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PART 1 INTRODUCTION

1.1 Purpose

This guidance aims to provide an overview and practical advice regarding election campaign spending and donations to anyone who wishes to stand for election. It does not cover all aspects of the provisions and those intending to stand are advised to familiarise themselves with the full text of the Elections (Keys and Local Authorities) Act 2020 and the Elections (Local Authorities) Regulations 2022, which can be obtained from the Tynwald Library or by visiting <https://legislation.gov.im/cms/>.

1.2 Resources

Prospective candidates and candidates should also refer to and be familiar with the contents of the following documents which also relate to election funding. These can be downloaded from the Isle of Man Government website at <https://www.gov.im/local-authority-elections>

- The Elections (Keys and Local Authorities) Act 2020
- The Elections (Local Authorities) Regulations 2022
- Code of Practice on the production of election materials
- Election forms, including —
 - declaration of donations received
 - declaration of donations provided
 - declaration of expenses

1.3 Summary of requirements and restrictions

In summary, the requirements and restrictions in respect of an election campaign expenses and donations are –

- all declarations must be made using the specified forms, which are available to download from <https://www.gov.im/local-authority-elections>
- the requirements and restrictions apply to both prospective candidates and candidates. Further guidance is provided in the 'Guidance for Candidates', however, for the purposes of this guidance –
 - a prospective candidate is a person who has publicly declared their intention

to stand for election and

- a prospective candidate becomes a candidate when his or her nomination is accepted by the Deputy Returning Officer for the constituency/district or ward. For the 2022 Port Erin Local Authority, this will be between 10am on **Wednesday 02 November 2022** and 1pm on **Wednesday 09 November 2022**.
- There is a **limit on the amount you can spend** on your election campaign.
- For a Local Authority By-Election, you will have to **declare any donations received** from the period beginning with the date on which the vacancy occurs and ending on polling day
- You will have to **declare any donations that you have made** to any person resident in the constituency/district or ward.
- **Anonymous donations cannot be kept** and must be forwarded to the Chief Financial Officer.
- There are a range of **criminal offences** for failure to comply with the provisions. Conviction of such offences can have various consequences.
- The period covered by the declarations commences from the date on which the vacancy occurs up to polling day on the 08 December 2022.

Examples of what might constitute an election campaign expense and/or donation and how each of these should be treated is included in this guidance at Appendix A.

PART 2 EXPENSES AND DONATIONS

2.1 The limit on the amount of expenditure

Setting a limit on campaign spending is intended to support openness and transparency and to establish a level playing field for all candidates.

For the Port Erin Local Authority By-Election 2022, the maximum amount that you can spend on your election campaign is £2,150 plus 54p for each registered elector in the district in which you are standing.

Your overall campaign spending limit will be calculated based on the total number of registered electors in your Local Authority on the publication of the 01 April 2022 Register of Electors and the 01st October Alteration Notice.

2.2 To whom do the requirements apply?

The requirements apply to both prospective candidates and candidates seeking election.

2.3 What is meant by “election expenses”?

Election expenses are any expenses incurred by you between **the date on which the vacancy occurs (27th October 2022)** and the **08 December 2022** to promote your election or to prejudice the chances of another candidate standing against you at the same election. Expenses may relate to the supply of goods or services and might, for example, include costs associated with —

- the production of manifestos, leaflets or calling cards,
- posters or banners,
- car stickers, rosettes or balloons,
- the creation and upkeep of a website,
- newspaper advertisements,
- paying to ‘boost’ election content on social media, and
- hiring a van with a loudspeaker.

The total cost of your election campaign, must be within the expenses limit no matter who the cost is covered by. Therefore, election expenses include both direct expenses (costs paid directly by you as a prospective candidate and a candidate) and notional expenses (costs covered by another individual or company).

The decision on whether to spend the total permitted, or how to spend it, is entirely a matter for you. In assessing whether particular expenditure is an election expense you must ask yourself a simple question –

“Am I spending this money or receiving these services as part of my election campaign and to increase my chances of success or to try to prejudice the chances of another candidate?”

If the answer to the question is “yes” then the item concerned is an election expense that counts towards the permitted expenses.

