

Non-Party Campaigner Campaign Expenditure (Senedd Elections) Code of Practice 2025

This Code:

- **is to be known as the Non-Party Campaigner Campaign Expenditure (Senedd Elections) Code of Practice 2025**
- **comes into force on (add date)**

About this Code

Background

1.1 This Code of Practice has been issued by the Welsh Ministers under section 100A and 100C(8) of the Political Parties, Elections and Referendums Act 2000 ('PPERA').¹

1.2 The draft Code was prepared² by the Electoral Commission (the 'Commission') in accordance with 100C PPERA following consultation with interested persons, the Welsh Government and Llywydd's Committee.

1.3 The consultation report can be found on the Commission's website.

1.4 A draft was approved by the Welsh Ministers and laid before the Senedd Cymru (the 'Senedd') in accordance with section 100C PPERA.

1.5 The Commission must have regard to this Code when exercising its functions under Part 6 PPERA and may revise it from time to time in accordance with section 100A(3) PPERA.

Elections covered by this Code

1.6 This Code applies to elections to the Senedd (the Senedd elections). If there is a combined regulated period in operation under Part 3 of Schedule 10 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.³

Purpose of this Code

1.7 This Code explains the operation of Part 6 PPERA for third parties during the regulated period for Senedd elections including during a combined regulated period where applicable. The Commission and this Code refer to third parties as '**non-party campaigners**'.

1.8 This Code sets out:

- what a non-party campaigner is
- what non-party campaigning is
- the kinds of expenses which are qualifying expenses
- the circumstances in which expenses are or are not to be regarded as incurred for the purpose of promoting or procuring electoral success
- the kinds of expenditure which is treated as notional controlled expenditure or donations
- the circumstances which will be regarded as joint campaigning
- what targeted controlled expenditure is and when it is relevant

¹ 2000 c. 41

² s100A(1A) PPERA 2000

³ s100A(1A) PPERA 2000

the recording and reporting requirements (including for combined regulated periods).

Definitions and key terms

1.9 The following terms are used in this Code as they are defined in the legislation.

1.10 In this Code the following definitions apply:

Appropriate amount has the same meaning as in section 86 PPERA.

Campaign expenditure has the same meaning as in section 72 PPERA.

Candidate means a person who stands at a relevant election under section 22 PPERA.

Controlled expenditure has the same meaning as in section 85 PPERA.

Costs has its ordinary meaning of the expense of, or associated with, an item. It includes the **appropriate amount** to be treated as incurred by the non-party campaigner under the laws on notional spending.

Donation has the same meaning as paragraphs 2 to 4 of Schedule 11 PPERA.

General campaign means a campaign for or against a candidate or political party at a relevant election regulated under Part 6 of PPERA.

Incur means to make a legal commitment to spend money.

Non-party campaigner means an individual or organisation that campaigns around elections without standing candidates themselves. In PPERA, non-party campaigners are referred to as 'third parties' as set out in section 85(8) PPERA.

Notional controlled expenditure is any controlled expenditure to which section 86 PPERA applies.

PPERA refers to the Political Parties, Referendums and Elections Act 2000 (as amended)

Political party means a party which is registered under Part 2 PPERA.

Registered non-party campaigner means a non-party campaigner that is on the register held by the Commission pursuant to a notification given to the Commission under section 88 PPERA. Registered non-party campaigners are referred to as 'recognised third parties' in PPERA (see section 88 for the statutory definition).

Regulated period means the 'relevant period' for a Senedd election as set out in section 89B(6) and paragraph 6 of Schedule 10 PPERA.

Relevant election means those elections set out in section 22(5) PPERA:

- UK parliamentary elections
- elections to the Scottish Parliament
- elections to the Senedd
- elections to the Northern Ireland Assembly
- elections of police and crime commissioners
- local government elections
- local elections in Northern Ireland.

Reporting threshold means the ‘lower-tier expenditure limits’ defined in sections 85(5B) and set out in 94(5) PPERA as £10,000 for Wales.

Spending return means a controlled expenditure return by a registered non-party campaigner as required under section 96 PPERA.

Targeted expenditure is defined at section 94D PPERA. It is sometimes referred to as ‘targeted spending’. It is spending on regulated campaign activity that can reasonably be regarded as intended to influence voters to vote for one particular party or any of its candidates. It is relevant in respect of a UK Parliamentary General Election or during a combined regulated period. It is not relevant for elections to the Senedd.

This Code and other guidance published by the Commission

1.11 This Code is statutory guidance.

1.12 This Code is different from other types of guidance that the Commission publishes because it has been approved by the Senedd.

1.13 The Commission also publishes non-statutory guidance about expenses incurred by non-party campaigners and publishes up to date guidance about what elections are being held and which laws apply on its website.

1.14 Where this Code or any related guidance says that something must be done, this means that it is a requirement in either primary or secondary legislation.

Offences and defence

1.15 It is a defence for a non-party campaigner to show that they complied with this Code in determining whether their campaign activity was regulated.

1.16 Section 100A(5A) PPERA provides a defence for a non-party campaigner charged with an offence under Part 6 PPERA.

What are the consequences of breaching this Code?

1.17 Breaches of the law explained in this Code may lead to an offence being committed by the non-party campaigner, the responsible person or the individual spending the money. Committing an offence may result in a civil sanction (such as a fine) or prosecution. The Commission’s Enforcement Policy contains further information on civil sanctions.

What is a non-party campaigner?

2.1 Some individuals and organisations, that are not registered political parties, campaign for or against political parties or candidates or on issues around elections without standing as candidates themselves.

2.2 In electoral law, these individuals and organisations are defined as third parties. The Commission calls them non-party campaigners.

2.3 There are laws that non-party campaigners must follow on campaign spending, donations, and reporting.

2.4 Many individuals and organisations campaign in the run up to elections and meet the definition of a non-party campaigner but are not covered by the regulatory regime.

