

Overview of regulated non-party campaigning

This document explains what campaign activity is regulated and the rules non-party campaigners may need to follow

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Translations and other formats

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Terms and expressions we use

You will normally be doing enough to comply with the law if you follow this guidance.

We use '**must**' when we refer to a specific requirement. We use '**should**' for items we consider to be minimum good practice, but which are not legal or regulatory requirements.

Our approach to enforcement

The Commission regulates political funding and spending. We are committed to providing those we regulate with a clear understanding of their regulatory obligations through our guidance documents and advice service.

Wherever possible, we use advice and guidance proactively in order to secure compliance. And we regulate in a way that is effective, proportionate and fair.

If you do not comply with legal or regulatory requirements you or your organisation may be subject to civil or criminal sanctions. You can find more information about the Commission's approach to enforcement at

www.electoralcommission.org.uk/party-finance/enforcement

Regulated non-party campaigning

Who this document is for:

Non-party campaigners who want to understand if they are spending on regulated campaign activity.

This document covers:

- an introduction to regulated campaign activity
- the purpose test
- the public test
- what counts as regulated campaign activity
- applying the purpose test to different types of campaigns

Related documents:

- [Introduction for non-party campaigning](#)
 - [Overview of non-party campaigns](#)
 - [Managing non-party campaign spending](#)
 - [Joint campaigning for non-party campaigners](#)
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Summary

Under the Political Parties Elections and Referendums Act 2000 (PPERA), there are rules on what non-party campaigners can spend on regulated campaign activity in the run-up to certain elections.

This guidance explains what we mean by ‘regulated campaign activity’.

Introduction

Non-party campaigners are individuals or organisations that campaign in the run-up to elections, but are not standing as political parties or candidates.

In electoral law, these individuals or organisations are called 'third parties'. Where non-party campaigners have registered with the Electoral Commission they are called 'recognised third parties'; in our guidance, we call recognised third parties 'registered non-party campaigners'.

You may want to campaign on particular issues or for or against particular parties or candidates.

The two types of non-party campaigns

There are two types of non-party campaigns:

- **Local campaigns** – non-party campaigns for or against one or more candidates in a particular constituency, ward or other electoral area
- **General campaigns** – non-party campaigns for or against a political party, or particular categories of candidates, including campaigns on policies or issues closely associated with a particular party or category of candidates (for example, candidates in a certain age group)

This guidance covers general campaigns only. You can find more information on the two types of campaigns in [Overview of non-party campaigns](#).

In the run-up to certain elections, there is a set time when the rules on spending and donations apply. We call this the 'regulated period'. The regulated period will differ depending on which election is being held.

If you spend, or plan to spend, more than £20,000 in England, or **£10,000 in any of Scotland, Wales or Northern Ireland** on regulated campaign activity during a regulated period, you must register with us as a non-party campaigner. You can find more information about registering with us in [Registering as a non-party campaigner](#).

If you register with us, you will have a higher spending limit. The spending limits will depend on which election you are

The PPERA rules on general non-party campaigning apply to the following elections being held on 5 May 2016:

- [Scottish Parliament](#)
- [National Assembly for Wales](#)
- [Northern Ireland Assembly](#).

Elections taking place in England on 5 May 2016 are covered by the rules on local campaigns only.

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campaigning in. Once you are registered, there are rules you must follow on donations, spending and reporting.

This guidance explains what we mean by 'regulated campaign activity'. You should read this guidance to understand whether spending on your campaigning is covered by the rules and if you need to register with us as a registered non-party campaigner.

What is regulated campaign activity?

The non-party campaigning rules apply to spending on what we call 'regulated campaign activity'.

The following will be 'regulated campaign activity' if they can reasonably be regarded as intended to influence voters to vote for or against political parties or categories of candidates, including political parties or categories of candidates who support or do not support particular policies or issues (we call this the '**purpose test**')

- press conferences or other media events that you organise
- transport in connection with publicising your campaign

As well as meeting the purpose test, spending on the following activities is only regulated if the activities are **also** aimed at, seen or heard by, or involve the public (we call this the '**public test**'): This applies to:

- the production or publication of election material (such as leaflets, adverts and websites)
- canvassing and market research (including the use of phone banks)
- public rallies and public events

This guidance explains how to apply these tests to campaign activities. To see more examples of how the rules apply, see our factsheets on [Common campaigning techniques](#).

For more information on campaign activity, see:

- [Overview of non-party campaign activity](#)

The purpose test

Spending on campaign activity during a regulated period will only be regulated if the activity can reasonably be regarded as intended to influence voters to vote for or against:

- one or more political parties
- political parties or candidates that support or do not support particular policies or issues or
- categories of candidate, for example, candidates in a certain age group

Campaign activity can meet the **purpose test** even if it does not name a particular party or candidate. For example, campaigning for a policy that is closely and publicly associated with one or more political parties can meet the **purpose test**.

