

Proactive release relating to changes to political donation settings prior to 2023

This note provides context to the proactive release of the briefing *Package of potential changes to political donation settings prior to the 2023 General Election*.

Timeframes

The start date of the work was delayed as a result of an outbreak of COVID-19. The timing for the work referenced in the paper will be revised by Cabinet to account for this delay when it makes decisions in March 2022 on changes to political donation settings.

Hon Kris Faafoi, Minister of Justice

Package of potential changes to political donation settings prior to 2023 General Election

Date	5 August 2021	File reference	ELP-15-02
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Action sought

Timeframe

Agree to officials engaging in targeted consultation on the feasibility and likely impacts of a proposed package of changes to political donation settings that would come into effect prior to the 2023 General Election.	By 16 August 2021
Indicate whether you would like officials to include consideration of a ban on anonymous donations.	
Agree to undertake engagement with your Parliamentary party colleagues on this proposed package of changes in parallel to officials' targeted consultation.	

Contacts for telephone discussion (if required)

Name	Position	Telephone		First contact
		(work)	(a/h)	
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Minister's office to complete

<input type="checkbox"/> Noted	<input type="checkbox"/> Approved	<input type="checkbox"/> Overtaken by events
<input type="checkbox"/> Referred to: _____		
<input type="checkbox"/> Seen	<input type="checkbox"/> Withdrawn	<input type="checkbox"/> Not seen by Minister
Minister's office's comments		

Purpose

1. This briefing outlines our recommendations for changes to the political donation rules and seeks your agreement to undertake targeted consultation with key stakeholders on any implementation issues, before these proposals are finalised for Cabinet approval.

Executive summary

2. Cabinet has recently approved the Government's electoral work programme. It includes an Independent Review of electoral law (due to report in mid-2023) and targeted changes to support the 2023 General Election. This briefing provides advice on targeted changes that could be made relating to political donations.
3. There is a clear public interest in understanding the potential financial influences on political parties and candidates. The regulation of political financing – especially donations – is important to maintain public trust in the integrity of our electoral system. The rules must balance the needs of public transparency and democratic participation.
4. Recent high-profile incidents involving donations to major political parties or candidates have raised public concerns about the level of transparency in, and complexity of, our donations regime. Each incident has been different in nature and this suggests there may be a number of vulnerabilities in the current settings that warrant further attention.
5. We have identified a range of potential measures that could be progressed before the 2023 General Election. Collectively, these measures will improve the overall transparency and openness of political funding without unduly restricting donors' ability to donate, or parties' and candidates' ability to raise the funds they need. We have also identified opportunities to simplify the administrative complexity of the rules, to aid compliance. These changes would work best as a package but are not mutually dependent.
6. The measures we recommend include:
 - lowering the disclosure thresholds for identifying donors from \$15,000 for parties to \$1,500 to align with the candidate donation disclosure threshold;
 - requiring disclosure of the volume and total dollar amount of donations under \$1,500;
 - requiring parties to release their annual financial statements, and simplifying the audit requirements to make audit reviews more meaningful;
 - increasing the frequency of reporting of donations by parties;
 - introducing a requirement for candidates to disclose loans; and
 - requiring more detailed disclosures of in-kind (non-cash) donations.
7. We have identified changes – including through our initial engagement with some registered party secretaries – that largely fit within the existing political donations framework and could be implemented before the 2023 General Election. However, we would need to undertake further targeted consultation with key stakeholders and the public, to test our assumptions regarding the impact and feasibility of making these changes.

8. You may also wish to engage directly with political party leaders across Parliament (as signalled in the *Labour/Green Cooperation Agreement*) before finalising which proposals you wish to take to Cabinet in November 2021.
9. Changes that significantly alter the electoral finance rules, impact other parts of the electoral system, or cannot be progressed before 2023 given the tight timeframes are out of scope of this work. These issues will be considered in the Independent Review of electoral law.