Who is covered by the law

2.5 The law on spending and donations applies to non-party campaigners who spend more than £700 on regulated campaign activity.⁴

2.6 A non-party campaigner can only spend more than £700 on regulated campaign activity if they are listed in section 88(2) PPERA as eligible to give a notification to the Commission. It is an offence to spend more than £700 on regulated campaign activity if the non-party campaigner is not listed in s88(2) as eligible to give a notification to the Commission.⁵

2.7 Eligible non-party campaigners intending to spend more than £10,000 on regulated campaign activity must submit a notification to the Commission following which they will appear on the register of notifications. It is an offence to spend more than £10,000 without submitting such notification.⁶

Registered non-party campaigners and the responsible person

2.8 Once a non-party campaigner appears on the register of notifications, following submission of a notification, the Commission will refer to them as a 'registered non-party campaigner'.

2.9 Following its submission of a notification to the Commission, the registered non-party campaigner must appoint a 'responsible person'. The responsible person is legally responsible for compliance with PPERA.⁷

2.10 If an individual registers as a non-party campaigner, there is no need to appoint a responsible person as they are automatically the responsible person.

⁴ s89B(2) PPERA 2000

⁵ ss89B(4) and (5) PPERA 2000

⁶ s94(4) PPERA 2000

⁷ s88(3)(c)(ii) PPERA 2000

Non-UK individuals and organisations

2.11 Individuals and organisations that are not based in the UK or are not on a UK electoral register are not permitted to spend more than £700 on regulated campaign activity.⁸

2.12 A non-party campaigner can only spend more than £700 on regulated campaign activity if they are listed in section 88(2) PPERA as eligible to give a notification to the Commission.⁹

What is non-party campaigning?

3.1 Non-party campaigning laws only apply to regulated campaign activity. Not all non-party campaign activities are regulated.

Activities that may be regulated

3.2 Spending on the following activities is regulated if (i) it occurs in relation to a general campaign during a **regulated period** and (ii) it meets the purpose test (see page 7 for further details of this test):

- press conferences or other media events organised by the non-party campaigner
- transport in connection with publicising the campaign
- production or publication of campaign material which is made available to the public at large or any section of the public
- canvassing and market research seeking views or information from members of the public
- public rallies or other public events¹⁰

3.3 See section on ‘Meaning of “the public”’ for the meaning of the public for the purpose of regulated campaign activities.

Regulated Period

3.4 Non-party campaigner spending before an election to the Senedd is regulated. PPERA refers to this period as the ‘Welsh devolved regulated period¹¹’ or the ‘relevant period’. In this Code it will be called the ‘regulated period’ only.

3.5 This regulated period is usually the four-month period up to and including the day of the poll.¹² Elections to the Senedd are held on the first Thursday in May four years after the previous election was held, in accordance with s3(1) Government of Wales

⁸ s89B PPERA 2000

⁹ s89B(1) PPERA 2000

¹⁰ s85 and Sch 8A para 1 PPERA 2000

¹¹ s.89B(6) PPERA

¹² Sch 10 para 6(4) PPERA 2000

Act 2006 (the '2006 Act')· The date of the poll can be brought forward or pushed back by up to one month under section 4 of the 2006 Act.

3.6 When the poll date is brought forward in the five months before the day it would have taken place under section 3 of the 2006 Act,¹³ the regulated period starts four months before the new poll date and ends on the new poll date. When the poll date is pushed back in the four months before it would have taken place, the regulated period again starts four months before the new poll date and ends on the new poll date.

3.7 If the poll date is moved at any other time, the regulated period starts four months before the date on which the poll would have taken place under s3(1) 2006 Act and ending on that date.

3.8 Where an extraordinary general election to the Senedd¹⁴ is called, the regulated period starts with the date when the Presiding Officer proposes a date for the election and ends on the day of the poll.¹⁵

3.9 The Commission produces updated guidance on specific elections (including the start and end of each regulated period) on its website.

Combined Regulated Periods and targeted spending

3.10 The regulated period for an election other than to the Senedd may be relevant if it overlaps with the regulated period for a Senedd election. Where two or more regulated periods overlap, a combined regulated period applies to the relevant part of the UK. The Electoral Commission produces updated guidance for non-party campaigners for specific elections, including combined regulated periods where relevant.

3.11 Targeted expenditure is not relevant for Senedd elections but could be relevant for combined regulated periods.¹⁶

Purpose test

3.12 Spending on campaign activities by non-party campaigners is only regulated if it can reasonably be regarded as intended to promote or procure the electoral success of:

- one or more political parties
- one or more of the party list candidates standing on a party list
- political parties or candidates who support or do not support particular policies or
- another particular category of candidates¹⁷

¹³ 2006 c. 32

¹⁴ As per s5 Government of Wales Act 2006

¹⁵ Sch 10 para 6(5) PPERA 2000

¹⁶ s94D PPERA 2000 and Sch. 9 Part 3

¹⁷ s85(2) PPERA 2000

by influencing voters at an upcoming **relevant election** to vote in a particular way. See definition of 'relevant elections' above.

3.13 Whether an activity can reasonably be regarded as intending to influence voters to vote in a particular way is commonly known as the 'purpose test'.

3.14 The purpose test must be applied at the time, or in the event of a retrospective regulated period as if at the time, spending on the activity is incurred. If spending was incurred prior to the regulated period but the activity takes place during the regulated period, the purpose test must be applied at the time the activity takes place.

3.15 While these are not set out in PPERA, there are a number of factors that can help to determine whether campaign activity can be reasonably regarded as intended to influence voters to vote in a particular way at an upcoming election. These are:

1. Call to action
2. Tone
3. Context and timing
4. How a reasonable person would see the activity

3.16 No single factor on its own will determine whether or not a particular campaign activity meets the purpose test. Rather all of the relevant factors taken together will determine whether a campaign activity meets the purpose test.

3.17 The Commission uses these factors when considering whether an activity meets the purpose test:

- **Call to action**

3.18 A campaign that involves a call to action to voters to vote in a particular way at an upcoming election is likely to be reasonably regarded as promoting electoral success for a particular party or category of candidates and so meets the purpose test. The call to action may be explicit, or implicit.

3.19 A campaign that explicitly promotes particular parties or candidates, or implicitly promotes certain political parties or candidates over others, is likely to meet the purpose test.

3.20 It is unlikely that a public campaign without an explicit or implicit call to action to voters will meet the purpose test.

