

Investigation in respect of the
Conservative and Unionist Party
campaign spending returns for the
2014 European Parliamentary Election,
and
2015 UK Parliamentary General
Election,
and in respect of the
2014 parliamentary by-elections in
Clacton, Newark and Rochester and
Strood

16 March 2017

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1. Introduction

The Electoral Commission

1. The Electoral Commission (“the Commission”) is the statutory regulator with the power, granted by an Act of Parliament, to set and enforce standards in relation to elections, including the regulation of political finances and campaign spending.
2. The Commission has an important role in the regulation of political finances, and has a number of investigatory and enforcement powers in this regard. It has the general function, under section 145 of the Political Parties, Elections and Referendums Act 2000 (PPERA), of monitoring and taking all reasonable steps to secure compliance with the restrictions and other requirements relating to campaign spending.
3. The Commission’s aim is to ensure integrity and public confidence in the UK’s democratic process by working to support a healthy democracy, where elections and referendums are based on its principles of trust, participation and no undue influence. In furtherance of this aim, the Commission publishes information to provide transparency about election spending and donations, and works to ensure high levels of compliance by campaigners.

The Conservative and Unionist Party (GB)

4. The Conservative and Unionist Party (“the Party”) is a registered political party in Great Britain. Prior to 11 April 2016, when the events under investigation occurred, it was registered as the Conservative Party.
5. The 2015 United Kingdom Parliamentary General Election (“the 2015 UKPGE”) took place on 7 May 2015. Under PERA and given that the Party’s campaign spending exceeded £250,000, the registered treasurer of the Party, Mr Simon Day¹, was required to deliver to the Commission a financial return of all campaign spending incurred by the Party during the 2015 UKPGE campaign period, by 7 November 2015. Mr Day delivered this return in advance of the statutory deadline. The Commission published this return on 20 January 2016.
6. During the preparation for, and following, publication, the Commission engaged in its routine scrutiny of all the returns for the 2015 UKPGE, looking at their completeness and accuracy. Whilst carrying out this work, it noted reports, most notably by Channel 4 News in January and February 2016, that raised concerns that the Party’s spending return for the 2015 UKPGE may have been incomplete. The Commission was concerned that

¹ On 25 April 2016 the Party registered a new treasurer, Mr Alan Mabbutt.

the Party's 2015 UKPGE return may have been missing items of Party campaign spending and may have included items that were not Party campaign spending. These reports also indicated that the Party's spending return for the 2014 European Parliamentary Election ("the 2014 EPE") may not have been complete.

7. Following enquiries with the Party, the Commission opened an investigation on 15 February 2016. This is a report of that investigation. It is being published alongside the publication of the outcome of the investigation and the sanctions imposed.
8. In summary, the Commission found that:
 - there was no evidence that the Party's spending return for the 2014 EPE was incomplete;
 - it is likely that expense returns delivered by Party candidates at three by-elections during 2014 understated the value of the Party's spending on their campaigns;
 - on three instances in 2014, relating to the said three by-elections, Mr Day as registered treasurer failed to ensure that the Party's accounting records were sufficient to adequately show and explain the Party's transactions with the candidates and/or their agents, as required by section 41 of PPERA;
 - the Party's 2015 UKPGE spending return was not a complete statement of its campaign spending payments, as required by section 80(3) of PPERA. Mr Day had included payments that were not Party campaign spending and omitted other Party campaign payments; and
 - the Party's 2015 UKPGE spending return also failed to include all the required invoices and receipts associated with the Party's campaign spending that were required by section 80(3) of PPERA.
9. Accordingly the Commission determined that Mr Day committed three contraventions under section 41 of PPERA and two offences under section 82(4)(b) of PPERA.
10. The Party has been fined £70,000 in total as a result of these contraventions and offences.
11. In addition, the Commission identified information which raised doubt about whether Mr Day took reasonable steps to ensure that he could make a proper declaration that the Party's 2015 UKPGE spending return was complete. Knowingly or recklessly making a false declaration would be an offence under section 83(3) of PPERA. The Commission does not have the

power to sanction this offence and therefore, having identified it during its investigation, it referred Mr Day to the Metropolitan Police Service.

2. Issues under investigation

The scope of the investigation

12. In January 2016 the Commission's attention was drawn to broadcast reports in which Channel 4 News made a number of allegations about spending by the Party and/or its candidates in the South Thanet constituency during the 2015 UKPGE campaign. Channel 4 News subsequently ran other broadcast reports concerning the way the Party had reported party and candidate campaign spending during 2014 and 2015. After assessing the evidence provided by the reports, and having had discussions with the Party, the Commission opened an investigation on 15 February 2016.
13. The scope of the investigation extended as further evidence came to light. In total this investigation considered the following matters:
 - Whether the Party's campaign spending return for the 2014 EPE was a complete statement of all campaign payments made. The investigation looked at campaign spending by or on behalf of the Party and/or its candidates in three by-elections in Clacton, Newark and Rochester and Strood in 2014. The first of those by-elections took place during the regulated period for the 2014 EPE, and any party campaign spending in relation to the EPE during that by-election was required to be included in the spending return for the EPE. Failures in relation to this may constitute offences under section 82(4) of PPERA. In this report these are referred to as the '**by-election issues**'.
 - Whether the Party's campaign spending return for the 2015 UKPGE was a complete statement of all campaign payments made, again in relation to spending by the Party during the 2014 by-elections, all of which took place during the regulated period for the 2015 UKPGE. Failures in relation to this may constitute offences under section 82(4) of PPERA. In this report, these again are referred to as the '**by-election issues**'.
 - Whether the then registered treasurer of the Party, Mr Day, ensured that accounting records were kept which were sufficient to show and explain the Party's transactions. This concerned the Party's accounting records in relation to campaign activity carried out by the Party on behalf of the candidates in the three aforementioned by-elections, and reported by the candidates. Failing to keep sufficient accounting records constitutes a contravention of a prescribed requirement under section 41 of PPERA. These are the '**accounting records issues**'.

- Whether the Party's 2015 UKPGE campaign spending return was a complete statement of all campaign payments made by the Party during the 2015 UKPGE campaign, in respect of payments incurred by the Party in the South Thanet constituency. This concerned whether the Party's return included spending that was for the purpose of electing its candidate in South Thanet, and was not therefore Party campaigning and whether it failed to include all Party campaign payments relating to this constituency. Failures in relation to the campaign spending return such as this may constitute an offence under section 82(4) of PPERA. These are the '**UKPGE spending return - South Thanet issues**'.
- Whether the Party's 2015 UKPGE campaign spending return was a complete statement of all payments made in respect of spending on transporting Party activists to a number of constituencies across the UK to carry out campaign activity. This concerned whether the Party's return included spending associated with this activity which was not Party campaign spending, and whether it failed to include all Party campaign payments relating to this activity. Failures in relation to the campaign spending return such as this may constitute an offence under section 82(4) of PPERA. These are the '**UKPGE spending return – Battlebus2015 issues**'.
- Whether further payments were omitted from the Party's 2015 UKPGE campaign spending return. Failures in relation to the campaign spending return such as this may constitute an offence under section 82(4) of PPERA. These are the '**UKPGE spending return – omitted payments issues**'.
- Whether there were any invoices or receipts missing from the Party's 2015 UKPGE return. Failures in relation to this may constitute an offence under section 82(4) of PPERA. This is the '**UKPGE spending return - omitted invoices/receipts issue**'.
- Whether there was evidence to suggest that the then registered treasurer of the Party, Mr Day, may have knowingly or recklessly made a statutory declaration in respect of one or both returns that those returns were complete and accurate when they were not. Failures in relation to this may constitute an offence under section 83(3) of PPERA. This is the '**declaration issue**'.