Targeted changes to political donation rules sit within broader work on the electoral system

Cabinet has agreed to an Independent Review of the Electoral Act 1993

10. On 12 July 2021, Cabinet agreed the Government's electoral work programme, including an Independent Review of electoral law (the Independent Review) [CAB-21-MIN-0274 refers]. This law is central to our democracy and it is therefore crucial that the review be underpinned by broad public and cross-party participation.
11. The Independent Review will be undertaken by an independent panel over the next 24 months and will include a range of issues including political donation rules (an important component of the broader electoral finance regime). The panel will undertake research and analysis as well as engage with Māori, hapū, iwi, the public, political parties and other interested stakeholders to identify types of changes needed and to inform its advice. Any changes should be meaningful and enduring.
12. With one of its goals being "maintaining a fit-for-purpose electoral regime for voters, parties and candidates", the Review provides an opportunity to consider all the related components of electoral financing (e.g. donations, loans, public funding of parties and candidates, expenditure and financial disclosure mechanisms).

Cabinet has also agreed to consider targeted changes to political donations in the short term

13. Cabinet also agreed to progress some targeted changes to support the 2023 General Election, including changes to political donation rules to increase transparency and openness of donations to political parties and candidates that can be put in place by mid-2022.
14. This briefing builds on previous advice [briefings on 25 March 2021 and 12 April 2021 refer] and recommends targeted changes to increase the transparency and openness of political donations that are able to be implemented within the specified timeframe. The recommended changes build on other recent changes to political finance rules and help lay the foundation for further changes that may be considered within the Independent Review. The diagram in Appendix 1 illustrates this change pathway.

The current regime aims to provide balance and guard against vulnerabilities

Electoral finance regulation aims to balance public transparency and democratic participation

15. Donations have long been accepted as a legitimate form of political participation in New Zealand. There is also a clear public interest in understanding the potential financial influences on key participants in our democratic system (i.e. political parties and candidates). Appropriately regulated political finance forms the foundation for maintaining trust in both the integrity of our electoral system and the key institutions of a democratic government.

16. Regulation of political donations therefore needs to weigh up competing factors such as:
- preventing political donations from having an improper influence on electoral outcomes;
 - preserving freedom of political expression (i.e. freedom to support any eligible candidate or party one chooses) and association and supporting donors' right to privacy (where there is no public interest in disclosing personal information);
 - ensuring political parties can access financial support to play a robust role within an MMP system; and
 - the need for rules to be efficient and practical for participants (e.g. candidates, parties and promoters) and the Electoral Commission.
17. The current rules in the Electoral Act 1993 (summarised in Table 1 below) aim to achieve this balance, addressing the potential for donations to create improper influence by requiring higher levels of transparency as the amount of the donation amount increases. This "tiered approach" recognises that smaller donations are less likely to be associated with improper influence. It therefore allows donors making smaller donations to keep their political affiliations private, as there is less public interest in disclosing their personal information.

Table 1: Key candidate and party donation settings in the Electoral Act 1993

Threshold or limit	Registered Parties	Candidates
Period	Limits and thresholds apply on a 12-month basis. Audited disclosure returns required on annual basis	Donation limits and returns required for each electoral campaign cycle
Anonymous donations	Limit of \$1,500	Limit of \$1,500
Overseas donations	Limit of \$50	Limit of \$50
Donations under \$1,500	Not required to be disclosed (unless donor is anonymous - the volume and total number of anonymous donations must be reported)	Not required to be disclosed (unless donor is anonymous)
Donations and loans from \$1,500	Total amount and number of donors or loans must be publicly disclosed annually, in bands of: <ul style="list-style-type: none"> • Between \$1,500 and \$4,999 • Between \$5,000 - \$14,999 	Identity of donors and amounts donated must be publicly disclosed (via Electoral Commission)
Donations and loans from \$15,000	Identity of donor and amount must be publicly disclosed annually, via Electoral Commission	Candidates are not required to disclose loans.
Donations and loans from \$30,000	Identity of donor and amount must be publicly disclosed, via Electoral Commission, within 10 days of receipt	

18. A tiered system of disclosures has inevitable trade-offs between anonymity and transparency that can make it difficult to establish the reasons why breaches of the rules occur. Furthermore, while this approach is intended to reduce the compliance burden for party secretaries and candidates, our early consultation with party secretaries to inform the proposed package of changes suggests this may not always be the case.

High-profile incidents suggest there are vulnerabilities in the current donation rules

19. Public concerns relating to fundraising activities (e.g. dinners and auctions) and in-kind donations (which can include goods, services and expertise donated free-of-charge) suggest further transparency could help reduce any vulnerability in these areas.