- **Tone**

3.21 A campaign that is positive or negative towards a political party or parties, a category of candidates or a policy closely and publicly associated with a party or category of candidate is likely to be reasonably regarded as intending to influence voters to vote in a particular way and so meet the purpose test.

3.22 A campaign that makes a voter think of a particular political party or category of candidates is likely to be regarded as intended to influence voters to vote in a particular way and so meets the purpose test.

- **Context and timing**

3.23 A campaign on an issue or policy that is a prominent issue at the time the campaign activity takes place, that also meets the other factors, is likely to be reasonably regarded as promoting the electoral success of a particular party or category of candidates and so meet the purpose test.

3.24 A campaign that starts close to the date of an election and also meets the other factors, is more likely to be reasonably regarded as intending to influence voters to vote in a particular way at the upcoming election.

3.25 An ongoing campaign is unlikely to be reasonably regarded as intending to influence voters to vote in a particular way at the election.

- **How a reasonable person would see the activity**

3.26 Campaign activity will only meet the purpose test if a reasonable person would regard the activity as intending to influence voters to vote in a particular way at an upcoming election.

Multi-purpose campaigns

3.27 An activity that meets the purpose test, may have other aims as well as being 'reasonably regarded as intended to influence how people vote'.

3.28 It is immaterial whether an activity can reasonably be regarded as intended to achieve another purpose or purposes if it can also be reasonably regarded as intending to influence voters to vote in a particular way.¹⁸

3.29 For example, a campaign activity is intended to achieve two purposes, purpose X and purpose Y. If purpose X meets the purpose test, it is irrelevant that purpose Y does not also meet the purpose test.

Retrospective regulated period

3.30 Where a regulated period is applied retrospectively, any pre-announcement activity will only be regulated if, at the time it was carried out, it could reasonably be regarded as intending to influence voters to vote in a particular way at a relevant election.¹⁹ See definition of relevant election above.

3.31 If there are no upcoming relevant elections, an ongoing campaign on a particular issue is unlikely to be reasonably regarded as intending to influence voters to vote in a particular way. A campaign activity that is focused on an issue rather than on how a voter should vote, is unlikely to meet the purpose test if there are no upcoming relevant elections.

3.32 Campaign activity will only be regulated as a result of a retrospective regulated period in either of the following circumstances:

¹⁸ s85(4A) PPERA 2000

¹⁹ s85(6) PPERA 2000

- Campaign activity that meets the purpose test in *any* relevant election that is taking place at the time of the activity, even if it is not a Senedd election, will be regulated if a retrospective regulated period is applied.
- An activity that is campaigning for the next election, regardless of what election that is, **and** meets the purpose test, will be regulated if a retrospective regulated period is applied.

3.33 See page 13 and the section on ‘Campaign activity before an election is announced’ for more detail.

Meaning of ‘the public’

3.34 The meaning of ‘the public’ will need to be considered in relation to the following campaign activities when determining whether spending on the activity is regulated.

- Canvassing and market research of the public
- Public rallies and events
- The production or publication of material

3.35 ‘The public’ has no statutory definition and therefore needs to be considered in its ordinary meaning.

Canvassing and market research

3.36 Canvassing and market research that meets the purpose test and take place during a regulated period will only be regulated campaign activity if it **seeks the views of or information from the general public**.

Rallies and events

3.37 Rallies and events that meet the purpose test and take place during a regulated period will only be regulated campaign activity if they are **open for anyone to hear, see or attend**.

3.38 Where access to the rally or public event is limited by the non-party campaigner so that the general public are unable to take part, this will not be regulated.

The production or publication of material

3.39 Campaign material will only be regulated campaign activity if the material is **made available to the public or any section of the public** by the non-party campaigner.

3.40 Whether the material is publicly available is determined by who has access to that material:

- **Campaign material that is made available to the public or a section of the public**

3.41 Campaign material that is made available for the public or a section of the public to hear or see will be public and will be regulated campaign activity if it also meets the purpose test and takes place during a regulated period. This

applies regardless of the means by which the material is distributed, for example by print or digitally.

- **Campaign material that is only made available to people who have chosen to receive the information**

3.42 Campaign material that is **only** made available by the non-party campaigner to a closed group of members or people who have chosen to receive the information, will not be regulated.

3.43 Where access to campaign material is limited in such a way that the public would not be able to access that material, this is not regulated campaign activity. This applies regardless of the means by which the material is distributed, for example by print or digitally.

3.44 Where access to campaign material is restricted by the non-party campaigner to a group of people who have signed up to receive that material, those activities will not be regulated. For example, where access is restricted to members, or supporters, this will not be regulated.

What are the notification and reporting requirements?

Notification threshold

4.1 Non-party campaigners intending to spend more than £10,000 on regulated campaign activity in the regulated period before an election to the Senedd must submit a notification to the Commission.²⁰ This is referred to in this Code as the '**notification threshold**'. In Commission guidance or correspondence with the Commission you may see this referred to as the 'registration threshold'.

Eligible non-party campaigners

4.2 Non-party campaigners are not permitted to spend more than £700 on regulated campaign activity unless they are eligible to give a notification the Commission by virtue of s.88(2) PPERA. Only individuals or organisations described in s.88(2) PPERA are eligible to submit a notification to the Commission.²¹ These are:

- An individual registered on a UK electoral register or resident in the UK;
- A UK registered company which is incorporated in the UK and carries on business in the UK;
- A UK registered trade union,
- A UK registered building society;
- A UK registered limited liability partnership which carries on business in the UK;
- A UK registered friendly, industrial, or provident society,

²⁰ s94(3) PPERA 2000

²¹ s89B(1) PPERA 2000

- An unincorporated association that has its main office in the UK and carries on the majority of its business or other activities in the UK;
- A body incorporated by Royal Charter;
- A UK charitable incorporated organisation;
- A Scottish partnership which carries on business in the UK.

4.3 Organisations are prohibited from registering as both a non-party campaigner and a political party.²²

4.4 An eligible non-party campaigner may spend up to £10,000 across the UK without notifying the Commission.²³

4.5 Before spending more than £10,000 on regulated campaign activity, an eligible non-party campaigner must submit a notification to the Commission.²⁴

4.6 Non-party campaigners taking part in a joint campaign may meet the notification threshold as a result of the law on joint campaigning, without incurring spending directly themselves. See the section on joint campaigning.