14. Under its section 145 of PPERA duty to monitor and take all reasonable steps to secure compliance with election spending under the Representation of the People Act 1983 (RPA), the Commission also considered the accuracy or otherwise of a number of campaign expense returns made by Party candidates and their agents, following the 2014

EPE and the 2015 UKPGE. The Commission has no powers to make findings of offences in respect of these returns, and has not sought to do so. However, it has made observations in respect of these returns under its section 145 duty, which are included in this report.

The legal framework set out in PPERA

15. Section 41(1) of PPERA requires the registered treasurer of a party to ensure that accounting records are kept with respect to the party which are sufficient to show and explain the party's transactions. Under section 41(4) these records must be kept for at least six years from the end of the financial year of the party in which they are made.
16. Party campaign spending is defined in section 72 of PPERA as expenses incurred by or on behalf of a party which (a) fall within paragraph 1 of Schedule 8, and are (b) incurred for election purposes. 'Election purposes' is defined as being in connection with promoting or procuring success for the party and its candidates generally. Section 72(7) excludes anything which falls to be included in a candidate's own election expenses return, namely expenses incurred in connection with promoting or procuring that specific candidate's election.
17. Section 80(2) of PPERA requires the treasurer to prepare a campaign spending return at the conclusion of an EPE or UKPGE campaign period.
18. Section 80(3) requires that the return contains:
 - a statement of all payments made in respect of campaign spending incurred during the campaign period
 - a statement of all disputed claims (where the treasurer refuses to pay the claim) of which the treasurer is aware
 - a statement of all unpaid claims (if any) of which the treasurer is aware
19. Section 80(4) requires that the return contains:
 - all invoices or receipts related to the payments (of a value greater than £200)
 - a declaration of all notional spending
20. Section 82(1) of PPERA requires the treasurer of a party which incurred more than £250,000 of campaign spending to deliver the campaign spending return within six months of the end of the relevant campaign period.
21. Under section 82(4)(b) of PPERA, the treasurer commits an offence if, without reasonable excuse, he or she delivers a return which does not

comply with the requirements of section 80(3) or (4) of PPERA. This may occur where information required under those sections is omitted, or where the return includes payments that in fact relate to candidate campaign expenses, and so are excluded from the definition of 'campaign expenditure' under section 72(7) of PPERA, or includes spending unrelated to campaigning at all.

22. In determining that any of the offences under PPERA have been committed, the Commission must be satisfied beyond reasonable doubt.
23. Section 83 of PPERA requires a spending return to be accompanied by a declaration made by the treasurer. That declaration must state that the treasurer has examined the return in question, and that to the best of his or her knowledge or belief it is a complete and correct return and all expenses shown in it as paid have been paid by the treasurer, the deputy treasurer or a person authorised under PPERA to pay party campaign expenses. Section 83(3) states that a person commits an offence if he or she knowingly or recklessly makes a false declaration.

Party campaign spending and candidate campaign expenses

24. The RPA imposes restrictions and requirements on candidates and their agents who incur spending in relation to their election campaigns. This includes a limit on the value of campaign expenses a candidate may incur, and a requirement to deliver a return of candidate campaign expenses to the relevant returning officer after the election. The restrictions and requirements imposed by the RPA are distinct from those on registered political parties. The Commission has no specific investigation powers it can use to enquire into potential breaches of the RPA rules, and enforcement of those rules falls to the police and prosecution authorities.

3. The investigation

25. This section summarises the conduct of the investigation and the key actions taken by the Commission.
26. As explained further below, the Party did not cooperate fully with the Commission's enquiries. While at times answers were forthcoming, and in particular cooperation was given when arranging interviews with certain Party officials, at other times the Party hindered and caused delay to the investigation.
27. During the investigation the Commission had contact not only with the Party but with a number of other individuals and organisations. Those other individuals and organisations cooperated with the Commission's enquiries throughout.²

The opening and scope of the investigation

28. In January 2016 Channel 4 News made a number of allegations about Party spending in South Thanet during the 2015 UKPGE campaign. Its broadcast reports alleged that:
 - The Party had included spending in its 2015 UKPGE campaign spending return which was not party campaign spending. The spending related to hotel bills at the Royal Harbour Hotel in Ramsgate. According to the reports, this spending should instead have been included as part of candidate expenses in the South Thanet constituency, for the Party candidate Mr Craig Mackinlay.
 - Spending incurred by the Party in the neighbouring constituency of North Thanet, at the Premier Inn Hotel in Margate, had not been included in the Party's 2015 UKPGE spending return.
 - The cost of advertising in a local Thanet newspaper had been included in the Party's return, but was in fact candidate campaign expenses since the newspaper had only been distributed in the North and South Thanet constituencies. It should, the report alleged, have been split between the returns for the two candidates in those constituencies.
29. The Commission raised these allegations with the Party, which explained

² Individuals contacted as part of the investigation have only been named where it is necessary to do so in order to give a clear and transparent account of the investigation and the Commission's findings.

that South Thanet had been its base for its 'anti-UKIP' campaign. The Commission then opened an assessment to determine whether or not it had reasonable grounds to suspect offences under PPERA in relation to the Party's 2015 UKPGE spending return. The assessment concluded that an investigation should be opened. The Party was notified accordingly and evidence sought in order to progress the investigation, both from the Party and from the UK Independence Party (UKIP).

30. In a report broadcast on 8 February 2016, Channel 4 News made further allegations, this time about Party spending during three by-elections in 2014. These by-elections were held in the constituencies of Newark (on 5 June 2014), Clacton (on 9 October 2014) and Rochester and Strood (on 20 November 2014). The report alleged that the Party had incurred spending on accommodating employees and activists at hotels in those constituencies during the by-election campaigns, and that those employees and activists were working on the by-election campaigns. However, the spending was not reported on the candidate returns for those by-elections.
31. The dates of the spending at these hotels fell within the regulated periods for the 2014 EPE and 2015 UKPGE. Any Party campaign spending during those periods should have been included in the Party's campaign spending returns for those elections. However, none of the spending identified in the report appeared to have been declared in the Party's spending returns. The Commission assessed these further allegations and concluded that they should be investigated to determine whether the Party's 2014 EPE, and 2015 UKPGE, returns were complete and accurate. The Commission told the Party that the scope of the investigation had widened and again sought relevant evidence.
32. In April 2016, while the investigation was progressing, the Party told the Commission that it had identified omissions in the Party's campaign spending return for the 2015 UKPGE. It said that Channel 4 News had raised new concerns with it about a national tour by Party activists that took place during the election campaign, under the name 'Battlebus2015'. The Party had reviewed its reporting of spending on Battlebus2015 and uncovered £39,511.90 of spending that it considered it should have reported in the Party's spending return, but which had been missed. The review was ongoing at the time but completed during the investigation.
33. Shortly afterwards, Channel 4 News broadcast its report about the Party's spending on the Battlebus2015 tour. It alleged that the Party had paid for an operation to transport activists to over 20 marginal seats across England, known as Battlebus2015, and that it had evidence those activists campaigned for individual candidates as well as the Party. It stated that none of the costs associated with this were included in the relevant candidate returns, and referred to the Party's acknowledgement that some costs had not been included in the Party's spending return.