20. More recently, there have also been several high-profile incidents involving donations to four major political parties, which have been subject to a Serious Fraud Office (SFO) investigation. Two of these investigations are ongoing and two have resulted in criminal charges that are currently before the court. Other incidents regarding timeliness of disclosure were identified after the 2020 General Election but were not referred to the Police or SFO for investigation.
21. The matters that have been brought to the attention of the SFO cover a range of issues. These include the late submission of financial returns; failure to disclose donations; possible splitting of larger donation amounts into smaller ones to enable these donations to sit below the disclosure threshold; and receiving donations through financial structures closely linked to, but separate from, political parties.
22. Combined, the broad scope of these issues suggests there may be a number of vulnerabilities in the current settings that warrant further attention. These vulnerabilities may relate to a lack of transparency and oversight that can allow people to circumvent the rules in ways that can be hard to track (e.g. by making repeated anonymous donations below the \$1,500 threshold, even though the maximum amount a donor can donate is \$1,500 per calendar year).
23. However, the size and scope of potential issues within the system are difficult to determine. This is due, in part, to the limited information that candidates and parties are required to provide to the Electoral Commission. This lack of visibility can contribute to a sense of public confusion and concern about who is funding political parties; confusion that affects public trust and confidence in the donation regime and, by extension, in the political parties themselves.
24. Based on our initial analysis and conversations with key stakeholders, we have categorised the potential vulnerabilities in the current system into three core themes (which are not mutually exclusive). These are identified in **Table 2** below.

Table 2: Identified vulnerabilities in the current political donation system

Vulnerability	Examples
Unclear or misaligned donation thresholds or definitions	<ul style="list-style-type: none"> • lack of alignment between disclosure thresholds, such as between candidates (currently \$1,500) and parties (currently \$15,000) could incentivise the mis-categorisation of candidate donations as party donations to avoid public disclosure • insufficient clarity about definitions and accepted dollar values relating to fundraising activities (e.g. auctions and dinners) provides an avenue for obscuring the total amount of money received by parties through these events • debate about whether the amount of any single donations should be capped, or donations from particular sources (e.g. non-individuals) should be banned or subject to more stringent restrictions
Incomplete and partial information disclosure	<ul style="list-style-type: none"> • channelling of donations (and, to a lesser extent, loans) through third parties, either to avoid public disclosure or circumvent restrictions on certain donors • making of donations just below the threshold or (possibly) broken up to avoid or circumvent public disclosure • exploitation of less stringent reporting requirements through using loans (as opposed to donations)

Vulnerability	Examples
Complex approach to compliance and enforcement	<ul style="list-style-type: none"> variable party organisational structure, size and capabilities can make it challenging for those legally responsible to have sufficient oversight of all donations lack of (timely) public disclosure, compliance checks and enforcement can add to perceptions of, or actual, non-compliance complexity of political finance rules and operational practicalities can impact on parties' ability to comply

Targeted changes before the 2023 General Election will focus on improving transparency

25. In March 2021, we provided you with initial advice on the political finance rules in the Electoral Act and sought your agreement to undertake initial engagement with targeted stakeholders. In response to that briefing, you indicated your interest in progressing work that could be implemented prior to the 2023 General Election, with a focus on increasing the transparency and openness of donations to political parties and candidates, including donor identity.
26. Following further advice provided in April and May 2021, you also indicated interest in receiving advice on increasing the transparency around the structure of donations made through corporate entities and trusts. We have identified a package of potential measures that we think are able to address many of the immediate concerns identified in **Table 2** above¹. While most of these measures could be progressed alone, their impact collectively will be greater than the sum of each individual change.
27. We have identified a package of changes that would improve the overall transparency and openness of political funding, without unduly restricting donors' ability to donate, or parties' and candidates' ability to raise the funds they need. There are also several opportunities to simplify the administrative complexity of the rules which should aid compliance. The proposed changes are set out in **Table 3** (on the following page).
28. Proposed changes to disclosure rules and thresholds include:
 - lowering public disclosure threshold for donations to \$1,500 for parties;
 - increasing frequency of donation reporting;
 - removing the requirement to disclose the identity of donor and amount for donations that exceed \$30,000; and
 - introducing requirements for parties and candidates to disclose more details about in-kind donations.
29. Proposed changes to reporting include:
 - introducing reporting requirements for non-anonymous donations under \$1,500; and
 - introducing a requirement to publicly disclose financial statements and loans.