2.5 What happens if someone else incurs expenses on your behalf?

You must count, as part of your expenses, any amounts that are incurred on your behalf by anyone else if you are aware of the expenditure and give consent, either directly or by implication.

Illustrative example

Your friend offers to place and pay for a number of advertisements in a newspaper, and you agree.

You must be aware of the cost of the advertisements and make sure that the cost can be accounted for within your own expenditure limit.

2.6 How are expenses incurred jointly by more than one candidate counted?

If you and another candidate incur expenditure jointly then the expense is split equally between you unless a different split can be shown to be appropriate, i.e. that the benefit of the expenditure was not equally shared.

Illustrative example

Four candidates place an advertisement in the newspaper urging electors to vote for each of them, the cost of this advertisement would normally be split into four and each quarter share counted as part of the total expenses allowed to each candidate.

If, however, common leaflets were printed for the same four candidates, it might be possible to prove that the cost should be apportioned according to the relative sizes of the constituencies concerned and the number of leaflets needed in each.

2.7 What happens if goods or services are supplied free of charge or at a discount?

There may be occasions when you are given goods or services at a discount, which is where notional expenses are relevant.

Illustrative example

One of your supporters prints pamphlets for you for £200, when the normal price charged is £400.

The election expenses incurred by you are –

- a £200 direct expense, and

- a £200 notional expense.

The £200 discount also constitutes a donation by the supporter (which is relevant to the requirement, described below, to disclose donations).

2.8 What happens if donations are given to a candidate?

You may decide to pay for your campaign using only your own funds, but you may also receive donations to assist with campaign expenditure. You are required to declare donations received and must retain details of these.

Donations fall within the scope of the law if —

- they are made between **the date on which the vacancy occurs (27th October 2022)** and the **08 December 2022**,
- the donor specifies, expressly or by implication, that the money is for election purposes, and
- they are worth £50 or more or aggregated donations which total £50 or more.

Any donations received between nomination day and polling day are automatically deemed to be for election purposes unless the contrary can be proved.

A donation takes many forms, for example —

- cash,
- the provision of services or goods at a discount (for example, printing leaflets for a price that is only 75% of the normal price is a donation - and notional expense - of 25% of the normal price), or
- the provision of services or goods free of charge.

2.9 Anonymous Donations

What is an anonymous donation?

A donation will be an 'anonymous donation' if you are unable to ascertain the identity of the donor after taking all reasonable steps.

If you receive an anonymous donation you must forward it to the Chief Financial Officer –

- Within 10 days of becoming aware of it, or
- Within 30 days of receiving it,

whichever is sooner.

The Chief Financial Officer will arrange for the distribution of any anonymous donations received to the nominated charitable trust.

You **must not** keep any anonymous donations.

What if a political party receives an anonymous donation?

The Treasurer of a political party which has received an anonymous donation must forward it to the Chief Financial Officer –

- Within 10 days of becoming aware of it, or
 - Within 30 days of receiving it.
- whichever is sooner.

The Chief Financial Officer will arrange for the distribution of any anonymous donations received to the nominated charitable trust.

A political party **must not** keep an anonymous donation.

Declaration of anonymous donations

You are required to deliver a written declaration to the Electoral Registration Officer containing either –

- a statement which identifies each anonymous donation received by you as a candidate or prospective candidate between **the date on which the vacancy occurs (27th October 2022)** and polling day (**08 December 2022**), or
- a statement by the candidate that no such donations were received by his or her as a candidate or as a prospective candidate during that period

This declaration must be delivered no later than **Thursday 01st December 2022**, being 5 working days before polling day.

A copy of the form required for making the declaration can be downloaded by visiting <https://www.gov.im/local-authority-elections>

2.10 What if you receive more donations that you are allowed to spend?

It is important to note that the law does not prevent you from receiving more donations than you are allowed to spend in the election. Any donations received must nevertheless be properly declared.

Illustrative example

A candidate who is allowed to spend up to £4,500 receives a donation of £5,000 towards their campaign, from a generous supporter.

The donation must be declared.

Notwithstanding the fact that the law does not prohibit you from receiving this amount as a prospective candidate or candidate, you will commit an offence if you spend more than £4,500 in total on your election campaign.

