

HOUSE OF LORDS

Select Committee on Trade Union Political  
Funds and Political Party Funding

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Report of Session 2015–16

# Report

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### *Select Committee on Trade Union Political Funds and Political Party Funding*

The Select Committee on Trade Union Political Funds and Political Party Funding was appointed by the House of Lords on 28 January 2016. The Committee's remit was "to consider the impact of clauses 10 and 11 of the Trade Union Bill in relation to the Committee on Standards in Public Life's report, *Political Party Finance: ending the big donor culture*, and the necessity of urgent new legislation to balance those provisions with the other recommendations made in the Committee's Report".

### *Membership*

The Members of the Select Committee on Trade Union Political Funds and Political Party Funding were:

[Lord Burns](#) (Chairman)

[Lord Callanan](#)

[Lord De Mauley](#)

[Baroness Dean of Thornton-le-Fylde](#)

[Baroness Drake](#)

[Lord Hart of Chilton](#) (joined February 2016)

[The Earl of Kinnoull](#)

[Lord Richard](#) (resigned February 2016)

[Lord Robathan](#)

[Lord Sherbourne of Didsbury](#)

[Lord Tyler](#)

[Lord Whitty](#)

[Lord Wrigglesworth](#)

### *Declaration of interests*

See Appendix 1.

A full list of Members' interests can be found in the Register of Lords' Interests:

<http://www.parliament.uk/mps-lords-and-offices/standards-and-interests/register-of-lords-interests>

### *Publications*

All publications of the Committee are available at:

[www.parliament.uk/trade-union-party-funding-committee](http://www.parliament.uk/trade-union-party-funding-committee)

### *Parliament Live*

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<http://www.parliament.uk/business/lords>

### *Committee staff*

The staff who worked on this Committee were Tom Wilson (Clerk), Celia Stenderup-Petersen (Second Clerk), Thomas Cheminais (Committee Assistant) and Joseph Coley (Committee Assistant).

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Evidence is published online at <http://www.parliament.uk/trade-union-party-funding-committee> and available for inspection at the Parliamentary Archives (020 7129 3074).

Q in footnotes refers to a question in oral evidence.

# Report

## CHAPTER 1: INTRODUCTION

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### Introduction

1. The Trade Union Bill was introduced in the House of Commons on 15 July 2015. It completed its passage through that House on 10 November 2015, and received its first reading in the House of Lords on 11 November 2015.
2. During the second reading in the House of Lords on 11 January 2016, some members of the House expressed concern about the potential impact of clauses 10 and 11 of the Bill, in particular the requirement that in future union members would have to be asked to opt in to contributing to their union political fund, rather than just being given the opportunity of opting out of doing so. There was also concern about the subsequent impact on the relative funding of each of the political parties.<sup>1</sup>
3. Baroness Smith of Basildon, the Leader of the Opposition in the House of Lords, subsequently tabled a motion to set up a select committee “to consider the impact of clauses 10 and 11 of the Trade Union Bill in relation to the Committee on Standards in Public Life’s report, *Political Party Finance: ending the big donor culture*, and the necessity of urgent new legislation to balance those provisions with the other recommendations made in the Committee’s Report”.
4. In moving the motion on 20 January, Baroness Smith commented that “our genuinely held concern is that this aspect of the Bill will have a significant impact on the resources of one major political party—my party, the Labour Party. In doing so, that will both disrupt the political balance in the UK and have a damaging effect on the electoral process and on our democracy”. She added:

“These two clauses basically deal with how trade unions raise and spend their members’ money for political purposes. The Government contend that this has no direct bearing on political party funding—specifically, Labour Party funding—but both we on this side of the House and the trade unions contend that it does.”<sup>2</sup>
5. The Minister, Baroness Neville-Rolfe, responded that “these clauses relate to trade union reform and not to party funding reform”, adding that “Clauses 10 and 11 embrace the good democratic values of choice, transparency and responsibility”. She concluded:

“Our reforms in the Bill look at how trade union members choose to contribute to trade union political funds. We are not looking at how trade unions fund political parties. Opt-ins and opt-outs for trade union political funds have always been a matter for trade union legislation. Party funding and its regulation have always been a matter for party funding legislation.”<sup>3</sup>

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1 HL Deb, 11 January 2016, [cols 12–128](#)

2 HL Deb, 20 January 2016, [col 765](#)

3 HL Deb, 20 January 2016, [cols 778–780](#)

6. The motion was passed on division by 327 votes to 234. The Committee was appointed on 28 January and ordered to report by 29 February. This report is the result of the Committee's work.
7. The report is structured as follows:
  - Chapter 1 sets out the policy and legislative background.
  - Chapter 2 considers the likely impact of clauses 10 and 11.
  - Chapter 3 assesses the findings of Chapter 2 in the context of the broad subject of political party funding reform.
  - Chapter 4 sets out the way forward.

## Policy background

### *Political funds*

8. Unlike other organisations,<sup>4</sup> a union wishing to engage in political activities or contribute to a political party must for these purposes set up a political fund which is separate from its day-to-day general fund. Political activities might, for example, include campaigns against racism, child poverty and the costs of education.<sup>5</sup> Unions which are affiliated to a political party may also make payments to the party in the form of affiliation fees, donations and other support. Iain McNicol, General Secretary of the Labour Party, told us that, out of the £22 million which Labour Party affiliated trade unions raised in political funds in 2014, £10 million was given to the Labour Party.<sup>6</sup>
9. The union is required to obtain the approval of its members via a ballot to establish a political fund. Once established, members who do not wish to contribute to the political fund can opt out and henceforth be exempt from paying in to the fund.
10. There is a long history to political funds and the question of whether they should be run on an opt-in or an opt-out basis. Following a court judgment<sup>7</sup> that union expenditure on political activities was unlawful, the Liberal government brought forward the Trade Union Act 1913. The Act introduced the concept of political funds in order to loosen the legal restrictions on union political expenditure, while also specifying that union members could opt out of contributing to the fund, as is currently the rule.
11. The Conservative Government's Trade Disputes and Trade Unions Act 1927 repealed the 1913 Act. Though political funds were maintained, opting out was replaced with opting in. This meant union members who wished to contribute to the political fund actively had to give notice to this end.
12. The Labour Government's Trade Disputes and Trade Unions Act 1946 in turn repealed the 1927 Act. Political fund contributions reverted to the original opt-out scheme from 1913. Unlike the 1927 Act that introduced opt-in, the 1946 Act did not apply to Northern Ireland and, as a result, union members must still opt in to political funds in Northern Ireland.

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4 Other organisations are not required to have a political fund and therefore the issues of opting in and opting out do not arise for them.

5 [Q 60](#) (Gareth Young)

6 [Q 2](#)

7 *Amalgamated Society of Railway Servants v Osborne* [1910] AC 87

13. The Trade Union Act 1984 substantially altered trade union law in the UK. The Conservative government at the time considered either adopting an opt-in model for political levies (as individual payments into political funds are known) or imposing a 10 year ballot requirement for political funds, whereby a union's political fund would lapse after 10 years unless the union re-balloted its members to obtain their agreement to its continuation. In the end, the Government agreed to preserve the opt-out model in exchange for the unions increasing the level of awareness among their members of the opt-out provisions. The Government also introduced the 10 year ballot provisions.<sup>8</sup>
14. Political funds are currently regulated by sections 71-84 of the Trade Union and Labour Relations (Consolidation) Act 1992 ("the 1992 Act").
15. Under the 1992 Act "The funds of a trade union shall not be applied in the furtherance of the political objects" unless there is in force a political resolution and the payments come from of a separate fund.<sup>9</sup>
16. Section 72(1) defines "the political objects" as the expenditure of money:
  - (a) on any contribution to the funds of, or on the payment of expenses incurred directly or indirectly by, a political party;
  - (b) on the provision of any service or property for use by or on behalf of any political party;
  - (c) in connection with the registration of electors, the candidature of any person, the selection of any candidate or the holding of any ballot by the union in connection with any election to a political office;
  - (d) on the maintenance of any holder of a political office;
  - (e) on the holding of any conference or meeting by or on behalf of a political party or of any other meeting the main purpose of which is the transaction of business in connection with a political party;
  - (f) on the production, publication or distribution of any literature, document, film, sound recording or advertisement the main purpose of which is to persuade people to vote for a political party or candidate or to persuade them not to vote for a political party or candidate.<sup>10</sup>

Non-political activities can be funded through a general fund.

17. Political funds and the rules governing them are overseen by the Certification Officer, the statutory authority tasked with overseeing trade union administration. His other responsibilities include ensuring compliance with the statutory requirements for annual returns and determining complaints concerning union elections and ballots. He approves, collates and publishes all annual returns received from unions on his website.<sup>11</sup>

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8 House of Commons Library, Trade Union Bill, Briefing Paper, [CBP 7295](#), September 2015

9 Trade Union and Labour Relations (Consolidation) Act 1992, [section 71](#)

10 Activities that are likely to be regarded as having political objects go wider than donations etc. to political parties or candidates. Many union campaigns are therefore financed out of the political fund.

11 For further information, see <https://www.gov.uk/government/organisations/certification-office> [accessed 29 February 2016]

18. Out of the 163 listed unions in the UK, 25 have political funds.<sup>12</sup> Of these, 15 are affiliated to the Labour Party. Those 15 are marked with an (\*) in Box 1.

**Box 1: Trade unions with a political fund**

- Associated Society of Locomotive Engineers and Firemen (ASLEF) (\*)
- Association of Revenue and Customs (ARC)
- Bakers Food and Allied Workers Union (BFAWU) (\*)
- Broadcasting Entertainment Cinematograph and Theatre Union (BECTU) (\*)
- Communication Workers Union (CWU) (\*)
- Community (\*)
- Educational Institute of Scotland (EIS)
- Fire Brigades Union (FBU) (\*)
- GMB (\*)
- Musicians Union (MU) (\*)
- National Association of Colliery Overmen, Deputies and Shotfirers (NACODS)
- National Association of Schoolmasters Union of Woman Teachers (NASUWT)
- National Union of Mineworkers (NUM) (\*)
- National Union of Rail Maritime and Transport Workers (RMT)
- National Union of Teachers (NUT)
- POA
- Prospect
- Public and Commercial Services Union (PCS)
- Transport Salaried Staffs Association (TSSA) (\*)
- Union of Construction Allied Trades and Technicians (UCATT) (\*)
- Union of Shop Distributive and Allied Workers (USDAW) (\*)
- UNISON: The Public Service Union (\*)
- Unite the Union (\*)
- Unity (\*)
- University and College Union (ULU)

Source: Certification Officer, *Annual Report 2014–2015* (July 2015): [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/449387/CO\\_Annual\\_Report\\_2014-2015.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/449387/CO_Annual_Report_2014-2015.pdf) [accessed 29 February 2016]

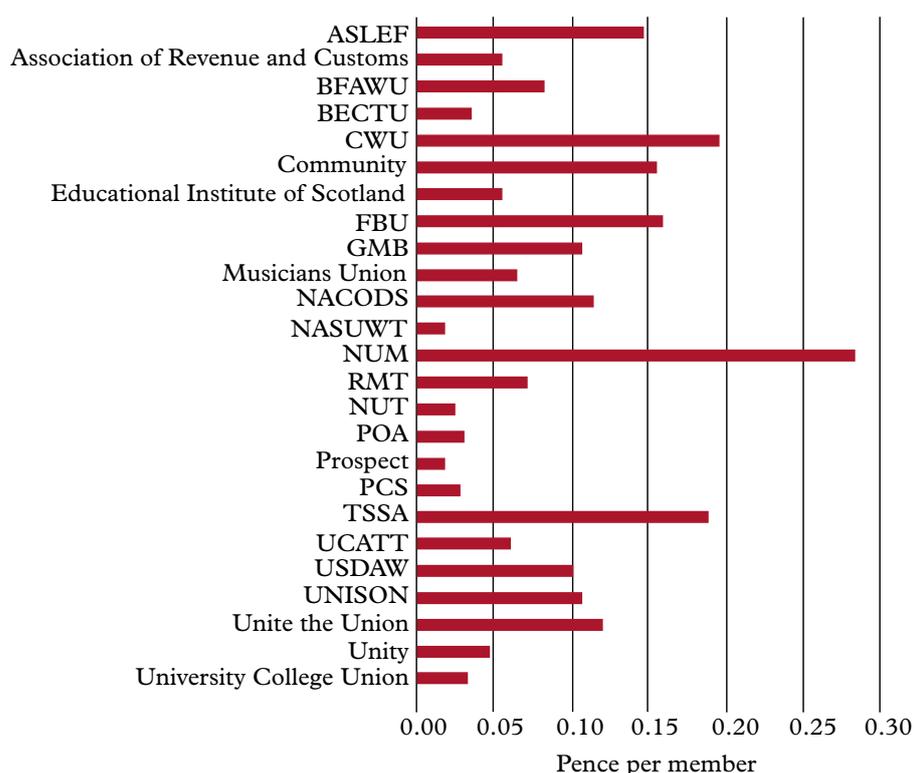
*Political levies*

19. Members contribute to the political fund by paying a political levy. The size of the levy is determined by the individual union. Unions like USDAW and

12 Certification Officer, *Annual Report 2014–2015* (July 2015) p 9, p 68: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/449387/CO\\_Annual\\_Report\\_2014-2015.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/449387/CO_Annual_Report_2014-2015.pdf) [accessed 29 February 2016]

the FBU apply a weekly, fixed levy to all their contributing members while UNISON calculates the levy as a percentage of the individual member's union membership fee. These fees vary depending on the individual's income.<sup>13</sup> Figure 1 below illustrates the average political levy paid by members of the individual unions in the 2013 reporting year. This simple average does not consider internal variances in levies in unions like UNISON. Across the 25 unions, the average political levy is £4.84 per year (just over 9p per week).<sup>14</sup>

**Figure 1: Average weekly political levy**



Source: Certification Officer, *Annual Report 2014–2015* (July 2015): [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/449387/CO\\_Annual\\_Report\\_2014-2015.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/449387/CO_Annual_Report_2014-2015.pdf) [accessed 29 February 2016]

20. Currently, most union members pay the political levy by default unless they have actively chosen to opt out. As Appendix 4 shows, some 89% of members of the 25 unions with political funds—4,954,606 in total—had not opted out of the political levy in the 2013 reporting year.<sup>15</sup>
21. Under section 84 of the 1992 Act, the trade union is obliged to inform its members that “each member has a right to be exempted from contributing to the union’s political fund”. The union must also inform the member that a form of exemption notice can be obtained from the union or the Certification Officer.<sup>16</sup> A member may give notice in the form provided by the union or in a form to the same effect. On giving such an exemption notice, a member must be exempted from contributing to the political fund. The means by

13 Written evidence from UNISON (TUP0014)

14 See Appendix 5 for more detail

15 Certification Officer, *Annual Report 2014–2015* (July 2015) p 68: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/449387/CO\\_Annual\\_Report\\_2014-2015.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/449387/CO_Annual_Report_2014-2015.pdf) [accessed 29 February 2016]

16 1992 Act, [Section 84\(2\)](#)

which the union should inform its members about their right of exemption are not specified.