¹ Namely: Unclear or misaligned donation thresholds or definitions; Incomplete and partial information disclosure; and Complexity of approach to compliance and enforcement.

Table 3: Proposed options to address vulnerabilities of immediate concern

Proposed change		Who is impacted?	Merits	Impacts / Risks
Changes to disclosure rules and thresholds				
1	Lower public disclosure threshold for donations to \$1,500 for parties (which is currently set at \$15,000 for parties and \$1,500 for candidates) This would also remove the need to report in bands of up to \$5,000 and \$15,000	Parties Donors	<ul style="list-style-type: none"> Improves transparency of donations Could remove some administrative complexity, as only one reporting threshold, and aligned with other thresholds Removes ambiguity (and possible incentives) and need to interpret the intended recipient (i.e. party or candidate) of donations which have different disclosure thresholds 	<ul style="list-style-type: none"> Could reduce the amounts donated so they sit below the new (lower) threshold May have unintended consequence of encouraging donors to split donations so they sit under the anonymity threshold Reduces donor privacy (however this is somewhat offset by the protected disclosure mechanism)
2	Increase frequency of donation reporting (e.g. change from annual reporting to 3- or 6-monthly)	Parties	<ul style="list-style-type: none"> Improves transparency of donations, as information is available more regularly 	<ul style="list-style-type: none"> Would increase compliance activity, and in non-election years may have little information to report
3	[Along with proposal 2] Remove the requirement that for donations that exceed \$30,000 the identity of donor and amount must be publicly disclosed (via Electoral Commission) within 10 days of receipt	Parties	<ul style="list-style-type: none"> Significantly reduces administrative complexity and risk of inadvertent non-compliance Removes incentives for donors to split or channel donations so they sit under the reporting threshold 	<ul style="list-style-type: none"> Will delay the disclosure of large donations; this risk could be mitigated by retaining the 10-day rule in the lead up to a general election only Would need to consider proportionate mechanisms for non-compliance (e.g. de-registration as a political party after an agreed period)
4	Introduce requirements for parties and candidates to disclose more details about in-kind (i.e. non-cash) donations	Parties Candidates	<ul style="list-style-type: none"> Improves transparency of in-kind donations (e.g. auctions, fundraising dinners) 	<ul style="list-style-type: none"> Would increase compliance activity
Changes to reporting				
5	Require parties and candidates to report on number and total volume of donations under \$1,500 for donations that are not made anonymously	Parties Candidates	<ul style="list-style-type: none"> Improves transparency of donations made by non-anonymous donors (which is currently not a reporting requirement) Aligns reporting requirement for total contributions made by non-anonymous donors with reporting requirement for anonymous donors' total donations 	<ul style="list-style-type: none"> Would increase compliance activity, but only marginally (as parties already collect this information but just do not report on it under current rules)
6	Require parties to publicly disclose their audited annual financial statements	Parties	<ul style="list-style-type: none"> Increases transparency of financial information, including but not limited to political donations component of overall funding Aligns with similar obligations of other entities, such as charities and non-incorporated societies 	<ul style="list-style-type: none"> May increase compliance activity if parties do not already prepare financial statements (e.g. smaller or emerging parties)
7	Introduce requirement for candidates to report on loans	Candidates	<ul style="list-style-type: none"> Improves transparency of loans (amount and source of loan) 	<ul style="list-style-type: none"> Would increase compliance activity

30. Taken together, the changes in **Table 3** would support a more transparent and open approach to political donations. These changes would work best as a package but are not mutually dependent. Some of the changes would make the rules easier to apply. For, by example, removing some reporting thresholds and by aligning reporting threshold amounts for parties and candidates, processing these donations would be administratively simpler for parties.
31. To ensure that party secretaries and candidates have enough time to implement any new reporting requirements, any changes should be enacted by July 2022 and come into force by the start of the 2023 election year. This tight timeframe has limited some of the options.