It is a purely private matter between you and the donor(s) to agree whether funds that cannot be used for the election can be retained by you.

2.11 Is anything excluded as an election expense or as a donation?

Certain expenses and donations are excluded from the operation of the law. These are —

- a volunteer's motor vehicle for transporting voters to/from a polling station on polling day,
- the services of a volunteer helper in terms of their time (goods used or supplied by them in doing so are not excluded),
- election material published in a newspaper or periodical or broadcast on the television or radio including on a website (other than an advertisement),
- expenses incurred in connection with the proper performance of an elected person's duties (such as a sitting Members newsletter to his or her constituents).

Any goods that are purchased, provided or used for your campaign outside the relevant period are not to be taken into account as a donation or election expense. Therefore, any election related goods already in a person's possession before 27th October 2022 are not included as an expense for the 2022 By-Election.

Subsequently, any goods purchased for the 2022 By- Election that are re-used in future elections will not be included as an expense for the later elections.

The law only covers expenditure incurred and donations received up until polling day and, as a result, there is no restriction on expenditure on matters such as a party for supporters after the poll, thank you letters or an advert in the press thanking voters. It should nevertheless be stressed that payments made after the poll for goods or services received and used before the poll are, of course, part of the election expenditure that must be counted and, if necessary, declared.

2.12 How is voluntary assistance treated?

Voluntary assistance provided to you free of charge by an individual in his or her own time is not counted as a donation or as part of your election expenses. However, any goods used or supplied by such individuals in the course of providing their services are counted as a donation and an expense.

As a result, friends and supporters can help you on a voluntary basis and you do not need to calculate or declare the value of the time spent by those individuals. Friends and supporters of a candidate might, for example, offer to put up banners, distribute manifestos or leaflets or address envelopes. This type of assistance is exempt as long as the help is provided by an individual (and not, for example, by a company or organisation), free of charge and undertaken in the individual's own time.

Where, in the course of the provision of volunteers' own services they use their own goods, the use of the goods and any expenditure incurred by the volunteers is an expense and, under certain circumstances, a donation.

Illustrative example

Petrol consumed when a volunteer drives around canvassing before polling day will incur an expense and/or a donation.

If the candidate pays for the petrol, the cost is a direct expense. If the volunteer pays for the petrol and seeks no reimbursement, the cost is a donation made by the volunteer and a notional expense.

If the volunteer uses petrol worth £50 or more without reimbursement, the candidate is required to include the amount on their declaration of donations received.

The cost of petrol used would be included by the candidate as an expense (whether direct or notional) and so must be considered when calculating his or her total expenses and, if necessary, declared.

Candidates should be able to demonstrate reasonable attempts to apportion fuel costs for them and their volunteers, for example, by retaining receipts, recording increase in usual mileage or fuel purchased or using rates recommended by a recognised motoring company for their particular vehicle.

Voluntary assistance can be contrasted, for example, with assistance given by a public relations company which provides free public relations guidance and graphic design services to a candidate where the work is undertaken by the company as a normal business activity (albeit free of charge). The market value of this work would form a donation to the candidate and a notional expense that the candidate will have to account for in his or her election expenses.

2.13 Is there any assistance at public expense?

The law requires the Chief Secretary to make arrangements for your manifesto to be displayed on an appropriate website if one is forwarded to him or her. This service will be provided equally to all candidates who request it and does not count as an election expense or a donation.

Please ensure that you are familiar with the **Code of practice on election materials** for further information.

2.14 What if you are supported by a political party?

A political party must register in order to support or endorse candidates for election to the House of Keys. You cannot accept support or endorsement from a political party unless it is registered.

It should be clear when a candidate is supported or endorsed by a political party, as it must be explicit and made publicly. If either of these conditions is not met there can be no endorsement.

Illustrative example

Stating in your public declaration that you intend to stand as a candidate or a political party would mean that you are supported/endorsed by that party. However, simply agreeing with policies of a political party would not amount to you being endorsed by that party.

If your candidacy is endorsed by a political party, you are deemed to have consented to any expenditure incurred by the party on your behalf.

Illustrative example

If a political party pays for posters to be printed to encourage electors to vote for their candidate, the printing costs would be accounted for by that candidate as a notional expense (as well as a donation from the party to the candidate).

