



**Government Response to the Report of the Political
and Constitutional Reform Committee on the draft
Recall of MPs Bill**

Presented to Parliament
by the Deputy Prime Minister
by Command of Her Majesty

July 2013



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Introduction

1. The Government welcomes the Political and Constitutional Reform Committee's work on the recall of MPs and thanks the Committee for its consideration. The Committee's work has highlighted some of the challenges in designing a policy that increases the accountability of Members of Parliament, and gives the public a direct voice in holding to account MPs who have committed serious wrongdoing, but does not inhibit an MP from expressing his or her political view or tackling controversial issues.
2. The Government's interim response to the Committee recognised that recall would be a novel mechanism for the UK's political landscape and that it was important that we took time to reflect on the best approach.
3. The coalition's Programme for Government included a commitment to "introduce a power of recall, allowing voters to force a by-election where an MP is found to have engaged in serious wrongdoing and having had a petition calling for a by-election signed by 10% of his or her constituents". Our commitment to introducing such a recall mechanism remains. Whilst the House has some sanctions at its disposal to deal with MPs found to have engaged in serious wrongdoing, we believe that it is right that the public also has a voice in the process for some of the most serious cases. Public pressure can, and has, exerted a strong influence on MPs' conduct and their decisions about whether to remain as elected representatives. However the expenses scandal of the last Parliament highlighted public dissatisfaction over their ability to hold MPs to account.
4. The Government does not anticipate that the recall mechanism presented here will be used frequently. It is deliberately designed not to revolutionise the job of a Member of Parliament, or to change the fundamental basis of democracy in the United Kingdom. Rather, we present a modest innovation to fill a gap in the regulatory oversight of MPs who have demonstrably committed wrongdoing. Constituents currently have no recourse if an MP who has done wrong simply chooses to ignore public pressure and remain as their representative. The Government therefore intends to legislate when Parliamentary time allows.
5. The recall mechanism will have two triggers. First, where a member receives a custodial sentence of 12 months or less, a recall petition will be automatically opened in that member's constituency (under the Representation of the People Act 1981, where a member receives a custodial sentence of more than 12 months, they are automatically disqualified from membership of the House). If 10% of constituents sign the petition, the MP's seat will be vacated and a by-election called.
6. Secondly a recall petition will be opened where the House of Commons resolves that one of its members should face recall. This will ensure that a member could also face recall where they have committed serious wrongdoing which did not result in a custodial sentence, for example, a serious breach of the House of Commons Code of Conduct. This will be a new disciplinary power for the House to help ensure that it is able to deal with disciplinary issues effectively. Constituents would again then get the opportunity to decide if a by-election should be held.

7. Those fundamental aspects of the Government's proposals remain. Beyond that, we have considered the Committee's recommendations very carefully and are pleased to accept the majority, particularly on the conduct of the recall petition. The process of pre-legislative scrutiny has been valuable and will result in an improved Bill being presented to Parliament.
8. The Government's interim response, published in October last year, outlined our initial thoughts on the Committee's report and this response provides our comprehensive analysis and views on each of the Committee's recommendations.

Background

9. Following the expenses crisis during the last Parliament, all three main political parties included a commitment in their manifestos at the last general election to establish a recall mechanism to hold MPs to account for financial misconduct or serious wrongdoing.
10. We all recognised that it is wrong that, once an MP is elected, he or she can in certain circumstances be guilty of serious wrongdoing but still continue in office with impunity.
11. Building upon this, the coalition's Programme for Government included a commitment to "introduce a power of recall, allowing voters to force a by-election where an MP is found to have engaged in serious wrongdoing and having had a petition calling for a by-election signed by 10% of his or her constituents".
12. The White Paper and draft Bill published on 13 December 2011 set out the Government's proposals to deliver this commitment. They set out the model for a recall mechanism which the Government believed best ensured that MPs are subject to increased accountability to their constituents without leaving them vulnerable to attack from those who simply disagree with them or think that they should have voted a different way on a particular measure.
13. The White Paper made clear that the proposals were intended to facilitate a wider debate about what would be the most appropriate model for a recall mechanism. As part of this process, the Government invited the Political and Constitutional Reform Committee to carry out pre-legislative scrutiny on the draft Bill.