Reporting thresholds

4.7 Registered non-party campaigners who spend more than £10,000 on regulated campaign activity must record and report their spending and donations to the Commission.²⁵ This is known as a 'reporting threshold'.²⁶

Maximum spending limit for registered non-party campaigners

4.8 There are spending limits that restrict the total amount a non-party campaigner can spend on regulated campaign activity during the regulated period. The spending limit for controlled expenditure which can be incurred by or on behalf of a registered non-party campaigner is £30,000 as set out in Paragraph 6(2) of Schedule 10 PPERA. Combined regulated periods will have different spending limits²⁷. More information on this can be found in the Commission's guidance.

Non-party campaigners that are not subject to the reporting requirements

4.9 Registered non-party campaigners who include a declaration that they do not intend to spend more than the reporting thresholds are not required to report their spending or donations as long as their spending does not exceed the reporting thresholds. They are still subject to the law on permissibility of donations.

²² s88; s28(7A) PPERA 2000

²³ s89B(1) & (2) PPERA 2000

²⁴ s94(3)(a)(i), s94(3)(b)(i) & s94(4) PPERA 2000

²⁵ s94(3)(a)(i), s94(3)(b)(ii), s.94(5)(b), s96 PPERA 2000

²⁶ s85(5B); s94(5)(b) PPERA 2000

²⁷ Schedule 10 paras 9-11 PPERA 2000

4.10 Once a non-party campaigner is registered, they may withdraw their statement that they do not intend to spend more than the reporting thresholds if their spending intentions change following registration.²⁸

4.11 It is an offence to incur controlled expenditure in excess of the reporting thresholds if the non-party campaigner has notified the Commission that they would not spend more than those limits²⁹. Any non-party campaigner doing so would also become subject to the reporting requirements.³⁰

Reporting requirements

4.12 All registered non-party campaigners must comply with the law on spending and accepting donations. Registered non-party campaigners must submit a spending return that details their spending on regulated campaign activity and any donations received for the purpose of spending on regulated campaign activity³¹. See the section on donations. The spending return must be submitted to the Commission within three months of the end of the relevant regulated period.³²

4.13 Please note that if you plan to spend over £10,000 at a Senedd election, you must notify us and report your spending after the election.

What type of spending is controlled expenditure?

5.1 Controlled expenditure is any spending incurred in respect of regulated campaign activity. Schedule 8A PPERA sets out the list of qualifying expenses that fall within the regulatory regime.

General guidance

Campaign activity before an election is announced

5.2 An ongoing campaign on a particular issue that was carried out before an election was announced is unlikely to be reasonably regarded as intending to influence voters to vote in a particular way at an upcoming election if there is no upcoming election.

5.3 If an ongoing campaign continues unchanged once the election is announced, it is unlikely to be considered regulated campaign activity.

5.4 If activity around an ongoing campaign increases or is altered in the run up to an election in a way that means the activity meets the purpose test, i.e. the activity could now be reasonably regarded as intending to influence voters to vote in a particular

²⁸ S.85(5B); s.88(3D) PPERA

²⁹ S.94(3)(b)(ii) PPERA

³⁰ S.94(10A) PPERA

³¹ s96(1A), s96A and s98(2) PPERA 2000

³² s98(2) PPERA 2000

way, it may be considered regulated campaign activity. From the point the campaign is considered regulated campaign activity, only the costs associated with that campaign are likely to be controlled expenditure and must be treated as such.

5.5 A campaign may still be considered regulated campaign activity where it is intended to achieve another purpose other than influencing voters if the campaign can be reasonably regarded as intending to influence voters to vote in a particular way at an upcoming election.

Re-using items paid for and used at a previous election

5.6 Non-party campaigners may re-use items from previous elections. Spending on items that were paid for and used at a previous election and were reported in full in a previous spending return do not need to be reported again in the spending return for the same non-party campaigner at the current election if they are used again without alteration. All new costs relating to their re-use, including storage, cleaning, or the cost of altering the items must appear in the spending return.

Apportionment of items for subsequent elections

5.7 Items that have been paid for and used during a regulated period cannot be apportioned or reported solely on the basis that they will be used again during a subsequent regulated period. The full value of the spending must be reported in the spending return.

Unused items

5.8 Items that have been paid for by a non-party campaigner, but have not been used during the regulated period, do not need to be reported in the spending return.

5.9 If those items are then used at a future election, the spending would need to be reported in relation to that election, as an item paid for prior to the commencement of the regulated period.

Items paid for prior to the commencement of the regulated period

5.10 Where spending was incurred prior to the start of a regulated period on items that are used during the regulated period, the spending on those items must be reported in the spending return.³³

Items provided free of charge or at a discount

5.11 Where any items are provided free of charge or at a discount, the **appropriate amount** must be reported in the spending return as notional spending and/or a donation. See definition of **appropriate amount** above.

Apportioning spending

5.12 Where spending on an item or activity was incurred partly in connection with regulated campaign activity and partly in connection with non-regulated activity, the

³³ s94(8) PPERA 2000

amount that must be reported is the proportion that reasonably reflects the amount spent in connection with the regulated campaign activity.

5.13 Only the regulated campaign spending must be reported in the spending return.

VAT

5.14 Spending must be reported inclusive of VAT where applicable, even where VAT can be recovered.

Overheads

5.15 Overheads that are directly attributable to regulated campaign activity must be reported. The amount that must be included in the spending return is the proportion that reasonably reflects usage during the campaign.

5.16 Where there is no increase in spending on overheads beyond the normal spending incurred by a campaigner, spending on overheads will not be regulated.

5.17 Where there is an increase in the cost of overheads incurred by a campaigner as a result of regulated campaign activity, that increase in spending must be reported.

5.18 The proportion that reasonably reflects usage is generally the cost that is incurred over and above the usual costs in a given period. Where an apportionment of overheads is necessary, an aggregated figure for each overhead is sufficient to meet the reporting obligations.