The same rules regarding apportionment apply to expenditure for multiple candidates supported by a party.

Illustrative example

If a party that has endorsed four candidates places an advert in the newspaper urging electors to vote for these candidates, the cost of this advert would normally be split into four and each quarter share counted as part of the total expenses allowed to each candidate.

However, if, for example, common leaflets were printed for a number of candidates supported by a party, it might be possible to prove that the cost should be apportioned according to the relative sizes of the constituencies concerned and the number of leaflets needed in each.

The same rules regarding donations also apply to candidates supported by political parties. Therefore, any money provided to you by a political party for use towards your election campaign is regarded as a donation and must be declared if it amounts to £50 or more or sums amounting in the aggregate to £50 or more.

However, members of a political party who, for example, spend their free time distributing manifestos or leaflets do not make a donation in terms of their time as long as it is provided by an individual (and not, for example, by a company or organisation), free of charge and undertaken in the individual's own time.

Guidance on Political Parties is available to download from www.gov.im/elections.

2.15 What do I need to do once I declare my intention to stand?

Managing expenditure and record keeping

Keeping accurate details of expenses to ensure you remain below the expenses limit is extremely important once you become a prospective candidate or candidate. These include expenses

incurred by another person on your behalf and the law requires anyone who does incur such an expense to provide you with the relevant information to allow you to comply with the requirements. You should also retain receipts and invoices etc. that may be required at a future date in order to justify and substantiate a declaration, if necessary.

Record-keeping for most expenses will be straightforward, for example, if a precise quote or invoice from the printers has been received for the printing of leaflets. However, there will undoubtedly be matters that are more difficult. This could be the case, for example, if goods or services are provided free of charge or at a discount. In these circumstances, you must make every effort to ascertain a realistic and accurate open market value for the item concerned.

Illustrative example

A design company creates a logo for a candidate, which would normally cost £60, free of charge. That candidate should account for the notional expense of £60 and record a donation of £60.

Declaration of election campaign expenses

All candidates in the election, regardless of whether they have been successful, must submit two declarations of campaign expenses –

- the first no earlier than Monday 28th November, being 10 days before election day, and
- the second, subsequent declaration no later than 12th January 2023, being a date within 35 days after the election.

The declaration of expenses will be made available for public inspection. This is to promote transparency and integrity within the election system.

The forms required to make the declaration can be downloaded from <https://www.gov.im/local-authority-elections>

Records of donations received

As soon as you become a prospective candidate or a candidate (the latter if you are at no time a prospective candidate), you should record any donations that you have received that are incurred from **27th October 2022** that are equal to or worth £50 or more.

This requirement includes donations that are notional expenses, such as that in the above example regarding a logo for a candidate. Relevant donations also include aggregated amounts, for example, a candidate who receives two £30 donations from the same individual two weeks apart would need to declare them. You will need this information to submit your declaration to the Electoral Registration Officer on or before Thursday 01st December 2022.

Anonymous donations

As provided for above, prospective candidates and candidates must forward any anonymous donations that the giver intends (either expressly or by implication) for use to pay election expenses to the Chief Financial Officer.

Declaration of donations received

Every candidate must submit a declaration of donations to the Electoral Registration Officer no later than **Thursday 01 December 2022** being 5 working days before polling day. This declaration is not required by any prospective candidates who, for any reason, do not become candidates.

The declaration will include information regarding relevant donations received, or a declaration that no such donations have been received, and that any anonymous donations have been forwarded accordingly.

Once you have submitted your declaration, if you receive any further donations or find that you need to make an alteration to your declaration, you must make a further declaration within 10 working days of identifying the need to do so.

The details of your declaration will be included in a register and a copy of the declaration itself will be filed with the Central Registry. The register and the declaration will be available for public inspection at the Central Registry.

Variation or addition to declaration of donations or expenses

If having made a declaration you become aware of any variation in or addition to the information required to be declared you must, as soon as possible, and in any event no later than 10 working days after becoming aware of it deliver to the Officer a further written declaration of the variation or addition.

Declaration of donations made

You are required to declare any financial donation which is made by you to a person resident in the constituency in which you are standing.