34. The Party's acknowledgement gave the Commission further reasonable grounds to suspect that the Party's spending return was incomplete. However, the Commission did not accept at face value the Party's assertion that all the missing spending should have been reported in the Party's spending return. Instead, the Commission explained to the Party that it would be whether the Party had, over 2014 and 2015, been improperly reporting spending by the Party on its and its candidates' campaigns.

Engagement with the Party

35. From February to May 2016 the Commission sought to obtain relevant documents and information from the Party by way of three statutory notices. These notices were issued under Schedule 19B paragraph 3 of PPERA. They covered, in turn, the South Thanet issues (issued on 18 February), the by-election issues (issued on 23 March) and the Battlebus2015 issues (issued on 9 May).
36. The Party responded in part to the first and second notices by the deadlines given. Following that, however, it caused delay by incorrectly asserting that the Commission did not have the power to request some of the material, and by citing administrative reasons for taking additional time to respond. The Commission granted extensions, both by amending the first notice and through voluntary agreement with the Party.
37. Despite this, by May 2016 the Commission still had not received full disclosure from the Party of the required material. Consequently, the Commission was no longer willing to agree to the Party's continuing requests for further periods of time to provide the material and, given the Party's limited disclosure up to that point, did not have confidence that the Party would provide all the material.
38. In May 2016 the Commission lodged an application with the High Court for a documents and an information disclosure order. Later that day the Party provided the remaining material from the first two notices. After reviewing this material the Commission withdrew its application to the High Court.
39. The Party complied with the third notice by the deadline given.
40. During October 2016 the Commission interviewed four former or current Party officials. These were:
 - Lord Stephen Gilbert of Panteg, who was the Campaigns Director at the Party during the 2015 UKPGE campaign. Lord Gilbert was interviewed in lieu of a Senior Campaigns Officer at the Party who had been based in South Thanet during the 2015 UKPGE campaign period. The officer declined an invitation to be interviewed on the grounds of ill health.

- Mr Alan Mabbutt, who was interviewed in his capacity as Chief Legal Officer of the Party, which he held during 2014-15.
 - A Senior Press Advisor who had been employed by the Party as a consultant media advisor, and was based in the South Thanet constituency during the election campaign.
 - Mr Simon Day, who was interviewed under caution on behalf of the Party and as its registered treasurer during the events under investigation.
41. The Commission also interviewed a number of individuals who were involved in the decisions and/or conduct of the Party's campaign activity during 2014-15. They were all interviewed in their personal capacity. These individuals were:
- the Right Honourable Mr Grant Shapps MP, Co-Chairman of the Party in 2014-15;
 - the Chief of Staff to Mr Shapps during 2014-15; and
 - the Director of Roadtrip2015 and Battlebus2015
42. The Commission also spoke to three volunteers for the Party who acted as 'team leaders' on the buses used to visit constituencies as part of the Battlebus2015 campaign. Further, the Commission issued a notice under Schedule 19B paragraph 3 of PPERA to one of these team leaders who had chosen not to provide information voluntarily.
43. The Commission had ongoing correspondence with the Party from May 2016 to the conclusion of the investigation. This correspondence covered the issues under investigation, set out the Commission's developing views on these and contained further information and explanation from the Party. During this correspondence two further notices under Schedule 19B paragraph 3 of PPERA were issued by the Commission on 15 September 2016 and 12 October 2016 to obtain material required to progress the investigation. In both cases notices were issued after the Party did not provide the material on initial request. The Party responded to both notices by the deadline given by the Commission.
44. In February 2017 the Commission issued three initial notices to the Party under Schedule 19C of PPERA. These set out the Commission's initial determinations in respect of contraventions and offences committed by Mr Day, and, in accordance with Schedule 19C, invited the Party to make representations. Under Schedule 19C the Party had 28 days from receipt of the notice to make any representations, and this deadline expired on 7

March 2017.

45. The Commission copied the initial notices to Mr Day and explained it would accept representations from him also. Mr Day did not make representations on the notices.
46. The Party made their representations on the deadline of 7 March 2017. These were considered by the Commission and a final determination made in respect of the contraventions and offences, and the sanctions resulting from them. This final determination was issued to the Party on 13 March 2017.

Engagment with other individuals and organisations

47. During the course of the investigation the Commission issued three notices under Schedule 19B paragraph 3 of PPERA to Channel 4 News, to obtain the evidence underpinning its broadcast reports and allegations. Channel 4 News complied with these notices.
48. In addition, the Commission issued a notice under Schedule 19B paragraph 3 of PPERA to UKIP. This followed an assertion by the Party that it based a number of officials and volunteers in South Thanet during the 2015 UKPGE campaign as a direct result of UKIP running its national campaign from the area. The notice required the provision of information relating to the location of UKIP's national campaign. UKIP provided the information, which was analysed as part of the investigation.
49. Finally, a number of emails and letters were received from members of the public, concerned about whether campaign spending in their constituency had been properly reported by the Party. Many of these supplied examples of campaign activity by the Party. Each one was carefully considered and, where relevant, analysed as part of the investigation.

Engagement with the Police and Crown Prosecution Service

50. When opening the investigation in February 2016, the Commission noted that the evidence disclosed potential offences in relation to candidate returns under the RPA. If candidate spending had been improperly included in the Party's spending returns then it was possible that, in addition to the issues with the Party's return, the candidate returns were inaccurate.
51. As mentioned above, the Commission does not have investigation or enforcement powers in respect of offences under the RPA. These can only be investigated by the police and, if appropriate, prosecuted by the Crown Prosecution Service (the CPS). However, as noted above, the Commission has a duty under section 145 of PPERA to monitor and take all reasonable steps to secure compliance with the RPA candidate spending rules. The

Commission recognised that any potential RPA offences relating to the 2014 by-elections were out of time for police investigation as more than a year had passed since the alleged offences. However, those relating to the 2015 UKPGE were, at that point, less than a year old.

52. In February 2016 the Commission discussed the matters relating to South Thanet with Kent Police, who decided that, at that time, the evidence to hand was insufficient for it to investigate.
53. In April 2016, following the identification of the Battlebus2015 issues, the Commission wrote to the Director of Public Prosecutions. The Commission expressed its view that these issues raised reasonable suspicion of a course of conduct by the Party that may involve offences under the RPA. The Commission drew attention to the fact that it was approaching a year since any such RPA offences may have been committed. In its view, the evidence and the seriousness of the issues warranted applications to the court to extend the time available to the police and the CPS to investigate.
54. At the request of the CPS the Commission hosted a meeting with the CPS and relevant police forces. Consequentially, a number of forces made applications to the court and were granted an extension to undertake their investigations. This included Kent Police, which decided that it would take the matter forward.
55. The Commission's investigation was entirely separate from any police investigation. In order to assist the police, the Commission agreed to meet with its representatives and with the CPS on a number of occasions. The Commission provided information to the Police under request to further their investigations and did so in accordance with its information-sharing powers.

