

Electoral expenditure policy for Legislative Council elections

Electoral Disclosure and Funding Act 2023

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1. Summary

The Tasmanian Electoral Commission (TEC) is responsible for promoting and enforcing the disclosure and funding compliance of electoral participants. This policy supports the interpretation and application of electoral expenditure definitions and expenditure limits in Tasmanian Legislative Council elections.

2. Policy statement

This policy provides the relevant legislative sections and definitions relating to electoral expenditure for Legislative Council elections, with additional interpretation where required to provide clarity and guidance for stakeholders that incur electoral expenditure.

Understanding what is and is not electoral expenditure is important for electoral participants in Council elections, as electoral participants who incur electoral expenditure will have disclosure obligations under the *Electoral Disclosure and Funding Act 2023*.

3. Scope

The TEC is an impartial and independent statutory authority. The TEC's work to support electoral expenditure education and compliance for electoral participants is performed under the authority provided by the *Electoral Act 2004* and the *Electoral Disclosure and Funding Act 2023*.

Electoral participants are any person, group of people or other entity who either incur electoral expenditure, or make or receive political donations. They can be political parties, Members, candidates, intending candidates, associated entities, third-party campaigners, political donors, party agents or official agents.

This policy applies to:

- The promotion of education and compliance with the electoral expenditure requirements of the *Electoral Act 2004* and the *Electoral Disclosure and Funding Act 2023*
- Officers of the TEC, including contractors and third-party consultants, who are providing education, advice, or any other investigatory or compliance activity involving electoral expenditure in Council elections.

This policy only provides information about electoral expenditure in Council elections – further information about electoral expenditure in House of Assembly elections can be found in the TEC's **Electoral expenditure policy for House of Assembly elections**.

Electoral expenditure incurred by electoral participants must be disclosed to the TEC in accordance with the EDFFA. Disclosure obligations do not fall under the scope of

this policy – further information can be found in the TEC’s **Financial disclosure policy**.

4. Related legislation and documents

- *Electoral Act 2004* (“EA”)
- *Electoral Disclosure and Funding Act 2023* (“EDFA”)

5. Definitions and meaning

Note: the EDFA uses two terms for expenditure in parliamentary elections – “electoral expenditure” and “election expenditure”. For Council elections, electoral expenditure is a general term, whereas election expenditure is specifically defined in the EDFA¹.

Election expenditure

Election expenditure in relation to a candidate at a Council election means expenditure that²:

- Relates to promoting or procuring the election of the candidate, and
- Is incurred by, or with the authority of, the candidate within the election campaign period.

This includes expenditure for goods and/or services which are to be supplied to, or made use of by, the candidate (or with the candidate’s authority) during the election campaign period.

Election expenditure does not include expenditure relating to³:

- The personal and reasonable living and travelling expenses of the candidate and of their election agent
- The renting or hiring of premises for the purposes of that campaign
- The appointment of scrutineers
- The conveying of electors to and from polling places for the purpose of voting.

¹ EDFA, Part 8 – Electoral expenditure in relation to Council elections vs section 80 – Meaning of Council election expenditure

² EDFA, section 80(1)

³ EDFA, section 80(2)

Who can incur election expenditure

Only a candidate (or their official agent) can incur election expenditure to support the candidate's election as a Member of the Council⁴. A candidate must not authorise a person other than their official agent to incur election expenses on the candidate's behalf⁵.

Registered parties (including for their endorsed candidates), associated entities, political donors and third-party campaigners must not incur any election expenditure with a view to promoting or procuring the election of a candidate in a Council election⁶. While these electoral participants may not incur election expenditure themselves, they are not precluded from donating money or an equivalent to a candidate with the intention that the candidate will use it to incur election expenditure.

Election campaign period

The election campaign period for a Council periodic election begins on 1 January in the year in which the election is to be held, and ends on the day that is thirty days after polling day. The election campaign period for a Council by-election begins on the day which the seat of the Member becomes vacant, and ends on the day that is thirty days after polling day⁷.

When making a financial disclosure to the TEC relating to a Council election and when calculating election expenditure totals, candidates and their official agents will need to consider whether an expenditure meets the definition of election expenditure as set out in the EDFFA, and when the election expenditure occurred.

When election expenditure is incurred

Election expenditure is incurred when either the services for which the expenditure is incurred are actually provided, or the goods for which expenditure is incurred are actually delivered⁸. More specifically for some common types of election expenditure⁹:

- Expenditure on advertising is incurred when the advertising is broadcast or published
- Expenditure on the production and distribution of election material is incurred when the material is distributed, and
- Expenditure on the employment of staff is incurred during the period of their employment.

⁴ EDFFA, section 81(1), (2)

⁵ EDFFA, section 81(4)

⁶ EDFFA, section 81(2)

⁷ EDFFA, section 5

⁸ EDFFA, section 7(1)

⁹ EDFFA, section 7(2)

Expenditure limit

All candidates in a Council election have a limit on their electoral expenditure during the election campaign period¹⁰. At the commencement of the EDFA on 1 July 2025 the expenditure limit is \$19,500 and increases by an additional \$500 every calendar year¹¹. A candidate's total electoral expenditure is any electoral expenditure they have incurred, plus any electoral expenditure incurred by their official agent in relation to their candidate.

It is an offence for a candidate or their official agent to exceed the expenditure limit on their election campaign within the expenditure period¹². Candidates spending more than the permitted maximum amount may be liable to a penalty¹³. In addition, if an elected candidate exceeds the permitted maximum amount by more than \$1,000, a court may declare their election void¹⁴.

6. Additional determinations by the TEC

The TEC may determine whether any expenditure is or is not electoral expenditure in accordance with the EDFA and the EA¹⁵, with such determinations being final¹⁶.

The TEC has issued a guideline to confirm the inclusion of GST in electoral expenditure disclosures. Please refer to the GST guideline for more information.

While there are currently no further guidelines in place about the meaning of electoral expenditure for Legislative Council elections, the TEC may consider issuing a guideline¹⁷ to provide further clarity and direction if a particular type of electoral expense or a part of the legislative definition requires a more formal determination.

The TEC may also use data gathered from stakeholder contacts or compliance activities to inform future educational content for electoral participants.

¹⁰ EDFA, section 82(1)

¹¹ EDFA, section 82(2)

¹² EDFA, section 90(1)

¹³ EDFA, section 90(1), (2)

¹⁴ EDFA, section 90(6)

¹⁵ EDFA, section 6(7)

¹⁶ EDFA, section 6(8)

¹⁷ EDFA, section 173(1)

7. Responsibilities

Who	How
Tasmanian Electoral Commission	<ul style="list-style-type: none"> Approves this policy and associated documents
Director, Legislation and Compliance	<ul style="list-style-type: none"> Participates in the consultation process Determines policy instrument content and compliance with electoral disclosure and funding laws Communicates policy development and revision with relevant third parties as appropriate
Manager, Compliance and Investigation	<ul style="list-style-type: none"> Develops and amends policy instruments as required Coordinates administration of the policy development and review process Manages the publication, amendment or archiving of approved policy instruments

8. Version history and review

Version	Date	Changes Made	Reviewed By	Approval Status
1.0	21/03/25	Initial approval	Tasmanian Electoral Commission	Approved
1.1				
1.2				
2.0				