5.19 Overheads can include items such as:

- office space
- electricity bills
- the provision of phone lines and internet access
- mobile phones
- the provision of office equipment of any kind

5.20 The cost of water, gas and council tax are not costs that need to be reported as they are not sufficiently closely connected to the regulated activity.

Staff costs

5.21 Staff costs that are directly attributable to regulated activity must be reported. Only staff costs that are incurred as a result of regulated campaign activity need to be reported.

5.22 Where staff costs can only be partially attributed to regulated activity, the costs must be apportioned and only the portion attributed to regulated activity must be included in the spending return.

5.23 Where an apportionment of a staff member's time is necessary, an aggregated figure for all staff time attributed to regulated activity is sufficient to meet the reporting obligations.

5.24 The childcare costs of staff members are not expenses that need to be reported as they are not sufficiently closely connected to the regulated activity.³⁴

Excluded items

5.25 Any spending on campaign activity that needs to be reported in the spending return of a candidate or in the spending return of a registered political party, must not be reported in the spending return of a non-party campaigner.

Schedule 8A

5.26 Schedule 8A PPERA lists the qualifying expenses that are regulated.

Expenses that fall within the regulatory regime

- the production or publication of material which is made available to the public at large or any section of the public (in whatever form and by whatever means)
- canvassing, or market research seeking views or information from, members of the public
- press conferences, or other media events, organised by or on behalf of the non-party campaigner
- transport (by any means) of persons to any place or places with a view to obtaining publicity
- expenses in respect of the transport of such persons include the costs of hiring a particular means of transport
- public rallies or other public events, other than annual conferences of the non-party campaigner

- Expenses in respect of such events include costs incurred in connection with the attendance of persons at such events, the hire of premises for the purposes of such events or the provision of goods, services or facilities at them. But expenses in respect of such events do not include costs incurred in providing for the protection of persons or property.

Expenses that fall outside the regulatory regime

Schedule 8A of PPERA specifically excludes the following expenses from the reporting requirements:

- expenses incurred in respect of the publication of any matter relating to an election, other than an advertisement:
 - in a newspaper or periodical
 - as a broadcast made by the British Broadcasting Corporation or by Sianel Pedwar Cymru or
 - as a programme included in any service licensed under Part 1 or 3 of the Broadcasting Act 1990 or Part 1 or 2 of the Broadcasting Act 1996

³⁴ s85(2)(b) PPERA 2000

- expenses incurred in respect of, or in consequence of, the translation of anything from English into Welsh or from Welsh into English
- reasonable personal expenses incurred by an individual in travelling or in providing for the individual's accommodation or other personal needs
- reasonable expenses that are reasonably attributable to an individual's disability
- expenses incurred in respect of the provision of an individual's own services provided voluntarily in the individual's own time and free of charge
- reasonable expenses incurred that are reasonably attributable to the protection of persons or property

5.27 Annex A sets out a non-exhaustive list of the kinds of expenses that do, or do not, fall within the meaning of qualifying expenses.

What is notional controlled expenditure?

6.1 Non-party campaigners may sometimes use property, services or facilities in their campaign that they did not have to spend money on, because the item or the services were provided as a benefit in kind, for free, or at a non-commercial discount.

6.2 This is known as 'notional spending'.

Discounts

Non-commercial discounts

6.3 Non-commercial discounts are special discounts given to the non-party campaigner. This includes any special rates which are not available on the open market.

6.4 When this happens, the full commercial value of the item or the services will count towards the spending limit and must be reported in the spending return.

Commercial discounts

6.5 Commercial discounts are those available to other similar customers, such as discounts for bulk orders or seasonal reductions. These are not treated as notional spending.

Notional spending

6.6 Items or services used by or on behalf of a non-party campaigner will be treated as notional spending if:

- the property, services or facilities are provided free of charge or at a discount of more than 10% of the commercial rate for the use or benefit of the non-party

campaigner, or in the case of the transfer of property it is transferred free of charge or a discount of more than 10% of market value;³⁵

- the difference in value between what is provided and what is paid by the non-party campaigner is over £200;³⁶
- they are made use of by or on behalf of the non-party campaigner; and
- if the expenses had been incurred by or on behalf of the non-party campaigner in respect of that use, they would have been controlled expenditure.³⁷

6.7 The items or services are only used on behalf of the non-party campaigner if that use is directed, authorised or encouraged by the non-party campaigner or the responsible person.³⁸

6.8 The value of the notional spending is the difference between the total value of what was transferred or provided and the amount that was paid, if anything.

6.9 The non-party campaigner must record both:

- the value of the notional spending
- the total amount that was paid.

6.10 Items or services will not be treated as notional spending if:

- received at a discount of 10% or less or
- the value of the discount is £200 or less.

Value of notional spending

6.11 Where an item is treated as notional spending, an '**appropriate amount**' must be reported by the non-party campaigner as controlled expenditure.

6.12 Where the notional spending is property transferred to the non-party campaigner, the **appropriate amount** is the proportion that is reasonably attributable to the use of the item, of either:

- its market value (where it is transferred free of charge) or
- the value of the discount³⁹.

6.13 Where the notional spending is property, services or facilities used by the non-party campaigner, the **appropriate amount** is the proportion that is reasonably attributable to the use of the item, of either:

- the commercial rate (where it is provided free of charge) or
- the difference in value between the commercial rate for an item or service and the price that was actually paid by the non-party campaigner⁴⁰.

³⁵ s86(1)(a) PPERA 2000

³⁶ s86(6) PPERA 2000

³⁷ s86(1)(b) PPERA 2000

³⁸ s86(1A) PPERA 2000

³⁹ s86(3) PPERA 2000

⁴⁰ s86(4) PPERA 2000

Donations

6.14 The goods, services or facilities must be provided or transferred to the non-party campaigner to be treated as notional spending.

6.15 This means that any notional spending will also be a donation to the non-party campaigner.

6.16 The difference in value between the market value or commercial rate, and the price paid, if any, must be dealt with in accordance with the law on donations to non-party campaigners and may need to be reported to the Commission.

