

Situations and procedures

The EU Referendum and May 2016 elections

This document is for EU Referendum campaigners, non-party campaigners and political parties to explain the impact of the rules for the EU referendum and the May 2016 elections to the Scottish Parliament, National Assembly for Wales and Northern Ireland Assembly applying during the same period.

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Translations and other formats

For information on obtaining this publication in another language or in a large-print or Braille version please contact the Electoral Commission:

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Email: publications@electoralcommission.org.uk

Terms and expressions we use

We use '**must**' when we refer to a specific legal or regulatory requirement. We use '**should**' for items we consider to be minimum good practice, but which are not legal requirements. You do not have to follow this guidance, but if you do, you will normally be doing enough to comply with the law.

Our approach to enforcement

The Commission regulates political funding and spending in a way that is effective, proportionate and fair. We are committed to providing those we regulate with a clear understanding of their regulatory obligations through our guidance documents and advice service. If you are unsure of how any of the rules apply to you, please call us for advice. We are happy to help, so please get in touch.

We use advice and guidance proactively in order to secure compliance. And we take enforcement action, using our investigatory powers and sanctions, where it is necessary and proportionate to do so in order to meet our enforcement aims and objectives.

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

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The EU Referendum and May 2016 elections

This document explains:

The impact of the rules for the EU referendum and the rules for political parties and non-party campaigners for the 2016 Scottish Parliament, National Assembly for Wales and Northern Ireland Assembly elections applying at the same time.

The document covers:

- who needs to register
- when spending is regulated
- how to approach the overlapping regulated periods
- examples
- registering with us

Related documents:

- [Overview of campaigning and registering for EU referendum campaigners](#)
- [Overview of non-party campaigns](#)
- [Overview of regulated non-party campaigning](#)
- [Registering as a non-party campaigner](#)

Summary

Under the Political Parties Elections and Referendums Act 2000 (PPERA), there are rules on spending for:

- non-party campaigners and political parties in the run up to elections; and
- referendum campaigners in the run-up to a referendum.

Before a referendum and certain elections are held there is a formal campaigning period. We call this the referendum period for referendums and the regulated period for elections. During this period, certain rules on campaigning and spending apply.

There is an overlap between the regulated period for the May 2016 elections and the EU referendum period between 15 April and 5 May. You should read this document to understand how the spending rules will apply to you if you are a:

- registered non-party campaigner or thinking of registering; or
- political party; or
- registered referendum campaigner or thinking of registering as a referendum campaigner

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Introduction

The referendum on the United Kingdom's membership of the European Union will be held on 23 June 2016. The referendum period starts on 15 April 2016.

The following elections are taking place on 5 May 2016:

- Scottish Parliament election
- National Assembly for Wales election
- Northern Ireland Assembly election
- Police and Crime Commissioner elections in England and Wales
- London Mayor and Assembly elections
- Local elections in England

For the elections in Scotland, Wales and Northern Ireland there is a regulated period for parties and non-party campaigners. The regulated period commenced on 5 January 2016 and ends on polling day, 5 May.

This means that there will be a period of time when the referendum period and the regulated period overlap and when both sets of rules are in operation. We call this the 'overlapping regulated period'. During this time certain rules will apply on campaigning and spending for **both** the referendum and the elections.

This document explains how the rules apply if you are spending money on campaigning at both the referendum and the elections during the overlapping regulated period and will help you make a decision on:

- whether you will need to register as a non-party campaigner, a referendum campaigner or both
- whether you will need to split your spending
- how to report your spending

Who needs to register?

Referendum campaigners

Referendum campaigners that want to spend more than £10,000 on campaigning during the referendum period must register with us. Referendum campaigning is spending money on certain campaign activities that are intended to, or are otherwise in connection with, promoting or bringing about a particular outcome in the referendum. This includes political parties.

Non-party campaigners

Non-party campaigners are individuals or organisations that campaign in the run-up to elections, but are not standing as political parties or candidates. Non-party campaigners that want to spend more than £10,000 on regulated campaign activity in any of Scotland, Wales or Northern Ireland during the regulated period must register with us. Spending on certain campaign activities is regulated if it 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.

Registering

You must register separately as a non-party campaigner and a referendum campaigner if you meet the registration requirements above. This is because there are separate rules for the May elections and the referendum.



Where you incur campaign spending on items or services used during the overlapping regulated period, you must allocate a proportion of that spending to a particular election or elections or to the referendum. **Each piece of spending will only need to be reported once, as either non-party campaign or party spending or as referendum spending.**

Information on registering as a non-party campaigner can be found on page 16 and information on registering as a referendum campaigner can be found on page 16.

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When is spending regulated?

The regulated and referendum periods are the times when the rules on spending apply. There are also rules on checking, accepting and reporting donations for the May elections and the EU referendum. The rules are different for the May elections and the EU referendum.

