such as writing books setting out their political ideas or working in the NHS during a pandemic. Banning some jobs but not others will, however, almost inevitably lead to arbitrary decisions (whether perceived or actual).
88. This proposal will bring parliamentarians in line with best practice in the charitable and private sectors. Charity trustees and company directors will often recuse themselves from consideration of issues on which they have a conflict. Similarly, lawyers will often refuse to take cases if they are conflicted. It is right that parliamentarians should adopt (at the very least) the same standards of best practice employed by other sectors (particularly as MP's represent the votes of thousands of individuals and, consequently, have a far more significant moral obligation to act ethically).
89. Rather than target the fact of second jobs, this proposal targets the conflict they create. MPs should be prohibiting from speaking or voting in the House of Commons (and peers in the Lords) or otherwise advocating (making any representation in public or to a public body or one carrying out a public function) on any issue where they have an interest that may be impacted by the speech, vote, or representation. This will eliminate the perception of conflict of interest entirely.
90. While existing rules impose a general duty to avoid conflicts, cases like those discussed above show that, at the very least, these are ineffective at avoiding the perception of

conflict. This proposal brings an important element of simplicity and clarity to the existing rules.

91. There is a common-sense case for permitting certain exemptions to the rule where, for example, an MP's interest is particularly common (such as owning the home in which they live) or allows them to provide a unique and important perspective on an issue. To the extent that MPs with such interests show they can genuinely mitigate the risk of conflict of interest (such as by putting property in a blind trust), such exemptions may be considered.
92. This proposal would eliminate almost all of the issues raised around MP's second jobs. An MP working as an international lawyer, for example, would not be able to vote on aid packages to states that his company is suing. An MP working for an oil company would not be able to vote on climate proposals that might affect the profits of his employer. An MP working for a bank would not be able to vote on taxes on bankers' bonuses.
93. It may be, of course, that certain parliamentarians find themselves so conflicted that they are unable to speak or vote on almost every important subject. It will then be a matter for voters to determine whether such a person is an effective representative for them in parliament.
94. This proposal may be criticised as excluding those with "relevant expertise" from issues in which their experience might prove valuable. It would, for example, prevent MPs currently working in the NHS from involvement in legislation relating to health policy. However:
 - (a) The role of an MP is to represent their constituents, where necessary by informing themselves. MPs should listen to experts or those with experience in those subjects, regardless of the issue. Relying on, for example, MPs who are doctors to inform their colleagues about healthcare issues distorts the role of legislators.

- (b) It is no more proper for those with a financial interest in the outcome (such as a potential salary increase) to vote on the NHS than it is corporation tax. The core harm remains the same. The fact that the role of “doctor” is more socially acceptable than “banker” does not change this.

Conclusion

95. The three proposals herein would have two important overarching impacts. First, they would eliminate much of the possibility for undue influence from our political system. Second, and perhaps even more importantly, they will eliminate much of the perception of such influence from our politics. This is essential because democracies can only function when the public has faith in the political system. The perception of influence around certain MPs and ministers tars the entire political system. Removing it will enhance the faith of voters in politicians and, crucially, in their own power as citizens to influence and engage with politics. This can only be a good thing for our democracy.

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