Response to conclusions and recommendations

The “triggers” for recall

Custodial sentence of 12 months or less

14. **Recommendation 1: We recognise the difficulty of defining what constitutes a political crime or a crime of conscience. However, we recommend that, for the purposes of the first trigger of a custodial sentence of 12 months or less, the Government change its decision not to take account of the motivation of the MP in committing the offence. One possibility would be to enable the House itself to decide whether there should be an exemption from a recall petition in a particular instance because of the political nature of the crime. (Paragraph 18)**
15. We note the views of the Committee and of those who gave evidence on this point. However, having considered this matter further, we do not agree that a Member imprisoned for a crime perceived to have a political motivation should be excluded from the operation of the first trigger. We consider that imprisonment of any length would most likely lead to a loss of faith in an MP, so the current law, which only penalises those imprisoned for more than 12 months, is inadequate. In circumstances where an MP receives a custodial sentence of 12 months or less, we think it is right that constituents should have the final say on whether the MP should retain their seat.
16. There may of course be circumstances in which constituents considered that their MP broke the law only because he or she was standing up for a right or principle with which they agreed. However, it is then likely they would not sign the petition. Constituents who disagreed should not be denied recourse.
17. As the Committee notes, it would be difficult to define what constitutes a political crime and if the courts have determined that the act was serious enough to hand down such a custodial sentence, having taken account of the circumstances in which it was committed, we think that the recall trigger should apply.

A resolution of the House of Commons

The role of MPs in the process

18. **Recommendation 2: We welcome the inclusion of lay members on the new Standards Committee and consider that this change strengthens it, and arguably further legitimises it, as an arbiter of MPs’ conduct. (Paragraph 26)**
19. **Recommendation 3: It is not easy objectively to judge the conduct of one’s colleagues, but, overall, we consider that the Committee on Standards and Privileges has done so successfully. We are confident that it would continue to be able to do so were one of the sanctions that it could recommend a recall petition. This is particularly the case given that in future lay members will be included on the Committee. (Paragraph 27)**

20. We welcome and endorse the Committee's comments on the participation of lay members in the new Standards Committee's work and we were pleased to see the lay members appointed at the start of this year.
21. We support the view of the Committee on Standards, and also that of the Committee on Standards in Public Life, that the inclusion of lay members will enhance public acceptance of the robustness of the House's disciplinary processes.
22. We agree with the Committee's assessment of the work of the Committee on Standards and the observation that the Committee would continue to have a role in making recommendations about the conduct of their colleagues whether or not they had a role in the recall process. It would therefore seem sensible that the sanction of recall fits within that process.

What is serious wrongdoing?

23. **Recommendation 4: We understand why the Government does not want to define "serious wrongdoing". However, it is not clear from the draft Bill and White Paper whether the Government intends serious wrongdoing to be restricted specifically to breaches of the code of conduct for MPs and its associated rules, as the Parliamentary Commissioner for Standards suggested to us. (Paragraph 36)**
24. **Recommendation 5: Restricting wrongdoing to breaches of the code of conduct for MPs and its associated rules would certainly not cover everything that the public might consider to be conduct meriting recall. However, it would provide a rational and comprehensible basis for making a judgement about conduct. Members of the public who felt that their MP had behaved improperly, but who found that such behaviour did not fall within the scope of the code of conduct, would have the opportunity to express their views at the next general election. Recall should not be a substitute for elections. (Paragraph 37)**
25. **Recommendation 6: We consider that wrongdoing in the context of recall constitutes a breach of the code of conduct for MPs, while "serious" implies a breach of sufficient gravity that the Committee on Standards and Privileges would currently consider it merited more than a period of suspension. (Paragraph 38)**
26. The Government welcomes the Committee's acknowledgement that it would be undesirable to define "serious wrongdoing" in legislation and notes that this view is shared in the evidence given by the Clerk of the House.
27. The Government thanks the Committee for its consideration of the second trigger and its suggestion that it should be attached to a breach of the MPs' Code of Conduct which is of sufficient gravity that it merits more than a period of suspension. We agree with the Committee that whilst this might not cover all of the instances when the public might expect a recall to be triggered, there needs to be a comprehensive rationale for making such a judgement. If the recall sanction were to operate within the House of Commons' existing disciplinary arrangements, whereby breaches of the MPs code of conduct are investigated by the Independent Parliamentary Commissioner for Standards before being referred to the Committee on Standards, it is sensible that the Code of Conduct be the basis for any judgement on whether a recall should be triggered..

