

# Avoiding successful challenges to political finance investigations

## *Example 1 – Alleged Bias*

Following the 2016 EU Referendum in the UK a number of campaigners, mainly campaigners for leaving the EU, were investigated and fined by the UK Electoral Commission. Appeals were made to the courts and one of the grounds was bias, with suggestions that members of the Commission Board had declared their support for remaining in the EU and influenced decisions.

The UK Electoral Commission was able to show that Board members had no involvement in the investigations or fining decisions because of separation of decision making and clear procedures which specified who was responsible for decision making. It was also able to show that it had followed its published Enforcement Policy, and internal procedures. None of the challenges on grounds of bias were successful.

## *Example 2- Investigation Not Conducted Properly*

In the early days of the Federal Election Commission, the statutory basis and methodology it used to investigate a potential breach of the law was challenged on a number of grounds. Although the appellate court upheld the lower court's summary dismissal of many of the challenges, it ruled that some of the allegations should have been considered on their merits. Amongst them was the appropriateness of asking one of the witnesses about his political beliefs and whether he had been coerced by being threatened with a long prison sentence and the loss of his home should he fail to produce certain information and documents. See, [Le Roy B. Jones et al, v. Unknown Agents of the Federal Election Commission et al, 613 F.2d 864 \(D.C. Cir. 1979\)](#).