



Political Activities Ordinance

Guidance Note: Introduction

Following the enactment of the Political Parties Activities Ordinance which came into force on the 28th August 2012, the Integrity Commission will assume responsibility for ensuring political parties and candidates comply with their respective legal obligations under the Ordinance. The Political Financial Activities personnel have been established within the Commission to undertake this function and will be operational from Monday 27 August 2012.

Monitoring compliance with the rules on party and candidate donations and expenditure is part of the Commissions statutory remit under the Ordinance. This note sets out our approach to Regulation and Compliance.

What we do:

- We receive, analyse and publish information about party donations and campaign spending at elections
- We produce guidance for those we regulate on good practice to comply with the Political Activities Ordinance
- Monitor compliance with the law
- Deal with issues over compliance and breaches of the Ordinance

Methodology and approach to Compliance:

The Commission will seek to ensure consistency of approach and all parties and candidates are treated fairly. All aspects of this approach will be reviewed and refined to act upon constructive feedback. The key aspects to this approach will be as follows:

1. Monitoring Election Campaign Activity
2. Continuing provision of advice and guidance
3. Review of financial records and processes to ensure compliance with ordinances
4. Follow up to ensure adequate compliance and, if necessary, enforcement

Monitoring Election Campaign Activity: The Commission will operate a monitoring programme of campaign activity. This will focus on assessing compliance in relation to donations received, reporting of campaign expenditures and helping with the completion of formal returns required under the law. Monitoring will take place in a way that is effective, proportionate and fair to all parties and candidates. Reminders will be issued where non-compliance has occurred and a compliance notice may be issued in relevant circumstances requiring the party or candidate to take steps to ensure it complies. There will be a preference to work with parties and candidates to ensure the reporting requirements can be fulfilled successfully. Generally, investigations and the possible use of sanctions will be used where other measures have been unsuccessful.

Provision of Advice and Guidance: The Commission aims to secure compliance by assisting the parties and candidates understand the requirements of the Ordinance and get it right from the outset as opposed to simply taking enforcement action after things go wrong. To achieve this, the Commission will act proactively and provide periodic guidance notes to help achieve clarification and compliance in key areas. More specific guidance may be offered to parties or candidates who may need help in compliance. Although there is no obligation on the parties involved to accept the advice given, we would encourage parties to do so. The authority to compel parties to fulfil a requirement exists if a breach of the Ordinance has occurred and a formal compliance notice is issued.

Auditing Financial Records and Processes: The Commission's aim is to ensure that all parties and candidates are treated equally and that compliance is assessed in a fair and consistent manner. In some circumstances, the Commission may require the production for inspection, books, documents or other records relating to the income and expenditure of the party or candidate to confirm that effective financial records are being maintained.

This will provide assurance as to the accuracy and completeness of returns submitted to the Commission. The Commission will check and assess both the validity of transactions identified for inclusion in returns (accuracy) and that there are robust processes in place to ensure that all appropriate transactions have been identified and included (completeness).

The Commission does not plan to check every single transaction but a reasonable level of assurance that parties have appropriate systems in place to ensure compliance will be undertaken.

Compliance and Enforcement: The main objective of the Commission is to establish and maintain transparency and integrity of party election finance on behalf of the public of the Turks and Caicos Islands. There is no intention to prevent legitimate election campaigning but examples of inappropriate use of funds to influence electors to vote for candidates will be investigated actively. In addition, those failing to meet their obligations under the Political Activities Ordinance will need to be brought into compliance. Enforcement action will only be taken where it is necessary and proportionate to do so. Powers of enforcement will be exercised in accordance with the statutory obligations contained in the Political Activities Ordinance (Section 71):

1. The Commission may by notice require the production of documents or records relating to income and expenditure
2. The Commission may also require such information or explanation relating to income and expenditure and to do so within a reasonable time as specified in the notice.
3. The Commission may make copies of documents, records or of any information or explanation furnished.
4. The Commission may, for the purposes of carrying out its functions, enter at any reasonable time premises to inspect books, documents or records relating to income and expenditure and require such assistance to enable the inspector to inspect and make copies of the records.

All efforts will be made to assist the parties and candidates in complying – we will seek to use advice and guidance whenever possible rather than enforcement action in order to secure compliance with the Ordinance. Therefore, compliance notices may be issued, prior to formal enforcement action, setting out the alleged breach and what action should be taken to rectify the position. The party or candidate will be provided with a timescale within which to comply.

Role of Party Treasurer:

As a registered party treasurer or independent candidate, you are responsible for the compliance with the financial controls under the Political Activities Ordinance. This is a significant responsibility as the treasurer is in control of the party's finances. Your responsibilities include:

1. Maintaining your party's details and the name and address of any party officer who is registered with the Commission and notify us of any changes
2. Handling donation and loans; Responsibility for ensuring that all donations and loans that your party receive are checked, recorded and reported where appropriate.

3. Campaign Expenditure; The treasurer is responsible for all the party's campaign spending at election including authorising spending, keeping records and invoices/receipts and submitting your expenditure returns. Returns are required to be submitted to the Commission within three months of the end of the relevant campaign period or within six months if an auditor's report is required under Section 48(1).
4. Accounts; You are required to keep clear and accurate records of your accounts to show the true financial position of the party and submit the appropriate returns to the Commission within the regulated timescales.

It is recognised that the most effective way of securing compliance is helping the parties and candidates understand what is required from the outset and supporting them to get it right. We will endeavour to offer:

- Provision of Guidance Notes on Emerging Issues
- Availability of Advice and Guidance on specific matters and if required, provision of formal written opinions on more difficult issues which are both consistent and fair.
- Provision of training to party staff and candidates where appropriate.

Should you wish to contact the Commission in relation to any matter outlined above, you can do so by using the following contact details:

General: 9461941 Patrick Noonan on 4326173 or via e-mail: pfaunit@integritycommission.tc or secretary@integritycommission.tc

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This initial guidance note is not intended to supersede the Ordinance and Regulations and in the event of any inconsistency, the Ordinance and Regulations prevail. This also applies to any future guidance notes provided by the Integrity Commission