4. The Commission's findings in respect of the 2014 by-elections and accounting records

The by-election issues

56. The by-election issues looked at three by-elections held during 2014. These were in Newark (June 2014), Clacton (October 2014) and Rochester and Strood (November 2014).
57. In February 2016, Channel 4 News published an allegation that the three Party candidates in these by-elections had failed to declare hotel payments incurred by the Party for Party staff and activists working on the by-election campaigns.
58. Invoices and documents obtained by Channel 4 News, and subsequently provided to the Commission, indicated that the Party booked the following accommodation for employees and volunteers during those by-elections:
 - Newark by-election:
 - Kelham House: 54 nights between 1 May and 6 June 2014 at a cost of £4,519.95
 - Premier Inn: 125 nights between 19 May and 6 June 2014, cost unknown
 - Clacton by-election:
 - Lifehouse Spa: 290 nights between 4 September and 11 October 2014, cost unknown
 - Premier Inn: 71 nights between 9 September and 1 October 2014 at a cost of £6,582.86
 - Rochester and Strood by-election:
 - Bridgewood Manor: 597 nights between 6 October and 22 November 2014 at a cost of £51,191.16
 - Premier Inn: 246 nights between 17 October and 22 November at a cost of £20,985.91
59. All three by-elections took place during campaign periods for national elections. In particular, the spending associated with the Newark by-election took place during the campaign period for the 2014 EPE, and also during the beginning of the campaign period for the 2015 UKPGE. The spending

associated with the Clacton and the Rochester and Strood by-elections took place during the campaign period for the 2015 UKPGE.

60. The Commission does not have specific powers to investigate and enforce incomplete candidate returns. But it was concerned about whether the Party employees and volunteers based in the constituencies where the by-elections were being held may have also been carrying out campaigning for the Party for the purpose of the EPE and UKPGE campaigns. If this was the case, then a proportion of the hotel accommodation costs incurred in locating them in those constituencies may have been reportable in the Party's spending returns for the 2014 EPE and 2015 UKPGE. However, the spending detailed above was not included in either of these returns.
61. In response to the Commission's enquiries, including the notice issued to it on 23 March 2016, the Party provided the Commission with information concerning the individuals located in the hotels and their roles. This included evidence of the work the individuals undertook whilst located at the hotels, such as electronic diaries, campaign material and letters. The Party explained that while they were located in those constituencies its employees both campaigned for the Party candidates and continued with their routine work for the Party.
62. The Commission also considered the information published by, and obtained under notice from, Channel 4 News, including the accommodation invoices and receipts.
63. **Having considered the role the individuals based in the by-election constituencies had and the evidence of their work during that time, the Commission is satisfied that they were not campaigning on behalf of the Party in respect of the 2014 EPE or the 2015 UKPGE. Consequently, the Party's spending returns for those elections were not incomplete in this regard.**

The accounting records issues

64. As explained above, at each of the three 2014 by-elections contested by the Party's candidates, the Party located staff and volunteers in those constituencies. Its employees both campaigned for the Party candidates and continued with their routine work for the Party.
65. The Party therefore incurred spending on these activities by way of accommodation costs and volunteer expenses, and by allocating staff time to these campaigns. In each case the Party provided its candidate with an invoice of an amount it calculated to be its spending on these campaigns. The candidate then reported this as a donation from the Party and as notional spending in his or her candidate return. This is an acceptable way to report Party spending in candidate returns.

66. The amounts reported by the candidates were as follows:³
- In Newark the Conservative candidate declared a total election spend of £96,190.98. Of this £23,596 relates to spending on agent and other staff costs and was invoiced by the Party.
 - In Clacton the Conservative candidate declared a total election spend of £84,049.22. Of this £12,314 relates to spending on agent and other staff costs and was invoiced by the Party. Of this, £3,894.39 relates to spending on accommodation and administration.
 - In Rochester and Strood the Conservative candidate declared total election spending of £96,793.08. Of this £23,724 relates to spending on agent and other staff costs and was invoiced by the Party. Of this, £17,873.08 relates to spending on accommodation and administration.
67. In this manner the Party entered into a specific transaction with each of the three candidates and agents; it incurred spending on behalf of each candidate, and then provided an invoice to each candidate and agent. Whilst investigating the by-election issues set out above, the Commission asked the Party to explain how the transactions were calculated.
68. The Party explained that it applied a formula to calculate the value of the costs it incurred on election expenses for its candidates. This formula was, according to the Party, used for each of the three 2014 by-elections. The Party explained that the formula was based on the full costs of locating volunteers in the constituencies, and a proportion of the salary and accommodation costs incurred by its employees while based in the constituencies.
69. Having considered the role those employees had and the evidence of their work during that time, the Commission is satisfied that it was reasonable for the Party to invoice only a proportion of the staffing costs of those employees based in the by-election constituencies to the candidates' campaigns. However, it was unclear how the proportion was calculated.
70. Further, in relation to the costs of accommodating those staff, the only credible purpose for which the individuals were located to the relevant constituencies was to facilitate their campaign work in the by-elections. Consequently, the Commission was not satisfied that only a proportion of these costs being invoiced to the candidates alone were a true reflection of the spending incurred by the Party on the candidates' behalves.

³ In a parliamentary by-election, each candidate has a spending limit of £100,000.

71. Under section 41(1) of PPERA, Mr Day was required to ensure that records were kept sufficient to both show and explain the transactions. However, the Party could provide no record of how those proportions were determined for any of the by-elections. It did not have any written record of the formula at all, either generally or in relation to any of the three by-elections, other than the outline provided in its correspondence of the three elements used.
72. The Party argued that: *“The notional invoice supplied by the Party to a candidate or his agent is for notional expenditure. It does not show actual expenditure and therefore does not show transactions as defined by PPERA.”* The Party explained that it did not *“...keep records of the estimated time spent by party staff or volunteers which are included in the notional invoice”*, and that records were not required because *“...no money is received from the agent or his candidate...”*
73. This is not the position under PPERA. In each of the by-elections the Party entered into a transaction with its candidate and agent to provide services. It incurred spending on accommodation and volunteer expenses and on staff salaries where it allocated time from those staff members to the by-election campaigns. Those services cost the Party money and resources and thereby affected its financial position by depleting its resources. Mr Day was under an obligation to keep appropriate accounting records to explain each of the transactions entered into with the candidates and agents in the three by-elections. He was required by PPERA to be able to show the financial position of the Party taking them into account.
74. In interview the Commission asked Mr Day why there were no records of the formula for calculating the amounts included in the invoices for the three 2014 by-elections. Mr Day did not offer an explanation, saying: *“It’s not something that I was involved in.”*
75. **Accordingly, the Commission has found that Mr Day committed three contraventions of section 41(1) of PPERA during 2014. These contraventions relate to the three transactions entered into between the Party and the candidates and agents in the Newark, Clacton and Rochester and Strood by-elections in 2014, for which Mr Day failed to ensure that the Party maintained accounting records to explain them.**
76. In furtherance of its duty under section 145 of PPERA, the Commission notes that the absence of records of this formula make it impossible to establish how the amounts invoiced by the Party to each of the three candidates and agents were calculated. From the general terms in which the Party described the calculations, the Commission considers that the invoices were likely to be inaccurate.
77. The Party told the Commission in general terms the elements of the formula

used to calculate the value stated in each notional invoice, including a proportion of the cost of accommodation for staff based in each constituency.