28. We undertake to work closely with the House on this issue, before and following introduction of the Bill.

Conduct of the recall petition

Single designated location

29. **Recommendation 7: Even a small increase in the number of designated locations would be likely to increase participation. The Government should replace the requirement for a single designated location for signing the petition with a requirement for at least two and no more than four designated locations. The locations should be selected with regard to making signing the petition in person as convenient as possible for everyone in the constituency. Provision must be made to ensure that duplicate signatures are discounted. (Paragraph 42)**
30. We welcome and agree with the Committee's recommendation and the arguments in support made by several witnesses for an increase in the number of designated locations. We feel this will assist with increasing participation of those constituents wishing to sign in person especially in the geographically larger or more rural constituencies.
31. However, we think it might be more appropriate to provide that there should be between one and four designated locations, with the Returning Officer having the discretion to decide the number and location. This therefore gives the Returning Officer a degree of flexibility to meet the particular circumstances of his/her constituency.
32. Increasing the number of designated locations comes with it an increased risk of double signing. In order to minimise this risk, we propose to send all constituents a notice of which designated location they can sign at depending on their location within the constituency, and we envisage that the electoral staff manning each location will have a list of electors who are entitled to sign at that location. We believe this safeguard, coupled with the offence of double signing the petition, will be sufficient to prevent its occurrence as far as possible.
33. Notices sent to constituents will be accompanied by clear guidance and instructions on how they can participate should they wish to do so.
34. **Recommendation 8: The Government should include in the final Bill a specific duty on returning officers to ensure, as far as is reasonable and practicable, the designated locations for signing the petition are accessible to constituents who are disabled. (Paragraph 43)**
35. We welcome the Committee's comments and we firmly agree that accessibility for all constituents is a key consideration.
36. The Government agrees that this duty can be, and will be included in the final Bill.

Postal voting

37. **Recommendation 9: We believe that constituents who have an existing postal vote should be sent a postal signature sheet automatically if there is a recall petition. The risk of being seen to solicit signatures, or of constituents feeling compelled to sign, should be minimised by clear accompanying instructions and information about the purpose of the petition. (Paragraph 46)**
38. We note the evidence presented to the Committee on this point. We also note the Committee's opinion that informing constituents of the purpose of the petition and providing guidance on how they can participate would minimise the risk of being seen to solicit signatures.
39. The Government has spent time in consultation with the Association of Electoral Administrators and the Electoral Commission on this point and on reflection, we agree with the Committee's assessment.
40. We are committed to making the process as simple for constituents as possible and we believe automatically providing existing postal voters with a signature sheet will go some way to ensuring ease of participation in the process.
41. We agree that clear guidance and instructions can assist people in their understanding of what they are signing and that this will go some way to minimising the risk of being seen to solicit signatures.