### *Affiliation Fees*

22. Unions can affiliate themselves with a political party. Historically the Labour Party was formed as a federation of affiliates—mostly trade unions—and the structure of the Party still reflects that system. Affiliation to a party is a matter of union policy and requires approval by the union conference.<sup>17</sup> Out of the 25 unions with political funds, 15 are affiliated with the Labour party.<sup>18</sup> These are marked by an (\*) in Box 1. No unions are affiliated to the Conservative Party or the Liberal Democrat Party.
23. Affiliated unions pay, from their political fund, an affiliation fee to the chosen party on behalf of their members. The affiliation fee is generally paid at £3 per contributor to the political fund, but there is no obligation on unions to pay the full sum which this formula implies. TULO told us that between 2010 and 2015, the Labour Party received around £6 million per year in affiliation fees.<sup>19</sup> The affiliation fees are distinct from donations to the Labour Party, though trade unions are also able to make such donations from their political funds.
24. In 2014, the then Labour leader Ed Miliband commissioned Lord Collins of Highbury to conduct a review of Labour party reform. The Collins Review into Labour Party Reform recommended that the Party should “ask all levy payers, current and future, to make a positive individual choice over the payment of affiliation fees to the Labour Party”. The report recommended a five year transition period to implement the change.<sup>20</sup> The recommendations on affiliation fees were adopted at a Labour Party conference in March 2014.<sup>21</sup> Whilst collective affiliation of unions is retained, after the transition period the level of that affiliation will depend on the number of individuals making a positive choice to be an affiliated member of the Party. This is usually referred to as ‘opting in’ and resembles a recommendation of the 2011 report of the Committee on Standards in Public Life (see below).

### **Trade Union Bill**

25. Clause 10 of the Trade Union Bill specifies that it would be unlawful for a union to collect a contribution to the political fund from a member unless that member has “given to the union notice in writing of the member’s willingness to contribute to that fund”. Unions would thus only be able to collect political levies from members who had actively opted in to the political fund. The onus would be on the member actively to give notice in writing that they wished to contribute. This opt-in notice would expire after five years unless “it has been renewed by notice in writing (a “renewal notice”)”.

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17 House of Commons Library, Political party funding: sources and regulations, Briefing Paper, [7137](#), January 2016

18 See <http://www.labour.org.uk/pages/trade-union-and-labour-party-liaison-organisation-tulo> [accessed 26 February 2016]

19 Written evidence from TULO ([TUP0038](#))

20 Lord Collins of Highbury, *The Collins Review into Labour Party Reform* (February 2014): [http://action.labour.org.uk/page/-/Collins\\_Report\\_Party\\_Reform.pdf](http://action.labour.org.uk/page/-/Collins_Report_Party_Reform.pdf) [accessed 29 February 2016]

21 ‘Labour approves union membership reforms’, *BBC* (1 March 2014): <http://www.bbc.co.uk/news/uk-politics-26381922> [accessed 26 February 2016]

26. Clause 10 would grant the unions a three month transition period from commencement, at the end of which they must cease to claim political levies from all members who have not given notice of their opt-in.
27. Clause 11 of the Bill would require unions to publish detailed information about their political fund expenditure, if this exceeds £2,000 in a year, in their annual reports to the Certification Officer. The annual return must include a detailed description of the amount spent on each of the political objectives stipulated in section 72(1) of the 1992 Act.

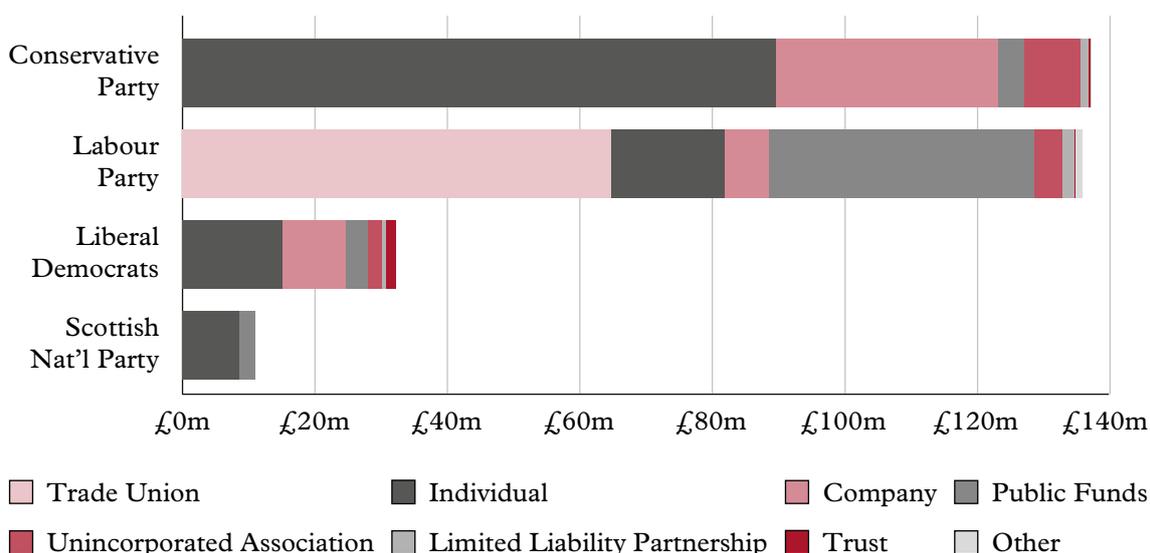
### Sources of party funding

28. Political parties in the UK have consistently increased their expenditure in elections. Lord German, the Treasurer of the Liberal Democrats, remarking on the increase in total cross-party spend from £31.53m in 2010 to £37.29m in 2015,<sup>22</sup> told us that “The spending race has no end in sight.”<sup>23</sup> This expenditure is financed through different means, including donations from private donors, party members, unions, businesses and other organisations. There are also substantial state grants.

### Donations

29. Political parties must provide the Electoral Commission with quarterly reports on donations and loans which they have received and accepted. The four largest Westminster parties, the Conservative Party, the Labour Party, the Liberal Democrats and the Scottish National Party, each have a distinct donation base, as shown by Figure 2 below and Appendices 6 and 7. For the purposes of this graph, affiliation fees from trade unions have been treated as donations.

**Figure 2: Donations received and reported by political parties 2010–2015**



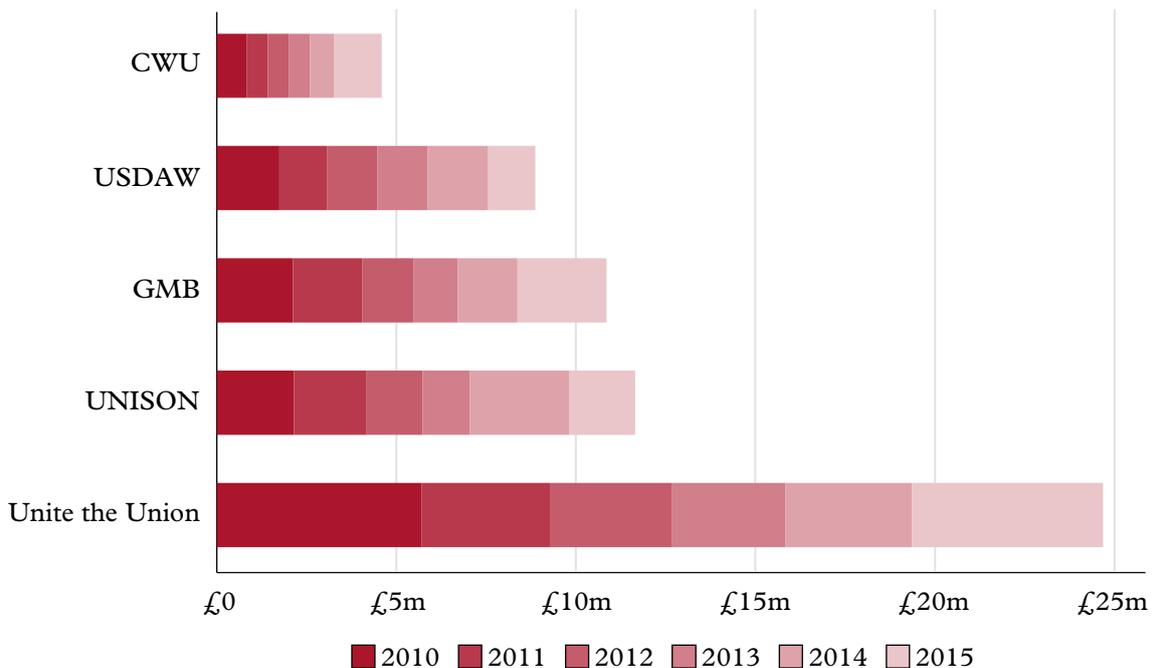
Source: Written Evidence from the Electoral Commission (TUP0030)

22 The Electoral Commission, ‘Political party spending at previous elections’ 2001–2015: <http://www.electoralcommission.org.uk/find-information-by-subject/political-parties-campaigning-and-donations/political-party-spending-at-elections/details-of-party-spending-at-previous-elections> [accessed 29 February 2016]

23 Q 8

30. Appendix 6 gives a more detailed breakdown of the Electoral Commission's figures for donations to all political parties from 2010 to 2015. In that period, unions made donations of £64.8m to the Labour Party. Figure 3 below shows the amounts donated by the five highest-contributing unions, including affiliation fees. In the same period, other organisations gave a larger total of £83.1m to various parties but predominantly to the Conservative Party.

**Figure 3: Labour Party funding from the five highest-contributing unions 2010–2015**



Source: Written Evidence from the Electoral Commission ([TUP0030](#)). See Appendix 7 for details.

### *Public funding*

31. Public funding is available to parties to assist in the performance of their parliamentary functions in both Houses of Parliament. In the House of Commons it is called Short Money and in the House of Lords it is known as Cranborne Money. In 2014/15, Labour received a total of £6.68m in Short Money and £572,717 in Cranborne Money.<sup>24</sup> The Chancellor announced in the November 2015 Spending Review that he proposed to cut and then freeze the level of Short Money. Political parties are also eligible for public funding through Policy Development Grants amounting to £2 million a year. Policy Development Grants are available to parties which are registered with the Electoral Commission, and which have at least two sitting Members of the House of Commons.

### **Reviews of political party funding**

32. Several attempts have been made to review party funding in recent times.
33. In 2007, Sir Hayden Phillips was commissioned by then Prime Minister Tony Blair to conduct an inquiry into party funding. The report recommended

<sup>24</sup> House of Commons Library, Political party funding: sources and regulations, Briefing Paper, [7137](#), January 2016

adopting a cap on donations (Sir Hayden suggested £50,000), increasing the degree of public funding and enhancing the transparency of political funds. The report suggested that an opt-in model for affiliation fees could increase transparency, and that such affiliation fees could, if opted in to, be treated as individual donations, circumventing the overall cap proposed.<sup>25</sup> The subsequent cross-party talks to review party funding broke down. The then Lord Chancellor and Justice Secretary, Jack Straw, went on to publish a White Paper drawing on a Committee on Standards in Public Life report and the Phillips review. The White Paper led to the Political Parties and Elections Act 2009.<sup>26</sup> In 2011 the Committee on Standards in Public Life (CSPL)<sup>27</sup> published the report which is referred to in our appointment motion, *Political Party Finance: ending the big donor culture*. This report recommended that:

- A limit of £10,000 should be placed on donations from any individual or organisation in any year to any political party with two or more elected representatives in Westminster or in any of the devolved legislatures.
  - The cap should apply to donations from all individuals and organisations, including trade unions. But it would be possible to regard trade union affiliation fees as a collection of individual payments, to which the cap applied individually, by requiring the individuals on whose behalf the payments are made to opt in to the fee. It would also be necessary to meet certain other conditions to ensure that undue influence cannot be exerted.
  - The existing limits on campaign spending in the period before an election should be cut by the order of 15 per cent.
  - Existing public support to the political parties should be supplemented by the addition of a new form of public support paid to every party with two or more representatives in the Westminster Parliament or the devolved legislatures. The public funding should depend on the number of votes secured in the previous election, at the rate of around £3.00 a vote in Westminster elections and £1.50 a vote in devolved and European elections. Income tax relief, analogous to Gift Aid, should also be available on donations of up to £1,000 and on membership fees to political parties.<sup>28</sup>
34. The CSPL report said: “It is important that [these] proposals are regarded as a package. Failure to resist the temptation to implement some parts, while rejecting others, would upset the balance we have sought to achieve.”<sup>29</sup>
35. Following the publication of the 2011 CSPL report, Nick Clegg MP, then Deputy Prime Minister, convened a series of cross-party talks to facilitate agreement among the three largest parties in Parliament. The group met

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25 Sir Hayden Phillips, *Strengthening Democracy: Fair and Sustainable Funding of Political Parties* (March 2007): [http://webarchive.nationalarchives.gov.uk/20080726235533/http://www.partyfundingreview.gov.uk/files/strengthening\\_democracy.pdf](http://webarchive.nationalarchives.gov.uk/20080726235533/http://www.partyfundingreview.gov.uk/files/strengthening_democracy.pdf) [accessed 29 February 2016]

26 Written evidence from Rt Hon Jack Straw (TUP0033)

27 The CSPL advises the Prime Minister on ethical standards across the whole of public life in the UK. The Committee was established by the then Prime Minister, John Major, in 1994 in response to growing public concern about the conduct of political life.

28 Committee on Standards in Public Life, *Political party finance: Ending the big donor culture*, Cm 8208, November 2011, p 9: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/228646/8208.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/228646/8208.pdf) [accessed 29 February 2016]

29 *Ibid.*, p 89

seven times in the course of 2012 and 2013, but ultimately failed to reach agreement.<sup>30</sup>

36. In April 2013, an unofficial cross-party working group published a draft bill<sup>31</sup> based on the recommendations of the CSPL report, and consulted widely on its options, but no further official negotiations produced consensus before the 2015 General Election.
37. The Labour Party subsequently took steps in the direction of some of the CSPL recommendations with the Collins Review and changes to the process of affiliating union members to the party. Appendix 8 sets out what has happened in respect of each of the CSPL recommendations since 2011.
38. The Conservative Party, the Labour Party and the Liberal Democrats all committed themselves to further party funding reform in their 2015 General Election manifestos. The Conservative Party stated that “We will continue to seek agreement on a comprehensive package of party funding reform”<sup>32</sup> whereas the Labour Party indicated that “Labour remains committed to reforming political party funding and taking the big money out of politics by capping individual donations to parties.”<sup>33</sup>
39. The Liberal Democrats, for their part, stated that they would “Take big money out of politics by capping donations to political parties at £10,000 per person each year, and introducing wider reforms to party funding along the lines of the 2011 report of the Committee on Standards in Public Life, funded from savings from existing government spending on politics.” They also pledged to: “Protect the rights of trade union members to have their subscriptions, including political levies, deducted from their salary, and strengthen members’ political freedoms by letting them choose which political party they wish to support through such automatic payments.”<sup>34</sup>
40. Lord Bew, Chair of the Committee on Standards in Public Life, wrote to party leaders after the 2015 General Election about making progress on party funding. But, Lord Bew told us, in spite of the manifesto commitments expressed by all three parties, “it would be wrong for me to say to the Committee that I was detecting enthusiasm to move the situation forward”.<sup>35</sup> This was confirmed by the Government when Minister John Penrose MP indicated to the Committee that it would be for the political parties, not the government, to initiate such talks.<sup>36</sup> We return to this issue in Chapter 3.