Working with registered political parties

6.17 Non-party campaigners may also work with a registered political party, and provide property, services or facilities free of charge or at a non-commercial discount.

6.18 If the registered political party use the goods, services or facilities during their campaign, this must be treated as notional spending on behalf of the registered political party.⁴¹ This will also be treated as a donation by the non-party campaigner to the political party.⁴²

6.19 It must be reported by the registered political party and will count towards the party's spending limit.

6.20 It will not count towards the non-party campaigner's spending limit and must not be recorded in the spending return for the non-party campaigner.

What is joint campaigning?

Working with other non-party campaigners

7.1 Non-party campaigners may decide to work together on a campaign. Where the non-party campaigners work together on regulated campaign activity, the law on joint campaigning may apply.

7.2 The law on joint campaigning applies to registered and un-registered non-party campaigners.⁴³

7.3 A non-party campaigner takes part in joint campaigning where the following circumstances are all present:

- they enter into a **plan or other arrangement** with one or more other non-party campaigners

⁴¹ s73 PPERA 2000

⁴² s50(2) PPERA 2000

⁴³ s94(7) PPERA 2000

- all non-party campaigners involved **intend to incur** controlled expenditure in pursuance of that plan or arrangement
- one or more of the non-party campaigners involved **actually incurs** controlled expenditure in pursuance of the plan or arrangement and
- that plan or arrangement can reasonably be regarded as **intending to achieve a common purpose**.⁴⁴

7.4 All the spending on the joint campaign counts towards the spending limit of each of the non-party campaigners involved in the joint campaign.

What is joint campaigning

There must be more than one non-party campaigner

7.5 An existing umbrella organisation that makes decisions about their campaign activity independently will not be joint campaigning unless they enter into a plan or arrangement with other non-party campaigners in which they all intend to incur controlled expenditure.

7.6 A new organisation set up to carry out campaign activity that constitutes a group of other organisations and then spending money is not joint campaigning.

There must be an agreed understanding that controlled expenditure will be incurred to achieve the common purpose

7.7 If there is no intention to incur expenditure there is no joint campaigning. For example, if it is agreed that all activity will be carried out by volunteers no spending will be incurred and there will be no joint campaigning.

There must be an agreed understanding as to the scope and purpose of the campaign

7.8 Non-party campaigners who happen to campaign about similar or related issues are not joint campaigners.

There must be an agreed understanding between the non-party campaigners that each of them will incur controlled expenditure to achieve the common purpose

7.9 All controlled expenditure incurred in pursuance of the plan or arrangement will fall within joint campaigning controls.

7.10 Joint campaigning is not simply

- transferring or lending items to another campaigner or
- providing money to another campaigner

⁴⁴ s94(6) PPERA 2000

7.11 This must be treated as notional spending or a donation and dealt with in accordance with the appropriate law.

7.12 Even if one of the non-party campaigners involved in the plan or arrangement does not incur their share of agreed expenditure, any expenditure incurred will still be joint campaigning and must be reported by all non-party campaigners involved.

7.13 Any controlled expenditure incurred by a non-party campaigner that goes beyond or is incurred outside of the agreed plan or arrangement, is not part of the joint campaign but will still count towards the spending limit of the non-party campaigner incurring the expenditure.

7.14 Only spending that was agreed as part of the joint campaign counts towards the spending limit of the other non-party campaigners involved in the joint plan.

Examples of joint campaigning

- Campaigner A and campaigner B agree to run a campaign encouraging voters to vote for candidates who support a particular issue. Both campaigner A and campaigner B intend to incur controlled expenditure as part of the campaign. Campaigner A and campaigner B both incur expenditure on the joint campaign. This is joint campaigning, and the spending should be treated as such.
- Campaigner A and campaigner B agree to run a campaign encouraging voters to vote for a particular political party. Both intend to incur controlled expenditure as part of the joint campaign. Campaigner A incurs expenditure on the joint campaign, but campaigner B never spends their intended share. This is joint campaigning, and the spending should be treated as such by both campaigner A and campaigner B.
- Campaigner A and campaigner B agree to run a campaign encouraging voters to vote for a particular political party. Both intend to incur controlled expenditure as part of the joint campaign. Neither campaigner ends up incurring any controlled expenditure on the joint campaign. No joint campaigning has taken place.

Activities that are joint campaigning

7.15 Non-party campaigners who engage in the following, non-exhaustive list of activities are likely to be joint campaigners:

- A joint advertising campaign, whether digital, electronic or via other means, involving joint leaflets or joint events.
- A co-ordinated campaign; for example where it is agreed which areas are to be covered, which issues raised or which voters targeted.
- Joint working where one party can veto or must approve another party's material.

Activities that are not joint campaigning

7.16 Non-party campaigners who engage in the following, non-exhaustive list of activities are unlikely to be joint campaigners:

- Endorsing another campaign by allowing your logo/brand to be used without any financial commitment or further involvement.
- Adding your signature to a letter alongside other non-party campaigners without any financial commitment.
- Speaking freely at an event organised by another non-party campaigner without any financial commitment.
- Holding discussions about areas of common interest without coordinating campaign activity.
- Making a donation to another non-party campaigner is not joint campaigning. See sections on notional spending and donations.

Reporting spending on a joint campaign

7.17 Where there is a joint campaign, all of the spending on that joint campaign counts towards the spending limit of each of the non-party campaigners involved in the joint campaign.

7.18 All non-party campaigners involved in the joint campaign that reach the reporting threshold must report all of the spending on the joint campaign, including the spending of the other joint campaigners, **unless** one of the non-party campaigners agrees to be a lead campaigner. See section on notification and reporting requirements.

Lead and minor campaigners

7.19 Where there is a joint campaign, one of the registered non-party campaigners may agree to report **all the joint campaign spending** by each of the non-party campaigners involved in the joint campaign.

7.20 The registered non-party campaigner who agrees to report all of the joint campaign spending is known as the **lead campaigner**.⁴⁵ A non-party campaigner whose joint campaign spending is reported by a lead campaigner is known as a **minor campaigner**.⁴⁶

7.21 Where a group of campaigners jointly spend over the notification threshold but some of those campaigners do not reach the notification threshold, the lead/minor campaigner laws allow one campaigner, the lead campaigner, to submit a notification to the Commission and report all of the spending on the joint campaign. The minor campaigners do not have to submit a notification.