The form of declaration required can be downloaded from <https://www.gov.im/local-authority-elections>

PART 3 COMPLAINTS & OFFENCES

3.1 What happens if there is a complaint about a candidate's campaign expenses?

If the Electoral Registration Officer receives a complaint alleging that a candidate has exceeded the campaign expenses limit, that candidate must provide within 15 working days a written declaration of his or her expenses that itemises each expense (whether direct or notional) and the goods or services to which each expense relates. The Electoral Registration Officer may also require proof of such expenses, for example, invoices for printing of manifestos and receipts for the purchase of wooden stakes.

An allegation of exceeding the expenses limit can be made up to three months after an election. In order to allow time for the Electoral Registration Officer to process the complaint and advise the candidate and then for any request for verification to be made, it is advisable to keep records regarding expenses for at least six months following an election. In the case of the Port Erin Local Authority By-Election 2022 this would be 08 June 2023 – six months after polling day on Thursday 01 December 2022.

3.2 What happens if the rules are breached and an offence committed?

The more serious offences in the law relating to electoral expenses and donations include, but are not limited to, failure to forward anonymous donations to the Chief Financial Officer, exceeding the maximum amount on election expenses, failure to deliver a declaration or the delivery of a false declaration. These offences can be committed either knowingly or recklessly. There is, however, a defence for an accused who can show that he or she had a reasonable excuse.

Once notified of such an offence, Her Majesty's Attorney General will make such inquiries and institute such prosecutions as the circumstances of the case require in his or her opinion. If Her Majesty's Attorney General does institute proceedings, his or her agreement is required to a decision on the level of Court which ultimately deals with the matter.

Upon a criminal conviction the accused is liable to a fine and is also deemed to have committed an illegal practice. A sitting Member found guilty would also lose their seat in the House and any person found guilty would be barred from standing for election to the Keys for a certain period of time depending on the nature of the offence.

The less serious offences include, but are not limited to, failure to send proof of expenses when requested. If proceedings are instituted and the accused is convicted, he or she may be fined.

Appendix A

EXAMPLES OF ELECTION EXPENSES AND DONATIONS

(References to "candidate" apply both to candidates and prospective candidates)

Example	Donation	Direct Expense	Notional Expense	Note
Cost of postage for Manifestos and/or election campaign material.	Open market rate for goods or services	Cost to candidate	Open market rate for goods or services	
Use of a volunteer's car to transport voters to/from the poll on polling day	N/A	N/A	N/A	Excluded as a donation and as a notional expense
Postage of manifesto	Open market rate for goods or services	Cost to candidate	Open market rate for goods or services	
Services or goods (e.g. legal advice (in a professional capacity), creation of websites (by a professional), printing, stakes)	N/A	Cost to candidate	N/A	
Free services or goods (e.g. as above)	Open market rate for goods or services	N/A	Open market rate for goods or services	
Reduced price services or goods (e.g. as above)	Difference between charge & open market rate for services or goods	Cost to candidate	Difference between charge & open market rate for services or goods	
Volunteers' time	N/A	N/A	N/A	Only a donation if in a professional capacity
Candidate's own time	N/A	N/A	N/A	Effectively volunteering
Candidate's work time on a lengthy or repeated basis	Wages paid	N/A	N/A	Wages paid for time must equate to £50 to be a relevant donation from the employer
Candidate's work time (one-off)	N/A	N/A	N/A	Marginal amount of goodwill involved, not a donation
Candidate's use of own vehicle for campaigning	N/A	Fuel consumed	N/A	Make reasonable attempt to apportion fuel costs
Use of volunteer's car for campaigning (before poll) at no cost to the candidate	Petrol consumed	N/A	Petrol consumed	Petrol would have to equate to £50 to be a relevant donation. Make reasonable attempt to apportion fuel costs
Use of volunteer's car for campaigning (before poll) when candidate pays petrol	N/A	Petrol consumed	N/A	Make reasonable attempt to apportion fuel costs
Purchase of a banner for two candidates	N/A	50% of the cost to each candidate	N/A	Amount equally apportioned unless proven that the expense