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30 Written Statement by Nick Clegg MP, HC Deb, 4 July 2013, [col 59WS](#)

31 *Funding Democracy: Breaking the deadlock*: <http://fundingukdemocracy.org/> [accessed 29 February 2016]

32 Conservative Party, *Manifesto 2015*, p 49: <https://s3-eu-west-1.amazonaws.com/manifesto2015/ConservativeManifesto2015.pdf> [accessed 29 February]

33 Labour Party, *Manifesto 2015*, p 63: <http://www.labour.org.uk/page/-/BritainCanBeBetter-TheLabourPartyManifesto2015.pdf> [accessed 29 February]

34 Liberal Democrats, *Manifesto 2015*, pp 131–132: [https://d3n8a8pro7vhm.cloudfront.net/libdems/pages/8907/attachments/original/1429028133/Liberal\\_Democrat\\_General\\_Election\\_Manifesto\\_2015.pdf?1429028133](https://d3n8a8pro7vhm.cloudfront.net/libdems/pages/8907/attachments/original/1429028133/Liberal_Democrat_General_Election_Manifesto_2015.pdf?1429028133) [accessed 29 February 2016]

35 [Q 20](#)

36 [Q 90](#)

## CHAPTER 2: IMPACT OF CLAUSES 10 AND 11

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### Introduction

41. This chapter focuses on the first part of the Committee’s remit: the impact of clauses 10 and 11 of the Trade Union Bill. Clause 10 will require unions with political funds to operate an “opt-in” system in the future, rather than an “opt-out” system; while clause 11 will require them to report in more detail on their political expenditure. This chapter takes a close look at clause 10 in particular, setting out the evidence we have received on:
- (1) whether the measure is necessary,
  - (2) its likely impact on union political funds, and
  - (3) any possible impact on the finances of the Labour Party.

We also consider the arguments around clause 11, although it attracted far less comment than clause 10.

### Rationale for clause 10

42. In the decades following the passage of the Trade Union Act 1913, the law alternated between requiring opt-in and opt-out systems for union political funds. Since 1946, when the Attlee Government restored the opt-out arrangement, the law has remained unchanged. The Thatcher Government did consider re-introducing the opt-in when reforming the law in this area in the 1980s, but decided not to do so after the TUC agreed to make efforts to increase awareness amongst union members of their right to opt out (the “King-Murray” agreement).<sup>37</sup> The Conservative manifesto at the 2015 General Election contained a commitment “to ensure trade unions use a transparent opt-in process for union subscriptions” (see paragraph 131 below for further discussion).<sup>38</sup>
43. The Government’s argument for re-introducing the opt-in essentially boils down to two propositions: (1) that the “King-Murray” agreement mentioned in the previous paragraph is not being fully observed; and (2) that it is modern best practice to operate opt-in arrangements where payments to organisations are concerned, except in certain situations where there is an overriding public interest in having an opt-out system.
44. On the first proposition, the Minister in charge of the Bill, Nick Boles MP, told us that the deal between the Thatcher Government and the TUC had “not been fulfilled” and that too many unions had failed to ensure that “all trade union members were always aware of the fact that they did not need to contribute to the political fund”.<sup>39</sup> The Government’s written evidence added that “many unions that have a political fund are not transparent with members on their membership subscription forms about the existence of a political fund; their choice to opt out of contributing to the fund; or the level of the member’s contribution towards the fund”. It stated that, of the 25 unions which had political funds, 12 did not mention on the subscription

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37 Two of the parties to this agreement, Lord King of Bridgwater and Lord Monks, discussed it in some detail during Lords committee stage of the current Trade Union Bill: HL Deb, 10 February 2016, [cols 2325–2331](#)

38 Conservative Party, *Manifesto 2015*, p 19: <https://s3-eu-west-1.amazonaws.com/manifesto2015/ConservativeManifesto2015.pdf> [accessed 29 February]

39 [Q 80](#)

form the existence of a political fund; and that, of the 11 which did reference a political fund, five did not make clear that there was a right to opt out.<sup>40</sup>

45. The Conservative Party’s written evidence provided a breakdown of what each union provided on its membership form.<sup>41</sup> On the basis of this analysis, the Party suggested that “7 out of 10 trade unions with political funds in Great Britain make no reference at all to the right to opt out on their membership forms” and that “Only 1 in 10 provides a clear choice on the opt-out”. It added: “A few unions may bury information on the political fund in the depths of their website, yet such information is clearly not visible ‘at the point of sale’”.<sup>42</sup>
46. On the second proposition, Nick Boles told us that there had been “a very substantial shift across a whole range of areas of public life and consumer activity towards the idea that it is important, when you are asking someone to make a contribution to some other organisation—it could be a supplier of a good or a charity—that they should actively consent to do so”. By way of example, he referred to reforms in consumer law, Sir Stuart Etherington’s recommendations regarding charities’ communications with donors, and the sale of financial products, which he believed to be “strongly analogous”.<sup>43</sup> The Government’s written evidence provided more detail on this point.<sup>44</sup>
47. The Conservative Party’s evidence also commented on these trends, concluding that “a strong case can be made that such consumer protection laws should cover the sale and marketing of trade union membership, given it is essentially a service aimed at individuals” and that the Bill “delivers this consumer protection in relation to the sale of political funds through the opt-in provisions”.<sup>45</sup> The Conservative Friends of Israel argued that it was particularly important that union members should make an active decision to contribute to the political fund because some unions used their political funds to pay for political campaigns which were, in its view, controversial.<sup>46</sup>
48. Nick Clegg MP told us that, while he objected to the way in which the Government were trying to introduce these reforms, he did not have a problem with the principle of introducing opt-in; he said, “I regard political opinion, affiliation and support as a sovereign decision for an individual citizen”.<sup>47</sup>
49. The arguments we heard against re-introducing opt-in can also be boiled down to two broad propositions which are in tension with the arguments set out above: (1) that there is no clear evidence that the King-Murray agreement is not being observed; and (2) that the existing opportunities for union members to know about and change political funds are sufficient to obviate the need for moving to opt-in, particularly since the requirements on unions are already more draconian than those placed on other organisations.

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40 Written evidence from Her Majesty’s Government on behalf of the Department for Business, Innovation and Skills ([TUP0011](#))

41 Written evidence from the Conservative Party, Annex 1 ([TUP0023](#))

42 Written evidence from the Conservative Party ([TUP0023](#))

43 [Q 80](#)

44 Written evidence from Her Majesty’s Government on behalf of the Department for Business, Innovation and Skills ([TUP0011](#))

45 Written evidence from the Conservative Party ([TUP0023](#))

46 Written evidence from the Conservative Friends of Israel ([TUP0009](#))

47 [Q 74](#)

50. On the first proposition, the TUC rejected the Government's claims of union non-compliance with the Murray-King agreement, noting that "Over the last [32] years we have no records of any Government Minister ever contacting the TUC to express concern with respect to non-compliance with the 1984 agreement, nor of evidence of non-compliance being presented to us", and pointing to the small number of complaints about political funds made to the Certification Officer.<sup>48</sup> The Certification Officer himself told us that he had not received any complaints specifically about a union's failure to tell members about the right to opt out of the political fund.<sup>49</sup>
51. The TUC challenged the Government's reliance on statistics about opt-out information on union membership forms, stating that there is no requirement in the Murray-King agreement or elsewhere to put such information on the forms and pointing out that unions used many other methods (including electronic) to convey the message to their members.<sup>50</sup>
52. Finally, the TUC queried why, if non-compliance with the 1984 agreement was a central part of the case for reform, there had been "no public consultation [and] no mention of this agreement and unions' compliance with it ... during the Commons stages on the Bill, in the impact assessment accompanying it or in meetings between government and the TUC".<sup>51</sup>
53. Following their appearance before the Committee, the TUC undertook an assessment of the activities of individual unions around opt-out, based on looking at union rule books and websites. They provided a breakdown of their findings in their written evidence. They concluded that "our affiliated members are going well beyond their legal obligations in informing members of their opt-out rights from the political fund" and suggested that many unions take "supplementary action" which goes further still. They were however willing to meet the Minister to discuss whether, and if so how, the current arrangements might be improved in the future, as an alternative to pressing ahead with clauses 10 and 11.<sup>52</sup> At a late stage, the General Secretary of the TUC wrote to the Chairman formally to propose talks with the Government and suggesting a statutory code to govern union practice in this area. The letter is reproduced in Appendix 9.
54. From the TUC's evidence, and the evidence we have heard from individual unions,<sup>53</sup> it is clear that there is significant variation in how different unions convey opt-out information to their members. Putting information on membership forms is only one of many possible methods. But it also seems likely that some unions are less effective than others at keeping their members informed about their opt-out rights. This may be reflected in the considerable differences between the opt-out rates of different unions, as shown in Appendix 4 to this report.
55. On the second proposition, a number of witnesses referred to the "triple lock" protection for trade union members in relation to political funds:

- (1) The ability to opt out as an individual at any time.

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48 Supplementary written evidence from the TUC ([TUP0039](#))

49 [Q 33](#)

50 Supplementary written evidence from the TUC ([TUP0039](#))

51 *Ibid.*

52 Supplementary written evidence from TUC ([TUP0039](#))

53 For example Usdaw and the FBU.

- (2) The opportunity to vote in a ballot every 10 years on whether or not to retain a political fund.
- (3) The right to change the rules of the political fund, including disaffiliation.<sup>54</sup>
56. Moreover, some witnesses argued, unions were already subject to stricter requirements than other organisations in respect of political donations. TULO wrote that “Uniquely, [union members] have a right to opt out of the collective decision. This right not to be bound by the majority does not extend to any other organisation making political donations.”<sup>55</sup> This point was supported by Jacob Rowbottom, who wrote:
- “The difficulty with Clause 10 is that if political contributions do require special protection for dissenting members (with a political fund either as an opt-in or opt-out), then such special controls should apply to institutional donations more generally, and not solely to trade unions. For example, if a person gives money to an environmental organisation, that person does not have a legal right to stop his or her membership fee from being used to give money to parties supporting certain environmental policies. The requirements currently applied to trade unions already contain more safeguards than found with other institutional donors. It is not clear why the safeguards on trade unions need to be made stricter without similar provisions for other types of institutional donor.”<sup>56</sup>
57. UNISON also highlighted this point, suggesting that trade unions faced much greater regulation than companies, unincorporated associations and individuals which donated to political parties.<sup>57</sup>
58. **There was a clear difference of opinion amongst witnesses about how well the current opt-out system for political funds is operating, and whether it is necessary or desirable to move to an opt-in system. But the Government has brought forward legislation and, in line with our terms of reference, we now consider their likely impact on both unions and the Labour Party. We shall then assess our findings against any agreed approaches to the reform of party funding identified in Chapter 3. Only then will we consider if there is a possibility of reaching agreement on the way forward.**

### Likely impact of clause 10

59. This section is in some ways the most important part of our report. So far in the debate on clause 10, there have been few attempts to provide a convincing analysis of the effect it might have directly on union political funds and indirectly on the Labour Party. We now bring together the evidence we have heard with a view to providing that analysis. Only then will it be possible to consider what impact the clause might have on the wider party funding debate.
60. We first look at the likely overall effect of reintroducing the opt-in based on history, Northern Ireland, behavioural evidence and the predictions we have heard. In drawing from these sources, we proceed on the assumption that

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54 Q 48 (Helen Pearce), Q 77 (Leighton Andrews)

55 Supplementary written evidence from TULO (TUP0038)

56 Written evidence from Jacob Rowbottom (TUP0021)

57 Written evidence from UNISON (TUP0014)

there will be a more accommodating transition period than that currently proposed in clause 10. We then study the particular details of clause 10 to see if they are likely to play a significant role in the overall effect.

### *History*

61. The most obvious starting point is history: the law has already moved from opt-out to opt-in, and back again. The participation rates in political funds declined following the introduction of opt-in in 1927, falling from more than 75% of the members of all unions affiliated to the TUC in 1925 to 48% in 1938,<sup>58</sup> although Professor Justin Fisher noted that “affiliated trade unions raised the sum that was payable to the political fund” to offset the effect.<sup>59</sup> When the opt-out was restored by the Attlee Government, the numbers increased from 38% in 1945 to 60% in 1948.<sup>60</sup> For the purposes of comparison, the equivalent indicative figure today is that 85% of the approximately 5.8 million members of TUC-affiliated unions contribute to a political fund.<sup>61</sup> Dr David Halpern of the Behavioural Insights Team told us that “History is a pretty good guide” and noted that the historic figures were “pretty close to what you see in other domains” when looking at similar changes.<sup>62</sup>
62. There are of course a number of differences between the mid-20th Century and the present day. Professor Keith Ewing commented that, following the 1927 changes, there had been “a very slow response ... on the part of some unions, which meant that the new legislation had a very soft landing”.<sup>63</sup> Clause 10, if passed, is unlikely to be treated in the same way. Iain McNicol also pointed out that unions now operate very differently compared to the 1920s: “It was a different model then for trade unions to collect subs and political levies. There were far more factories and workplaces. They did not have cheques; it was face to face and often done in cash.”<sup>64</sup> Dr David Halpern further warned us that if “the underlying attitude towards parties” had changed, the effect of moving to opt-in may be “even larger than history tells you”.<sup>65</sup>

### *Northern Ireland*

63. It is also relevant to consider the position in Northern Ireland, which has operated an opt-in system continuously since 1927. The 2014–15 Annual Report of the Certification Officer for Northern Ireland shows that, amongst the Great Britain trade unions with Northern Ireland members opting in to political funds, the opt-in rate is 28%.
64. There are reasons to be cautious about the Northern Ireland figures. First, there are important differences between their opt-in scheme and the one proposed in clause 10; for example, in Northern Ireland opting in is a one-off decision upon joining the union which does not need to be renewed, whereas clause 10 would require renewal of the opt-in every five years. Second, the historical and political context is very different in Northern

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58 Keith Ewing, *Trade Unions, the Labour Party and the Law* (Edinburgh: Edinburgh University Press, 1982), p 61

59 Q 16

60 House of Commons Library, Trade Union Bill, Briefing Paper, [CBP 7295](#), September 2015, p 54

61 Figure derived from the TUC Directory 2016 and annual reports of the Certification Officer

62 [Q 42](#)

63 [Q 55](#)

64 [Q 1](#)

65 [Q 42](#)