These proposals involve trade-offs between transparency, donor privacy and reporting complexity

32. There are some trade-offs associated with the changes proposed in **Table 3**, most notably around donor privacy, that could impact donation behaviour related to changes to public disclosure thresholds. This would be most evident in instances where individuals are reluctant to donate an amount of money that sits above the disclosure threshold (thereby removing their ability to remain anonymous when donating through that channel).
33. We see merit in retaining one donation channel to balance the tension between transparency and privacy. Currently, the Electoral Act includes provision for individuals and non-individuals to make party donations via the Electoral Commission that are not disclosed to the party concerned or the public. We recommend retaining this mechanism, at least for the time being, to balance the reduction in disclosure thresholds in **Table 3**.
34. Finally, some of the proposed changes would also increase the reporting requirements on parties and candidates. This may further compound current issues with compliance, although we suggest this could be balanced by removing complexities elsewhere in the system and providing appropriate support and guidance. We propose exploring these impacts in more detail through targeted consultation.

Banning anonymous donations could also be considered

35. The issue of anonymous donations is often raised in the public discourse around the transparency of political donations because it seems counter-intuitive to be able to donate anonymously in a system that aims to promote transparency and openness.
36. Currently, parties and candidates can accept donations up to \$1,500 from completely anonymous sources (i.e. neither the candidate nor anyone associated with the party knows the identity of the donor). Above this threshold the identity of a donor must be known to the recipient. If a person wants to make a donation to a party above \$1,500 and retain their privacy and anonymity, they can do so through the 'protected disclosure regime'. The regime allows donations to be channelled anonymously to parties via the Electoral Commission for donations of up to approximately \$49,000.
37. Banning anonymous donations (similar to the existing overseas electoral donations ban) could be a significant and principled shift towards transparency. The counter

argument to this is the need to protect donor privacy in respect of political affiliations (consistent with the secrecy of the ballot) and the potential dampening effect a ban could have on donor participation for those who value anonymity above this form of political participation. We are seeking an indication from you as to whether you would like officials to include consideration of a ban on anonymous donations at this time.

38. Another option we considered but discounted is to reduce the threshold for anonymous donations, for example from \$1,500 to \$500 or \$1,000. We consider that making such a minor change would add little value to the transparency of the current regime, and would create a greater administrative burden for parties (and candidates). On balance, if you wish to pursue change in this area, we consider that a ban would be preferable to simply lowering the current \$1,500 limit on the anonymous donation limit.

Stakeholders have identified two other issues that warrant exploration

39. As agreed in March 2021, we initiated targeted conversations with party secretaries and agencies involved in enforcement of political donation rules on areas of particular concern. This consultation identified two other matters that we think could benefit from further review, but on which we would need to gather more information before we can assess possible policy options. These are:
- the effectiveness, efficiency and appropriateness of the current audit approach, including whether or not the system should be 'tiered' for audit purposes (taking into account differing risk profiles and mitigations); and
 - issues arising from the absence of accountability rules relating to 'unspent' donations received by candidates, or unregistered parties.
40. We would like to test these matters further as part of our targeted consultation with key stakeholders. We will also need to seek specialist legal and accountancy advice to assess whether it would be feasible to consider some policy changes prior to the 2023 General Election or whether these issues should instead be considered as part of the Independent Review which is due to report in 2023.

Restrictions on donor identity and donation amount should be considered in the Independent Review

41. The package of changes we are suggesting does not generally prevent parties or candidates from receiving donations from particular donors. Instead, the aim is to simply 'shine a light' on the donations received.
42. You have also asked us to consider the rules for political donations made by non-individual entities (e.g. trusts, corporates, and unions). Further work will be required to understand the current political donation behaviours of non-individual donors and to determine the extent to which the current settings could be improved, either to lift transparency or to improve compliance. We have undertaken some initial analysis to develop options that could address concerns relating to the current rules around non-individual donors, mainly focusing on *who* donates and *how much* (as opposed to how their donations are treated once they have been made).