⁴⁵ s94A(3)(a) PPERA 2000

⁴⁶ s94A(3)(b) PPERA 2000

Notification of lead campaigner status

7.22 A non-party campaigner involved in a joint campaign who agrees to report all of the joint campaign spending must:

- Notify the Commission that they are part of a joint campaign, and they will be the lead campaigner, and
- Inform the Commission of the minor campaigners involved in the joint campaign.

7.23 A non-party campaigner may notify the Commission of their lead campaigner status, or the involvement of minor campaigners, at any time before the end of the regulated period⁴⁷.

Reporting by the lead campaigner

7.24 All spending on the joint campaign, whether by the lead campaigner or the minor campaigner(s) will count towards the lead campaigners spending limit during the regulated period.⁴⁸

7.25 The lead campaigner must report the spending on the joint campaign by themselves and by the minor campaigners in the spending return after the election, alongside any other campaign expenditure incurred by the lead campaigner separate to the joint campaign.

Notification and reporting by the minor campaigner

7.26 When the lead campaigner notifies the Commission of their lead campaigner status, they must inform the Commission of the minor campaigners involved in the joint campaign.

7.27 For the purpose of determining whether a minor campaigner meets the notification or reporting threshold, spending on the joint campaign must not be included when determining the limits if:

- The spending is part of a joint campaign that has been notified to the Commission (in which case the minor campaigners spending on the joint campaign will be treated as incurred by the lead campaigner and will count towards the lead campaigners spending limit), **and**
- The non-party campaigner is a minor campaigner at the time of incurring the spending, **and**
- The total amount of spending by the non-party campaigner, excluding any spending on the joint campaign, is less than the reporting thresholds⁴⁹.

See section on notification and reporting thresholds.

⁴⁷ s94A(1) PPERA 2000

⁴⁸ s94B(2) PPERA 2000

⁴⁹ s94B PPERA 2000

What are the donation controls?

8.1 All registered non-party campaigners must comply with the donation controls in Schedule 11 PPERA that set out who can donate to non-party campaigners.

8.2 Registered non-party campaigners that do not meet the reporting threshold must check whether the donation is from a permissible source, but they are not subject to the donation reporting requirements. See section on reporting requirements.

Donations covered by the law

8.3 The law on donations only applies to donations that are given to registered non-party campaigners, specifically towards their spending on regulated campaign activity. The law does not cover money that is received for the organisation's general purposes.

8.4 For the purposes of donations to non-party campaigners, a donation is:

- money, goods, property or services⁵⁰
- given for the purpose of regulated campaign activity⁵¹ and
- without charge or on non-commercial terms and with a value of more than £500.⁵²

8.5 Anything with a value of £500 or less is not a donation for the purposes of PPERA.

Who can donate to a non-party campaigner

8.6 Non-party campaigners can only accept donations from individuals or organisations that are on the list of permissible sources as set out in s.54(2) PPERA.⁵³

8.7 Non-party campaigners must not accept donations from a registered political party.⁵⁴

Valuing non-monetary donations

8.8 Non-party campaigners must put a value on any non-monetary donation. The value of a donation is the difference between the value of what is received, and the amount, if any, that the non-party campaigner pays for it.⁵⁵

8.9 Items that are received for free or at a non-commercial discount, where the difference in the commercial value and what was actually paid for it is more than £500, is a donation for the purposes of PPERA.

⁵⁰ Sch 11 para 2 PPERA 2000

⁵¹ Sch 11 para 1(4) PPERA 2000

⁵² Sch 11 para 4(2) PPERA 2000

⁵³ Sch 11 para 6(1) PPERA 2000

⁵⁴ Sch 11 para 1(6) PPERA 2000

⁵⁵ Sch 11 para 5 PPERA 2000

Checks on donations

8.10 When a non-party campaigner receives a donation of more than £500, they must promptly check whether the donation is from a permissible source.

8.11 Where a donation is received via an agent, the non-party campaigner must be able to identify the identity of the true donor.⁵⁶ The agent must provide details of the true donor.⁵⁷

8.12 Donations from impermissible or unidentified donors must be returned within 30 days of receipt of the donation.⁵⁸ Non-party campaigners must keep records of the donations that are received, as well as donations that have been returned. These details must be included when the donation is reported to the Commission.

⁵⁶ Sch 11 para 6(4) and (6) PPERA 2000

⁵⁷ Sch11 para 6(4), (6) and (7) PPERA

⁵⁸ Sch 11 para 7 PPERA 2000

Annex A

This Annex sets out a non-exhaustive list of the kinds of expenses that do, or do not, fall within the meaning of ‘qualifying expenses’ in Schedule 8A PPERA (that may be regarded as ‘controlled expenditure’ within the meaning of section 85(2)).

Expenses fall within the meaning of qualifying expenses if they are expenses incurred in respect of any of the matters set out in paragraph 1 of Schedule 8A.

Schedule 8A, paragraph 1(1)

The production or publication of material which is made available to the public at large or any section of the public (in whatever form and by whatever means).

This paragraph includes:

Services, equipment, facilities or premises provided by others

This includes the cost of use, or hire, of any:

- agency, individual or organisation
- services provided by any agency, individual or organisation
- premises or facilities
- equipment

that is used to:

- prepare, produce or publish material which is made available to the public at large or any section of the public

For example, the hire of a photographer and premises to produce images for use in advertising material.

Specific costs in connection with producing or disseminating digital or electronic advertising material

This includes the cost of any software, of any kind, for use on any device to:

- design and produce advertising material in-house
- disseminate or facilitate dissemination of advertising material

whether that material is distributed digitally, electronically or via other means.

For example, a licencing fee for a software application for use on a device.

It also includes any cost attributable to increasing the visibility of content by any means.

For example, the purchase of a more prominent position on a page within a search engine.

It includes the cost of preparing, producing or facilitating the production of advertising material for:

- download and use by others
- posting on and promoting material via any kind of social media channel or platform

For example, the costs of producing advertising material promoting the campaign that is posted to a page on a social media channel encouraging followers to share it.