Ireland. As Professor Justin Fisher told us, “there is not the same tradition of a relationship between trade unions and a political party”, and so the Northern Ireland example “is an indicator but a rather imperfect one”.<sup>66</sup>

### *Behavioural evidence*

65. We were interested to hear whether behavioural evidence from comparable areas could offer a clue as to the likely impact of reintroducing the opt-in.
66. Using a range of examples to illustrate his point, Dr David Halpern told us that “inertia effects are incredibly powerful” and that people accordingly had “a very strong tendency to stick with whatever the default had been set at, even when it was drawn to their attention, in quite a consequential area”.<sup>67</sup> Lord O’Donnell added: “My gut feeling is that defaults will turn out to be very important” in this area.<sup>68</sup> Dr Halpern noted, though, that people’s “underlying preference” was also relevant.<sup>69</sup> Asked whether he would expect the move to opt-in to result in a lower participation rate in political funds, he replied: “Yes, substantially so—20 or 30 percentage points lower”.<sup>70</sup>
67. ASLEF argued that the current opt-out system’s reliance on inertia was unobjectionable, pointing out that the Government had “legislated on the basis that [inertia] does not mean lack of consent”, for example in the case of pensions auto-enrolment. The theory was that “most people would choose to be in a pension, but may not get around to filling in the appropriate paperwork”, and this, they believed, was also “true for union members and political campaigning too”. By moving to an opt-in system, ASLEF said, the Government was “relying on inertia to reduce Labour Party funding rather than truly giving consideration to how consent works”.<sup>71</sup>
68. Other unions also drew attention to human nature. PCS referred to their experience of signing members up to direct debit, stating: “it is not so much whether members want to pay for something or not, it is whether they get round to doing something which is *administratively* burdensome” when they already have “busy lives and other priorities”. They also suggested that “An individual might well support having the political fund but think that 10p a month isn’t significant enough to warrant filling out the form.”<sup>72</sup>
69. CWU wrote that “getting people to opt in to anything is difficult” and suggested that the experience of tax returns, digital switchover and PPI claims showed that it took considerable efforts to persuade people to take some kind of action “even when it is clearly in their interest to do so”.<sup>73</sup>
70. Dr Halpern did however tell us that, in moving to opt-in, there may be ways in which an understanding of human behaviour could help unions to offset a fall in participation rates. For example, he suggested that some people might be prepared to give much more substantial amounts of money “if they were offered the choice in a prompted form”,<sup>74</sup> particularly since “most people

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66 [Q 16](#)

67 [Q 39](#)

68 [Q 42](#)

69 [Q 38](#)

70 [Q 44](#)

71 Written evidence from ASLEF ([TUP0027](#))

72 Written evidence from PCS ([TUP0019](#))

73 Written evidence from CWU ([TUP0028](#))

74 [Q 42](#)

choose the middle option” when given a range of choices.<sup>75</sup> He also pointed to evidence suggesting that creating a “precipitating moment when you have to choose”, or emphasising a deadline, could improve participation rates.<sup>76</sup>

### *Predictions*

71. We received a number of high-level predictions about the impact of clause 10 on political funds, ranging from “no change” at one end of the spectrum, to a fall in participation rates from 89% to 5% at the other end.
72. The Government’s Impact Assessment of the Trade Union Bill, which was only published after the Bill had arrived in this House, stated: “Our main estimate is that there will be no change in the number of members contributing to the political fund. We do not have reliable data to estimate any changes in the proportions contributing.”<sup>77</sup> When we pressed Nick Boles on these conclusions, he agreed that clause 10 “could lead to drops” in participation rates but emphasised “I do not accept that it is inevitable”.<sup>78</sup> He added, “It is not my job to assume that unions are going to fail to persuade their members to make very small financial commitments to very worthwhile causes.”<sup>79</sup>
73. The unions and their representatives were far more pessimistic about the likely impact of clause 10. In their initial written evidence, TULO suggested that participation levels might be expected to fall to 28-38% on the basis of examples from history and Northern Ireland, but they warned that “more intense regulatory structures” and “the regulatory content of the Bill” (see paragraph 75 onwards, below) meant that this could be an over-estimate.<sup>80</sup> With this in mind, in their supplementary evidence they estimated that opt-in rates “could be as low as 10%”.<sup>81</sup> This figure was supported by UNISON,<sup>82</sup> among others, while Usdaw suggested that it could even be as low as 5%.<sup>83</sup> The 10% figure was supported by the Labour Party,<sup>84</sup> although Iain McNicol accepted that it “could well” trend up over time to the Northern Ireland figure of around 30%.<sup>85</sup> All of these predictions are at least in part based on the particular details of the opt-in process proposed in clause 10, which we consider in greater detail in the next section.
74. **On the basis of the evidence we have heard, we conclude that the reintroduction of the opt-in process, even without the particular details proposed in clause 10, could have a sizeable negative effect on the number of union members participating in political funds.**

### *Details of the scheme*

75. We now consider three aspects of the proposed opt-in scheme whose expected impact prompted considerable concerns from witnesses:

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75 [Q 40](#)

76 [Q 44](#)

77 Department for Business, Innovation and Skills, *Impact Assessment: Trade Union Bill* (January 2016) p 74: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/493636/BIS-16-70-trade-union-bill-impact-assessment.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/493636/BIS-16-70-trade-union-bill-impact-assessment.pdf) [accessed 29 February 2016]

78 [Q 86](#)

79 [Q 87](#)

80 Written evidence from TULO ([TUP0006](#))

81 Supplementary written evidence from TULO ([TUP0038](#))

82 Written evidence from UNISON ([TUP0014](#))

83 [Q 60](#)

84 [Q 1](#)

85 [Q 2](#)

- (1) the three month transition period,
- (2) the requirement to opt in on paper, and
- (3) the requirement to renew an opt-in decision every five years.

The general theme of the concerns expressed was that these provisions would present obstacles to successfully opting in union members, whilst also creating an additional bureaucratic and financial burden on unions.

*Transition period*

76. The Bill requires the opt-in provisions to apply to all existing members who are paying into a union political fund and to members choosing to pay into such a fund in the future. The Bill specifies a three month transition period, after which unions will only be able to collect political levies from those members who have opted in to the political fund. The three month period will not start until the provisions have been commenced, which is expected to be two months after Royal Assent has been granted.<sup>86</sup> Therefore unions will have five months in total to prepare.
77. Most witnesses agreed that this was a short transition period, with some comparing it unfavourably to the four years proposed for implementing the recommendations of the 2011 CSPL report and the five years proposed in the Collins Review for moving to opt-in for affiliation fees.<sup>87</sup> The TUC used a different comparison:
 

“Retailers were granted two years to prepare for new charges on plastic bags, whilst unions are to be given an eighth of that time to accommodate new rules which will have significant implications for their funding models. The three months ... is far less than is provided in usual government policy making practice.”<sup>88</sup>
78. The Certification Officer, David Cockburn, told us that clause 10 would require unions to revise their rules and seek his approval. He explained that for some unions this might necessitate an annual or a special meeting, although he pointed to a possible fast-track route in the 1992 Act.<sup>89</sup> The TUC told us that this process would be expensive and that it was “not feasible” to achieve the changes within three months.<sup>90</sup> Similarly, TSSA wrote that changes to its rules required a “rule change conference” and that it would be “impossible” for it to implement clause 10 within the proposed timeframes.<sup>91</sup>
79. Aside from the rule changes, a number of witnesses were concerned that the transition period was particularly problematic when coupled with some of the Bill’s other provisions. For example, Iain McNicol told us that “unions’ primary priority will be to retain or to sign back on to direct debit ... the check-off members that they would lose” as a result of clause 14 of the Bill, which meant that “Signing people up in writing ... to the political fund will

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86 Department for Business, Innovation and Skills, *Trade Union Bill: Explanatory Notes* (November 2015): <http://www.publications.parliament.uk/pa/bills/lbill/2015-2016/0074/en/16074en01.htm> [accessed 29 February 2016]

87 See for example the written evidence from the Labour Party ([TUP0026](#)) and the FBU ([TUP0022](#))

88 Supplementary written evidence from the TUC ([TUP0039](#))

89 [Q 31](#)

90 Supplementary written evidence from the TUC ([TUP0039](#))

91 Written evidence from TSSA ([TUP0035](#))

be a secondary issue” for “the next year to 18 months”.<sup>92</sup> Another frequently mentioned example<sup>93</sup> was the requirement for members to opt in on paper, an issue to which we now turn.

*Method of opting in*

80. The Bill specifies that union members wishing to opt in to the political fund must do so in writing, on paper. Witnesses had two concerns about this method: first, that it was less likely than other methods to achieve a good response rate; and second, that it would be very expensive.
81. On the first point, Tony Dale of Usdaw told us that “mail-outs advertising anything are a very poor way of communicating with the membership” and added, “In postal ballots we have turnouts of about 5%, which raises very serious concerns that the whole process of opting in or opting out will be fundamentally damaged by the society-wide issue that people are not very proactive in responding to their mail”.<sup>94</sup> Similarly, UNISON predicted a response rate of less than 10%, suggesting that “Most of our members have their connection with the union through face to face contact in their workplace or local branch and do not respond to mailings to their home address.”<sup>95</sup>
82. The obvious question is whether allowing opt-in by email and/or over the internet in addition to on paper—in other words, a multi-platform approach—would lead to better response rates. Dr David Halpern told us that “there is some evidence that people’s behaviour in e-defaults is different from that in paper defaults” and added: “Partly because it is so easy to click on or off, people seem more willing to change a default in the electronic domain. It may also be that people have learnt to be canner.”<sup>96</sup> He cautioned, though, that response rates can fall if an organisation suddenly changes the way in which it communicates with people.<sup>97</sup>
83. Although opting in is different from voting, we thought it might be useful to seek the Electoral Commission’s views on electronic voting. While noting that e-voting is not currently used for major elections and referendums in the UK, and drawing attention to issues around security and transparency, the Commission pointed out that a range of mutual and membership organisations use it, as well as certain countries.<sup>98</sup> Nothing in the Commission’s evidence leads us to believe that allowing electronic opt-in would be inappropriate.
84. We now turn to the second concern about the requirement to opt in on paper: the cost. In its Impact Assessment (IA), the Government estimated the costs of one round of posting opt-in forms and return envelopes to all 4,954,606 union members currently contributing to a political fund. This figure took into account the price of materials, postage, return postage and administrative costs, and amounted to £4,242,000.<sup>99</sup> Because of the

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92 [Q 1](#)

93 Written evidence from UNISON ([TUP0014](#)) and the FBU ([TUP0022](#))

94 [Q 60](#)

95 Written evidence from UNISON ([TUP0014](#))

96 [Q 40](#)

97 [Q 44](#)

98 Written evidence from the Electoral Commission ([TUP0030](#))

99 Department for Business, Innovation and Skills, *Impact Assessment: Trade Union Bill* (January 2016) p 76: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/493636/BIS-16-70-trade-union-bill-impact-assessment.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/493636/BIS-16-70-trade-union-bill-impact-assessment.pdf) [accessed 29 February 2016]

requirement to renew opt-ins, this cost would be incurred by unions every five years.

85. Although the IA figures are based on an unrealistic 100% response rate to mail-outs, some witnesses nonetheless believed that they were an underestimate. TULO pointed out that they did not include “the cost of expensive telephone follow-ups that will be necessary after the stamped addressed envelopes have gone out”.<sup>100</sup> Usdaw, meanwhile, had calculated that the time needed to process and log each response to the mail-out would be five times the Government’s figure of 30 seconds, which would inflate the administrative costs significantly.<sup>101</sup> We are also concerned that the IA does not appear to take account of the cost of adjusting unions’ IT systems to accommodate the new arrangements, and we were not reassured by Nick Boles’ reply.<sup>102</sup>
86. **While we are not in a position to make a robust estimate of the costs of moving to a paper-only opt-in system, the scale of the administrative and financial burden on unions will be considerable—all the more so given the requirement to apply the opt-in provisions to all existing members who are paying a political fund contribution. The costs per member look disproportionate against the small size of the political levies. Even if electronic opt-in is permitted, a proportion of these costs will still be incurred. This will be particularly unwelcome at a time when it is expected that the number of participants in political funds will have fallen.**

*Requirement to renew opt-in*

87. Finally, we consider the Bill’s requirement that opt-ins should be renewed every five years. The Government’s written evidence said that this provision would “ensure that members make their choice based on current and transparent information of spending on political activities”.<sup>103</sup>
88. TULO noted in written evidence that there was no renewal requirement in either the 1927 Act (which introduced an opt-in system) or the statute currently in force in Northern Ireland, and added: “It is hard to see what purpose this serves, other than a malign one, particularly given the ongoing existence of the 10-yearly political fund ballot.” The evidence went on to point out that members who had opted in could choose to opt out at any time.<sup>104</sup>
89. In considering these points, we note that in most walks of life where an initial opt-in decision is required—such as memberships or financial products—people are not required subsequently to renew that decision. It might be reasonable to expect clause 10 to take a similar approach—all the more so given the small sums involved per person. It is also the case, though, that providers of products or services usually send an annual notice setting out the cost to the individual in the coming year.

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100 Supplementary written evidence from TULO ([TUP0038](#))

101 [Q 65](#)

102 [Q 83](#)

103 Written evidence from Her Majesty’s Government on behalf of the Department for Business, Innovation and Skills ([TUP0011](#))

104 Written evidence from TULO ([TUP0006](#))

### *Conclusion*

90. It is clear that the three issues considered above could potentially have a negative impact on the ability of unions to achieve high opt-in rates. Dr David Halpern told us that “if you want someone to do something, you make it easy”<sup>105</sup> and suggested that people “go with the friction”.<sup>106</sup> In our view, these detailed provisions of clause 10 do not make it easy for union members to opt in; rather, they provide points of friction which will discourage opt-in.
91. Nick Boles assured us that he wanted “to make sure that the transition from the pre-existing approach to a modern approach of opt-in is possible for the unions to do in a way that is successful for them and their members and not punishing in terms of costs” and that the arrangements were “not designed to trip people up”.<sup>107</sup> Later on, he went further and told us, “I will do everything in my power to help [the unions] succeed”.<sup>108</sup>
92. On the specifics, Baroness Neville-Rolfe—the Bill minister in this House—took the opportunity at committee stage to hold out the possibility of compromise on both the transition period and the use of electronic communication.<sup>109</sup> A leaked letter from Nick Boles to two Cabinet Committees also gave the impression that the Government would be willing to compromise on electronic opt-in, renewal and withdrawal.<sup>110</sup> Whether the Government is prepared to negotiate over the five year lapse is less clear.
93. **We are encouraged by the Government’s apparent willingness to negotiate over the details of the opt-in scheme. It appears to have accepted that there is a strong argument for reviewing and extending the transition arrangements and for allowing opt-in to take place by electronic means as well as on paper, subject to appropriate security safeguards which should be vetted by the Certification Officer. We argue later in this report that the Government should drop the proposal to require union members to renew their opt-in every five years. Instead, unions could be required to inform their members clearly at least annually (perhaps alongside any other annual communications) that they have the right to rescind any decision to opt in or opt out (whichever is relevant).**

### *Likely impact on Labour Party*

94. We have concluded that the enactment of clause 10 is likely to have a sizeable negative impact on the number of union members contributing to political funds. This in turn is likely to affect the numerous political campaigns on which, we have heard, unions spend a proportion (or in the case of non-affiliated unions, most) of their political funds. Our task, however, is to consider any impact on the finances of the Labour Party.
95. In general, the evidence we heard on this point was unsophisticated. On the one hand, the Government has consistently argued that the Bill is “not about

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105 [Q 38](#)

106 [Q 39](#)

107 [Q 81](#)

108 [Q 87](#)

109 HL Deb, 10 February 2016, [cols 2344–2345](#)

110 The letter was first leaked by The Socialist Worker: Exclusive - leaked minister’s letter shows Tory panic over Trade Union Bill, *The Socialist Worker* (7 February 2016): <https://socialistworker.co.uk/art/42121/EXCLUSIVE+-+leaked+ministers+letter+shows+Tory+panic+over+Trade+Union+Bill> [accessed 29 February 2016]

party funding”.<sup>111</sup> The Conservative Party made the same point, arguing that the Bill “makes no change to the way that trade unions may decide to affiliate and/or donate from their political funds to any political party” and places “no restrictions on unions’ ability to contract with any political party”.<sup>112</sup> These comments do not help us answer the question we are considering, and nor does the inexplicable failure of the Impact Assessment to consider this issue.

