



Submission

Political party donations consultation

27 January 2022

Transparency International New Zealand (TINZ) is an accredited Chapter of [Transparency International](#), the global civil society organisation against corruption. TINZ is a not-for-profit incorporated society with charitable status. TINZ is non-partisan, non-sectarian and objective.

TINZ is governed by volunteer experts, two of whom have provided expert advice on this submission. In addition, we are informed by our research and integrity assessments. Our team on this submission is Ann Webster, Director with expertise in Parliamentary Liaison and political transparency, and Julie Haggie, Chief Executive Officer.

Our contact for this submission is:

Julie Haggie, Chief Executive Officer, 027498126, Julie.haggie@tinz.org.nz

Introduction:

Thank you for the opportunity to provide comment on this important matter. We are generally supportive of proposals to enhance political integrity and public confidence in the political process through increased transparency of political financing, including the provision of annual financial statements by political parties. However, across a number of proposals we think there is more that could be achieved.

We agree that money does enable the expression of political support as well as competition in politics and elections. However, poorly regulated political finance regimes can undermine the integrity of processes and institutions of political participation and representation, resulting in corruption and a loss of public trust in politics.¹

Our primary focus is anti-corruption. In this respect we refer to the United Nations Convention against Corruption (UNCAC) Article 7:

Each State Party shall also consider taking appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties.²

¹ <https://www.idea.int/sites/default/files/publications/integrity-of-political-finance-systems-in-asia.pdf>

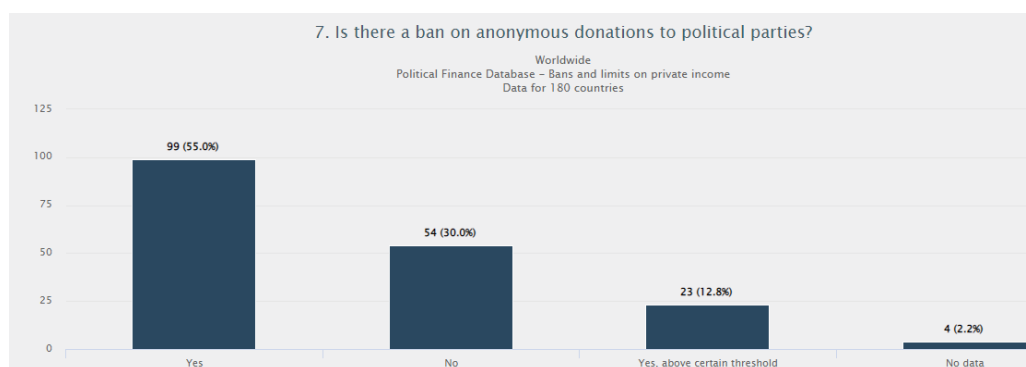
² https://www.unodc.org/documents/brussels/UN_Convention_Against_Corruption.pdf

TINZ responses to the four consultation questions:

1. Do you think the proposed changes to disclosure rules and thresholds would improve transparency and openness? If yes/no, why? (please specify which proposal(s) you are commenting on)

TINZ response:

- a. We think that the proposed changes to disclosure rules and thresholds will improve transparency to some extent. We are less sure about its immediate positive impact on openness – that word implies a more active transparent behaviour by donors and by parties and candidates than the changes may affect. TINZ hopes that openness will develop over time as a consequence of strong leadership of integrity by key actors and wide-spread societal expectations. However, regulation is one way that key actors can show a common commitment to high standards of openness and integrity and to demonstrate their own good practice. As Anderson and Chapple comment “Evidence of avoidance and evasion cannot establish that regulation is ineffective.”³
- b. TINZ Supports the lowering of public disclosure threshold for donations (from current \$15,000) to \$1,500 for parties and \$1,500 for candidates. We agree this will frustrate one of the efforts to reclassify donations from candidates to parties and to simplify the compliance element. We also think the law should disallow the splitting of donations.
- c. To further remove any undue influence, anonymous donations should be directed through the Electoral Commission, so that neither the candidate/party nor the public is influenced by the donation. This also ensures that anonymous donations are ‘banked’.
- d. However, the proposal to remove the requirement to disclose the identity of the donors and number of donations above \$30,000 appears to run counter to the objective of the Cabinet paper to “to simply ‘shine a light’ on the donations received.”⁴ The proposal also places New Zealand outside international standards and practice:



(<https://www.idea.int/data-tools/data/political-finance-database>).

- e. The logic of the briefing paper to the Minister seems that larger ongoing anonymous donations has resulted in people breaking up donations into smaller anonymised parts. The public are likely to have less faith in the intentions of those making anonymous donations,

³[Patterns of political donations in New Zealand under MMP: 1996-2019](#)

⁴ Para 41

which in TINZ's view suggests that that transparency is better than a lenient approach to substantial anonymous donations.

