

## Summary: Intervention & Options

Department /Agency:  
Ministry of Justice

Title:  
Impact Assessment of Political Parties and Elections Act - Introduction of Compliance Officers

Stage: Royal Assent

Version: Final

Date: 20 July 2009

**Related Publications:** Party Funding and Expenditure in the United Kingdom: The Government's proposals (June 2008) London: The Stationary Office

**Available to view or download at:**

<http://www.ialibrary.berr.gov.uk>

**Contact for enquiries:** Maxine Monks

**Telephone:** 020 3334 4772

### What is the problem under consideration? Why is government intervention necessary?

It has been suggested that individuals who are holders of elected office and subject to regulation by the Electoral Commission should be able to appoint a compliance officer to assist them with the administrative duties of compliance. It is argued that office holders have busy roles and it is not clear that they are permitted to appoint somebody to help them with the duties of complying with the requirements of the Political Parties, Elections and Referendums Act 2000.

### What are the policy objectives and the intended effects?

The policy objective is to help office-holders to comply with the requirements of the Political Parties, Elections and Referendums Act 2000. The policy will allow elected office holders to appoint a compliance officer to assist with the administrative duties relating to donations and regulated transactions. This provision is a permissive measure and does not require the appointment of a compliance officer. Moreover, the appointment of a compliance officer does not remove liability from the regulated donee (i.e. the holder of elective office).

### What policy options have been considered? Please justify any preferred option.

Option 1: No legislative change.

Option 2: Compulsory requirement for elected office-holders to appoint a compliance officer.

Option 3: A compliance officer may be appointed by elected office-holders (no obligation to do so).

We have chosen option 3 as we believe that allowing the appointment of a compliance officer will help address the concern outlined above. Option 2 has been discounted as making a compliance officer compulsory would be an unnecessary burden. No change would fail to address the problem identified.

### When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

We will consider whether the policy needs review after the next general election. The Electoral Commission will make recommendations for change if they perceive it to be necessary.

### Ministerial Sign-off

*I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.*

Signed by the responsible Minister:

..... Date: 20 July 2009

## Summary: Analysis & Evidence

**Policy Option: 3**

**Description: Elected office holders may appoint a compliance officer to help them comply with the requirements of PPERA 2000**

<b>COSTS</b>	<b>ANNUAL COSTS</b>		Description and scale of <b>key monetised costs</b> by 'main affected groups' It is not possible to quantify the costs, which will be borne by individuals choosing to appoint compliance officers. Initial Commission estimates suggest an initial start up cost of up to £20,000 to amend its database to incorporate registration requirements for compliance officers.
	<b>One-off</b> (Transition)	<b>Yrs</b>	
	£ 20,000		
	<b>Average Annual Cost</b> (excluding one-off)		
	£		<b>Total Cost (PV)</b> £
Other <b>key non-monetised costs</b> by 'main affected groups' Administrative cost for Electoral Commission in terms of maintaining register of compliance officers, which will depend on take up. Costs to elected office holders who choose to appoint compliance officer.			

<b>BENEFITS</b>	<b>ANNUAL BENEFITS</b>		Description and scale of <b>key monetised benefits</b> by 'main affected groups' It is not possible to quantify the monetary benefits, which will be felt by elected office holders whose burden of compliance will be eased as a result of appointment of a compliance officer.
	<b>One-off</b>	<b>Yrs</b>	
	£		
	<b>Average Annual Benefit</b> (excluding one-off)		
	£		<b>Total Benefit (PV)</b> £
Other <b>key non-monetised benefits</b> by 'main affected groups' Elected office holders choosing to make an appointment will benefit from assistance with compliance with the requirements of PPERA.			

**Key Assumptions/Sensitivities/Risks** We have not estimated the likely take-up of this permissive provision, since it is impossible to predict either the degree to which individuals will take advantage of the new provision, or the degree to which individuals are already appointed informally to carry out these functions.

Price Base Year	Time Period Years	<b>Net Benefit Range (NPV)</b> £	<b>NET BENEFIT (NPV Best estimate)</b> £
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What is the geographic coverage of the policy/option?		UK-wide	
On what date will the policy be implemented?		After Royal Assent	
Which organisation(s) will enforce the policy?		Courts / EC	
What is the total annual cost of enforcement for these organisations?		£	
Does enforcement comply with Hampton principles?		Yes	
Will implementation go beyond minimum EU requirements?		No	
What is the value of the proposed offsetting measure per year?		£	
What is the value of changes in greenhouse gas emissions?		£	
Will the proposal have a significant impact on competition?		No	
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium      Large
Are any of these organisations exempt?	No	No	N/A      N/A

<b>Impact on Admin Burdens Baseline</b> (2005 Prices)		(Increase - Decrease)	
Increase of	£	Decrease of	£
<b>Net Impact</b>		£	

Key: Annual costs and benefits: Constant Prices (Net) Present Value

## Evidence Base (for summary sheets)

It has been suggested that the burden of compliance with the reporting requirements of the Political Parties, Elections and Referendums Act 2000 (PPERA) is particularly keenly felt by elected office-holders, who often have busy roles. It has therefore been suggested that a clear, statutory ability to appoint an officer to assist with the practical requirements of compliance would be desirable. Such an appointment would not remove the responsibility for compliance from the elected office-holder, who would still remain liable for any failures to comply.