43. We have looked at options to restrict or ban certain types of donations that could be seen as damaging to the democratic process. Under this approach, transparency is achieved by setting firm boundaries around who should and should not be allowed to make financial contributions and setting out rules for how these contributions can be made. Such measures usually involve restricting donations based on the identity of the donor, in order to prevent external influence.
44. There is both precedent and merit for these types of restrictions as they limit the influence of vested interests. These types of restrictions already exist for some donor types in the Electoral Act (e.g. to protect New Zealand's sovereignty, there is a ban on donations above \$50 from 'overseas persons' and non-New Zealand companies).
45. However, these rules can be administratively complex (in that they create separate categories of donor, each with its own rules) and can have unintended consequences of encouraging donors to split or channel donations to avoid the restrictions. They could also disproportionately impact certain groups, including Māori, (for example if Māori are more likely to make political donations collectively through non-individual pathways). Any changes to these rules would need to be carefully considered.
46. Given the complexity of this body of work, we do not consider measures such as banning non-individual donors (e.g. corporates, unions and trusts), or introducing dollar caps on donations amounts to be viable to progress before the 2023 General Election because:
 - they could have a significant impact on freedom of expression (of individuals or groups of individuals) and association;
 - they will likely require a range of anti-avoidance rules, e.g. to address issues of related persons (e.g. siblings, or an individual as well as a company that is owned by that same individual making donations); and
 - there are potentially significant, and uneven, implications for party finances; a reduction in funding available could impact parties' ability to perform their core functions (unless addressed through, for example, introducing state funding).
47. Rather, the changes we propose in **Table 3** will support further work that will be undertaken as part of the Independent Review by providing clarity about the nature of non-individual donors, and the amounts they donate to candidates and parties.
48. This body of information will inform future analysis of the likely impact greater restrictions could have on donations from these sources. It will also help clarify what additional information about these donors may be useful to further enhance the disclosure regime, for example the ownership or directorship of corporates, details of the settlers or beneficial owners of trusts, or greater disclosure of the income sources of all non-individual donors. This work is likely to be complex, with many inter-connected elements across a range of areas within scope of the Independent Review.

Further consultation will identify any implementation issues that need to be addressed

49. The proposed changes to the disclosure and reporting rules we have identified have implications for candidates, parties and, to a lesser extent, donors and civic-interest groups. We therefore need to undertake further consultation with registered parties

(within and outside of Parliament)² as well as academics, subject-matter experts (e.g. legal experts and accounting/finance experts), transparency-related groups and interested members of the general public to:

- understand the likely impacts of the proposed changes on established and emerging parties, including whether these impacts are likely to be disproportionate;
 - understand any likely implementation issues and ongoing implications of the proposed changes; and
 - identify what additional support and guidance may be required to ensure compliance.
50. We also plan to put some brief consultation questions on the Ministry of Justice website. This will provide an opportunity for the general public and interested groups to provide their feedback as well, if they wish to do so. The feedback from this consultation will help inform our final advice to you on the detailed policy options you may wish to include in the electoral finance package for Cabinet consideration.
51. The *Labour/Green Cooperation Agreement* signalled the Government's intent to work with political parties from across Parliament on electoral finance law. If you wish to undertake cross-party consultation on the proposed changes prior to going to Cabinet, we can provide a draft letter and other materials to support this process.

Treaty of Waitangi analysis

52. The Waitangi Tribunal has identified that providing support, including funding of Māori representatives, could be regarded as an exercise of tino rangatiratanga.³
53. We have identified that equity considerations are also key under Article 3 of the Treaty of Waitangi (the Treaty) in ensuring Māori can participate equitably in all aspects of the electoral process, including the donations process.
54. We have begun to explore how Treaty interests play out for different measures that are included in the proposed package of changes included in this paper, and the need to consider cultural elements or impacts of the proposals. It is unlikely that the changes being proposed would disproportionately impact on Māori parties, candidates, voters or communities.
55. Our targeted consultation will help us gather more detailed information on any particular impacts of the proposed changes. The consultation will include engagement with Māori with particular interests or expertise in the changes being considered.

² As part of our initial engagement on electoral finance issues, we wrote to secretaries of all parties registered for the 2020 General Election to discuss parties' administrative practices and procedures for managing donations. We plan to engage directly with these party secretaries again.

³ Wai 2870 at 32.

Timeframe and next steps

56. Subject to your decisions on this briefing, we will provide you with any materials you may need to engage in Ministerial consultation. We will also provide your office with a list of the stakeholders we will be engaging with in our targeted consultation.
57. Following consultation, we plan to provide you with final advice on a proposed package of changes to political donation settings by early October 2021. The advice will include recommendations on specific disclosure thresholds and changes to reporting and compliance. Subject to your final decisions, we will prepare a draft Cabinet paper for you to take to Cabinet in late November 2021, seeking approvals for a final package of policy changes that can be implemented prior to the 2023 General Election.