Even if you intend your campaign activity to achieve something else, such as raising awareness of an issue, it can still meet the **purpose test** if it can also reasonably be regarded as intended to influence how people vote.

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Applying the purpose test

In almost all cases, an activity will meet the purpose test if it:

- identifies political parties or candidates who support or do not support your campaign's aims
- sets out or compares the position of political parties or candidates on a policy you are promoting in a way that can reasonably be regarded as intended to influence voters to vote for or against particular parties or candidates
- promotes or opposes policies which are so closely and publicly associated with a party or parties or with categories of candidate that it is reasonable to regard your campaign activity as intended to influence voters to vote for or against political parties or candidates

How to decide whether your campaign activity meets the purpose test

To assess whether your campaign meets the purpose test you should consider:

Tone. For example, is the tone of your campaign negative or positive towards a political party or parties, or category of candidate, or a policy that a party or category of candidate supports or does not support?

Context and timing. For example, are you campaigning on an issue that is prominent in public debate? Are you campaigning on an issue that clearly represents an area of difference between political parties? Are you campaigning as a reaction to a policy or position of a political party? Are you campaigning close to the date of an election (campaigning very close to an election may make it more likely that you will pass the purpose test)?

Call to action. For example, is your campaign asking people (whether explicitly or implicitly) to vote for a particular political party, parties or category of candidate at an upcoming election?

How a reasonable person would see your activity. Would a reasonable person regard your campaign as intended to influence people's voting choices?

These factors should be considered as a whole rather than individually. If, on balance, the answer to these questions is yes, it is more likely that your campaigning activity will meet the **purpose test**.

The public test

Even if they meet the **purpose test**, the following activities will only be regulated campaigning activity if they also meet the **public test** – that is, if the activity is aimed at, seen or heard by, or involves the public, or a section of the public:

- production or publication of election material
- canvassing and market research
- public rallies or other public events

Members and committed supporters

Your organisation's official members or 'committed supporters' (people who support your organisation in the same way as members) will **not** be considered part of the public.

The exact nature of 'committed supporters' will vary between organisations, but they could include:

- regular donors by direct debit
- people with an annual subscription
- people who are actively involved in your organisation

Generally, activities aimed exclusively at your members or committed supporters will not meet the public test and so will not be considered regulated campaign activity.

If you are an umbrella organisation, or have a federated structure with autonomous branches, you will need to consider how to establish the facts about who are your members and committed supporters.

People you regularly communicate with

People that your organisation regularly communicates with, such as people who:

- have signed up to social networking sites or tools (for example, Facebook groups or Twitter feeds)
 - are on mailing lists that have been compiled for general commercial purposes (for example, a business's customer records)
 - have signed up for email updates
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are members of the public **unless** they are also members or committed supporters of your organisation.

Communications that go both to the public and to members and/or committed supporters

Your organisation may have a general mailing list that includes members, committed supporters and other people you regularly communicate with.

In such cases, you should make an honest and reasonable assessment of what proportion of those on the mailing list are members of the public and what proportion are your organisation's members and committed supporters; and apportion the costs that relate to communicating with members of the public to your regulated campaign spending.

For more information on how to apportion the cost of a regulated campaign activity see

- [Managing non-party campaign spending](#)

Regulated campaign activities

This part of the guidance explains when an activity will be a regulated campaign activity.



Election material

*The production or publication of election material (such as leaflets, adverts and websites) will be regulated campaign activity if the material meets the **purpose test** and the **public test**.*

For information on the purpose test, refer to page 5.

Material that you send to your members or committed supporters

Material you send to members or committed supporters does not count as election material, as long as it deals with issues that fall within your organisation's aims and objectives.

Websites and blogs

Website content, including blogs, will meet the **public test**. It will also meet the **purpose test** if it:

- contains content that can reasonably be regarded as intended to influence voters; and
- is advertised (or otherwise promoted) to the public in connection with your campaign.

Advertising or promoting can include:

- giving the website address as a source for more information on other campaign material, or in other communications such as email updates
- enhancing the website's position in search engine result lists
- placing links on other websites
- organised viral marketing or similar activities.

Regulated campaign activity does not include:

- anything (except adverts) appearing in a newspaper or on a licensed broadcast channel
- translating material to or from Welsh from or into English
- volunteer time, including time spent by your staff that you do not pay them for
- reasonable costs incurred that are attributable to an individual's disability

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Social media

Generally, all material published on social media as part of a campaign will meet the **public test**. You will need to consider whether it meets the **purpose test**.

If spending on social media meets the purpose and public tests, you must account for the cost of producing, updating and distributing this material. In many cases, the costs of posting material on a social media site, for example sending a tweet or updating a Facebook page, will be negligible.

