

Explanatory Memorandum to the Non-Party Campaigner Campaign Expenditure (Senedd Elections) Code of Practice 2025

This Explanatory Memorandum has been prepared by the Elections Division and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.14.

Cabinet Secretary's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Non-Party Campaigner Campaign Expenditure (Senedd Elections) Code of Practice 2025.

Jayne Bryant MS
Cabinet Secretary for Housing and Local Government

15 December 2025

PART 1

Description

1. The Non-Party Campaigner Campaign Expenditure (Senedd Elections) Code of Practice 2025 ('the Code') gives guidance as to the operation of Part 6 of Political Parties, Elections and Referendums Act 2000 ('PPERA 2000') for third parties during the regulated period for Senedd elections including during a combined regulated period where applicable.
2. The 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
 - the recording and reporting requirements (including for combined regulated periods).

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

3. This version of the Code includes revisions made by the Electoral Commission to address issues identified in the version of the Code laid on 13 October 2025¹ and subsequently withdrawn.

Legislative background

4. The Electoral Commission has a duty under section 100A(1A) of PERA 2000 to prepare a Code of Practice giving guidance on the operation of Part 6 of PERA 2000 for third parties during the regulated period for Senedd elections, including during a combined regulated period where applicable.
5. The draft Code was prepared by the Electoral Commission and initially submitted to the Welsh Ministers for approval in October. The Welsh Ministers approved the draft Code with modifications, and, at the same time as the Code, laid before the Senedd a statement of reasons for making those modifications. This version was later withdrawn, following consideration by the Legislation, Justice and Constitution Committee.

¹ [SL\(6\)657 - Non-Party Campaigner Campaign Expenditure \(Senedd Elections\) Code of Practice 2025 - WITHDRAWN](#)

6. This revised draft Code is laid before the Senedd by the Cabinet Secretary for Housing and Local Government under section 100C(3) of PPERA 2000. The Code incorporates amendments and has undergone additional equivalence checking. The Welsh Ministers have approved the revised Code without modification, therefore no Statement of Reasons is required.
7. The draft Code will follow the draft negative procedure. Unless the Senedd resolves not to approve the draft within 40 days of its being laid, the Code will be issued by the Welsh Ministers, brought into force by the Welsh Ministers by order, and published by the Electoral Commission.

Purpose and intended effect of the legislation

8. Non-party campaigner spending before an election to the Senedd is regulated. This regulated period is usually the four-month period up to and including the day of the poll.
9. The regulated period for the 2026 Senedd election begins on 7 January 2026, and ends on polling day, 7 May 2026.
10. The Code applies to elections to the Senedd. It gives guidance as to the operation of Part 6 of PPERA 2000 for third parties during the regulated period for Senedd elections including during a combined regulated period where applicable.
11. Section 100A(5A) of PPERA 2000 provides a defence for a non-party campaigner charged with an offence under Part 6 PPERA 2000. It is a defence for a non-party campaigner to show that they complied with the Code in determining whether their campaign activity was regulated.
12. A non-party campaigner can only spend more than £700 on regulated campaign activity if they are listed under section 88(2) PPERA 2000 as eligible to give a notification to the Electoral 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 Electoral Commission.
13. Eligible non-party campaigners intending to spend more than £10,000 on regulated campaign activity must submit a notification to the Electoral 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.
14. Once a non-party campaigner appears on the register of notifications, following submission of a notification, the Electoral Commission will refer to them as a 'registered non-party campaigner'. Following its submission of a notification to the Electoral Commission, the registered non-party campaigner must appoint a 'responsible person'. The responsible person is legally responsible for compliance with PPERA 2000.

15. 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:
- 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 events
16. 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'. 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.
17. Registered non-party campaigners who spend more than £10,000 on regulated campaign activity must record and report their spending (including notional spending) and any donations to the Electoral Commission.

Consultation

18. The Code 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. [Consultation on the Code of Practice for non-party campaigners at Senedd elections | Electoral Commission](#)
19. Following consultation, footnotes were added and parts of the regulated period section were reworded to make the language clearer and align it with similar amendments to the Scottish NPC Code.
20. The Welsh Government laid the Code before the Senedd, on behalf of the Electoral Commission. Following consideration of the Code by the Legislation, Justice and Constitution Committee, the Welsh Government withdrew the Code. The Electoral Commission then made a number of minor technical and presentational changes to address the Committee's reporting points. The Welsh Government supported the Electoral Commission with this and commissioned external equivalence checking to address points relating to equivalence of English and Welsh versions of the Code. These changes did not affect the purpose and intended effect of the Code.

Regulatory Impact Assessment (RIA)

21. 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.

22. The Code has been prepared by the Electoral Commission under section 100A(1A) of PPERA 2000 and has not been made by the Welsh Ministers, the First Minister or the Counsel General. As such, the Code does not satisfy the section 76 criteria and a Regulatory Impact Assessment is therefore not required.