

**Explanatory Memorandum to the Political Parties Campaign Expenditure
(Senedd Elections) Code of Practice 2020**

This Explanatory Memorandum has been prepared by the Office of the First Minister and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.14

Minister/Deputy Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Political Parties Campaign Expenditure (Senedd Elections) Code of Practice 2020

Julie James MS,
Minister for Housing and Local Government
18 December 2020

PART 1

Description

1. The Political Parties Campaign Expenditure (Senedd Elections) Code of Practice 2020 gives guidance as to what does or does not fall within paragraphs 1 and 2 of Schedule 8 of the Political Parties, Elections and Referendums Act 2000 (PPERA)¹.
2. Those paragraphs are relevant to the definition of 'campaign expenditure' and therefore, in particular, to what expenses a political party is required to report.
3. Paragraph 1 of Schedule 8 lists the expenses which qualify when incurred for election purposes. Paragraph 2 lists the exclusions.

Matters of special interest to the Legislation, Justice and Constitution Committee

4. The regulated period for political parties commences on 6 January 2021.
5. Although the Political Parties Campaign Expenditure (Senedd Elections) Code of Practice 2020 will not be in force by 6 January the Electoral Commission will issue guidance prior to the Code of Practice being in force to ensure information is available.

Legislative background

6. The Electoral Commission has power under paragraph 3 of Schedule 8 PPERA to prepare a Code of Practice giving guidance as to the kinds of expenses which do or do not fall within Part I.
7. The Political Parties Campaign Expenditure (Senedd Elections) Code of Practice 2020 was prepared by the Electoral Commission and submitted to the Welsh Ministers for approval.
8. The Code of Practice will be issued by the Minister for Housing and Local Government under Schedule 8, paragraph 3 PPERA.
9. The relevant functions of the Secretary of State in Schedule 8, paragraph 3 PPERA were transferred to the Welsh Ministers by virtue of Article 45 of the Welsh Ministers (Transfer of Functions) Order 2018².
10. Unless the Senedd resolves not to approve the draft within 40 days of its being laid, this Code of Practice will be brought into force by the Welsh Ministers and published by the Electoral Commission.

¹ <https://www.legislation.gov.uk/ukpga/2000/41/schedule/8>

² <https://www.legislation.gov.uk/uksi/2018/644/article/45>

Purpose and intended effect of the legislation

11. The Political Parties Campaign Expenditure (Senedd Elections) Code of Practice 2020 gives guidance as to what does or does not fall within paragraphs 1 and 2 of Schedule 8 PPERA.
12. Those paragraphs are relevant to the definition of 'campaign expenditure' and therefore, in particular, to what expenses a political party is required to report.
13. Paragraph 1 of Schedule 8 lists the expenses which qualify when incurred for election purposes. Paragraph 2 lists the exclusions.
14. Under section 80 PPERA, political parties are required to deliver a return after an election in respect of campaign expenditure.
15. The party treasurer is responsible for incurring expenditure and completing the return. Where the party has a Campaigns Officer appointed under section 25 PPERA, they are responsible for this. Returns must be delivered to the Electoral Commission and the deadline for delivery will depend on the amount that the party has spent.
16. The party treasurer must sign a declaration that the return is, to the best of their knowledge and belief, complete and correct. It is an offence to knowingly or recklessly make a false declaration.
17. Where a party officer does not follow this Code, the party treasurer, or other relevant officer, are likely to be in breach of the statutory requirements relating to campaign expenditure, for example the statutory requirement to deliver a complete and correct return. Breaches of this Code may also lead to a conclusion that a party treasurer knowingly or recklessly made a false declaration about the return. The commission of these offences may result in prosecution.
18. Section 79(3) PPERA provides that it is a defence for any person or registered party charged with the offence of exceeding the limit on campaign expenditure (under section 79(2) PPERA) to show that they complied with this Code in determining the items and amounts of campaign expenditure to be entered in the relevant campaign expenditure return under section 80 PPERA, and that the limit would not have been exceeded on the basis of the items and amounts entered in that return.
19. This Code applies to elections to the Senedd.
20. If there is a combined regulated period in operation under Part III, Schedule 9 PPERA, the UK election rules apply to certain elections taking place during that period. Where that applies to an election to the Senedd, this Code does not apply.

Consultation

21. This Code of Practice on qualifying expenses for political parties was prepared by the Electoral Commission following consultation with interested persons and bodies, including representatives of political parties, the Welsh Government and the Senedd Commission.

Regulatory Impact Assessment (RIA)

22. Relevant Welsh Subordinate Legislation for which a Regulatory Impact Assessment must be carried out is defined in Section 76(2)(b) of the Government of Wales Act 2006 as subordinate legislation that is made by the Welsh Ministers, the First Minister or the Counsel General and is required to be laid before the Senedd. This Code has been prepared by the Electoral Commission under paragraph 3 of Schedule 8 PPERA. As such, the Code does not satisfy the section 76 criteria and a Regulatory Impact Assessment is therefore not required.