More information on managing your spending on social media can be found in [Managing non-party campaign spending](#).

Newspapers and periodicals

The production or publication of any content – other than an advertisement – in a newspaper or periodical (including online versions of newspapers and periodicals) is **not** regulated campaign activity.

However, if you **advertise** in a newspaper or periodical, the advertisement **will** be considered election material if the advertisement meets the purpose and public tests.

Imprints on election material

An imprint is added to election material to show who is responsible for its production. It helps to ensure that there is transparency about who is campaigning at an election. An imprint **must** be included on all printed election material. An imprint **should** be added to all electronic material.

You can find further information in our [factsheet](#).

Canvassing or market research

*Canvassing or market research will be regulated campaign activity if it meets the **purpose test**, and the **public test**.*

For information on the purpose test, refer to page 5.

Canvassing and market research may include activities such as:

- door knocking or other ways to canvass or collect information from members of the public
- using phone banks to call members of the public to promote a particular party or categories of candidate, or to find out how an individual intends to vote

The public test

If your canvassing or market research activity meets the **purpose test** but is conducted only with your organisation's members and/or committed supporters, it will **not** be regulated campaign activity because it does not meet the **public test**.

For more information on who are your organisation's members and committed supporters, refer to page 7.



Regulated campaign activity does not include:

- canvassing, or undertaking market research on, your members or committed supporters
- volunteer time, including time spent by your staff that you do not pay them for
- translating material from English into Welsh or Welsh into English

Press conferences and media events

*A press conference or media event will be considered regulated campaign activity if it is organised by you or on your behalf, and it meets the **purpose test**.*

For information on the purpose test, refer to page 5.

The media will often ask organisations for comment on particular issues or events. If you are responding to queries from the media, any comment or statement made by you will **not** be considered regulated campaign activity.

Press releases will not generally be considered regulated campaign activity if they are only sent to the media.

If you do not specifically invite the media to an open event you are holding, but the media attend anyway, it will not generally be regarded as a media event. However, it may be regarded as a public rally or event. For more information on public rallies and events, refer to page 14.

If you hold a members only event that you invite the media to, this will usually be a media event.

Transport in connection with publicising your campaign

*Transport costs will be considered regulated campaign activity if you transport people in order to publicise a campaign that meets the **purpose test**.*

For example, you may have a 'battle bus' that you use as part of your campaign.

For information on the purpose test, refer to page 5.

Most spending on transport is unlikely to fall within this category of regulated campaign activity. However, spending on transport may fall within another category of regulated campaign activity.

For example, if you hire a van and place advertisements on the van, this may count as election material, or if you hire a mini bus to take your supporters to a public rally, the transport costs may need to be counted as part of the costs of holding the public rally.



Regulated campaign activity does not include reasonable personal expenses incurred by an individual in travelling or providing for the individual's personal needs.

Public rallies and events

*A rally or event will be considered regulated campaign activity if it meets the **purpose test** and the **public test**.*

For information on the purpose test, refer to page 5.

The public test

Generally a rally or event held during the regulated period will meet the **public test** if:

- the public, or a section of the public, are invited or allowed to attend the rally or event (including by way of payment of a fee) or
- the rally or event can be seen or heard by members of the public, or a section of the public.

For example, if your organisation holds a members-only rally in a town square, or a march through a busy town centre, it will meet the **public test** because members of the public can see the rally (even if only members of your organisation are taking part in the rally).

If you hold a rally or event indoors, it will meet the **public test** if you have promoted the rally or event to members of the public or a section of it, for example, by promoting it through advertisements in the newspaper and leafleting.

What rallies and events are not regulated?

Public rallies and events are not regulated if they are:

- your organisation's annual conference
- a public procession or protest meeting in Northern Ireland, where notice has been given under the Public Processions (Northern Ireland) Act 1998
- indoor events that are only open to your members and no media have been invited or
- 'hustings' that would not reasonably be regarded as intended to promote or oppose particular parties or categories of candidate



Hustings may be considered a public event if they are run in such a way that promotes or opposes a particular party or candidate or categories of candidate. This may occur, for example, if you only invite candidates who hold or do not hold particular views.

For more information on hustings see this document:

[Elections May 2016: Hustings](#)

What isn't included in campaign spending?