- f. Anderson and Chapple have noted that the Electoral Commission protection channel (section 208A of the Electoral Act 1993) for anonymous donations has not been frequently used and make a good case for transparency of larger donations rather leniency. They suggest that:

*most of those who want to donate anonymously, want to be anonymous from the public, but not from the party to which they are donating. In other words, it suggests the dominance of some sort of quid pro quo motivation or a need to be publicly identified as a party supporter behind the bulk of donations, rather than a modest desire on behalf of donors to anonymously support their ideology of choice.*⁵

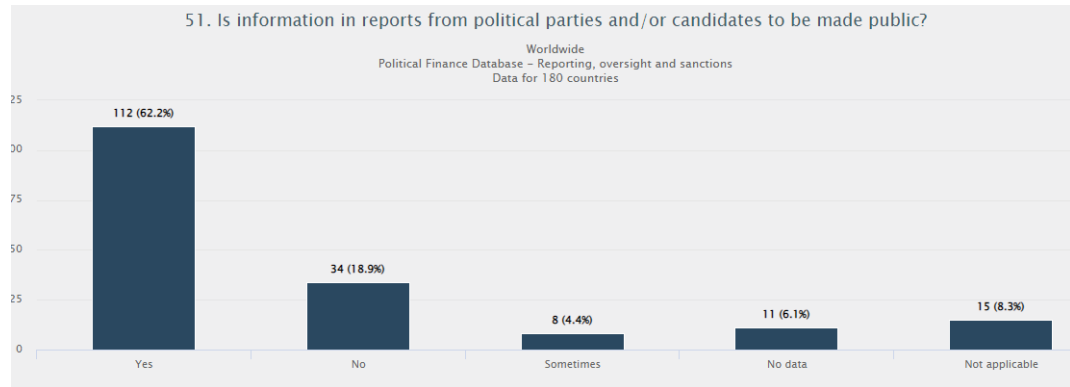
- g. If a proposal to enable larger anonymous donations is being considered, then there should be a cap on the amount of anonymous donations from any one donor.
- h. TINZ also supports the introduction of more disclosure by parties and candidates about in-kind donations. Recent cases have shown how opaque fundraising events can be.

2. Do you think the proposed changes to reporting would help support compliance? If yes/no, why? (please specify which proposal(s) you are commenting on).

TINZ Response: Yes and no.

- a. TINZ supports increasing the frequency of non-anonymous donation reporting – parties should report more frequently. We suggest quarterly returns in non-election years, and more frequent (for instance weekly) returns in an election year unless the party is not standing any candidates in the election.
- b. To facilitate reporting, election candidates and parties should have access to an online filing portal which is publicly viewable. This could be managed by the Electoral Commission, it should be as simple as possible, covering both loans and donations as well as summaries of in-kind donations. It could also summarise anonymous donations to parties and candidates received through the Electoral Commission. The UK uses such a model: <http://search.electoralcommission.org.uk/>
- c. In addition, some simple due diligence procedures should be undertaken for donations. We suggest those that apply to [AML/CFT customer due diligence](#).
- d. Party reporters need ongoing and accessible support to enable them to remain compliant.
- e. We are fully supportive of the proposals to publicly disclose financial statements and loans. This has long been needed and brings NZ into line with global trends.

⁵ Patterns of political donations in New Zealand under MMP: 1996-2019



3. What factors do you think are most important when considering changes to anonymous donations?

TINZ Answer:

We think that the most important factors when considering changes to anonymous donations are:

- The principle of one-person one vote underpins democracy. We need to protect the integrity of that essential democratic process. Political financing through donations, anonymous or not, should not purchase influence.
- Transparency, through disclosure, provides the ability to verify that no malpractice has occurred and to engender public trust in the regulatory framework. Voters also need to be clearly informed about what they are getting for their vote.
- Anonymous donations should not restrict fair competition between political opposition forces or the development of emerging parties.

4. Is there any other feedback you would like to provide on these proposed changes?

Our additional feedback is:

- There should be consideration of banning political financing of candidates or parties by companies or organisations that hold a current contract with a government agency or who are progressing through a public procurement process.
- Partly and fully owned public entities should not be involved in political financing.
- There should be an explicit ban on the use of state resources in favour of, or against, a political party.
- Consideration should be given to banning pre-election agreements between parties and organisations or corporations, based on voting strength. Votes can be as persuasive as money. Similarly, we consider that consideration should be given to fostering transparency and integrity in lobbying – another area where New Zealand's lenient arrangements are increasingly out of step with those of other jurisdictions.
- The role of civil society and media should not be understated. Each has a vital role to play in upholding political integrity by seeking accountability.

- f. We encourage the Ministry to continue work to introduce the full range of reforms suggested by Appendix 1 of the Briefing to the Minister. Many of the proposed political donation settings are positive and welcomed. But a fuller range of reforms is required to maintain a publicly trusted high integrity electoral systems. These reforms should be supported by strategic communications to connect norms and societal values such as fairness, competition, and the principle that voting sits with people. That would help to build momentum for and understanding of any measures.⁶
- g. We need to maintain vigilance on the potential for cryptocurrencies to allow foreign contributions and anonymous donations to enter politics unnoticed. We also think that cryptocurrencies, and separately, enforceable offers or promises of future money, goods or services should be treated as money donations.
- h. Any changes should be analysed to ensure that the result will not exclude or discriminate against others seeking political representation.
- i. Funding for online political advertising needs to be considered as part of any broader electoral review. In this respect we refer to our October 2020 research paper [Online Political Campaigning in New Zealand](#).⁷

SUBMISSION ENDS

⁶ <https://www.idea.int/sites/default/files/publications/integrity-of-political-finance-systems-in-asia.pdf>

⁷ [Online Political Campaigning in New Zealand](#), By Joshua Ferrar, October 2020 (Transparency International NZ)