78. The Commission can understand why *staff time* would be apportioned between that spent on the by-election campaign and that spent on routine Party work, but the lack of records means the Party cannot explain how it determined that the apportionment in these instances was correct.
79. Furthermore, there is no reason the Commission can see as to why only an unspecified proportion of the *accommodation costs for staff* was included in the invoices to candidates. The Commission is satisfied that the entire accommodation costs, for staff and volunteers, were incurred for the purpose of basing individuals in Newark, Clacton and Rochester and Strood, to facilitate those individuals' work on the respective by-election campaigns. This money would not have been spent otherwise.

5. The Commission's findings in respect of the Party's 2015 UKPGE spending return

The UKPGE spending return South Thanet issues

80. Mr Craig Mackinlay was the Party candidate for the South Thanet constituency during the 2015 UKPGE. Under the RPA, Mr Mackinlay and his agent were required to deliver an election expenses return including all expenses relating to his campaign. In this return Mr Mackinlay reported the following amounts:
- For the Long Campaign, from 19 December 2014 to 6 April 2015 which was the day before Mr Mackinlay became a candidate, Mr Mackinlay reported expenses totalling £32,661.26. His spending limit was £37,016.38.
 - For the Short Campaign, from 7 April 2015 when Mr Mackinlay became a candidate to 7 May 2015 which was polling day, Mr Mackinlay reported expenses totalling £14,837.77. His spending limit was £15,016.38.

The team based in South Thanet

81. The Party advised the Commission that it had chosen to base a small team in the South Thanet constituency. It said that the constituency was of particular importance during the campaign because the candidate for UKIP in that constituency was its then leader Mr Nigel Farage. The Party stated:

As part of its broader general election campaign, [Conservative Campaign HQ] had set up a series of national rebuttal and attack teams for Labour, the Liberal Democrats and for UKIP. To address the unusual method adopted by UKIP, CCHQ decided to base its national UKIP campaign team in Kent ("CCHQ UKIP team"), mirroring the fact that the UKIP national campaign operation was, uniquely, in Kent, and not in Westminster. The Labour Party also focused substantial national anti-UKIP activity in Kent.

Each of CCHQ's party-focused teams researched and created political material to deploy nationally as part of the national campaign literature. They also had a role in ensuring that any local literature was consistent with national campaign messages.

82. Further, the Party said that the team researched and created national campaign material and "...also had a role in ensuring that any local

literature was consistent with national campaign messages.”

83. This team stayed in hotels in the Thanet area, notably the Royal Harbour Hotel and the Premier Inn Margate. Mr Mackinlay’s spending return does not include any entries in relation to these two hotels. Nor does it include any spending associated with the people who stayed at the hotels, such as salary or subsistence costs.
84. The Party’s 2015 UKPGE spending return contained four entries, with associated invoices, totalling £15,640.65 in relation to spending at the Royal Harbour Hotel. The invoices relate to hotel rooms booked at the Royal Harbour Hotel between 23 and 29 March, 8 and 15 April and 20 April and 7 May 2015.
85. The Party’s spending return did not include any expenditure in relation to the Premier Inn Margate. However, invoices seen by the Commission indicated that the Party had booked rooms at the Premier Inn Margate between 14 April and 9 May 2015.
86. The Commission obtained and reviewed significant evidence from the Party and under interview about the activities of the team based in South Thanet. From its analysis, the Commission is satisfied that several of them were, for a proportion of their time during the campaign, working to procure the electoral success of Mr Mackinlay rather than of the Party and its candidates generally. In particular, the Commission looked into the role and activities of the following members of the team based in South Thanet:
 - A Senior Campaigns Officer, who the Party said was tasked with taking a lead role in the CCHQ UKIP team, liaising with Mr Mackinlay’s campaign team where necessary. This Officer was based in the Royal Harbour Hotel during part of the election campaign. The Commission concluded that she took an active organisational role in Mr Mackinlay’s campaign. She had oversight of his activities and took an active role in coordinating his campaign. She also contributed to drafting campaign material promoting Mr Mackinlay’s electoral success. This role in Mr Mackinlay’s campaign was evident in many of the emails sent by her during the election campaign. By way of examples from these emails the Commission noted the Officer commenting in correspondence to another of the individuals based in South Thanet that Mr Mackinlay had not been writing his own literature and that she had spent her “...first couple of weeks here getting stuff re drafted...” In another correspondence, Mr Mackinlay refers to her as “*the Campaign co-ordinator*”, whilst in further correspondence she advised a volunteer that “...we are running Craig’s campaign”.
 - A Senior Press Advisor, who was, according to the Party, responsible for managing national and international media outlets, and liaising with

the press with regards to the UKIP national campaign. Again, he was based in the Royal Harbour Hotel for part of the election campaign. The Commission concluded that he was, for at least a proportion of his time, acting as a press liaison on behalf of Mr Mackinlay in particular rather than the Party generally. This included handling queries from local and national press on behalf of Mr Mackinlay, and advising him on his personal media handling approach and messages. For example, the Senior Press Advisor explains in correspondence during the campaign that he has “...been drafted in to help Craig Mackinlay with media issues during the election campaign...” and in separate correspondence explains that he is “...working full-time for our candidate in South Thanet...”

- Two Political Advisors, who according to the Party were providing research support on UKIP and literature sign off in relation to UKIP target seats, to ensure it was in accordance with the Party’s national campaign messages. The Political Advisors, who were also based in the Royal Harbour Hotel, in fact played key roles in determining Mr Mackinlay’s campaign messages and in drafting campaign material promoting Mr Mackinlay’s electoral success. There were a number examples of them commenting or advising on the wording of Mr Mackinlay’s campaign message and digital content. For example, one comments on a video the other has created for YouTube on behalf of Mr Mackinlay, stating:

Thanks... This is ok as far as it goes BUT why are we not trying to convey the messages better? Anybody can stand in sandwich saying traffic is bad. The point is that [C]raig brings cabinet ministers here and can get things done.... Every time we communicate without the messages we are at best wasting our time and at worse losing votes.

87. The Party also listed several other individuals as being part of this team, including volunteers providing further support, such as assisting with national tours and events held in Kent, attending UKIP rallies and events and monitoring the activities of Mr Farage. Some of the emails involving or referring to the other volunteers show they also played a role in Mr Mackinlay’s campaign; for example, by updating Mr Mackinlay’s ‘digital output’, issuing instructions in respect of the budget on social media messaging for Mr Mackinlay, and drafting campaign material promoting Mr Mackinlay’s electoral success.
88. As a result of its analysis of the evidence, the Commission is satisfied that the Party did not distinguish adequately between (a) campaigning that opposed UKIP as a party and (b) campaigning that opposed Mr Farage as a candidate and/or promoted Mr Mackinlay as a candidate in the South Thanet constituency. While evidence shows that the Party may have made

the political judgement that to oppose Mr Farage was in essence the same as opposing UKIP, the regulatory framework of PPERA required spending on the Party campaign to be reported separately from any spending it undertook on behalf of its candidate.

89. The evidence shows that, to a significant extent, the team based in South Thanet went about their 'anti-UKIP' work by promoting and supporting Mr Farage's rival for the constituency, the Party candidate Craig Mackinlay. There was no evidence to indicate that Mr Day or the Party made the necessary distinction between the team's work campaigning against UKIP as a party, and work opposing Mr Farage as a candidate and/or promoting Mr Mackinlay as a candidate. Lord Gilbert, for example, stated that it "*...never occurred to [the Party] that this was... constituency spending.*"
90. Further, the evidence the Party provided in respect of the submission of candidate campaign material for factual accuracy and policy checks, showed that this was unrelated to the work that was undertaken by the individuals based in South Thanet as described above. The correspondence, invoices and general election campaign packs seen by the Commission indicated that this was a separate package of services provided by the Party.