96. On the other hand, the unions and the Labour Party suggested that union funding of the Labour Party would simply fall by the same percentage as they expected the political funds to fall. Helen Pearce of TULO told us that if their prediction of a 10% opt-in rate were fulfilled, then union funding of the Labour Party would fall accordingly from £9m per year to £1m per year.<sup>113</sup> The Labour Party also based their predictions on the 10% opt-in prediction, suggesting that the £8m fall would be made up of a £6m cut in affiliation fees and an annualised cut of £2m in donations.<sup>114</sup> Both organisations also predicted that under the more cautious estimate of a 30% opt-in rate, the figure would fall by £6m, which equated to one-fifth of the Labour Party’s annual income.<sup>115</sup> The same estimate of a £6m cut was put forward by Unlock Democracy.<sup>116</sup>
97. Professor Justin Fisher also believed that the Bill would have an impact on the Labour Party. He did not attempt to quantify that impact, but he did suggest that it would be “particularly acute so long as, compared with 20 years ago, Labour remains relatively unpopular” and the sources of Labour Party income are “increasingly focused on trade unions”.<sup>117</sup>
98. In spite of the predictions mentioned above, we see no obvious reason why union payments to the Labour Party must decrease in size by precisely the same percentage as union political funds. Indeed, Helen Pearce of TULO accepted that “Unions might decide to spend a slightly higher proportion of their political fund to increase slightly the amount of money they give to the Labour Party”, although she warned that “if the pie is going to be significantly smaller, giving a slightly larger proportion of a very tiny pie to the Labour Party will make very little difference to the funding available”.<sup>118</sup> Iain McNicol also pointed out that giving a larger percentage of political funds to the Labour Party “could in no way make up for the losses sustained” by a significant reduction in the size of those funds.
99. Alan Buckle, who has advised the Labour Party since the late 1990s, thought that a reduction in the size of political funds might have a different effect:

“My experience of advising the party is that the Trade Unions, while supportive of the party’s objectives, have a wide range of political activities to finance and that a fall in the size of their political [fund]

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111 Written evidence from Her Majesty’s Government on behalf of the Department for Business, Innovation and Skills ([TUP0011](#))

112 Written evidence from the Conservative Party ([TUP0023](#))

113 [Q 55](#)

114 Written evidence from the Labour Party ([TUP0026](#))

115 Written evidence from the Labour Party ([TUP0026](#)) and supplementary written evidence from TULO ([TUP0038](#))

116 Written evidence from Unlock Democracy ([TUP0004](#))

117 [Q 17](#)

118 [Q 57](#)

may have a disproportionately larger impact on the Labour Party rather than in some way being mitigated.”<sup>119</sup>

100. **A fall in the size of union political funds need not necessarily lead to the same percentage cut in union payments to the Labour Party but, given the expected scale of the reduction in the size of political funds, it seems likely that there will be a significant reduction in those payments overall. The scale of the reduction is likely to vary between affiliated unions, but in aggregate it is a reasonable assumption that it will be broadly in proportion to the decline in the total income of the unions’ political funds.**

#### Likely impact of clause 11

101. We now consider the likely impact of clause 11, on which we received far less evidence. Clause 11 will require each union which spends more than *a total* of £2,000 per year from its political fund (which is likely to include the great majority of unions with political funds) to provide extensive details of its political expenditure in its annual return to the Certification Officer. For each category, the union will have to identify:

- (1) the recipient of monies,
- (2) the amount of monies paid, and
- (3) the nature of the expenditure.

There appears to be no *de minimis* level: all payments will have to be accounted for in the way just described.

102. The Government argued in written evidence that the clause would provide “additional transparency” and “allow union members to make an informed choice about whether they wish to contribute to the [political] fund.”<sup>120</sup> The Conservative Party agreed that the clause would help to address “a lack of transparency” over how political funds are spent,<sup>121</sup> and Conservative Friends of Israel made a similar point with particular reference to expenditure on campaigns which might be considered controversial.<sup>122</sup>
103. By contrast, unions told us that clause 11 was unnecessary. Usdaw said that “almost all of the expenditure is already subject to detailed reporting requirements” under existing Acts. UNISON stated that “union political expenditure is amongst the most transparent in politics” and characterised clause 11 as “yet another bureaucratic burden that other organisations do not face”.<sup>123</sup> Community objected to the clause in stronger terms:

“Clause 11 of the bill seeks to impose punitive regulation on trade unions which the government would ask of no business, charity or public body. A line by line account of every pound spent is simply an unacceptable ask of an organisation whose primary responsibility is to its members.

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119 Written evidence from Alan Buckle (TUP0018)

120 Written evidence from Her Majesty’s Government on behalf of the Department for Business, Innovation and Skills (TUP0011)

121 Written evidence from the Conservative Party (TUP0023)

122 Written evidence from the Conservative Friends of Israel (TUP0009)

123 Written evidence from UNISON (TUP0014)

It simply represents a partisan attack by the government, cloaked in the pretence of transparency.”<sup>124</sup>

104. Usdaw also expressed concern that reporting some of the smaller items of expenditure which do not currently have to be reported, particularly in respect of conference costs, could invade members’ privacy (potentially discouraging them from participating) and threaten the commercial confidentiality of its suppliers.<sup>125</sup> In assessing these claims, we found there to be uncertainty about the level of detail which the unions will be expected to give: for example, does the duty in clause 11 to “identify the recipient of each item of expenditure under each different category” include naming individual union members who are receiving financial assistance to attend a conference?
105. On the question of the administrative burden, the Certification Officer was clear that the clause would cause unions “quite a lot of difficulty, for very practical reasons”. For example, unions give money from their political funds at national, regional and branch level, so “there could be a big job in collating that information”; and there could be difficulties with categorising certain types of expenditure which “could give rise to uncertainty”. Moreover, under the Bill’s provisions, anybody will have the right to complain to the Certification Officer about breaches of the statutory requirements. The Certification Officer told us, “Given the political nature of the subject matter, which is likely to be highly contentious, and the fact that what is reported to me is likely to be forensically examined, I can see many more issues being brought to me about what is reported”.<sup>126</sup> This would in turn greatly increase the workload of his office, which would require a budget increase from £560,000 per year to “perhaps nearly £2 million”.<sup>127</sup>
106. Usdaw also drew attention to the administrative burden, suggesting that the Impact Assessment’s estimate that the reporting requirements would take “a day of a trade union official’s time each year”<sup>128</sup> was a “serious underestimate”. Usdaw expected that it would take a senior member of staff about two weeks.<sup>129</sup>
107. **We endorse the principle that union members are entitled to a reasonable amount of detail about the political expenditure of their unions, and agree that the current level of reporting is insufficient. However, in the light of the evidence given by the Certification Officer and others, we are concerned that the requirements of clause 11 would be disproportionately burdensome, particularly when considered in relation to the size of the political levy which averages 9p per union member per week. There is also a risk that the reporting requirements, depending on how they are interpreted, could act as a deterrent to union members’ legitimate participation in political activities. We therefore urge the Government to consult the Certification Officer as a matter of urgency in order to devise a scheme which more appropriately balances proportionality and accountability.**

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124 Written evidence from Community ([TUP0024](#))

125 Supplementary written evidence from USDAW ([TUP0029](#)), [Q 64](#)

126 [Q 31](#)

127 [Q 36](#)

128 Department for Business, Innovation and Skills, *Impact Assessment: Trade Union Bill* p 73: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/493636/BIS-16-70-trade-union-bill-impact-assessment.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/493636/BIS-16-70-trade-union-bill-impact-assessment.pdf) [accessed 29 February 2016]

129 Supplementary written evidence from USDAW ([TUP0029](#))

## CHAPTER 3: REFORM OF POLITICAL PARTY FUNDING

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### Introduction

108. We now consider the findings of the previous chapter against the broader canvas of political party funding reform. First, we look at whether there is a convention or some lesser tradition that reform to political party funding should proceed by consensus. We then turn to the current status of the 2011 CSPL report and its impact on this debate. Finally, we assess whether clause 10 complies with any identified convention or tradition, and consider what the passage of the clause might mean for the future of party funding reform.<sup>130</sup>

### Convention?

109. In evidence, a number of witnesses prayed in aid the following quotation from Winston Churchill (then Conservative Leader of the Opposition): “It has become a well-established custom that matters affecting the interests of rival parties should not be settled by the imposition of the will of one side over the other, but by an agreement reached either between the leaders of the main parties or by conferences under the impartial guidance of Mr Speaker.”<sup>131</sup> On the basis of this quotation, TULO identified a “Churchill convention”, which they said had been “accepted and applied in recent years, and was generally followed during the Labour governments between 1997 and 2010” and indeed by the CSPL in their 2011 inquiry. They accepted that the convention did not give any party a veto over all changes to party funding, but insisted that “there would have to be strong and compelling reasons to justify an attack on the opposition, undertaken unilaterally by the party of government”.<sup>132</sup> Several of the unions also signed up to the notion of a “convention”,<sup>133</sup> as did Leighton Andrews AM, Minister for Public Services in the Welsh Government.<sup>134</sup>
110. Other witnesses were a little more speculative. Nick Clegg MP, for example, referred to “a long-standing habit or tradition ... that issues to do with money and power in British politics are dealt with on a cross-party basis” and said that parties had sought “to move as a flotilla ... working across party boundaries”.<sup>135</sup> Jack Straw wrote that “It is of course a fact of life that on an issue like this the starting point for legislative proposals is likely to reflect the views of the party of government”, but added that the asymmetrical impact of party funding reform made it “all the more important that so far as possible change does proceed on a consensual basis, and that the government of the day recognises that in this area it is a trustee for our democratic system”.<sup>136</sup>
111. Two of our academic witnesses pointed out that the historical picture was more mixed than some people had suggested, however. Professor Justin Fisher noted that the number of real reforms to party funding had been “comparatively few” and that in some cases reforms had been “acts of

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130 Clause 11 does not directly concern party funding reform, so we do not consider it in this chapter.

131 See for example written evidence from the Labour Party ([TUP0026](#)) and TULO ([TUP0006](#)). The quotation is from a speech made in the House of Commons in 1948 (HC Deb, 16 February 1948, [col 859](#)).

132 Written evidence from TULO ([TUP0006](#))

133 Written evidence from the FBU ([TUP0022](#)), GMB ([TUP0013](#)) and UNISON ([TUP0014](#))

134 [Q 75](#)

135 [Q 67](#)

136 Written evidence from Rt Hon Jack Straw ([TUP0033](#))

revenge or putting something right”.<sup>137</sup> Looking at the last 50 years, Dr Michael Pinto-Duschinsky identified “a mixture of partisan measures ... and occasional cross party concessions”, which is a picture we recognise. He concluded that “cross party agreement is highly desirable but not subject to a full blown constitutional convention”.<sup>138</sup>

112. There are clearly risks in moving away from a consensual approach. Jacob Rowbottom identified three dangers. First, if funding reform measures are seen to advantage the incumbent government, then the system “will lose legitimacy in the eyes of the public”.<sup>139</sup> This point was echoed by the Electoral Reform Society, which warned that a unilateral approach to reform would damage public faith in the process and create “a race to the bottom on party funding”.<sup>140</sup>
113. Second, a unilateral approach might cause the area of law to be treated “in a similar way by future governments seeking political advantage”.<sup>141</sup> This concern was echoed by several witnesses, including Nick Clegg who warned against emulating America where “there is a very unseemly tradition of new incumbents in power busily trying to rig every rule in sight to the detriment of their opponents”. He warned that if the Government acted unilaterally, it would “rue the day ... because one day the boot will be on the other foot”.<sup>142</sup>
114. Third, Mr Rowbottom warned that a move to a non-consensual approach to party funding might “lead the courts to show less respect for Parliament’s judgment on such matters and pave the way towards greater judicial intervention in this field, as has been witnessed in other countries”.<sup>143</sup>
115. **We conclude that, while there is no formal convention that all reform of party funding must take place by consensus, history shows that governments of both main parties have acted with a degree of restraint; and indeed it is desirable to seek consensus. If any government were to use its majority unilaterally to inflict significant damage on the finances of opposition parties, it would risk starting a tit-for-tat conflict which could harm parliamentary democracy.**

#### Status of CSPL report

116. Before considering how clause 10 sits with our conclusion above, we evaluate the status of the 2011 CSPL report and its relevance to the current debate.
117. The 2011 report was the result of an inquiry into the financing of political parties which began in July 2010 against a background of what the CSPL called “a high, and unhealthy, degree of public suspicion about the motivations of both donors and recipients” as well as commitments to reform in the 2010 manifestos of the main UK parties. The report was presented to the Prime Minister in November 2011.
118. The Government said in written evidence that “the CSPL recommendations did not obtain cross-party consent amongst the political parties, and indeed,

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137 [Q 15](#)

138 Written evidence from Dr Michael Pinto-Duschinsky ([TUP0031](#))

139 Written evidence from Jacob Rowbottom ([TUP0021](#))

140 Written evidence from the Electoral Reform Society ([TUP0007](#))

141 Written evidence from Jacob Rowbottom ([TUP0021](#))

142 [Q 67](#)

143 Written evidence from Jacob Rowbottom ([TUP0021](#))

had dissenting opinions”.<sup>144</sup> Sir Christopher Kelly, who was Chair of the CSPL at the time of the 2011 report, confirmed this, stating that it was “a matter of deep regret that this is the first report by the committee that has not been accepted in large part”.<sup>145</sup> Nick Clegg told us that, when Deputy Prime Minister, he had convened a cross-party committee to take up the 2011 report “as a loose blueprint” but “When push came to shove, the political decision was taken to pull the plug on the whole thing, because no party, particularly the better funded and larger ones, had any interest in reaching a compromise.”<sup>146</sup>