The regulated periods are set out in the table below:

Election	Start of regulated period	End of regulated period
Scottish Parliament National Assembly for Wales Northern Ireland Assembly	5 January 2016	5 May 2016 (polling day)
EU Referendum	15 April 2016	23 June 2016 (polling day)

You must register with us before you spend more than £10,000 on referendum campaigning or non-party campaigning. It is an offence to spend more than £10,000 before you register.

Political parties and non-party campaigners at the May elections

The regulated period for political parties and non-party campaigners in Scotland, Wales and Northern Ireland started on the 5 January 2016 and ends on polling day, 5 May 2016.

You can find our election specific guidance documents on our [website](#).

Referendum campaigning

The regulated period for referendum campaigners starts on 15 April 2016 and ends on polling day 23 June 2016.

You can find our referendum specific guidance documents on our [website](#) including the guidance [Timetable and reporting deadlines at the EU Referendum](#).

Spending during the May regulated period and before the start of the referendum period

Non-party campaigners

The non-party campaigner rules apply to spending on certain types of campaigning if it can reasonably be seen as intended to influence voters 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). As well as meeting the purpose test, spending must also be aimed at, seen or heard by, or involve the public (we call this the 'public test') and you should read our guidance [Overview of regulated non-party campaigning](#).

If you are a referendum campaigner, the non-party campaigner rules will apply to you if your campaigning meets the public and purpose tests. You should carefully consider whether these rules apply to your spending before the start of the referendum period.

Political parties

Political party campaign spending is what the party spends on certain activities to promote the party or its candidates (or to criticise other parties or their candidates in the run up to the election) or otherwise in connection with the promotion of the party or its candidates.

If you are a political party that is campaigning about the referendum, the party campaign rules will apply to your campaigning if your campaigning promotes your party or your candidates or criticises other parties or their candidates.

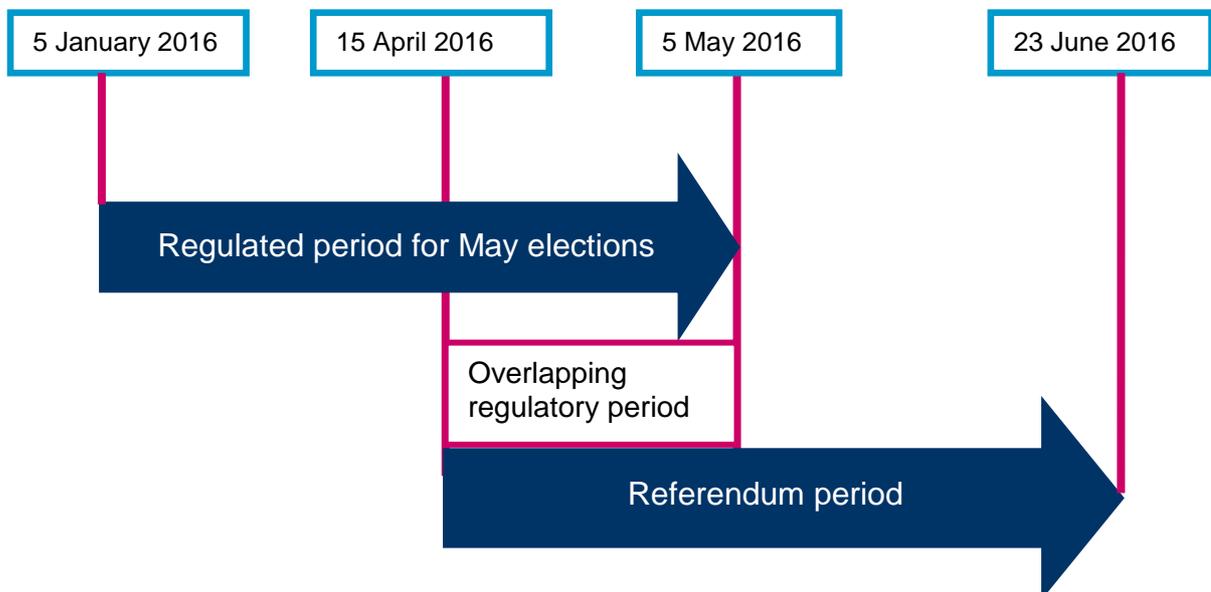
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Spending during the overlapping regulated period

The regulated periods for non-party campaigners, political parties and referendum campaigners overlaps between 15 April and 5 May 2016.

Your spending in the overlapping regulated period will be either non-party campaigner or party election spending or referendum spending. **You will only need to report each item of spending once.** It is possible in the overlapping regulated period for you to split an item of spending between non-party or party spending and referendum spending.