Premier Inn Margate

91. The Party advised the Commission that in error no spending in relation to the Premier Inn Margate had been included in its spending return. The value of the spending incurred in relation to the Premier Inn Margate was provided by the Party and, after omitting non-relevant spending, totalled £3,809.03.
92. In correspondence and in interview the Party ultimately advised that the explanation for the missing accommodation spending from the Party's 2015 UKPGE spending return was "simple human error". The Commission is satisfied that this does not constitute a reasonable excuse. It does not represent evidence of unforeseen or exceptional circumstances beyond Mr Day's or the Party's control that prevented it from reporting this spending.

Reporting staff accommodation costs

93. During the investigation the Party said that it considers that hotel costs for employed staff members are not reportable in its spending return pursuant to Schedule 8, paragraph 2(1)(d) of PPERA, which exempts remuneration and allowances for employed staff. It therefore has argued that the hotel spending should not be included in the Party's 2015 UKPGE spending return at all and so it has not omitted spending in that regard.
94. Having sought and obtained from the Party details of the employment terms and conditions for the individuals concerned, the Commission is satisfied

that Schedule 8, paragraph 2(1)(d) does not apply. Spending on an employee's remuneration and allowances is not reportable; spending on expenses incurred by staff while campaigning for the Party are reportable.

Conclusions in respect of the UKPGE spending return South Thanet issues

95. It is acceptable for a party to apportion spending between the Party's campaign and that of a particular candidate or candidates. However, the Commission concluded that it was not accurate for all of the Party's spending on the team in South Thanet to be considered Party campaign spending. Some should have been apportioned to Mr Mackinlay's candidate expenses.
96. **Accordingly the Commission is satisfied that a proportion of the costs included in the Party's campaign spending return associated with the team based in South Thanet did not relate to Party campaign spending and should not have been included in the Party's spending return. In particular, a proportion of the £15,641 included in the Party's 2015 UKPGE spending return in relation to the Royal Harbour Hotel constituted candidate campaign expenses and should not have been included in the return.**
97. **Additionally, the Commission is satisfied that a proportion of the £3,809 spent by the Party on accommodating its staff in the Premier Inn Margate was Party campaign spending. This proportion should have been included in the Party's return, and was not.**
98. The Commission cannot determine precisely what proportion of spending on the Party's team in South Thanet should have been apportioned to Mr Mackinlay's campaign. This is largely as a result of the Party failing to keep records sufficient to establish the appropriate apportionment. However, the Commission notes that as a consequence of the Party reporting these costs, they were missing from Mr Mackinlay's candidate campaign expenses return. Consequently it appears that the Party understated the spending it incurred on Mr Mackinlay's campaign, and as a result there is doubt as to the accuracy and completeness of his election expenses return.

Other spending in relation to South Thanet

99. During the course of the investigation, the Commission reviewed examples of advertising, including advertising placed in a local Thanet newspaper. The Commission assessed the material in order to decide whether spending on them had been properly included in the Party's return, or was in fact candidate campaign expenses.
100. After careful consideration, the Commission was satisfied that the spending on the advertisements it considered was Party campaign spending. The

advertisements promoted the Party on a national level, referring to national policies, the national political landscape, and making no reference to local issues or local candidates. They had been properly reported in the Party's 2015 UKPGE spending return.

The UKPGE spending return battlebus issues

101. Battlebus2015 was a Conservative Party campaign which involved transporting activists by coach to campaign or canvass in target seats across England. It took place in the last two weeks of the 2015 UKPGE campaign period, and comprised coach tours to three geographical areas in England – the North, the Midlands and the South West. Each of the three tours included the coach transport of around 50 activists to approximately 10 constituencies in the area over a period of between six and 10 days, with hotel accommodation provided for the activists.
102. The Party funded the campaign's costs, including the volunteers' accommodation, the coach travel and subsistence. The total spending associated with Battlebus2015 reported in the Party's return was £38,996.06.

Reporting in the Party spending return

103. The Commission investigated whether some or all of the Battlebus2015 spending reported by the Party was in fact incurred in promoting the electoral success of Party candidates for the constituencies visited by the tour. Other parties operated similar activities during the UKPGE campaign period and had already been the subject of consideration by the Commission, but the scale of Battlebus2015 and the potential for candidate campaigning was significantly larger than these.
104. According to the Party, the decision to incur spending on this activity was made by its Executive Senior Management Team (ESMT). It said that this activity was part of its national campaign, focussing on marginal seats as a strategy to procure the electoral success of the Party overall.
105. From its analysis of the evidence obtained during its investigation, the Commission noted the following:
 - There were extensive social media posts from the time of the Battlebus2015 campaign activity that show activists from the coaches holding campaign material promoting individual candidates as opposed to the Party. Whilst the social media posts cannot show the true scale of the candidate campaigning that was taking place on the Battlebus2015 activity, viewed as a body of evidence they are consistent with candidate campaigning having been taking place across a number of constituencies.

- The Party kept no records of ESMT meetings or decisions relating to the Battlebus2015 campaign activity. Despite this, from voluntary interviews with members of the ESMT, it is clear that the risk of activists campaigning to promote or procure the electoral success of individual candidates while participating in the Battlebus2015 campaign activity was not identified or considered, and little or no monitoring or supervision was put in place to mitigate the risk. This risk, as shown by the social media posts, clearly materialised.
106. The Commission has found no evidence to suggest that the Party had funded the Battlebus2015 campaign with the intention that it would promote or procure the electoral success of candidates. Nevertheless, coaches of activists were transported to marginal constituencies to campaign alongside or in close proximity to local campaigners. In the Commission's view, there was a clear and inherent risk that activists might engage in candidate campaigning. Further, it is apparent that candidate campaigning did take place during the Battlebus2015 campaign.
107. There is no evidence to show that either during the campaign or during the compilation of the spending return consideration was given to whether this had occurred. Instead, the Party stated that it was "*assumed, but not expressly discussed,*" that spending on the activity would be reported in the Party's campaign spending return. Consequently an inaccurate assumption was made that the full spending should be reported by the Party.
108. The Commission cannot determine from the available evidence what proportion of spending on the Battlebus2015 campaign activity was properly Party spending and what was candidate campaign expenditure. This is in large part because no records were kept to show how spending was apportioned, despite the fact that PPERA required spending on the Party campaign to be reported separately from any spending the Party undertook on behalf of its candidate. Nonetheless the Commission is satisfied that a proportion of the reported spending was candidate campaign spending and should not have been included in the Party's return. That proportion was also, as a result of this, not included in any relevant candidate's campaign expenses return, casting doubt on the accuracy of those returns.
109. Mr Day was under a duty under PPERA to provide the Commission with the Party's campaign spending return which included a statement of all payments made in respect of the Party's campaign. An offence may occur where this statement includes payments not related to Party campaign spending. Mr Day has provided no excuse for candidate campaign expenses being included. Rather, their inclusion appears a consequence of a lack of consideration given to Battlebus2015 and whether candidate campaigning might take place.

110. The Commission has not sought to identify the extent to which any affected candidates may have underreported their campaign spending, which is an RPA matter and therefore a matter for the police.