119. The Conservative Party also highlighted the report’s failure to obtain cross-party agreement, concluding that “contrary to the implication of the resolution setting [up] this Select Committee, the report did not and does not represent a basis on which to reform party funding legislation”.<sup>147</sup> Dr Michael Pinto-Duschinsky agreed that, while the report deserved “careful attention”, it was “not necessarily an adequate point of departure for ongoing discussions about a desirable package [of] reforms of political finance” and “ought not to be thought of as an agreed formula”.<sup>148</sup> Dame Margaret Beckett MP, who is a member of the CSPL, concurred: “the more and the longer I think about these issues the more convinced I am, sadly, of the limitations of the committee’s extremely well intentioned proposals for reform”.<sup>149</sup>
120. Sir Christopher Kelly accepted that he might want to suggest “a number of different things”, but did not support changing “the overall shape of the package”.<sup>150</sup> Lord Bew, current Chair of the CSPL, said: “Time has moved on. The 2011 model was based on information available at the time. Certain perceptions of certain issues have changed, and it now requires updating and remodelling.”<sup>151</sup> He later added: “There may well be other concepts or new approaches. What we really want is consensual agreement. We want to be a party to that, rather than to fetishise any detail or idea in the 2011 report.”<sup>152</sup>
121. **The 2011 CSPL report has to some extent been overtaken by events and, whatever its merits, is unlikely to produce a consensus on an agreed way forward on party funding in the near future. Nevertheless, we commend the CSPL’s general approach of seeking to maintain balance in the measures proposed so that taken together they would affect all major parties in a proportionate and broadly fair manner.**
122. Although there is little prospect of the report itself being taken forward, Lord Bew also reminded us that “to extract one element of the reforms ... is not in the spirit of the report”.<sup>153</sup> Indeed, the report stated that it was important to regard the proposals as a “package” which would be “reasonably even-handed” in its impact on the two main parties. Nick Clegg explained that the

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144 The dissenting opinions were from Margaret Beckett MP and Oliver Heald MP. Committee on Standards in Public Life, *Political party finance: Ending the big donor culture*, Cm 8208, November 2011, pp 108–111: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/228646/8208.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/228646/8208.pdf) [accessed 29 February 2016]

145 [Q 23](#)

146 [Q 67](#)

147 Written evidence from the Conservative Party ([TUP0023](#))

148 Written evidence from Dr Michael Pinto-Duschinsky ([TUP0031](#))

149 Written evidence from Rt Hon Dame Margaret Beckett MP ([TUP0037](#))

150 [Q 20](#)

151 [Q 20](#)

152 [Q 27](#)

153 [Q 20](#)

report was premised on “two political pillars” which needed to be addressed simultaneously: a cap on donations and reform of trade union funding.<sup>154</sup> Sir Christopher Kelly made a similar point.<sup>155</sup>

123. It has been suggested throughout the current debate that clause 10 seeks to “cherry-pick” recommendations from the CSPL report in exactly the way which the report warned against. This is not quite correct, however, because the CSPL report referred to union members opting in to the payment of union affiliation fees to the Labour Party, whereas clause 10 concerns union members opting in to union political funds. As the Conservative Party pointed out, “contracting-in to political funds was never a recommendation of the Committee”.<sup>156</sup>
124. Nonetheless, it is valid to ask whether clause 10 is consistent with the spirit of the CSPL report and the proposition that party funding reform should proceed in a consensual and balanced way. It is to this question that we now turn.

### Clause 10 and party funding reform

125. The Government’s position on clause 10—and indeed the whole Bill—is that it “is not about party funding, but delivers a package of manifesto commitments on reforming trade union law”.<sup>157</sup> The Conservative Party made a similar point, noting that “trade union legislation has always been subject to different party views, and it has never been the case that it has been dependent on cross-party ‘consensus’”. On political funds specifically, they added:

“Political parties have consistently sought to amend (or oppose) changes to the political fund legislation based on their underlying political convictions. There has never been cross-party consensus, and it is unlikely that there ever will be.”<sup>158</sup>

126. In some ways, the question of whether clause 10 is trade union legislation or party funding legislation, or both, is a semantic one, although in passing we note that the Royal Commission on Trade Unions and Employers’ Associations concluded in the 1960s that “the problem of ‘contracting-in’ or ‘contracting-out’ is not so much a question of industrial relations as a political question, namely whether the Labour Party shall get the benefit” of union members’ inertia.<sup>159</sup> What is perhaps a more important question is whether the clause’s effects will skew the party funding debate.
127. We have already concluded that clause 10 is likely to reduce the Labour Party’s funding significantly, and a number of witnesses told us that Labour would be the only party to suffer. Iain McNicol from the Labour Party said:

“The Bill is, in effect, party funding legislation but [it] is only partial reform in that it impacts solely upon the Labour Party while not

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154 [Q 70](#)

155 [Q 21](#)

156 Written evidence from the Conservative Party ([TUP0023](#))

157 Written evidence from Her Majesty’s Government on behalf of the Department for Business, Innovation and Skills ([TUP0011](#))

158 Written evidence from the Conservative Party ([TUP0023](#))

159 House of Commons Library, Trade Union Bill, Briefing Paper, [CBP 7295](#), September 2015, p 55

addressing issues such as donation caps or spending limits. It is... a partisan attempt to smuggle in reform through the back door.”<sup>160</sup>

128. Similarly, Leighton Andrews of the Welsh Government said that clause 10 was “a major deliberate assault on the funding of the Labour Party”<sup>161</sup> and UNISON labelled it “a unilateral proposal by one party in Government to make changes to union structures that will have a fundamental effect on the funding and organisation of one other party, the main opposition Labour Party”.<sup>162</sup> Nick Clegg warned: “This Bill, combined with the cut in Short money, which is a very spiteful and petty measure, the growing evidence that constituency-wide funding limits have been breached and the politicisation of special advisers and so on, sours and significantly departs from the broad framework of cross-party collaboration on these issues in the past.”<sup>163</sup> He added that it would have a “disproportionate and asymmetrical political effect on [the Government’s] principal political opponents”.<sup>164</sup> Sir Christopher Kelly called clause 10 “a partisan, cynical move that is likely ... to bring the whole process into even greater disrepute”.<sup>165</sup>
129. Unlock Democracy warned that the changes “would widen the funding gap between the two largest parties, with serious implications for the fairness of future elections”.<sup>166</sup> The Electoral Reform Society, while supporting a move to opt-in, suggested that it should be “embedded within wider reforms that deal with party funding equally across all parties and ensure a stable and sustainable footing for party funding in the future”.<sup>167</sup>
130. The further danger of proceeding down a non-consensual route is that any cut in the Labour Party’s funding will simultaneously reduce the incentives for the other parties to make concessions with a view to achieving comprehensive reform, and make the Labour Party more inclined to take unilateral action against the Conservative Party and its funding when next in government.
131. There is however another key factor to consider: the Conservative Party’s 2015 manifesto. The manifesto made two references to this area: first, it promised “to ensure trade unions use a transparent opt-in process for union subscriptions”; and second, it stated, “In the next Parliament, we will legislate to ensure trade unions use a transparent opt-in process for subscriptions to political parties. We will continue to seek agreement on a comprehensive package of party funding reform.”<sup>168</sup> The terminology here is inexact and the drafting careless. The Conservative Party’s evidence suggests that the first reference applies to political funds (although, as TULO pointed out, political funds are not mentioned anywhere in the manifesto)<sup>169</sup> whereas the second reference applies to the separate issue of opting in to affiliation fees (something which it acknowledges some unions have taken forward).<sup>170</sup>

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160 [Q 1](#)

161 [Q 78](#)

162 Written evidence from UNISON ([TUP0014](#))

163 [Q 67](#)

164 [Q 72](#)

165 [Q 21](#)

166 Written evidence from Unlock Democracy ([TUP0004](#))

167 Written evidence from the Electoral Reform Society ([TUP0007](#))

168 Conservative Party, *Manifesto 2015*, p 19, 49: <https://s3-eu-west-1.amazonaws.com/manifesto2015/ConservativeManifesto2015.pdf> [accessed 29 February]

169 Supplementary written evidence from TULO ([TUP0038](#))

170 Written evidence from the Conservative Party ([TUP0023](#))

132. John Penrose MP, Minister for Constitutional Reform in the Cabinet Office, did not draw this distinction when he appeared before us, so we asked him whether the juxtaposition of the promise to introduce an “opt-in process for subscriptions to political parties” and the promise to seek comprehensive party funding reform implied any conditionality between the two. In reply, he said that “I do not think that we should let one be the hostage to the other”.<sup>171</sup>
133. In any case, whatever the precise interpretation of the manifesto, its broad direction of travel is clear and the Government is in a strong position to claim a democratic mandate for introducing an opt-in process for subscriptions to political funds, if not for the full set of proposals in clause 10.
134. **It is clear to us that clause 10 will have an impact on party funding and that it is very far from commanding the consensus which we have said is desirable in such situations. Equally, the opt-in was referenced in the Conservative Party manifesto and so the Government can claim a democratic mandate for introducing an opt-in process for subscriptions to political funds. We attempt to reconcile these two issues by setting out a proposed compromise in the next chapter.**
135. Before turning to the final chapter, we take the opportunity to comment on the current state of the wider debate on party funding reform. Lord Bew, noting that all of the party manifestos made reference to party funding reform, told us that he had written to all of the party leaders after the election. Unfortunately, even though the CSPL had asked “a number of times”, only the Conservative Party and the Scottish National Party had replied, and the Conservative reply was “not ... particularly encouraging”.<sup>172</sup>
136. Given the manifesto commitment “to seek agreement on a comprehensive package of party funding reform”, we were surprised and disappointed by the passive approach taken by the Government in their written evidence (“The Government remains open to constructive debate [and] open to action should a cross-party consensus on the broader questions of party funding emerge in future”)<sup>173</sup> and by John Penrose in his oral evidence. The Minister told us that talks on party funding have tended to be taken forward by office-holders from the political parties rather than the Government,<sup>174</sup> but we note that this does not tally with the leading roles previously played by Nick Clegg and Jack Straw in their ministerial capacities. The Minister added that “the conditions have not yet been right for a constructive dialogue”.<sup>175</sup> He accepted that the Government’s attempt to introduce opt-in through the Trade Union Bill had been “a factor” in these unfavourable conditions and had made it “frankly difficult” to establish talks.<sup>176</sup>
137. This lack of progress is troubling given the ever-increasing amounts spent by the parties<sup>177</sup> and the apparent public dissatisfaction with the current situation (for example, the Electoral Reform Society referred to a poll showing that 72% of the public agreed or strongly agreed that the system of party funding

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171 [Q 89](#)

172 [Q 20](#)

173 Written evidence from Her Majesty’s Government on behalf of the Department for Business, Innovation and Skills ([TUP0011](#))

174 [Q 88](#)

175 [Q 89](#)

176 [Q 90](#)

177 [Q 8](#)

“is corrupt and should be changed”).<sup>178</sup> It is also hard to justify given that Professor Justin Fisher<sup>179</sup> and Professor Keith Ewing<sup>180</sup> both indicated that the prospects of making progress had improved since the Labour Party adopted the reforms proposed by Lord Collins of Highbury in his review.<sup>181</sup>

138. **Whether or not clause 10 is enacted, in whatever form, the political parties should live up to their manifesto commitments and make a renewed and urgent effort to seek a comprehensive agreement on party funding reform. We urge the Government to take a decisive lead and convene talks itself, rather than waiting for them to emerge.**

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178 Written evidence from the Electoral Reform Society ([TUP0007](#))

179 [Q 14](#)

180 [Q 59](#)

181 Lord Collins of Highbury, *The Collins Review into Labour Party Reform* (February 2014): [http://action.labour.org.uk/page/-/Collins\\_Report\\_Party\\_Reform.pdf](http://action.labour.org.uk/page/-/Collins_Report_Party_Reform.pdf) [accessed 29 February 2016]

## CHAPTER 4: THE WAY FORWARD

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139. So far, our two key conclusions in this report are that (1) the introduction of the opt-in will have a significant impact on union political funds and in turn on the funding of the Labour Party and (2) it is desirable that changes affecting the funding of political parties should proceed by consensus. It is clear that clause 10 is very far from commanding a consensus, partly because of the impact on the funding of the Labour Party and partly because of the obstacles that it presents to the successful implementation of opt-in. It is also clear, however, that the Government has a democratic mandate to introduce some form of opt-in for subscriptions to political funds.
140. **There is a real public concern about the funding arrangements for all political parties. Our appointment motion referred both to the 2011 report of the Committee on Standards in Public Life and to the issue of further legislation. While there is no agreement between the political parties, we see no scope for introducing urgent new legislation on party funding to balance the provisions of this Bill. We believe that the political parties should give effect to their manifesto commitments on party funding. We urge the Government to convene cross-party talks with a view to making a renewed and urgent effort to reach agreement.**
141. **In its search for a way forward, the Committee agreed unanimously on the following points, which may require amendments to the Trade Union Bill.**
- (a) **It should be a requirement for all members joining a union with a political fund to be asked on the membership form to make an active choice to contribute or not contribute to that fund. The membership form, whether paper or electronic, must make clear that their decision will not affect any other aspects of their membership.**
  - (b) **There should be a minimum 12 month transition period starting on the day on which this provision comes into effect, to allow for rule changes and administrative adjustments. The Government should consult the unions on this point.**
  - (c) **There should be no requirement to renew any decision to opt in, but any member will continue to be entitled to opt out at any time and must be clearly reminded of that fact by the union in writing at least annually.**
  - (d) **The Certification Officer should be required to issue a statutory code of practice, and to monitor compliance with it. The code of practice must (i) set out the minimum level of annual communications which unions must have with political fund contributors regarding their right to opt out, and (ii) require unions to allow political fund contributors to opt out electronically or in paper form.**
  - (e) **The reporting duties in clause 11 should be revised after consultation with the Certification Officer, to ensure that they are not disproportionately burdensome.**

142. **The Committee did not reach agreement on whether or not to extend the opt-in system to existing members. Two alternative positions were put forward:**

- (a) **One position is that the question of whether to extend the opt-in to existing union members must only be considered as part of the cross-party discussions on party funding reform which we have recommended, and should not be dealt with in this Bill. The discussions should be convened as soon as possible; and**
- (b) **One position is that the Government should apply the proposed opt-in system to existing union members, but perhaps on a longer transition period than for new members.**

**The majority of the Committee supported position (a).**

## APPENDIX 1: LIST OF MEMBERS AND DECLARATION OF INTERESTS

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### Members

Lord Burns (Chairman)  
 Lord Callanan  
 Lord De Mauley  
 The Rt Hon Baroness Dean of Thornton-le-Fylde  
 Baroness Drake  
 Lord Hart of Chilton (joined February 2016)  
 The Earl of Kinnoull  
 The Rt Hon Lord Richard (resigned February 2016)  
 The Rt Hon Lord Robathan  
 Lord Sherbourne of Didsbury  
 The Rt Hon Lord Tyler  
 The Rt Hon Lord Whitty  
 Lord Wrigglesworth