Spending on the following activities is not covered by the rules on non-party campaigning:

- material that you send to your members or committed supporters
 - volunteer time, including time spent by your staff that you do not pay them for
 - people's travel or personal expenses linked to the campaign if you do not reimburse them
 - anything (except adverts) appearing in a newspaper or on a licensed broadcast channel
 - annual conferences
 - public processions or protest meetings in Northern Ireland, where notice has been given under the Public Processions (Northern Ireland) Act 1998
 - providing security at a public rally or public event
 - translating material from English to Welsh or vice versa
 - reasonable costs incurred that are attributable to an individual's disability
 - anything that counts as campaign spending by a registered political party or a candidate unless it is caught by the rules on targeted spending
 - More information on targeted spending can be found in our guidance [UK Parliamentary general election 2015: Targeted spending in support of a political party](#) and [Managing non-party campaign spending](#).
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Applying the purpose test to different types of campaigns

Campaigning on policies or issues

During a regulated period, you may wish to spend money on campaigning to promote or oppose a particular policy or issue.

Your primary purpose in campaigning might be to change political parties' or candidates' views on a policy or issue. However, if a policy or issue is so publicly and closely linked to a particular political party or parties, or to a category of candidates, that it is reasonable to regard campaigning for or against the policy or issue as intended to influence who voters vote for, then the campaign will meet the **purpose test**.

Many campaigns on a policy or issue will **not** meet the purpose test if the policy or issue in question is not publicly and closely associated with a particular party or parties, or category of candidates.

If you are undertaking a campaign on a policy or issue, you should consider the factors set on pages 17-18.

Policies that you have been campaigning on that are later adopted by a political party

Sometimes, a political party may publicly adopt policies that you are already campaigning for.

If your campaign was not previously regulated, your subsequent campaign activity is unlikely to become regulated campaign activity simply because a party has changed its position. However, it may become regulated campaign activity if, for example, you:

- publicise the political party's support in your subsequent campaigning, or
- alter or increase your campaigning activity on the policy as a result of their support.

Campaigning for or against government legislation

During a regulated period, you may wish to undertake campaign activity aimed at supporting or opposing proposed government legislation.

Provided that your campaign activity is clearly aimed at supporting or opposing the proposed legislation of the government of the day, and not the proposed policies that the party or parties in government will take to the election, your campaign activity will generally not be regulated.

However, if your campaign can reasonably be regarded as intended to influence who voters vote for at the election as well as supporting or opposing the legislation, it will be considered regulated campaign activity.

Example

During a regulated period in the run-up to an election, the government introduces a Bill into Parliament that your organisation opposes.

Your organisation decides to hold a press conference and hands out leaflets to the public to try and ensure that the Bill does not become law.

In determining whether your campaign activities during a regulated period will be regulated campaign activity, you should consider:

Tone.

If your campaign focuses on why the Bill should not become law, it is less likely to be regulated campaign activity.

If your campaign focuses particularly on the political parties, or members of the parties, that support or do not support the Bill, it is more likely to be regulated campaign activity.

If your campaign also argues that people should not support the party or parties in government at the election, it is more likely to be regulated campaign activity.

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Context and timing.

If your campaign has been timed to coincide with Parliamentary debates on the Bill, it is less likely to be regulated campaign activity.

If you continue your campaign after the Bill has passed into law – and there is an upcoming election with parties or candidates standing on whether the law should be kept or repealed - your campaign is more likely to be regulated campaign activity.

Your call to action.

If you are asking members of the public to lobby their MP to oppose the Bill, it is less likely to be regulated campaign activity.

If you are asking members of the public to vote for particular parties or categories of candidates at an upcoming election because of their position on the Bill, this will be regulated campaign activity.

How a reasonable person would see your activity.

If a reasonable person would regard the aim of your campaign is stopping the Bill by lobbying MPs to vote a certain way in Parliament, it is less likely to be regulated campaign activity.

If a reasonable person would regard the aim of your campaign is to encourage voters to vote against the party or candidates who supported the Bill, it is more likely to be regulated campaign activity.

To see more examples of how the rules apply, see our factsheets on [Common campaigning techniques](#).

Providing information to voters

You may wish to provide information to voters about the general policies and positions of the various parties that are standing for election.

Information given to voters about the policy positions of political parties will not generally be considered regulated campaign material if:

- the tone and content of the information is factual, neutral and unbiased and you do not suggest that the parties' policies should be supported or opposed and
- you provide information about all parties standing in the election, or you have objective reasons for not providing information about the policies of one or more parties

Objective reasons may include the national prominence of the parties or recent election results. It does not include subjective reasons such as your views about the policies of the party

How we can help

You can find more information in the guidance documents we have suggested in this document, or you can view our full range of guidance and up-to-date resources on our website.

You can contact us on one of the phone numbers or email addresses below. We are here to help, so please get in touch.

Call us on:

- England: 0333 103 1928
pef@electoralcommission.org.uk
- Scotland: 0333 103 1928
infoscotland@electoralcommission.org.uk
- Wales: 0333 103 1929
infowales@electoralcommission.org.uk
- Northern Ireland: 0333 103 1928
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Visit us at www.electoralcommission.org.uk

We welcome feedback on our guidance – just email us at:
pef@electoralcommission.org.uk