

Electoral expenditure policy for House of Assembly elections

Electoral Disclosure and Funding Act 2023

Contents

1. Summary	2
2. Policy statement	2
3. Scope	2
4. Related legislation and documents	3
5. Definitions and meaning	3
Electoral expenditure	3
Electoral matter	4
When electoral expenditure is incurred	5
Examples of electoral expenditure	5
How electoral expenditure can be paid	6
6. Additional determinations by the TEC	6
7. Responsibilities	6
8. Version history and review	7

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 in Tasmanian House of Assembly elections.

2. Policy statement

This policy provides the relevant legislative sections and definitions relating to electoral expenditure for House of Assembly 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 House of Assembly 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 House of Assembly elections.

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

Electoral expenditure incurred by electoral participants must be disclosed to the TEC in accordance with the *Electoral Disclosure and Funding Act 2023*. 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

When making a financial disclosure to the TEC relating to a House of Assembly election, electoral participants will need to consider whether an expenditure meets the definition of electoral expenditure as set out in the EA and EDFA, and when the electoral expenditure has occurred.

The definition of electoral expenditure has three main components: what is electoral expenditure, what is electoral matter, and specific exclusions from the definition of electoral expenditure.

Electoral expenditure

Electoral expenditure is expenditure incurred for the dominant purpose of creating or communicating electoral matter in relation to an election¹. This may relate to communicating particular electoral matter, or electoral matter more generally².

The definition of electoral expenditure includes expenditure that is to be reimbursed by the State by way of payment from the Election Campaigns Fund³.

Electoral expenditure is not:

- Expenditure that would be reimbursed by the State to an Assembly Member or Minister (including via payment from the Administration Fund) because that person was an Assembly Member or Minister⁴, or
- Expenditure incurred by a person who provides a communication service or platform (directly or on a commercial basis) that is used to create or communicate electoral matter⁵.

¹ EDFA, section 6(1)

² EDFA, section 6(5)

³ EDFA, section 6(2)

⁴ EDFA, section 6(3)

⁵ EDFA, section 6(4)

Electoral matter

Electoral matter is any matter that is communicated, or intended to be communicated, for the dominant purpose of influencing the way electors vote in an election⁶ – such as matter that promotes or opposes a political entity (like a candidate or party) or a Member.

“Communicate”, in relation to electoral matter, means to print, publish, display, distribute, produce, or broadcast the electoral matter, by any means, including electronically, by social media or the internet, by electronic phone or by a communication sent to an electronic address at which the communication may be available to a person⁷.

Any of the following may also be considered in determining the dominant purpose of the communication or intended communication of the matter⁸:

- Whether the communication would be to the public or a section of the public
- Whether the communication would be by (or on behalf of) a disclosure entity⁹
- Whether the communication contains an express or implied comment on a political entity or Member
- Whether the communication would be received by electors near a polling place
- How soon the election is being held after the creation or communication of the matter
- Whether the communication would be unsolicited.

For the purposes of defining electoral matter, the matter can only have one dominant purpose – even if the matter may functionally be fulfilling several purposes.

Matter whose dominant purpose is educating an audience, or encouraging debate on, an issue of public policy will generally not be considered electoral matter, unless it can be proved to be attempting to influence the way electors vote¹⁰. Additionally, a communication is not considered electoral matter¹¹ if it is any of the following:

- Reporting the news, presenting current affairs, or any genuine editorial content in news media

⁶ EA, section 4(2)

⁷ EA, section 3

⁸ EA, section 4(7)

⁹ EA, section 3 defines a disclosure entity as: a candidate in the same election to which the electoral matter relates, a registered party, a Member, a significant political donor, an associated entity, a third-party campaigner, or a person who was a candidate in an Assembly election in the previous 5 years or a Council election in the previous 7 years.

¹⁰ EA, section 4(5)

¹¹ EA, section 4(8)

- By a person for a primarily satirical, academic or artistic purpose (also considering the dominant purpose of any other communication of matter by that person)
- A private communication between two people known to each other
- By or to a public official, in that person's capacity as an official
- A private communication to a political entity (not a public official) relating to public policy or public administration
- Occurring in the Assembly, Council or other parliamentary committee.

When electoral expenditure is incurred

Electoral 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 delivered¹². More specifically for some common types of electoral expenditure¹³:

- 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.

Examples of electoral expenditure

The TEC provides these examples for illustrative purposes only – this is not an exhaustive list, and electoral participants should always consider all parts of the definitions above relating to electoral expenditure when making individual determinations about their expenditure.

Electoral expenditure may include:

- Expenditure on advertisements in radio, television, the internet, social media, cinemas, newspapers, billboards, posters, brochures or other election materials
- Expenditure on the production and distribution of election materials
- Expenditure incurred in employing staff engaged in election campaigns, or incurred for the staff's office accommodations (not including campaign headquarters of a party, or for the electorate office of a Member)
- Expenditure on travel and travel accommodation for candidates and staff engaged in an election campaign
- Expenditure incurred in raising funds for an election.

¹² EDFA, section 7(1)

¹³ EDFA, section 7(2)

How electoral expenditure can be paid

All electoral participants incurring electoral expenditure are required to pay for it from their designated campaign account. Further information about campaign accounts can be found in the TEC’s **Campaign accounts policy**.

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 EA¹⁴, with such determinations being final¹⁵.

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 House of Assembly elections, the TEC may consider issuing a guideline¹⁶ 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.

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

¹⁴ EDFA, section 6(7)

¹⁵ EDFA, section 6(8)

¹⁶ EDFA, section 173(1)

8. Version history and review

Version	Date	Changes made	Approved by
1.0	21/03/25	Initial approval	Tasmanian Electoral Commission
2.0	12/12/25	Updated TEC address. Modified version history table.	Tasmanian Electoral Commission