### Declaration of Interests

Lord Burns  
*No relevant interests declared*

Lord Callanan  
*Member of the Conservative Party*  
*Various donations to the Conservative Party*

Lord De Mauley  
*Member of the Conservative Party*  
*Various donations to the Conservative Party*

Baroness Dean of Thornton-le-Fylde  
*Member of the Labour Party; member of Falmouth Labour Party*  
*Member of Unite (trade union)*

Baroness Drake  
*In receipt of pension from a pension fund of which the Communication Workers Union is the employee sponsor*  
*Honorary member of the CWU (trade union)*  
*Member of the Labour Party*  
*Various donations to the Labour Party*

Lord Hart of Chilton (joined February 2016)  
*Member of the Labour Party*  
*Various donations to the Labour Party*

The Earl of Kinnoull  
*No relevant interests declared*

Lord Richard (resigned February 2016)  
*Member of GMW (trade union)*  
*Member of the Labour Party*

Lord Robathan  
*Member of the Conservative Party*  
*Occasional small donations to the Conservative Party*

Lord Sherbourne of Didsbury  
*Member of the Conservative Party*  
*Various donations to the Conservative Party*

**Lord Tyler**

*Non-pecuniary interest as co-author of 2013 cross-party report “Funding Democracy” - the Joseph Rowntree Reform Trust Ltd grant aided the engagement of a legislative drafter to produce a draft bill on the funding of political parties, and thereafter to publish and promote it.*

*Member of the Liberal Democrats*

*Various donations to the Liberal Democrats*

**Lord Whitty**

*Member of GMB (trade union)*

*Member of the Labour Party*

*Various donations to the Labour Party*

**Lord Wrigglesworth**

*National Treasurer, Liberal Democrats, January 2012–2015*

*Member of the Liberal Democrats*

*Various donations to the Liberal Democrats*

A full list of Members’ interests can be found in the Register of Lords Interests: <http://www.parliament.uk/mps-lords-and-offices/standards-and-interests/register-of-lords-interests/>

## APPENDIX 2: LIST OF WITNESSES

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Evidence is published online at <http://www.parliament.uk/trade-union-party-funding-committee> and is available for inspection at the Parliamentary Archives (020 7219 3074).

Evidence received by the Committee is listed below in chronological order of oral evidence session and in alphabetical order. Those witnesses marked with \*\* gave both oral evidence and written evidence. Those marked with \* gave oral evidence and did not submit any written evidence. All other witnesses submitted written evidence only.

### Oral evidence in chronological order

**	Mr Iain McNicol, General Secretary, The Labour Party	<a href="#">QQ 1–7</a>
*	Lord German, Treasurer, Liberal Democrats	<a href="#">QQ 8–13</a>
*	Professor Justin Fisher, Brunel University, London	<a href="#">QQ 14–19</a>
**	Lord Bew, Chair, Committee on Standards in Public Life	<a href="#">QQ 20–30</a>
**	Sir Christopher Kelly, former Chair, Committee on Standards in Public Life	
*	Mr David Cockburn, Certification Officer	<a href="#">QQ 31–37</a>
*	Dr David Halpern, Chief Executive, Behavioural Insights Team	<a href="#">QQ 38–44</a>
*	Lord O’Donnell	
**	Ms Nicola Smith, Head of Economic and Social Affairs Department, TUC	<a href="#">QQ 45–59</a>
**	Ms Helen Pearce, Head of Campaigns and Communications, Trade Union and Labour Party Liaison Organisation (TULO)	
**	Professor Keith Ewing, Trade Union and Labour Party Liaison Organisation (TULO)	
**	Mr Tony Dale, Deputy Head of Research and Economics, Usdaw	<a href="#">QQ 60–66</a>
**	Ms Ruth George, Political Officer, Usdaw	
**	Mr Matt Wrack, General Secretary, Fire Brigades Union	
**	Mr Gareth Young, National Official (Campaigns, Policy and Communications), NASUWT	
*	Rt Hon Nick Clegg MP	<a href="#">QQ 67–74</a>
*	Leighton Andrews AM, Minister for Public Services, Welsh Government	<a href="#">QQ 75–79</a>
**	Nick Boles MP, Minister of State for Skills, Department of Business Innovation and Skills	<a href="#">QQ 80–92</a>
**	John Penrose MP, Minister for Constitutional Reform, Cabinet Office	

### Alphabetical list of all witnesses

	Associated Society of Locomotive Engineers and Firemen (ASLEF)	<a href="#"><u>TUP0027</u></a>
	Rt Hon Dame Margaret Beckett MP	<a href="#"><u>TUP0037</u></a>
	Alan Buckle	<a href="#"><u>TUP0018</u></a>
*	Rt Hon Nick Clegg MP (QQ 67–74)	
*	Mr David Cockburn (QQ 31–37)	
**	Committee on Standards in Public Life (QQ 20–30)	<a href="#"><u>TUP0036</u></a>
	Communication Workers Union (CWU)	<a href="#"><u>TUP0028</u></a>
	Community Trade Union	<a href="#"><u>TUP0024</u></a>
	Conservative Friends of Israel	<a href="#"><u>TUP0009</u></a>
	Conservative Party	<a href="#"><u>TUP0023</u></a>
	Simon Cramp	<a href="#"><u>TUP0034</u></a>
	Sue Dockett	<a href="#"><u>TUP0015</u></a>
	Electoral Commission	<a href="#"><u>TUP0030</u></a>
	Electoral Reform Society	<a href="#"><u>TUP0007</u></a> <a href="#"><u>TUP0017</u></a>
**	Fire Brigades Union (FBU) (QQ 60–66)	<a href="#"><u>TUP0022</u></a>
*	Professor Justin Fisher (QQ 14–19)	
	GMB Union	<a href="#"><u>TUP0013</u></a>
*	Dr David Halpern (QQ 38–44)	
**	Her Majesty’s Government (QQ 80–92)	<a href="#"><u>TUP0011</u></a> <a href="#"><u>TUP0040</u></a>
	Mr Ben Jones	<a href="#"><u>TUP0003</u></a>
	Joseph Rowntree Reform Trust	<a href="#"><u>TUP0025</u></a>
**	Labour Party (QQ 1–7)	<a href="#"><u>TUP0026</u></a>
*	Liberal Democrats (QQ 8–13)	
	Mr Christopher Lindley	<a href="#"><u>TUP0008</u></a>
**	NASUWT (QQ 60–66)	<a href="#"><u>TUP0016</u></a>
**	National TULO (QQ 45–59)	<a href="#"><u>TUP0006</u></a> <a href="#"><u>TUP0038</u></a>
*	Lord O’Donnell (QQ 38–44)	
	PCS Union	<a href="#"><u>TUP0019</u></a>
	Dr Michael Pinto-Duschinsky	<a href="#"><u>TUP0031</u></a>
	Prison Officers Association	<a href="#"><u>TUP0020</u></a>
	Mr Jacob Rowbottom	<a href="#"><u>TUP0021</u></a>
	Mrs Joanne Rust	<a href="#"><u>TUP0002</u></a>
	Scottish Government	<a href="#"><u>TUP0042</u></a>

	Rt Hon Jack Straw	<a href="#"><u>TUP0033</u></a>
**	Trades Union Congress (TUC) (QQ 45–59)	<a href="#"><u>TUP0039</u></a>
	Transparency International UK	<a href="#"><u>TUP0041</u></a>
	Transport and Salaried Staffs Association (TSSA)	<a href="#"><u>TUP0035</u></a>
	Union of Construction, Allied Trades and Technicians (UCATT)	<a href="#"><u>TUP0012</u></a>
**	Union of Shop, Distributive and Allied Workers (USDAW) (QQ 60–66)	<a href="#"><u>TUP0010</u></a>
	UNISON	<a href="#"><u>TUP0029</u></a>
	Unlock Democracy	<a href="#"><u>TUP0014</u></a>
*	Welsh Government (QQ 75–79)	<a href="#"><u>TUP0004</u></a>
	Workers of England Union	<a href="#"><u>TUP0001</u></a>

## APPENDIX 3: CALL FOR EVIDENCE

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The House of Lords has appointed a select committee “to consider the impact of clauses 10 and 11 of the Trade Union Bill in relation to the Committee on Standards in Public Life’s report, *Political Party Finance: ending the big donor culture*, and the necessity of urgent new legislation to balance those provisions with the other recommendations made in the Committee’s Report”. The Committee must report by Monday 29 February 2016.

The Committee invites interested organisations and individuals to submit written evidence to the inquiry. The areas in which the Committee is interested are set out towards the end of this document. The deadline for written evidence submissions is 5pm on Friday 12 February. Public hearings will be held in the weeks commencing 1 and 8 February.

### Background

The **Trade Union Bill** is a Government bill which was introduced to the House of Commons on 15 July 2015. It completed its passage through that House on 10 November 2015 and was introduced to the House of Lords on 11 November 2015.

The Bill amends the Trade Union and Labour Relations (Consolidation Act) Act 1992 in a number of ways. Two of the clauses make changes to the operation of union political funds. These are separate funds that unions which wish to spend money on party political activities must by law set up in order to finance that expenditure. Unions which are affiliated to a political party draw on their political funds to pay affiliation fees to the party.

The two relevant clauses of the Bill are 10 and 11.

- (a) At present, union members automatically contribute to the union’s political fund unless they opt out. **Clause 10** of the Bill would replace the current arrangements so that unions would only be able to collect such contributions from members who had actively opted in by written notice. The opt-in would lapse after five years unless the member actively renewed it no more than three months beforehand.
- (b) **Clause 11** would require trade unions to provide information about their political expenditure (if it exceeds £2,000 per annum) in their annual return to the Certification Officer, who has a number of statutory functions in respect of unions.

The **Committee in Standards in Public Life** (CSPL) advises the Prime Minister on ethical standards across the whole of public life in the UK. It monitors and reports on issues relating to the standards of conduct of all public office holders. The CSPL is an advisory non-departmental public body, sponsored by the Cabinet Office.

The CSPL’s report entitled *Political Party Finance: ending the big donor culture* was published in November 2011. It set out a number of suggested reforms to the way political parties are funded. Two of the Committee members appointed by the political parties dissented from the report in some areas. The report’s main recommendations were as follows.

- A limit of £10,000 should be placed on donations from any individual or organisation in any year to any political party with two or more elected representatives in Westminster or in any of the devolved legislatures.

- The cap should apply to donations from all individuals and organisations, including trade unions. But it would be possible to regard trade union affiliation fees as a collection of individual payments, to which the cap applied individually, by requiring the individuals on whose behalf the payments are made to opt in to the fee. It would also be necessary to meet certain other conditions to ensure that undue influence cannot be exerted.
- The existing limits on campaign spending in the period before an election should be cut by the order of 15 per cent.
- Existing public support to the political parties should be supplemented by the addition of a new form of public support paid to every party with two or more representatives in the Westminster Parliament or the devolved legislatures. The public funding should depend on the number of votes secured in the previous election, at the rate of around £3.00 a vote in Westminster elections and £1.50 a vote in devolved and European elections. Income tax relief, analogous to Gift Aid, should also be available on donations of up to £1,000 and on membership fees to political parties.

### Questions

Submissions are invited specifically on the relationship between the impact of clauses 10 and 11 of the Trade Union Bill and the CSPL report. The Committee has not been tasked with examining other parts of the Bill or with looking at the issue of party funding from scratch, and it would not in any case have time to do so within the short timeframe available.

The Committee is focusing on two main questions.

*Will clauses 10 and 11 of the Trade Union Bill have an impact on the finances of political parties?*

In answering, you may wish to consider the following subsidiary questions.

- (a) What are the key arguments for and against the introduction of the opt-in system proposed in clause 10 of the Bill?
- (b) What impact is clause 10 likely to have on the size of unions' political funds, or other aspects of union finances?

*What role, if any, might the proposed transitional arrangements play in this impact?*

*Will the means by which the Bill requires unions to seek opt-ins from their members have any bearing on the impact on political funds?*

- (c) What impact might clause 10 have on unions' support for the Labour Party in the form of (a) affiliation fees and (b) other payments?
- (d) How do the provisions of clause 10 align with the new approach to affiliation fees agreed by the Labour Party in 2014 following Lord Collins of Highbury's report *The Collins Review into Labour Party Reform*?
- (e) What impact might clause 10 have on other kinds of political expenditure by unions? Is this likely to have a broader effect on party politics?

*If the two clauses will have such an impact, how would that relate to the recommendations of the CSPL report and/or party funding reform?*

In answering, you may wish to consider the following subsidiary questions.

- (f) What is the relationship between the provisions of clause 10 and the recommendation by the CSPL that trade union affiliation fees could be treated as a collection of individual payments (thereby avoiding the £10,000 cap) provided that the members were required to opt in to the affiliation fee?
- (g) How would the opt-in requirement for unions compare with what other organisations are required to do if they make donations to political parties?
- (h) What is the evidential basis for claims that measures relating to party funding traditionally proceed only with the agreement of all parties? What would be the long-term impact (if any) of a departure from such a convention?
- (i) Would the passage of these provisions have an effect on the prospect of agreement being reached on comprehensive reform of political party funding?
- (j) Do you have any comments or concerns about the requirement in clause 11 for unions to provide more details of their political expenditure in their annual returns to the Certification Officer?

#### APPENDIX 4: POLITICAL FUND CONTRIBUTION LEVELS

The figures below were reported to the Certification Officer in December 2013. Members 'not contributing' are the total number of members who have either opted out of contributing or, due to a given union's internal rules, do not contribute to the political fund. Members who have opted out are represented in the column 'of which exempt'.