Secrecy and intimidation

42. **Recommendation 10: A petition is a public document and, given that the Government itself admits that it would be possible to observe people signing it or taking steps to sign it, it may be more likely to inspire public confidence in the long run if the Government were to acknowledge that it is not possible to protect the privacy of people who sign the petition and to be open about its public nature. (Paragraph 50)**
43. We acknowledge the Committee's arguments that a petition is a public document and that there is a need for openness in respect of the level of privacy that those who participate can expect.
44. Our general approach for the provisions for the conduct of the recall petition was to mirror as far as possible those in place for the conduct of Parliamentary elections. The White Paper however, acknowledged the different nature of petitions in that constituents only sign one way and the subsequent consequences for protecting the privacy of those who participate. The Government therefore proposed departing from the usual practice in Parliamentary elections by not creating a system of accredited observers and strictly limiting access to documents relating to a recall petition after its conclusion.

45. Following the Committee's recommendation, we have reflected further on this issue and undertaken further consultation with stakeholders, including the Electoral Commission. In conclusion, we accept that even adopting the safeguards proposed, the privacy of those signing in person cannot be guaranteed. Placing a restriction on those observing the signing of the petition might afford some privacy but it would not be possible to isolate a public location entirely to guarantee the anonymity of those taking steps to sign.
46. In addition, restricting access to the petition documents, the opening of postal signature sheets and the marked register, will in turn restrict the opportunity for improprieties to be spotted and for anyone wishing to challenge the petition to present evidence to the courts.
47. We do not therefore propose to adopt the original proposals but instead, to accept the Committee's recommendation that we acknowledge that it is not possible to protect the privacy of participants.
48. We understand that this may deter some constituents from participating but believe that transparency and openness about the process is essential. As the petition could lead to an MP vacating their seat, it is important that all interested parties can satisfy themselves that the process has been conducted fairly and that any fraudulent activity is identified. Severely restricting access to the petition and relevant documentation will limit the ability of interested parties to play a role in monitoring the process in the same way that they would for local elections, general elections and referendums. This could be seen as a retrograde step and may lead to mistrust in the outcome of a petition.
49. Constituents concerned about the public nature of signing in person will have the opportunity to apply for a postal vote.

Northern Ireland

50. **Recommendation 11: The Government's proposal to restrict the methods of signing the petition in Northern Ireland to postal signing is not a proportionate response to concerns about intimidation. Everyone who is eligible to sign will be able to do so by post if they wish, so nobody in Northern Ireland would have to sign the petition in person unless they actively chose to do so. We recommend that constituents in Northern Ireland should be able to sign the petition in person if that is what they wish to do. (Paragraph 53)**
51. In its development of this measure, the Government responded to concerns about intimidation at polling stations and, as a consequence, set out in the White Paper that no requirement would be placed on the Chief Electoral Officer for Northern Ireland to provide a designated location for signing.
52. However, we said in our interim response that we would reconsider this issue given the concerns raised by the Committee and some of those who gave evidence as part of the scrutiny process.

53. Following further consultation within Government and with the Chief Electoral Officer for Northern Ireland on this matter, we agree that on balance, it would be better for those constituents in Northern Ireland to have the same the choice to sign either by post or in person at a designated location as those constituents in England, Wales and Scotland. We therefore agree with the Committee's recommendation.

Signatures

54. **Recommendation 12: The requirement for eligible constituents to sign the petition in order to show they support it seems to us reasonable. However, the Government must ensure that suitable alternative arrangements are made for disabled people who are unable to sign the petition. (Paragraph 55)**

55. We welcome the Committee's comments and agree that accessibility for all constituents is a key consideration.

56. The Bill makes provision for signing by proxy, and the Government's intention is that the secondary legislation will include provision regarding signing with assistance, similar to that made for voting with assistance in the Parliamentary Election Rules.