This is a permissive provision and does not require a compliance officer to be appointed. As a voluntary measure there will be no call on public funds.

The policy will also provide that a publicly accessible register of compliance officers will be kept by the Electoral Commission. This will help to ensure openness and provide important scrutiny of the use of compliance officers. Our legal advice is that the section is compatible with relevant Data Protection Laws.

The Electoral Commission have indicated that there may be an initial start up cost of up to £20,000 to amend its database to incorporate provision for compliance officers. Ongoing administrative cost will depend to some extent on take-up of the provision. As noted above, we have not attempted to estimate take-up.

We have carried out an Equality Impact Assessment which identified no equality impacts and also an initial screening which established that a privacy impact assessment was not appropriate.

In formulating this policy we have considered the following options:

### Option 1: No legislative change.

Under the current legislation, a holder of elected office may appoint a compliance officer. However, such appointments are informal insofar as the compliance officer role does not have a basis in statute. Consequently they are not liable for the potential consequences of their actions or inaction in the role. In order to clarify the role of a person acting in the capacity as a compliance officer we believe that it would be appropriate to legislate to formalise the position of that role. This would provide clarity for both the holder of relevant elected office and the compliance officer themselves. There is particular relevance for holders of elective office in being able to make such an appointment as the nature of their role is such that they are likely to be busy and juggling competing demands on their time.

### Option 2: Compulsory requirement for elected office-holders to appoint a compliance officer.

We have considered whether it would be appropriate to place an obligation on certain regulated donees to appoint compliance officers. This could be compared to the requirement on candidates to either appoint an election agent or to act as their own election agent. However, the two are not fully analogous as election agents are given a number of distinct responsibilities under electoral law, which they are required to fulfil. Such distinctions are not provided for under PERA and as a consequence this approach would require a more fundamental re-casting of the 2000 Act.

A compulsory requirement could potentially also put an unnecessary administrative burden on holders of elective office. For instance, many may not receive the quantities of declarable donations that would necessitate this additional administrative role. An inflexible approach could create a large quantity of unnecessary work for little impact. The main benefit of the compliance officer role should be in helping to secure compliance and establish clear accountabilities where a holder of elective office would find it helpful, rather than to place additional burdens where they are not required.

Option 3: A compliance officer may be appointed by elected office-holders (no obligation to do so).

As noted previously there is nothing in PPERA that prohibits holders of elective office from appointing compliance officers at present. However, by providing that holders of relevant elective office may appoint and identify to the Electoral Commission a named compliance officer we would provide clarity both in terms of the legal standing of the role and in terms of providing for scrutiny by the Commission and the public. It is our view that this clarity may be provided without absolving the office holder from legal responsibilities for failure to comply with requirements in PPERA. This may be achieved by allowing liability to be shared with, but not wholly delegated to, the compliance officer – liability would depend on the circumstances of each case.

The primary advantage of this approach is that it provides holders of elective office with the ability to appoint a compliance officer without imposing this requirement where it is not required. If a holder of elective officer wishes to operate as at present they will be able to do so. This approach will also reduce any administrative burdens upon the Commission in terms of keeping a register of compliance officers. We believe that compliance officers will be useful in some circumstances but may not be appropriate to all and therefore it would be disproportionate for all holders of elective office, as defined by PPERA, to be required to appoint them.

Holders of relevant elective office as defined by PPERA (Paragraph 1(8) of schedule 7) include Member of the House of Commons, Member of the European Parliament elected in the UK, Member of a devolved legislature, Member of a local authority (other than a parish or community council); Member of the Greater London Assembly; and Mayor of London or any other elected mayor within the meaning of Part II of the Local Government Act 2000. Levels of donations received by these different categories of office-holder vary significantly, as do levels of donations received by different individuals within individual categories. This buttresses the decision to provide a permissive provision allowing the appointment of a compliance officer rather than requiring one.

<b>Summary of costs/disadvantages</b>	<b>Summary of savings/benefits</b>
Any additional staff or resources needed for the Commission to fulfil the requirement to maintain a register of compliance officers.	By assisting holders of relevant elective office to comply with the regulatory regime there are potential savings of resources that would otherwise go into the investigations into breaches.  The provision will also clarify the role of a person who has been appointed to assist with compliance, without allowing the office holder to absolve him or herself from liability.
As the measure is not compulsory there may be instances where a holder of elective office without a compliance officer claims to feel they were at a disadvantage.	Holders of elective office may make their own decision about whether to appoint a compliance officer, depending on their need. As a permissive option this approach will not compel additional costs.