Overlapping regulatory period



How to approach the overlap

You will need to make an honest and reasonable assessment based on the facts whether your spending is referendum campaign spending or non-party or party election campaign spending. You should carefully document your decision and your reasons for it.

If you are spending money on campaigning during the overlapping period, you will need to consider:

- when the item of spending is used
- which set of rules apply to which parts of your spending;
- whether you will need to register as a non-party campaigner or a referendum campaigner or both
- whether you need to split your spending or an item of your spending between the May elections and the EU referendum

Splitting Spending

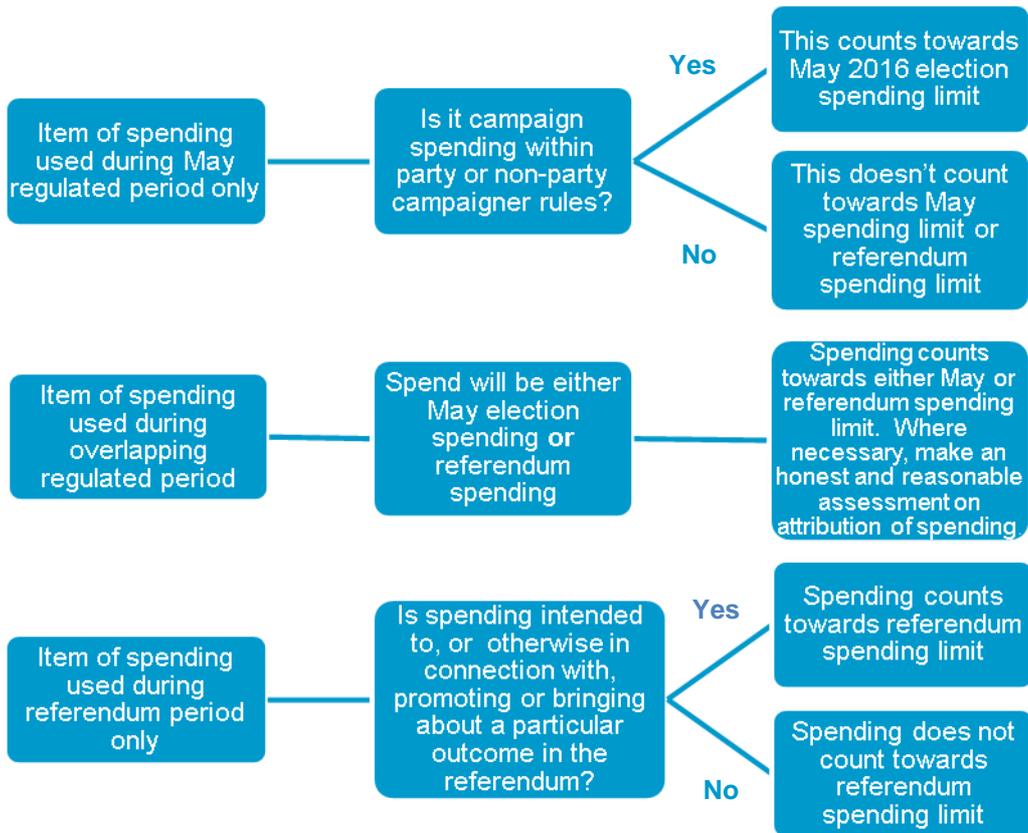
You may need to split your costs between items that count as non-party or party campaign election spending and referendum spending. You may also need to split your spending on a **particular** item that is campaigning for an outcome in the referendum and also campaigning for a party or category of candidates at the May 2016 elections.

In all cases, you should make an honest assessment, based on facts, of the proportion of expenditure that can be fairly attributed to your non-party or party election campaign or referendum spending. You should document your decision and the reasons for it.

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How to categorise your spending

The diagram below sets out the approach you should take in allocating your spending correctly. If you are not sure which category your spending falls into, please contact us for advice.



Examples of allocating spending during the overlapping regulated period

The examples below cover spending on items or services that are used:

- during the regulated period for the May 2016 elections only
- during the overlap between the regulated period for the May 2016 elections and the referendum period
- during the referendum period only

The examples explain how to allocate spending that is used during the overlapping regulated period. You should read our guidance for the rules on what costs you need to account for and report.

Example 1

The Imaginary Party spend £30,000 on campaign leaflets. The leaflets are promoting the party's policy position on the European Union and the referendum and promoting its candidates at the National Assembly for Wales election. The leaflets are distributed in Wales as follows:

- Set 1 Leaflets to the value of £10,000 are distributed on 4 April (during the regulated period for the May elections but before the start of referendum period)
- Set 2 Leaflets to the value of £10,000 are distributed on 1 May (during the overlapping period)
- Set 3 Leaflets to the value of £10,000 are distributed on 20 June (during the referendum period only)

The party is planning to spend over £10,000 at the referendum on campaigning so they register as a referendum campaigner.