Table 4: Proposed timeline for changes to political donations settings

Timing	Activities
Phase 1: Targeted consultation	
Aug – Sept 2021	<ul style="list-style-type: none">• Ministerial-led cross-Party engagement (Aug 2021)• Ministry-led targeted consultation (Aug -Sept 2021)• Online public consultation on policy options (Aug-Sept 2021)
Phase 2: Policy development (led by the Ministry of Justice) and approvals	
Sept – Nov 2021	<ul style="list-style-type: none">• Further work on policy options (Sept 2021)• Briefing to Minister (Oct 2021)• Cabinet to consider package of proposed changes (late Nov)
Phase 3: Legislative process	
Dec 2021 – Aug 2022	<ul style="list-style-type: none">• Drafting instructions issued (early Dec 2021)• Legislative bid for 2022 legislative programme (Dec 2021)• Cabinet process (Feb-Mar 2022)• Select Committee (Mar-Jul 2022)• Remaining stages to enact Bill (Jul-Aug 2022)
Phase 4: Implementation	
Sept 2022 onwards	<ul style="list-style-type: none">• Implementation preparation begins (Sept 2022)• Changes come into effect from 1 Jan 2023• General Election held in 2023

Recommendations

58. We recommend that you:

- | | | |
|----|--|----------|
| 1. | Note we have progressed further work on options for changes to political donations rules that could be put in place prior to the 2023 General Election, with a particular focus on changes that would improve transparency; | NOTED |
| 2. | Agree to officials engaging in targeted consultation on the feasibility and likely impacts of a proposed package of changes to political donation settings that would come into effect prior to the 2023 General Election; | YES / NO |
| 3. | Note officials will also engage in targeted consultation on several issues that were identified during initial conversations with key stakeholders (including the effectiveness and appropriateness of the current audit approach, and rules relating to unspent funds for exiting candidates); | NOTED |
| 4. | Indicate whether you would like officials to include consideration of a ban on anonymous donations; | YES / NO |
| 5. | Agree to undertake engagement with your Parliamentary party colleagues on this proposed package of changes in parallel to officials' targeted consultation; | YES / NO |
| 6. | Note that Cabinet would need to consider the package of proposed changes in late November 2021 in order for the changes to be implemented ahead of the 2023 General Election, and that officials have developed a timeline that would enable this timeframe to be met. | NOTED |

s9(2)(a)

Stephanie Henry-Jones

Policy Manager, Electoral and Constitutional

APPROVED

SEEN

NOT AGREED

Hon Kris Faafoi
Minister of Justice

Date / /

Appendix 1: Timeline of political finance-related work

Recent changes to political donation system under the Electoral Act 1993	Pre-2023 General Election (work to be undertaken by mid-2022)	Pre-2026 General Election (Independent Review to be undertaken 2022-23)
<p>Ban on foreign donations - \$50 de-minimus contribution permitted) (2019)</p> <p>Introduce requirement that Party Secretaries must be resident in New Zealand (2019)</p>	<p><u>In scope</u></p> <ul style="list-style-type: none"> • Improvements to transparency and openness (central objective) • Disclosure thresholds • Rules relating to in-kind donations (e.g. fundraising dinners, raffles) • Reporting requirements and consistency (including Parties' reporting of financial information) • Improving compliance and enforcement (including audit) <p><u>Out of scope</u></p> <ul style="list-style-type: none"> • Donation eligibility • Donation limits • Balance of private vs public funding • Rules on election spending <ul style="list-style-type: none"> - Funding of third party promoters - Advertising / expenditure limits • Changes to enforcement, offences and penalties 	<p><u>In scope</u></p> <ul style="list-style-type: none"> • Political financing, including: <ul style="list-style-type: none"> - donations and alternatives (such as state funding) - election expenditure • Donation eligibility (e.g. banning or restricting non-individual donations e.g. from corporates, trusts and unions) • Election advertising, including: <ul style="list-style-type: none"> - the broadcasting allocation - role of third-party promoter - election day rules, and - disclosure requirements - regulated period • Changes to current investigation, enforcement and sanction powers of the Election Commission • Changes to enforcement, offences and penalties <p><u>Out of scope</u></p> <ul style="list-style-type: none"> • To be stipulated in the Terms of Reference, noting that Cabinet has agreed the Review is not a 'first principles' review of electoral law)

*Draft Terms of Reference for the Independent Review of Electoral Law [CAB-21-MIN-0274 refers]