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## Variable monetary penalties

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Our job is to make sure people and organisations follow the rules on party and election finance.

We have a range of proportionate sanctions to use when these rules are broken. A variable monetary penalty is a fine of between £250 and £20,000. The amount depends on the severity of the offence.

### What is a variable monetary penalty?

A variable monetary penalty is a financial penalty issued by the Commission to proportionately sanction breaches of the Political Parties, Elections and Referendums Act 2000 (PPERA). The amount of the fine is calculated according to the nature and type of breach that has been committed. There are two categories of variable monetary penalties:

- A fine of between £250 and £5,000 can be applied to prescribed offences that are triable in a magistrates' court (also known as summary offences). This level of fine may also be used for prescribed contraventions of the law.
- A fine of between £250 and £20,000 can be applied to prescribed offences that are triable either in a magistrates' court or a Crown court

You must pay the fine after we have issued an initial notice and a final notice. A variable monetary penalty may be issued on its own or used in conjunction with a compliance

notice and / or a restoration notice.

### Why have I been issued with a variable monetary penalty?

We use variable monetary penalties to sanction some breaches of requirements or restrictions of PERA. We provide details of the grounds for imposing the sanction in the initial and final notices. We must be satisfied to the criminal standard of proof (beyond reasonable doubt) that the breach has occurred before we can issue a variable monetary penalty.

### Who can you issue a variable monetary penalty to?

The Commission may issue a variable monetary penalty to a regulated person or organisation that has breached certain requirements or restrictions of PERA. Regulated people and organisations include third party organisations campaigning at elections, campaigners in referendums, and other regulated donees (which include members of political parties, holders of elective office, and

associations mainly consisting of party members).

## How do you calculate the value of the fine?

We will consider; the type and nature of the breach, the restriction or requirement that has occurred, the value of the transaction involved (if relevant) and the available resources of the offending person or organisation. We will also consider any aggravating or mitigating factors. For more information on how we calculate the value of fines please see our enforcement policy.

## What is an initial notice?

We send an initial notice to notify a person or organisation where we are satisfied beyond reasonable doubt that they have breached PPERA, and we propose to sanction that breach by imposing a variable monetary penalty. The initial notice will contain the following information:

- the name and address of the organisation or person whom the penalty is levied against
- our reasons for proposing to use a variable monetary penalty including details of the breach that we believe has occurred
- how to make written representations and objections to us about the proposed variable monetary penalty
- that we will proceed to make a decision on whether to issue a final notice after the deadline for making

representations has passed

- who to contact at the Commission regarding the initial notice

## Can I discharge liability for a breach by paying the proposed penalty when I receive an initial notice?

No, the law only enables the Commission to accept payment of a variable monetary penalty after it has taken a final decision to impose the sanction. This decision will be made as soon as possible after the end of the period for making representations and objections.

## How are representations considered?

A senior officer of the Commission who was not involved in making the initial decision to impose the penalty will consider any written representations that you make. That officer will apply the same decision-making criteria as in the initial decision, in accordance with our enforcement policy, to establish whether a breach has occurred beyond reasonable doubt and that the sanction is reasonable. Following this we may decide to take no further action or, if we decide that a sanction is still appropriate, we will then issue a final notice. We will write to you confirming that:

- we accept your representations and will take no further action in enforcing the penalty; or

- in light of additional information we consider the breach is more appropriately dealt with by way of an alternative sanction or

- if we decide that the penalty is still appropriate and we are satisfied beyond reasonable doubt that it occurred, we will proceed to issue a final notice for either the penalty proposed in the notice, or a modified penalty, or an alternative that takes into account any representations.

## What is a final notice?

A final notice confirms that we are imposing a variable monetary penalty. Before issuing a final notice we reassess your case and consider any additional information you have supplied. The final notice will contain the following information:

- the name and address of the person or organisation whom this penalty is levied against
- our reason for imposing the sanction, including details of the breach that we believe has occurred
- how to pay the variable monetary penalty
- how to appeal the final notice
- information about late payment charges
- what may happen if you do not pay the penalty

## How do I appeal against a final notice?

You may appeal the Commission's decision to

impose the sanction by applying to the County Court (or in Scotland to the Sheriff). You must do this within 28 days of receipt of the final notice. The penalty will be suspended pending appeal until the day on which the appeal is determined or withdrawn.

### How do I pay a variable monetary penalty?

Information about how to make the payment will be contained in the initial and final notices. You have 28 days from receipt of a final notice to pay the fine.

### What happens if I pay late or don't pay at all?

If you have not paid a variable monetary penalty 28 days after receipt of the final notice, a late payment charge of 25% of the value of the variable monetary

penalty will be added to the fine. If a variable monetary penalty and late payment charge have not been paid 56 days after receipt of the final notice, the late payment charge will increase to 50% of the value of the initial fine. We may instigate civil debt recovery proceedings if no payment has been received after 84 days from the receipt of a final notice.

### What happens to the money that the Electoral Commission receives from variable monetary penalties?

All money received from variable monetary penalties is paid into the government's central bank account, known as the Consolidated Fund.

### Where can I find out more about variable monetary penalties?

You can read our enforcement policy and other information about our enforcement work at [www.electoralcommission.org.uk/party-finance/enforcement](http://www.electoralcommission.org.uk/party-finance/enforcement).

#### Further information

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[www.electoralcommission.org.uk](http://www.electoralcommission.org.uk)

We are an independent body set up by the UK Parliament. Our aim is integrity and public confidence in the democratic process. We regulate party and election finance and set standards for well-run elections. For more information see: [www.electoralcommission.org.uk](http://www.electoralcommission.org.uk)

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