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Step 1: when is the item of spending being used?

The first set of leaflets is being used in the regulated period for the May 2016 elections.

The second set of leaflets is being used in the overlapping regulated period.

The third set of leaflets is being used in the referendum period.

Step 2: is the spending regulated?

The first set of leaflets is being used in the regulated period for the May 2016 elections at a cost of £10,000.

This spending will be regulated if the purpose of the spending is to promote the party or its candidates (or criticise other parties/candidates in the run up to the election) or otherwise in connection with the promotion of your party/its candidates.

The leaflets are promoting the party and asking voters to vote for Imaginary Party candidates at the National Assembly of Wales elections and fall within regulated campaign spending.

The amount of party campaign spending is £10,000 for this period

The second set of leaflets is being used in the overlapping regulated period 15 April – 5 May at a cost of £10,000.

The spending will be either May election spending or referendum spending. The party must split the spending on the leaflet between the two electoral events using the honest assessment principle.

In this example, the cost of the leaflet should be split with 50% towards the election and 50% towards the referendum as the leaflets cover the referendum on one side and the National Assembly for Wales election on the other.

$£10,000 \div 2 = £5,000$ for each type of spending

£5,000 counts towards referendum campaign spending

£5,000 counts towards political party campaign spending

The third set of leaflets is being used in the referendum period at a cost of £10,000

This spending will be regulated if it is spending that is intended to, or is otherwise in connection with, promoting or bringing about a particular outcome in the referendum.

The leaflet is promoting an outcome at the referendum and the £10,000 will count towards the party's referendum spending limit.

Step 3: keep a record of your decision on spending including the reasons and report the spending appropriately

In this example, the Imaginary party will report:

Party campaign spending $£10,000 + £5,000 = £15,000$

Referendum spending $£5,000 + £10,000 = £15,000$

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Example 2

The Imaginary Campaign Group spends £21,000 on a website that promotes voting for the UK to remain within the European Union, and this includes urging people to vote in the Scottish Parliamentary elections for parties who support this position.

The website goes live on 15 April and remains live until June 23 (70 days). On 6 May the content relating to the devolved elections is removed.

The Imaginary Campaign Group has registered as a referendum campaigner. It does not need to register as a non-party campaigner.

Step 1: when is the item of spending being used?

The spending is being used from 15 April to 23 June. This is 21 days of the overlapping regulated period and throughout the referendum period.

The website is in use for 70 days. To calculate the daily cost of the website, divide the total cost of the website by the number of days it appeared.

$£21,000 \div 70 = £300$ per day.

Step 2: is the spending regulated?

Use of the website during the period of the overlapping regulated period 15 April – May 5:

During the overlapping regulated period, the campaigner must assess whether the spending meets the public and purpose test and the referendum test.

The website can reasonably be seen as intended to influence voters to vote for political parties that support their policy of remaining within the European Union. The website meets the public test as it is being promoted to voters.

The website meets the referendum test because it is promoting an outcome in the referendum.

Spending on the website only needs to be reported once. The campaigner makes a reasonable and honest assessment that it should split the cost of the website equally between non-party campaigner spending and referendum spending.

They document this decision and split the total for the 21 days in half as follows:

$£300 \times 21 \text{ days} = £6,300$ (Total for 21 days)

$£6,300 \div 2 = £3,150$ (50%)

£3,150 will be referendum spending

£3,150 will be non-party campaigner spending

Use of the website during the referendum period 6 May – 23 June

The website meets the referendum test and the cost will count towards the campaigner's referendum spending limit

$£300 \times 49 \text{ days} = £14,700$

Step 3: keep a record of your decision on spending including the reasons and report the spending appropriately

In this example the Imaginary campaigner will:

Report referendum spending of $£3,150 + £14,700 = £17,850$

Record non-party campaigner spending of £3,150 (this is because the amount spent is below the non-party campaigner registration threshold of £10,000).

Registering with us

How to apply to become a registered non-party campaigner

If you want to register, you can make an online application by visiting [PEF Online](#). Alternatively, you can register with us by filling in [Form TP1](#) and posting it to us. We can also accept a scanned copy of the form by [email](#).

When we receive your application, we will consider the information you have provided and confirm in writing when your notification is in force.

How to apply to become a registered EU referendum campaigner

If you want to register, you can make an online application by visiting [PEF Online](#). Alternatively, you can register with us by filling in [Form EUR1](#) and posting it to us. We can also accept a scanned copy of the form by [email](#).

Registration usually takes five working days. We will consider the information you have provided and confirm in writing when your registration is in force.

For more information see these documents:

- [Managing non-party campaign spending](#)
- [Overview of donations for non-party campaigners](#)
- [Overview of donations for non-party campaigners](#)
- [PEF Online: Getting started](#)

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