Wording of the petition

57. **Recommendation 13: The clarity of the wording of the petition, and of the accompanying information about the process, should be tested by the Electoral Commission before it is agreed. (Paragraph 56)**

58. We agree with the Committee's recommendation and will work closely with the Electoral Commission on this measure.

Henry VIII powers

59. **Recommendation 14: We are uncomfortable with sweeping powers to amend primary legislation by means of secondary legislation in a Bill of a constitutional nature and we recommend that the Government remove these powers from the final Bill. (Paragraph 57)**

60. We welcome the Committee's comments. Where necessary in primary legislation relating to elections, the Government have included such powers to allow subordinate provision to cater for the often complex interaction of registration, conduct or finance provisions for elections and other polls. However, we recognise the concern that such powers can cause, and we seek to avoid them where possible, or to draw them as narrowly as possible where they are needed.

61. In large part these powers were to enable us to take into account the changes arising from the introduction of Individual Electoral Registration. Now that that primary legislation is in place, we would hope that the current Henry VIII power will not be necessary and we are considering whether it can be significantly narrowed or removed altogether. At this time, we will partially accept the Committee's recommendation.

Campaigning

62. Recommendation 15: We recommend that the Government reconsider whether returning officers are the best people to be responsible for the regulation of petition expenditure and donations, or whether the Electoral Commission might be better placed to undertake this role. (Paragraph 60)

63. When the Government published the draft Recall of MPs Bill in December 2011, it did not include any clauses on the regulation of spending and donations during the recall period. The Government's proposed approach was instead set out in brief in the accompanying White Paper.

64. Based on the evidence of witnesses to the Committee, and the Committee's subsequent recommendation, we recognise that the White Paper did not clearly explain our proposals concerning petition expenditure and donations. We now take this opportunity to set out more clearly below, and at Annex A to this response, what the proposed petition expenditure and donations controls actually are.

65. Recall petition expenses and donations will be subject to new statutory controls, though these will largely be based on - and similar in effect to - provisions of the Representation of the People Act 1983 (RPA) and the Political Parties, Elections and Referendums Act 2000 (PPERA).

66. A recall petition may result in a by-election, and the funding and spending of candidates at elections is regulated under the RPA. We believe it would be sensible to apply some controls to recall petition campaigners (known as "accredited campaigners" for the purpose of this Bill) so that a regulatory regime applies throughout the recall petition and (potential) by-election process. However, accredited campaigners also share similar characteristics with third parties and permitted participants at referendums, which are subject to PPERA controls. Therefore the proposals for recall petitions also include rules based on PPERA provisions controlling third parties and permitted participants' expenditure and donations reporting.

67. Breaches by accredited campaigners of these controls will be treated as 'corrupt or illegal practices' and are matters for the police. This is in line with existing RPA provisions governing candidates at elections.

68. The Electoral Commission does not have sanctioning and investigatory powers over candidates at elections and breaches of expenses rules are, where appropriate, matters for the police. Given the constituency-based nature of the petition and the link to a subsequent by-election, to give the Electoral Commission a stronger role at recall petitions is unnecessary and in the circumstances, disproportionate.

69. Our primary aim here is transparency. We are not proposing to create a new regulatory role for any organisation or body in relation to recall petition expenditure. In particular, it has never been our intention that the Returning Officer (RO) should have a regulatory role in the recall petition campaign. The reference to “regulation” by ROs in the White Paper (paragraph 135) was only intended to cover the functions of accrediting campaigners and making petition returns available for inspection.
70. The RO position on the recall petition process will be analogous to that at an election in ensuring that relevant information is open to public scrutiny. As they would for candidates and their agents at election, RO’s must publish details of accredited campaigners: they will be required to publish the petition returns, make them available for inspection for a period of 2 years, and deliver them to the Electoral Commission on request.
71. The Government considers the role of the RO and the proposed provisions ensure the transparency of petition expenditure and donations in the recall petitions context.
72. As recommended by the Committee, we have looked again at our proposal in this area and have taken this opportunity to set out our proposals more clearly. As we have explained above, we are not proposing to create a new regulatory role for any organisation or body in relation to recall petition expenditure.