Omitted spending in respect of the Battlebus2015 campaign activity

111. During the investigation the Party identified further spending of £63,487 on Battlebus2015 campaign activity that had not been reported in its campaign spending return. Mr Day and the Party explained that the omission happened because, during the compilation of the return, spending on a particular budget code was not coded properly and not properly reviewed in accordance with the Party's financial systems. Consequently, they stated, as a result of human error the Party did not identify this spending as campaign spending and did not include it in the return.
112. This does not represent evidence of unforeseen or exceptional circumstances beyond the Party's control that prevented it from reporting this spending. Consequently it is not a reasonable excuse for the omissions.

Conclusions in respect of the UKPGE spending return Battlebus2015 issues

113. The Party reported spending of £38,996 incurred in relation to Battlebus2015. In addition, during the investigation the Party identified spending of £63,486.83 on the Battlebus2015 campaign activity that was not reported in its return due to human error. In total, the Commission therefore understands that the Party spent approximately £102,483 on this activity.
114. For the reasons given above, the Commission does not consider that the full cost of the Battlebus2015 campaign activity constituted Party campaign spending. A proportion constituted candidate campaign expenditure incurred on behalf of those candidates who benefitted from the activity.
115. **Consequently, the Commission is satisfied that a proportion of the reported £38,996 was not in fact Party campaign spending and should not have been included in the Party's spending return.**
116. **Further, the Commission is satisfied that a proportion of the missing £63,486.83 spent on the Battlebus2015 campaign was Party campaign spending. This proportion should have been included in the Party's return and was not.**

UKPGE spending return – further omitted payments issue

117. During the investigation a further five items of spending to the value of £104,765 were identified that were omitted from the return, as follows:
- Two payments to St Ives Management Services Ltd that were apportioned between the Party and candidates. The Party's apportionment of the first payment was £69,012 and of the second payment was £32,693.
 - A payment of £2,400 to Coach Miles.
 - A payment of £555 in respect of accommodation booked at the Alpha Hostel Margate.
 - A payment of £105 in respect of accommodation booked at the Premier Inn Ramsgate (Marsden Airport).
118. The Party accepted that these payments should have been included within the return and attributed their omissions to administrative failures. The Commission is satisfied that the explanations do not constitute a reasonable excuse; however, given the low value of the two accommodation payments, the Commission chose to accept the Party's statement that they were omitted from the return and not undertake further enquiry in relation to them.
119. **Accordingly, the Commission is satisfied that five campaign spending payments to the value of £104,764 should have been included in the Party's return and were not.**

Offence under section 82(4)(b) of PPERA

120. The Commission is satisfied beyond reasonable doubt that the then registered treasurer of the Party, Mr Simon Day, in respect of the Party's campaign spending return for the 2015 UKPGE and without reasonable excuse:
- failed to include all payments, and associated invoices and receipts, made in respect of Party campaign spending relating to accommodation costs at the Premier Inn in Margate;
 - included payments in the Party's campaign spending return that were candidate campaign expenses incurred in respect of the Party's candidate in South Thanet;

- failed to include all payments, and associated invoices and receipts, made in respect of Party campaign spending relating to the Battlebus2015 campaign activity;
- included payments in the Party's campaign spending return that were candidate campaign expenses incurred in respect of the Battlebus2015 campaign activity; and
- failed to include five further payments, and associated invoices and receipts, to the value of £104,765;

121. **Accordingly, Mr Day committed an offence in that he failed to deliver, without reasonable excuse, a spending return that was a complete statement of campaign spending payments as required under section 82(4)(b) of PPERA.**

6. The Commission's findings in respect of omitted invoices and/or receipts

122. Under section 82(4)(b) it is an offence for a treasurer, without reasonable excuse, to submit a campaign spending return that is not accompanied by all the required invoices or receipts relating to the payments in the return. Section 76(2) specifies that an invoice or a receipt is required for all payments with a value of over £200.
123. The Commission identified 81 payments of over £200 included in the return which were not accompanied by the required invoices or receipts. These payments had a total value of £52,924. These payments were identified from credit card statements provided with the return. A credit card statement does not meet the requirements of s80(4) and 76(2) PPERA. It does not provide the itemised details of each payment that would be included in an invoice or receipt.
124. Once raised by the Commission during the investigation, the Party provided the required invoices or receipts for these payments. The Party provided no explanation in relation to this failure other than to refer to administrative errors in the compilation of its campaign spending return.
125. **Accordingly, Mr Day committed an offence under section 82(4)(b) of PPERA in that he delivered, without reasonable excuse, a spending return of which payments totalling £52,924 were not accompanied by the required invoice or receipt.**

7. The Commission's actions in respect of the declaration issue

126. Under section 83 of PPERA, campaign spending returns must be accompanied by a declaration to the Commission made by the registered treasurer of the Party. The treasurer is required to state that they have examined the return and, to the best of his or her knowledge and belief, it is complete and correct as required by law. It is an offence for the treasurer to knowingly or recklessly make a false declaration. Civil sanctions do not attach to this offence; it can only be pursued via a criminal prosecution.
127. When Mr Day made the declaration accompanying the 2015 UKPGE spending return, he declared that he personally had examined the return, and that to the best of his knowledge and belief, the return was complete and correct.
128. As explained above, the Commission has concluded that the Party's spending return was missing payments worth at least £104,765, and more likely a far higher figure; that it included payments worth £118,124, a proportion of which should not have been included; and that it did not include the required invoices and receipts for 81 payments to the value of £52,924. Consequently, the spending return was not complete or correct in a number of significant respects.
129. Our Enforcement Policy explains that where we consider a criminal offence may have occurred that is outside our enforcement role, if appropriate we will refer the matter to the police.
130. The Commission considered the evidence gathered in this investigation about Mr Day's actions in respect of the compilation and submission of the Party's 2015 UKPGE spending return. As a result, it has referred Mr Day to the Metropolitan Police Service for consideration as to whether to investigate him for a potential offence under section 83(3) of PPERA. It will be a matter for the Metropolitan Police Service as to what steps they take in this regard.

8. Representations made by the Party

131. In accordance with the procedure set out in Schedule 19C of PPERA, the Commission issued the Party with initial notices setting out its initial determination in respect of the matters under investigation. For each contravention and offence, the initial notices also set out the proposed sanction and the grounds for proposing it.
132. The Party made representations in respect of each of the contraventions and offences, and proposed sanctions, set out by the Commission in its initial notices. In its representations, the Party raised a number of points about, and disagreements with, the Commission's conclusions in matters of fact and law. This section summarises the key representations made by the Party, and the Commission's response to them.
133. In addition to the key representations set out below, the Party submitted that it had not been uncooperative during the investigation, and that the proposed sanctions were disproportionate in comparison with the penalties issued to other parties in respect of similar matters. The Commission did not agree with these points. The Party's unreasonable failure to cooperate with the Commission caused delay to the investigation, as described in this report. In addition, when determining the sanctions the Commission considered the specific facts of this case, and its aggravating and mitigating factors, in line with its Enforcement Policy.