**Table 1: United Kingdom Trade Union Political Fund Contribution Levels**

Union	Membership total	Contributing	Not contributing	Of which exempt	% contributing
Associated Society of Locomotive Engineers and Firemen	19,557	16,806	2,751	585	85.9%
Association of Revenue and Customs	2,468	2,089	379	0	84.6%
Bakers Food and Allied Workers Union	20,496	19,569	927	0	95.5%
Broadcasting Entertainment Cinematograph and Theatre Union	23,406	22,787	619	146	97.4%
Communication Workers Union	201,729	168,186	33,543	23,288	83.4%
Community	26,769	24,091	2,678	2,273	90.0%
Educational Institute of Scotland	54,580	44,869	9,711	6,259	82.2%
Fire Brigades Union	39,983	32,624	7,359	6,339	81.6%
GMB	617,064	593,276	23,788	23,788	96.1%
Musicians Union	30,718	26,538	4,180	3,932	86.4%

Union	Membership total	Contributing	Not contributing	Of which exempt	% contributing
National Association of Colliery Overmen, Deputies and Shotfirers	466	235	235	0	49.6%
National Association of Schoolmasters Union of Woman Teachers	333,223	256,318	76,905	1	76.9%
National Union of Mineworkers	1,559	1,476	83	51	94.7%
National Union of Rail Maritime and Transport Workers	80,105	71,668	8,437	254	89.5%
National Union of Teachers	387,610	328,670	58,940	2,159	84.8%
POA	31,130	30,662	468	4	98.5%
Prospect	115,636	10,2597	13,039	3,239	88.7%
Public and Commercial Services Union	247,345	233,345	14,000	469	94.3%
Transport Salaried Staffs Association	21,726	20,432	1,294	1,119	94.0%
Union of Construction Allied Trades and Technicians	86,983	66,211	20,772	12,927	76.1%
Union of Shop Distributive and Allied Workers	433,402	413,584	19,818	19,818	95.4%

Union	Membership total	Contributing	Not contributing	Of which exempt	% contributing
UNISON: The Public Service Union	1,282,560	1,193,255	89,305	8,624	93.3%
Unite the Union	1,405,071	1,187,023	218,048	39,466	84.5%
Unity	3,906	3,631	275	209	93.0%
University and College Union	106,288	94,668	11,670	8,814	89.1%
Total	5,573,780	4,954,606	619,174	163,764	Average 88.9%

Source: Certification Officer, Annual Report 2014–2015 (July 2015): [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/449387/CO\\_Annual\\_Report\\_2014-2015.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/449387/CO_Annual_Report_2014-2015.pdf) [accessed 29 February 2016]

## APPENDIX 5: POLITICAL LEVIES

The Annual Report of the Certification Officer 2014–2015 summarises the annual political fund income as reported by trade unions. Table 2 below replicates these income figures and gives the simple average payment per union member. The average contribution does not consider whether union members pay a levy proportionate to their income.

**Table 2: Trade Union Political Levies**

Union	Political fund income reported 2014	Members contributing	Average annual contribution	Average weekly contribution
Associated Society of Locomotive Engineers and Firemen	£130,103	16,806	£7.74	£0.15
Association of Revenue and Customs	£5,949	2,089	£2.85	£0.05
Bakers Food and Allied Workers Union	£78,739	19,569	£4.02	£0.08
Broadcasting Entertainment Cinematograph and Theatre Union	£36,601	22,787	£1.61	£0.03
Communication Workers Union	£1,728,523	168,186	£10.28	£0.20
Community	£194,000	24,091	£8.05	£0.15
Educational Institute of Scotland	£132,616	44,869	£2.96	£0.06
Fire Brigades Union	£265,941	32,624	£8.15	£0.16
GMB	£3,200,00	593,276	£5.39	£0.10
Musicians Union	£87,598	26,538	£3.30	£0.06
National Association of Colliery Overmen, Deputies and Shotfirers	£1,341	235	£5.81	£0.11
National Association of Schoolmasters Union of Woman Teachers	£197,293	256,318	£0.77	£0.01
National Union of Mineworkers	£21,507	1,476	£14.57	£0.28

Union	Political fund income reported 2014	Members contributing	Average annual contribution	Average weekly contribution
National Union of Rail Maritime and Transport Workers	£249,000	71,668	£3.47	£0.07
National Union of Teachers	£421,931	328,670	£1.28	£0.02
POA	£44,082	30,662	£1.44	£0.03
Prospect	£75,000	10,2597	£0.73	£0.01
Public and Commercial Services Union	£310,276	233,345	£1.33	£0.03
Transport Salaried Staffs Association	£141,120	20,432	£6.91	£0.13
Union of Construction Allied Trades and Technicians	£210,000	66,211	£3.17	£0.06
Union of Shop Distributive and Allied Workers	£2,139,000	413,584	£5.17	£0.10
UNISON: The Public Service Union	£6,661,000	1,193,255	£5.58	£0.11
Unite the Union	£7,468,000	1,187,023	£6.29	£0.12
Unity	£9,016	3,631	£2.48	£0.05
University and College Union	£165,127	94,668	£1.74	£0.03
<b>Total</b>	<b>£23,973,763</b>	<b>4,954,606</b>	<b>£4.84</b>	<b>£0.09</b>

Source: Certification Officer, Annual Report 2014–2015 (July 2015): [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/449387/CO\\_Annual\\_Report\\_2014-2015.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/449387/CO_Annual_Report_2014-2015.pdf) [accessed 29 February 2016]

## APPENDIX 6: DONATIONS TO POLITICAL PARTIES

The Electoral Commission records all donations received and accepted by the political parties above certain thresholds. Table 3, below, sets out the donations recorded from 2010–2015\*. For the purposes of this table, and Figure 2, trade union affiliation fees have been included alongside donations from trade unions. Public funds such as Short money and Cranborne money are also treated as donations. The column ‘Other’ includes donations from registered political parties, friendly societies and other donors.

**Table 3: Donations Reported by Political Parties 2010–2015**

	Trade Union	Individual	Company	Unincorporated Association	Limited Liability Partnership	Trust	Public Funds	Other	Total
Conservative Party		£89.70m	£33.54m	£8.60m	£1.10m	£0.13m	£3.85m	£0.70m	£137.17m
Labour Party	£64.76m	£17.11m	£6.72m	£4.31m	£1.75m	£0.09m	£39.99m	£1.06m	£135.79m
Liberal Democrats		£15.14m	£9.50m	£2.01m	£0.77m	£1.50m	£3.42m		£32.34m
Scottish National Party		£8.57m	£0.10m				£2.38m		£11.04m
Green Party		£1.70m	£0.08m	£0.01			£0.35m		£2.14m
UKIP		£3.97m	£5.07m		£0.15m		£0.18m		£9.37m
Other	£0.06	£2.89m	£0.31m	£0.01m		£0.03m	£1.03m	£5.98m	
<b>Total</b>	<b>£64.82m</b>	<b>£139.07m</b>	<b>£55.32m</b>	<b>£14.94m</b>	<b>£3.77m</b>	<b>£1.93m</b>	<b>£51.19m</b>	<b>£7.10m</b>	<b>£338.14m</b>

Source: Written evidence from the Electoral Commission (TUP0030)

\* Donations accepted in Quarter 4 2015 (October–December) are not included because the data had not yet been published.

## APPENDIX 7: DONATIONS FROM TRADE UNIONS TO THE LABOUR PARTY

For the purposes of this table, affiliation fees and donations have been combined. The figures below illustrate the annual transfer of funds from a trade union to the Labour Party. The unions are listed in descending order by size of total donations.

**Table 4: Donations from Trade Unions registered and accepted by the Labour Party**

Union	2010	2011	2012	2013	2014	2015	Total
Unite the Union	£5.70m	£3.60m	£3.38m	£3.16m	£3.53m	£5.31m	£24.68m
UNISON	£2.15m	£2.02m	£1.56m	£1.31m	£2.79m	£1.82m	£11.65m
GMB	£2.12m	£1.95m	£1.44m	£1.23m	£1.67m	£2.48m	£10.85m
Union of Shop Distributive and Allied Workers	£1.74m	£1.32m	£1.41m	£1,40m	£1.68m	£1.31m	£8.87m
Communication Workers Union	£0.83m	£0.59m	£0.59m	£0.59m	£0.66m	£1.33m	£4.59m
Union of Construction Allied Trades and Technicians	£0.28m	£0.18m	£0.18m	£0.20m	£0.17m	£0.22m	£1.23m
Community	£0.1m	£0.19m	£0.19m	£0.15m	£0.14m	£0.12m	£0.94m
Transport Salaried Staffs Association	£0.20m	£0.09m	£0.08m	£0.07m	£0.10m	£0.11m	£0.65m
Associated Society of Locomotive Engineers and Firemen	£0.08m	£0.06m	£0.07m	£0.04m	£0.06m	£0.11m	£0.42m
Musicians Union	£0.08m	£0.04m	£0.04m	£0.02m	£0.08m	£0.07m	£0.33m
Fire Brigades Union	£0.80m	£0.003m			£0.006m	£0.04m	£0.12m
Broadcasting Entertainment Cinematograph and Theatre Union	£0.02m	£0.02m	£0.02m	£0.02m	£0.02m	£0.02m	£0.12m
National Union of Rail Maritime and Transport Workers	£0.03m	£0.002m		£0.001m	£0.009m	£0.05m	£0.01m
Bakers Food and Allied Workers Union	£0.02m	£0.01m	£0.02m	£0.02m	£0.02m		£0.08m
UNITY	£0.03m				£0.02m		£0.05m
Other	£0.04m			£0.001m	£0.01m	£0.03m	£0.08m
<b>Total</b>	<b>£13.56m</b>	<b>£10.05m</b>	<b>£8.98m</b>	<b>£8.20m</b>	<b>£10.95</b>	<b>£13.02m</b>	<b>£64.76m</b>

Source: Written evidence from the Electoral Commission (TUP0030)

## APPENDIX 8: STATUS OF THE CSPL RECOMMENDATIONS

Table 5, below, sets out the extent to which the four main recommendations of the 2011 CSPL report have been implemented, if at all.

**Table 5: Status of the CSPL recommendations**

Recommendation	Status
A limit of £10,000 should be placed on donations from any individual or organisation in any year to any political party with two or more elected representatives in Westminster or in any of the devolved legislatures.	The cross-party talks did not agree to a £10,000 cap on donations. The Electoral Reform Society told us that donations above £250,000 accounted for a large share of donations. <sup>182</sup>
The cap should apply to donations from all individuals and organisations, including trade unions. But it would be possible to regard trade union affiliation fees as a collection of individual payments, to which the cap applied individually, by requiring the individuals on whose behalf the payments are made to opt in to the fee. It would also be necessary to meet certain other conditions to ensure that undue influence cannot be exerted.	The Labour Party took steps in this direction with the Collins Review. The Party has adopted a similar opt-in scheme for affiliation fees to be implemented in the course of five years. <sup>183</sup>
The existing limits on campaign spending in the period before an election should be cut by the order of 15 per cent.	The limit on campaign spending was not cut. Rather, cross-party campaign expenditure rose from £31.53m in 2010 to £37.29m in 2015. <sup>184</sup>

182 Written evidence from the Electoral Reform Society (TUP0007)

183 Lord Collins of Highbury, *The Collins Review into Labour Party Reform* (February 2014): [http://action.labour.org.uk/page/-/Collins\\_Report\\_Party\\_Reform.pdf](http://action.labour.org.uk/page/-/Collins_Report_Party_Reform.pdf) [accessed 29 February 2016]

184 The Electoral Commission, *Party spending at elections 2001–2015*: <http://www.electoralcommission.org.uk/find-information-by-subject/political-parties-campaigning-and-donations/political-party-spending-at-elections/details-of-party-spending-at-previous-elections> [accessed 29 February 2016]

Recommendation	Status
<p>Existing public support to the political parties should be supplemented by the addition of a new form of public support paid to every party with two or more representatives in the Westminster Parliament or the devolved legislatures. The public funding should depend on the number of votes secured in the previous election, at the rate of around £3.00 a vote in Westminster elections and £1.50 a vote in devolved and European elections. Income tax relief, analogous to Gift Aid, should also be available on donations of up to £1,000 and on membership fees to political parties.<sup>185</sup></p>	<p>The cross-party talks did not welcome an increase in public funding during a time of economic austerity.</p> <p>An informal cross-party group put forward a Draft Bill entitled “Funding Democracy: Breaking the deadlock” in which they recommended redistributing existing public funding.<sup>186</sup></p> <p>The Government has proposed reducing the amount of Cranborne and Short Money made available to the opposition parties.</p>

185 Committee on Standards in Public Life, *Political party finance: Ending the big donor culture*, Cm 8208, November 2011, p 9: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/228646/8208.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/228646/8208.pdf) [accessed 29 February 2016]

186 *Funding Democracy Breaking the deadlock* (April 2016): <https://fundingdemocracy.files.wordpress.com/2013/05/breaking-the-deadlock-final-may-2013.pdf>

## APPENDIX 9: LETTER FROM THE GENERAL SECRETARY OF THE TUC

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Late in our inquiry, the Chairman received the following letter from Frances O’Grady, TUC General Secretary. The Statement of Guidance referred to in the letter can be found at [http://data.parliament.uk/DepositedPapers/files/DEP2016-0161/TUC-statement\\_of\\_guidance.pdf](http://data.parliament.uk/DepositedPapers/files/DEP2016-0161/TUC-statement_of_guidance.pdf)

### Letter from Frances O’Grady

In addition to the evidence the TUC has already submitted I wanted to write to you personally about the important work your Committee is undertaking on Clauses 10 and 11 of the government’s Trade Union Bill.

As you will know, the TUC remains opposed to the Bill and to the measures contained within Clauses 10 and 11 in particular. We do not believe these moves are justified: as our evidence to your Committee set out they will place significant limits on trade union political campaigning.

I have noted that a central part of the Government’s justification for change is apparent union non-compliance with the attached voluntary Statement of Guidance on the operation of the political fund opt-out, primarily based on an assessment that has been undertaken of trade union membership forms. But as you know, there is currently no requirement on unions to provide an opt-out box on their membership forms. In addition, no Government Minister has ever raised this issue with us, nor presented us with evidence of non-compliance against the Statement. While I have written to the Minister of State for Skills setting out my readiness to meet to discuss his concerns, to date he has not taken up my invitation, despite indicating a willingness to talk to trade unions in his oral evidence session with you.

I also believe that the proposals in the Bill go far further than the Government’s manifesto commitment, which set out its intention to ‘legislate to ensure trade unions use a transparent opt-in process for union subscriptions to political parties’.

Firstly, the requirements in Clauses 10 and 11 will affect all union expenditure on political objects and therefore extend far beyond party political donations. As you know, only around 60% of TUC affiliated unions with political funds make any payment at all to the Labour Party, and of those that do a majority of their political fund expenditure supports non-party political activity. Secondly, complete abolition of the opt-out and replacement of it with a mandatory opt-in mechanism is a disproportionate means to increase transparency and active choice around political fund subscriptions. Opt-out mechanisms do not by definition remove active choice.

I am therefore writing to you to propose a compromise: if the Government was willing to withdraw its proposed abolition of the political fund opt-out, the TUC would agree to a new statutory Code of Practice around trade union practice and transparency in this area. I believe this approach would both fulfil the Government’s manifesto commitments while reducing the unintended and damaging consequences of their current proposals. Such a code could build upon and update the existing Statement of Guidance, and (should the Government wish) could make explicit reference to the need to include an opt-out box on every membership form as well as placing a requirement on unions to inform members of their right to opt out in other communications. Specified timescales

could be set for providing members with regular reminders of their opt-out rights. By introducing the requirement for unions to comply with such a Code as part of the Trade Union Bill, and introducing enabling provisions through secondary legislation, government would be meeting its manifesto promises to legislate for greater transparency and ensure that union members were making an active choice to contribute to political party funding. Wider significant restrictions on trade union political campaigning would also be avoided.

I recognise that your Committee is under enormous pressure to deliver to hugely tight timescales. However, I hope you will be able to give due consideration to my suggestion, particularly in light of the dramatic impacts that Clauses 10 and 11 look set to have upon union political campaigning across the country. I would of course also be happy to meet to discuss these matters further.

I very much look forward to hearing from you.