The 10% threshold for signatures

73. **Recommendation 16: If the Government takes the steps we have recommended to make signing the petition easier—having several designated locations and those who have an extant postal vote automatically being sent a postal signature sheet—it should raise the threshold from 10% to at least 20%. We believe this would represent a significant level of dissatisfaction with the sitting MP. (Paragraph 63)**
74. The Government agrees with the Committee that adopting the measures proposed should make signing the petition easier and we certainly hope that doing so will ensure that those who wish to participate can do so.
75. However, we do not feel that there is sufficient evidence that making such changes will increase participation to such an extent that the threshold should be raised to 20%. We committed to allowing 10% of constituents signing a petition to trigger a by-election and we believe 10% of the eligible electorate is the right threshold.

The rationale for introducing recall

What impact would the proposals have on the political landscape?

76. **Recommendation 17: The Government has not made the case for introducing recall. We have not seen enough evidence to support the suggestion that it will increase public confidence in politics, and fear that the restricted form of recall proposed could even reduce confidence by creating expectations that are not fulfilled. The aftermath of the expenses scandal has shown that MPs can be, and are, removed by current processes as quickly as they would be by recall. (Paragraph 76)**
77. As we made clear in the interim response, the Government remains committed to introducing a power of recall which is transparent, robust and fair. We were encouraged by sight of the YouGov poll included in the Committee's report which indicates the proposals would lead to an increase in the public's confidence in Parliament, which remains a key aim of this draft legislation.
78. Whilst public pressure can, and has, exerted a strong influence on MPs' conduct and their decisions about whether to remain as elected representatives, the expenses scandal of the last Parliament highlighted dissatisfaction over the public's ability to hold MPs to account.
79. These proposals are about ensuring MPs remain accountable to their constituents and it is right that constituents should be able to express their view on their MP when that MP has committed serious wrongdoing. In those circumstances, constituents should not have to rely on an MP choosing to step down.

Full recall

80. **Recommendation 18: There is not a single, clear job description for an MP and everyone will have their own idea about what behaviour constitutes being a "good MP". To an extent, individual MPs must decide for themselves what their job entails. If their constituents disagree, they have an opportunity to vote for someone else at the next general election. Differences of opinion about what constitutes the proper role of an MP should not be allowed to trigger recall petitions. (Paragraph 83)**
81. We thank the Committee for its comments and endorse its view. It is crucial that MPs remain accountable to their constituents. At the same time, MPs must not be left vulnerable to attack from those who simply disagree with them or think they should have voted in a different way.

82. **Recommendation 19:** We believe that a system of full recall may deter MPs from taking decisions that are unpopular locally or unpopular in the short-term, but which are in the long-term national interest. It may also discourage them from taking on powerful interests, or expressing controversial or unusual opinions. The Government argues that a recall mechanism should not leave MPs vulnerable to attack from those who simply disagree with them. We agree. For these reasons, we cannot support a system of full recall. (Paragraph 84)

83. The Government welcomes and agrees with the Committee's conclusion on a system of full recall. The Government's White Paper looked at a number of international examples of recall including those where a recall petition can be initiated by anyone for any reason. However, we do not think that a model can simply be imported and whilst MPs are elected on the basis of the views they set out at the time of their election, they are elected to serve as a representative at Westminster for the duration of Parliament. An MP should therefore only face recall if they have done something seriously wrong. Full recall could lead to MPs facing a stream of recall petitions and we agree with the Committee that it could also deter MPs from taking difficult decisions.

The existing disciplinary powers of the House of Commons

84. **Recommendation 20:** We do not believe that there is a gap in the House's disciplinary procedures which needs to be filled by the introduction of recall. The House already has the power to expel Members who are guilty of serious wrongdoing. This should be regarded as an active option; rather than a theoretical possibility. We note that expulsion would not prevent the person concerned standing in the resulting by-election. We recommend that the Government abandon its plans to introduce a power of recall and use the Parliamentary time this would free up to better effect. (Paragraph 89)

85. The Government wishes to ensure that the House of Commons has a full range of powers at its disposal to deal with behaviour which is of a serious nature, but does not merit immediate expulsion.