The accounting records issues

134. The Party submitted that only those situations where the Party received a monetary income or paid out a monetary amount could be 'transactions' entered into by the Party. The calculation of the notional invoices provided by the Party for inclusion in its candidates' returns for the three 2014 by-elections were not, according to the Party, transactions under section 41 of PPERA as there was no movement of money.
135. This is not the position under PPERA. What counts as a transaction under section 41 of PPERA must be understood in the context of that legislation. The Party's position would mean that there would be no accounting records kept to cover agreements between a party and its candidates and agents for the provision of campaigning services. This would be a major gap in a party's financial records, and inconsistent with the purpose of the PPERA rules, which are there to ensure transparency, scrutiny, fairness and legitimacy in elections.
136. The Party submitted that if contraventions were to be determined in respect of the three 2014 by-elections, then only one sanction in respect of all three should be imposed. The three by-elections were, however, three distinct elections. For the Commission to conclude that three separate sanctions

are appropriate is fair and proper. The Commission accepted that the fact that the three arose from the Party taking the same wrong approach to the rules in relatively short succession was a mitigating factor.

The 2015 UKPGE spending return – South Thanet, Battlebus2015 and further omitted payments issues

137. The Party raised a point of law that in its view there was no duty on Mr Day as the then registered treasurer to exclude candidate campaign expenses from its Party campaign spending return.
138. This position is at odds with section 72(7) of PPERA, which states that party campaign expenditure does not include anything which falls to be included in a return as to election expenses in respect of a candidate or candidates at a particular election. It is also at odds with the purpose of section 80 of PPERA and the wider PPERA campaign spending regime. To read into the rules that a return can include anything, with the impression that it is all reportable campaign spending, and still be lawful, is inconsistent with a regime the purpose of which is for there to be clear transparency about, and public confidence in, campaign spending.
139. The Party repeated its point, made during the investigation, that it did not consider spending on accommodation for its staff campaigning for the UKPGE to be reportable. It extended this argument to spending on accommodation for volunteers. To support this point it referred to Part 1 of Schedule 8 of PPERA, which sets out a list of what may be considered campaign expenditure by a Party. Part 1 does not refer explicitly to accommodation.
140. The Commission is satisfied that spending on accommodation that is incurred by or on behalf of a registered political party for electoral purposes, is reportable where it is not excluded from reporting by virtue of being candidate campaign expenses or staff remuneration or allowances. The list given in Part 1 of Schedule 8 should be regarded as categories of spending and does not state all types of spending falling within each category, but confirms that all payments qualifying under it are reportable. Staff and volunteer accommodation is not excluded from being reported by paragraph 2 of Schedule 8 – unless it forms part of staff remuneration and allowances which was not, as a matter of fact, the case in this matter. The consequence of the Party's position would be that political parties with the staffing and financial resource to pay for staff and volunteers to stay and campaign in particular constituencies would have an advantage over those without that resource, as that spending would not count towards the relevant spending limit. This is not consistent with the purpose of the PPERA regime.
141. The Party disagreed that the evidence demonstrated its team based in

South Thanet took active roles in campaigning for its candidate, Mr Mackinlay. It also disagreed that the evidence demonstrated activities on the Battlebus2015 tour was campaigning in part for candidates in the constituencies visited. The Commission, however, was satisfied with the evidence on this point.

The 2015 UKPGE spending return - omitted invoices/receipts issue

142. The Party submitted that failing to include the required invoices and receipts for 81 payments of over £200 was not an omission from its 2015 UKPGE campaign spending return, as the payments themselves were included. The rules in PPERA are clear, however, that an invoice or receipt was required for each of these payments.

9. Final determinations

Contraventions and Offences

144. The Commission determined that Mr Day had committed three contraventions under section 41 of PPERA, in that he failed to ensure that accounting records were kept that showed and explained the Party's transactions. Specifically the Party's accounting records failed to explain three transactions entered into with three candidates and their agents for a notional donation and spending by the Party on campaigning in by-elections in Newark, Clacton and Rochester and Strood during 2014.
145. The Commission determined that Mr Day committed an offence under section 82(4)(b) of PPERA in that he failed to deliver, without reasonable excuse, the Party's 2015 UKPGE spending return accompanied by a statement of all campaign spending payments. Specifically:
- Spending in relation to South Thanet that was not Party campaign spending was included in the return.
 - Party campaign spending in relation to South Thanet was omitted from the return.
 - Spending in relation to the Battlebus2015 campaign that was not Party campaign spending was included in the return.
 - Party campaign spending in relation to the Battlebus2015 campaign was omitted from the return.
 - Five further payments were omitted from the return.
146. The Commission determined that Mr Day committed a further offence under section 82(4)(b) of PPERA in respect of the Party's 2015 UKPGE spending return, as a result of payments totalling £52,924 having been reported without the required invoices or receipts.

Penalties

147. In respect of each of the three contraventions under section 41 of PPERA, the Commission has imposed the maximum financial penalty of £20,000 for the first contravention, £15,000 for the second and £10,000 for the third, a total of £45,000.
148. In determining this penalty the Commission took into account the following factors:

- The magnitude of the contraventions and the harm caused to confidence in the PPERA regime were, in the Commission's view, significant.
- The correct apportionment of spending between parties and candidates has a significant impact on the effectiveness of, and public confidence in, the PPERA regime.
- The advantage obtained by the Party from its actions with each invoice provided to each of the three candidates and agents which inaccurately understated the amount spent by the Party on behalf of the three candidates. This is irrespective of whether, in the end, the Party's candidates were successful in the by-election.
- The significant uncertainty for voters as to whether the Party complied with its duties significantly, which increased the weighting to be attached to the magnitude of the breach and the impact on public confidence.
- The lack of cooperation by the Party during the investigation.
- The fact that the Party does not accept the requirement to keep records of this type, which leads the Commission to consider the risk that the Party may follow a similar course of action in future if the Commission does not take robust action to make its position clear.
- An acceptance that, while the second and third contraventions were no less serious than the first, the three separate failures resulted from the same misconceived course of action.

149. In respect of the offence under section 82(4)(b) of PPERA related to the failure to deliver the Party's 2015 UKPGE spending return with a statement of all campaign spending payments, the Commission has imposed the maximum financial penalty of £20,000.

150. In determining this penalty the Commission took into account the following factors;

- The omission of over £100,000 of spending from the Party's return alone, which was a significant loss of transparency and a failure of significant magnitude. The actual value of the under- and overstated spending was likely to be far greater.
- The advantage obtained by Party by its actions; the inclusion in the Party return of what in the Commission's view should have been

reported as candidate spending meant that there was a realistic prospect that this enabled its candidates to gain a financial advantage over opponents. In this respect the Commission noted that the Battlebus2015 campaign visited target constituencies and that South Thanet was also a key priority for the Party.

- The unreasonable uncooperative conduct by the Party, of which this offence was one element, which delayed without good reason and for a number of months the provision of information needed to progress the investigation. This in turn increased the public funds incurred by the Commission during the investigation.

151. In respect of the offence under section 82(4)(b) of PPERA related to the failure to deliver all the required invoices or receipts with the Party's 2015 UKPGE spending return, the Commission has imposed a financial penalty of £5,000.

152. In determining this penalty the Commission took into account the following factors:

- The harm caused to confidence in the party finance regime represented an aggravating factor, in light of the value of the payments and the campaign to which they related. The omission of supporting information undermines the ability of the Commission and the public to review and verify the spending figures within the return. There was a consequent impact on transparency and most likely, as a direct result, on public confidence.
- The unreasonable uncooperative conduct by the Party during the investigation, of which this offence was one element, which delayed without good reason and for a number of months the provision of information needed to progress the investigation.
- The Party has now provided the missing invoices and receipts. However, these were only provided as a result of the Commission's enquiries.

153. The total value of the penalties imposed on the Party following this investigation is £70,000