				did not provide equal benefit
Issue of a regular newsletter from MHK or Councillor to constituents	N/A	N/A	N/A	Costs incurred while carrying out the proper duties of a person in an elected office are disregarded
Issue of constituency boundary information to constituents from MHK(s)				
Purchase of a banner advertising various candidates of a political party paid for by the party	Apportioned cost of the banner for every candidate	N/A	Apportioned cost of the banner for every candidate	Amount equally apportioned unless proven that the expense did not provide equal benefit
Newspaper/radio coverage	N/A	N/A	N/A	Coverage is in an official capacity so no donation
Social media coverage (e.g. Facebook)	N/A	N/A	N/A	Free of charge for anyone to do
Example	Donation	Direct Expense	Notional Expense	Note
Display of manifesto on Government website	N/A	N/A	N/A	Statutory obligation so disregarded
Campaign material already in a person's possession before they are a candidate	N/A	N/A	N/A	Cost incurred outside the relevant period and/or by a private individual
Gift of money for campaign expenses	Amount received	N/A	N/A	Money spent on the campaign recorded in relation to the relevant expense(s)
Anonymous gift of money or goods	Send to Chief Financial Officer	N/A	N/A	Include on declaration of donations
Loan of money for campaign interest free	Open market interest rate	N/A	N/A	Money from the loan spent on the campaign recorded in relation to the relevant expense(s)
Loan of money for campaign with reduced interest	Difference between interest charged & open market interest rate	Interest paid and/or owed	N/A	Money from the loan spent on the campaign recorded in relation to the relevant expense(s)
Write-off of a loan originally provided at market rate	Amount not repaid & amount of interest originally due but not paid	Any interest paid	N/A	Money from the loan spent on the campaign recorded in relation to the relevant expense(s)
Advertisement on a vehicle paid for by the candidate	N/A	Printing cost	N/A	

Advertisement on a vehicle not paid for by the candidate	Open market rate for printing	N/A	Open market rate for printing	
Vehicle showing advertisement travelling around constituency to be seen (petrol not paid for by candidate)	Petrol consumed	N/A	Petrol consumed	Petrol would have to equate to £50 to be a relevant donation
Vehicle showing advertisement carrying out regular journeys	N/A	N/A	N/A	Journeys not made for election purposes
Hire of a van with a loudspeaker	N/A	Cost of hire	N/A	
Series of cash donations from an individual/company	Total amount		N/A	Must declare if total is £50 or more. Money from the donation spent on the campaign recorded in relation to the relevant expense(s)
Example	Donation	Direct Expense	Notional Expense	Note
Campaign related telephone call on a free calls plan	N/A	N/A	N/A	
Campaign related telephone calls on a cost per call plan	N/A	Cost incurred	N/A	Attempts should be made to reasonably identify costs involved, e.g. use of an itemised bill if available.

Appendix B

CONTACT LIST

Attorney General's Chambers

Address: Third Floor, St Mary's Court, Hill Street, Douglas, IM1 1EU

Website: www.legislation.gov.im

Chief Financial Officer

Address: Third Floor, Government Office, Bucks Road, Douglas, IM1 3PZ

Tel: (01624) 685980

Email: treasuryadmin@gov.im

Chief Registrar

Address: General Registry, Isle of Man Courts of Justice, Deemsters Walk, Douglas, IM1 3AR

Tel: (01624) 687505

Chief Secretary

Address: Cabinet Office, Third Floor, Government Office, Bucks Road, Douglas, IM1 3PN

Tel: (01624) 685754

Email: elections@gov.im

Crown & Elections Unit

Address: Cabinet Office, Third Floor, Government Office, Bucks Road, Douglas, IM1 3PN

Tel: (01624) 685754

Website: www.gov.im/election

Email: elections@gov.im

Electoral Registration Officer

Address: Cabinet Office, Third Floor, Cabinet Office, Bucks Road, Douglas, IM1 3PN

Tel: (01624) 685754

Website: www.gov.im/election

Email: elections@gov.im

Deputy Returning Officer

Contact details for each Deputy Returning Officer (one per constituency) can be obtained from:

Website: <https://www.gov.im/local-authority-elections>

Tynwald Library

Address: Legislative Buildings, Finch Road, Douglas, IM1 3PW

Tel: (01624) 685520

Website: www.tynwald.org.im

Email: library@tynwald.org.im