It includes the cost of accessing, purchasing, developing and maintaining any digital or other network which:

- facilitates distribution or dissemination of material by any means
- promotes or increases the visibility of material by any means

For example, the purchase of digital identities to make material appear as if it has been seen and approved by a high number of users on a social media platform.

It includes the costs of:

- hosting, maintaining, designing or building a website or other electronic/digital material that promotes the outcome of the election
- any licensing or other rights fee for any image used in producing relevant material

Other costs

It includes the cost of purchase and use of any equipment used for:

- the preparation, production or facilitating the production of the material
- dissemination of the material by distribution or otherwise

It includes the cost of:

- paper or any other medium on which material is printed or displayed
- physically displaying material in any location, for example cable ties or glue for putting up posters

It includes the cost of printing material or the purchase, hire or use of:

- photocopying equipment
- printing equipment

It includes the cost of accessing, obtaining, purchasing, developing or maintaining:

- IT software or contact databases
- any information, by whatever means, that is used to facilitate the sending of material to voters (for example, the purchase of email addresses)

It includes the cost of accessing, obtaining, purchasing developing or maintaining data sets, including data analytics to target voters by whatever means, including the cost of agencies, organisations or others that identify groups of voters, by whatever means.

For example, the cost of any agency paid to analyse social media content to facilitate targeting of voters across electoral areas and the cost of modelling by any agency based on that analysis.

It includes any services to identify voters that are purchased, developed or provided before the regulated period, but are used to target voters during the regulated period. Where information or access to information is obtained from an external source, it includes the commercial cost of obtaining that information from the external source.

It includes delivering material by any means including electronic means, for example the purchase of a system for sending emails or a licensing fee for a software application for use on a device, as well as physical distribution, for example the cost of envelopes and stamps.

It includes oversight and maintenance of all social media, digital or other forms of distribution of material including the maintenance of all social media accounts whether or not maintained by another entity/individual.

Schedule 8A, paragraph 1(2)

Canvassing, or market research seeking views or information from, members of the public.

This paragraph includes:

Services, premises, facilities, or equipment provided by others

It includes the cost of use, or hire, of any:

- agency, individual or organisation
- services provided by any agency, individual or organisation
- premises or facilities
- equipment

used to:

- to prepare, produce, facilitate, conduct or co-ordinate canvassing or market research including recording or analysing or otherwise utilising the results of any market research or canvassing activity

For example, the cost of using phone banks to contact voters, including the development of scripts for use by phone bank employees that are designed to influence voters.

Costs of obtaining or maintaining data

This includes the cost of accessing, purchasing, developing and maintaining:

- IT software or contact databases
- data sets, including the use of data analytics to facilitate or undertake market research or canvassing

For example, it includes the cost of undertaking social media listening and analysing the result to analyse the intention of voters.

Other costs

It includes the cost of any purchase and use of any equipment required to:

- prepare, produce or facilitate canvassing or market research
- conduct or co-ordinate canvassing or market research
- record or analyse or otherwise utilise the results of any market research or canvassing activity

For example, laptops or tablets if used for canvassing and mobile phones if used by the leader/co-ordinator of the canvassing where that equipment and/or associated costs are paid for or reimbursed by registered third party.

Schedule 8A, paragraph 1(3)

Press conferences, or other media events, organised by or on behalf of the third party.

This paragraph includes:

Cost of press conferences or other dealings with the media

This includes the cost of purchase, use or hire of any:

- agency, individual or organisation
- services provided by any agency, individual or organisation
- equipment
- premises or facilities

used to prepare, produce, facilitate or conduct press conferences or other media events.

Other costs

It includes the costs of any rights or licensing fee for any image used in preparation, production, facilitating or conducting press conferences or other media events.

It includes the cost of purchase and use of any equipment in connection with preparation, production, facilitating or conducting press conferences or other media events.

Schedule 8A, paragraph 1(4)

Transport (by any means) of persons to any place or places with a view to obtaining publicity.

Expenses in respect of the transport of such persons include the costs of hiring a particular means of transport.

This paragraph includes:

Transport of volunteers or campaigners

It includes the cost of transporting:

- volunteers
- members, including staff members
- others campaigning on behalf of the non-party campaigner

around an electoral area, or to and from an electoral area, including the cost of:

- tickets for any transport,
- hiring of any transport
- fuel purchased or electric vehicle charging costs for any transport
- parking for any transport

where they are undertaking campaigning on behalf of the non-party campaigner.

Other costs

This includes the cost of use, or hire, of any vehicle or form of transport that displays material promoting the election result, including:

- design and application of the design to the vehicle or form of transport
- travelling between electoral areas
- travelling around an electoral area
- parking fees where a vehicle is used to display material

Reportable costs include all transport costs associated with one of the other listed activities. For example, transporting someone to a rally.

Schedule 8A, paragraph 1(5)

Public rallies or other public events, other than—

- (a) annual conferences of the third party, or*
- (b) any public procession or protest meeting, within the meaning of the Public Processions (Northern Ireland) Act 1998, in respect of which notice is given in accordance with section 6 or 7 of that Act (advance notice of public processions or related protest meetings).*

Expenses in respect of such events include costs incurred in connection with the attendance of persons at such events, the hire of premises for the purposes of such events or the provision of goods, services or facilities at them. But expenses in respect of such events do not include costs incurred in providing for the protection of persons or property.

This paragraph includes:

Services, premises, facilities or equipment provided by others

This includes the cost of use, or hire, of any:

- agency, individual or organisation
- services provided by any agency, individual or organisation
- premises or facilities
- equipment

used in:

- promoting a rally or other event
- holding or conducting a rally or other event
- live streaming or broadcasting a rally or other event by any means

Other costs

It includes the cost of promoting or advertising the rally or event by any means.

It includes the provision of any goods, services or facilities at the event, for example the cost of hiring seating.

It includes the purchase of any equipment in connection with:

- holding or conducting a public meeting
- live streaming or broadcasting a public meeting by any means

Costs that are excluded

Reportable costs do not include the cost of providing specific security for any person appearing or attending at the event or the costs of providing general security for persons or property at the event.