

*Concern about a lack of transparency around big money donations in elections has led the Government to propose a number of reforms. Photo: John Sefton*

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**POLITICS**

**Government consults on political donations clampdown**

***After a series of high-profile political donation scandals, Kiwis are being asked to have their say on a short-term overhaul of the current system***

The Government has quietly set out its plans to overhaul the country’s political donations regime, with disclosure thresholds set to be slashed and an outright ban on anonymous donations being contemplated.

The proposed reforms follow a spate of high-profile donation scandals, with Labour, National and New Zealand First all tied to Serious Fraud Office prosecutions.

In October, Justice Minister Kris Faafoi said the Government was “looking at improving the transparency of political donations” in time for the 2023 election, on top of a more sweeping review of electoral law, and the Ministry of Justice [has now started public consultation](https://consultations.justice.govt.nz/policy/political-donations/) on proposed changes to the donations regime.

[](https://www.newsroom.co.nz/government-consults-on-donations-clampdown?utm_source=Friends+of+the+Newsroom&utm_campaign=9fe8d607d1-Daily+Briefing+07.12.2021&utm_medium=email&utm_term=0_71de5c4b35-9fe8d607d1-97950352#comment-container)

Among the key measures being considered is a drop in the public disclosure threshold for donations to parties, from $15,000 to just $1500 – a move that would bring it in line with the threshold for candidates.

The gap between the thresholds has long been an area of concern to some, as it in theory allows donors to channel a larger amount of money through a party without disclosure, with the expectation the donation will then be passed on to their chosen candidate.

In June, [Newsroom reported on](https://www.newsroom.co.nz/pete-mckenzie-politics-rife-with-dark-money) a large number of National MPs, including the party’s new leader Chris Luxon, whose returns were “almost universally limited to donations from the local or central party” (the party has credited that fact to its focus on grassroots local electorate committees which “work hard locally ... to build strong networks and relationships” and dismissed any suggestion of impropriety).

A Ministry of Justice briefing to Faafoi noted that 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.”

Another area of concern, a lack of transparency around ‘in-kind’ donations of art and other goods, is also set to be addressed with the introduction of greater disclosure requirements.

**“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.”**

As previously reported by Newsroom, Labour’s donation return for 2020 included over $180,000 in donations listed under the name of an artist who donated their work, rather than the person who paid for it (a Labour spokesman at the time said the party had received advice “that our art auctions operate within both the letter and the spirit of New Zealand’s donation laws”).

“Public concern 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,” ministry officials told Faafoi.

Other changes being consulted on include increasing the frequency of donation reporting; introducing reporting requirements for non-anonymous donations under $1500, and for candidate loans; requiring political parties to publicly disclose their financial statements; and removing the requirement for parties to disclose a donor’s identity and sums within 10 days when they have given over $30,000 within the last 12 months.

The changes 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”, officials told Faafoi.

“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.”

University of Otago law professor Andrew Geddis told Newsroom the proposals did not fundamentally alter the structure of the current donations regime, but instead tried to fit within the system while addressing its flaws.

Geddis said aligning the candidate and party disclosure thresholds, in addition to cutting off a potential loophole for candidates, would also make it harder for anyone to unlawfully split donations among a number of people to hide their identity – the mechanism under scrutiny in the Labour and National SFO trial.

"If you take the disclosure threshold right down to $1500, you have to get a lot of people involved in order to try to do that, and of course the more people get involved, the more likely you are to be caught."

With in-kind donations, it made sense to disclose who had donated the item in question and who had paid money for it, capturing "the full extent of the gratitude that the party might feel".

Justice Minister Kris Faafoi asked officials to look into how to clamp down on donations from "non-individual entities" like corporates and unions. Photo: Rob Kitchin/Pool

The Ministry of Justice has also asked for public views on whether or not it should introduce a ban on anonymous donations, currently allowed up to $1500.

Officials told Faafoi that while a ban could be “a significant and principled shift towards transparency”, counter-arguments included the need to protect donor privacy in a way similar to the secrecy of the ballot box, as well as the potential dampening effect on donor participation “for those who value anonymity above this form of political participation”.

The briefing cited anonymous donations as a specific “vulnerability” in the current system, noting that one person could make repeated anonymous donations below the $1500 threshold without being easily detected.

Geddis told Newsroom a total ban on anonymous donations would end "time-honoured practices" like raffles and passing the hat around at party meetings, while even a de minimis threshold of $100 could raise some problems.

"Someone giving $150 to the party without really wanting the party to know who they are ... is that really going to corrupt the system so horribly? Recognising that there actually are quite good reasons why people might want to keep themselves anonymous from parties, because once you're on the party's radar, they come back after you for money again, and again and again."

Faafoi also asked the Ministry of Justice to consider the rules for political donations made by “non-individual entities” like trusts, corporates and unions.

**Corporate entities splitting donations**

Officials said there was “both precedent and merit for these types of restrictions as they limit the influence of vested interests”, but noted such rules could be administratively complex and lead to unintended consequences such as donors splitting or channeling donations.

Any changes in the area could also disproportionately impact certain groups, including Māori, if they were more likely to make political donations collectively rather than individually.

Given the complexity of the matter and the potentially significant and uneven impact on parties’ finances, the ministry recommended against making any changes in the area ahead of the 2023 election.

Geddis said one of the biggest issues that remained unaddressed was the ability to split donations between corporate entities and other vehicles controlled by an individual. While there was a provision in legislation making it a corrupt practice for a corporate entity to split a donation among several subsidiaries, the SFO had not taken action over similarly-structured donations in the New Zealand First Foundation case, suggesting it thought the law may not have been broken.

The bigger questions around donations and funding of political parties had been kicked off to the independent review group, but any change on that front would be at least two electoral cycles away.

The consultation period will run until January 25 next year, with any changes set to be enacted by July so parties and candidates have sufficient time to adjust.

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