86. In developing its proposals, the Government's view has been that the House should have a power to initiate a recall petition where it is found that an MP has engaged in serious wrongdoing which does not warrant immediate expulsion but may lead constituents to lose faith in their MP. And we expect recall to act as an additional sanction to work alongside the House of Commons's existing disciplinary arrangements.

87. The Government remains committed to introducing a recall mechanism and we commit fully to working with the House to ensure the legislation is as robust, transparent and fair as it can be.

Conclusion

88. We are very grateful to the Committee for its detailed consideration of the Government's proposals and its acknowledgement of the coalition commitment to introduce a mechanism for the recall of MPs.
89. The Government remain committed to introducing a recall mechanism which is transparent, robust and fair. The Government recognises that this is a novel mechanism for our political landscape which is why we felt it important to take the appropriate time to consider the Committee's views to find the best possible approach, and we thank the Committee for its patience.
90. The proposals set out in the White Paper were intended to facilitate a wide debate on the best model for a recall mechanism and the variety of responses received by the Committee during the pre-legislative process has certainly satisfied that intention.
91. We are very pleased to accept many of the recommendations the Committee has proposed and we believe the enhancement of the policy the Committee has provided will assist the passage of the Bill when it is introduced in Parliament.

ANNEX A

Further Draft Provisions on Petition Campaign Spending and Donations

92. Under the draft provisions, there will be two categories of campaigners – **accredited** and **non-accredited**.

Accredited Campaigners

93. Anyone wishing to incur expenses of more than £500 in relation to petition campaigning must become an accredited campaigner.

Who can become an accredited campaigner?

94. Only a restricted list of individuals or entities may become accredited campaigners. The list is based on those that are entitled to be permitted participants in a referendum as defined by the Political Parties, Elections and Referendums Act 2000 (PPERA).

The process of becoming an accredited campaigner

95. The process of becoming an accredited campaigner is relatively straightforward. A campaigner must complete an 'accreditation notice'. The accreditation notice must meet certain statutory requirements: it must specify the recall petition it relates to and whether the individual intends to campaign for its success or failure.

96. The accreditation notice must also nominate a responsible person to ensure that the spending limits are observed and to make a petition return to the Returning Office (RO) at the end of the petition period. Individuals (including the MP against whom the petition is brought) may either act as their own responsible person or may specify someone else to perform this function for them. With the exception of minor parties, for registered parties that wish to become accredited campaigners, the responsible person will be the party treasurer. The responsible person must sign a declaration that he or she is willing to exercise the functions conferred by the Act.

97. The accreditation notice and statement by the responsible person must be delivered to the relevant RO. Upon delivery, a campaigner immediately becomes an accredited campaigner, and is entitled to spend up to £10,000 during the course of the petition campaign. The RO is then required to publish the accreditation notice, but there is no duty on the RO to verify the accuracy of the information detailed in the accreditation notice.

98. This process for becoming an accredited campaigner is very similar to the requirements imposed on candidates at elections under the Representation of the People Act 1983 (RPA). Likewise, no more different duties or obligations are being imposed on ROs than they are already required to demonstrate under that Act. The RPA requires candidates to nominate either themselves or another individual as their election agent and then submit final election returns to the RO, who must then publish both these pieces of information.

Expenses

99. Only 'petition' expenses - expenses incurred in procuring or promoting the success or failure of the petition - will be regulated for the purposes of counting towards the £10,000 upper spending limit. As in regulatory regimes governing other electoral events, where expenditure incurred before the regulated period is used during the recall petition campaign, an appropriate proportion of it would count as petition expenses.

100. A specified list of expenses will determine what is counted as petition expenses. This list follows the categories of election expenses contained in Schedule 4A to the RPA for the purpose of regulating expenditure at a Parliamentary election. Some general exclusions will apply however, such as an exception on personal expenses (in particular transport and accommodation costs) being counted as petition expenses.

101. The petition return accredited campaigners (or their responsible person) are required to submit at the end of the petition period must detail all petition expenditure, and include receipts or invoices for items costing more than £20.

102. The £10,000 upper threshold for accredited campaigners is similar to the amount that a candidate at a general election would be able to spend in the 'short campaign' – the period of time that runs from the dissolution of Parliament through to polling day.

Donations

103. PPERA applies a number of restrictions on donations to permitted participants in referendums: similar provisions are applied to recall petitions. Campaigners must verify that any donations they receive that are above £500 come from permissible donors. If a donation of more than £500 is found to be from an impermissible source, it must be returned.

104. In addition, the Government proposes that accredited campaigners must also report all donations over £500 in their petition return. This is a lower threshold than for permitted participants in referendums, where only permissible donations over £7,500 have to be separately declared, while those between £500 and £7,500 are aggregated and only the total value recorded. The donations reporting threshold for permitted participants in a referendum would set the transparency bar too high in the context of the recall petition process, and setting both verification and reporting requirements at £500 achieves a sensible result which will not be too onerous for accredited campaigners to meet.

105. Restrictions on spending & donations only apply during the regulated period (from when the Speaker gives notice to the petition's close).

Double reporting

106. If a regulated donee chooses to become an accredited campaigner, they will already be subject to regulation under PPERA. Members of registered parties, members associations and holders of relevant elective offices must already verify any donations they receive above £500 are permissible. Members of registered parties and MPs must report donations above £1500 to the Electoral Commission, whilst member associations must report donations above £7500 to the Electoral Commission.
107. When regulated donees become permitted participants in referendums, they are required to report twice on donations, both as permitted participants and regulated donees. The Government proposes a similar process for regulated donees that become accredited campaigners for recall campaigns.
108. However in the case of political parties, which are also regulated donees under PPERA, the Government thinks it would be inappropriate to hold them to the lower petition reporting threshold on donations under recall. Under PPERA political parties are required to report donations valued over £7,500 (or over £1,500 to Individual Accounting Units – which include local parties) on a quarterly basis to the Electoral Commission. The Government does not propose to subject registered political parties to the controls on recall petition donations. While this will result in political parties declaring donations at a higher threshold, this is justified on the basis that the proposed recall petition regulation would interfere with their normal quarterly reporting regime. Political parties must in any case verify that any donations they receive over £500 are from permissible sources.

Non-accredited Campaigners

109. Those who do not spend more than the £500 threshold would not be subject to the controls on expenditure and donations, or any reporting requirements for the recall petition.
110. However, as explained above, regulated donees will continue to be subject to existing regulation under PPERA whether or not they are accredited campaigners

Regulation

111. The Government is not proposing that ROs regulate accredited campaigners' petition expenditure and donations. The role of the RO is strictly defined and has no regulatory aspect in relation to campaign financing beyond making recall petition returns publicly available for inspection for a period of 2 years.
112. It is not proposed that the Electoral Commission take on a more prominent role in relation to campaign finance during recall petitions either. Candidates at elections are not required to register or submit their election returns to the Commission, although the RO must forward them to the Commission. The Commission may request additional documents or information from candidates and other individuals, and publish guidance on what it considers necessary.

113. The Commission does not however have any sanctioning and investigatory powers. Candidate election finance is instead regulated by the RPA and any alleged 'corrupt or illegal practices' are matters for the police.
114. The Government's draft recall petition proposals will also allow the Commission to request petition returns and additional documents. Further, the Electoral Commission will be given a power to provide guidance to campaigners and ROs as it does to both permitted participants in referendums and returning officers at elections.
115. The Government believes it would be an unnecessary and unjustified difference of approach if the Electoral Commission was given a stronger regulatory role in this context. The draft proposals are a more proportionate response to recall petition campaigns. The aim is not to ensure a highly regulated process, but to ensure – as in a constituency election campaign – that spending and donations are transparent.



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