

## Third-party campaigners

*This fact sheet is accurate as at November 2023*

A third-party campaigner is defined as a person or entity, (who is not a political party, a Member of the Legislative Assembly (MLA), an associated entity, a candidate, a prospective candidate, a broadcaster, a publisher, an Australian Government body or the ACT Legislative Assembly), that incurs a total of \$1,000 or more in electoral expenditure in the relevant disclosure period for an ACT election.

Third-party campaigners are subject to a range of legal requirements and restrictions under the *Electoral Act 1992*.

### When is the relevant disclosure period?

For the 2024 ACT election, to be defined as a third-party campaigner, a person or entity will have incurred \$1,000 or more in electoral expenditure between 17 November 2020 and 18 November 2024.

### What is electoral expenditure?

Electoral expenditure incurred in relation to an election falls within the following categories:

- Broadcasting electoral advertisements (including production costs);
- Publishing electoral advertisements in a news publication, including printed and electronic newspapers or periodicals (including production costs);
- Displaying electoral advertisements at a theatre or other place of entertainment (including production costs);
- Production of printed or electronic electoral matter requiring authorisation (for example, how-to-vote cards, posters, pamphlets and internet advertising);
- Producing, broadcasting, publishing or distributing electoral matter, other than material included above (such as direct mailing, including printing and postage, business cards promoting candidacy, T-shirts, badges, buttons, pens, pencils and balloons);
- Consultant's or advertising agent's fees in respect of services provided or material used relating to the election; and
- Opinion polling and other electoral research undertaken to support the production of electoral matter included in any of the above.

Electoral expenditure does not include:

- Expenditure for translated electoral matter up to a total of 12.5% of the expenditure cap, where at least 50% of the material is in a language other than English;



- Electoral matter paid for by the Territory or the ACT Legislative Assembly; or
- Administrative expenditure, such as the cost of maintaining an office including accommodation costs, office supplies, travel and in most cases, staff.

## What is an electoral expenditure cap?

The electoral expenditure cap limits the amount of money that can be spent on an election campaign for an ACT Legislative Assembly election by political participants, including third party campaigners.

For the 2024 election, the electoral expenditure cap for third-party campaigners is \$50,135.

For an ACT Legislative Assembly election, the capped expenditure period starts from **1 January in an election year until the end of election day**. For the 2024 ACT election, the capped expenditure period is from 1 January 2024 until 19 October 2024.

This means that if a third-party campaigner incurs electoral expenditure during the electoral expenditure cap period in excess of the expenditure cap amount, the entity will be liable to pay a penalty to the Territory equal to twice the amount by which the electoral expenditure cap has been exceeded.

For example, if a third-party entity spent \$5,000 over the expenditure cap, the entity will be liable to pay a \$10,000 penalty to the Territory.

It is important to note that a third-party campaigner is deemed to have incurred electoral expenditure when the service or product to which the expenditure relates is provided or delivered, not when the invoice is paid.

For example:

- The cost of production of an election related advertisement is incurred when the advertisement is broadcast, regardless of whether the costs for the production were paid before the commencement of the capped expenditure period.

## Reporting obligations – disclosure of expenditure and gifts

Third-party campaigners that incur electoral expenditure during the capped expenditure period must lodge a completed election return to the ACT Electoral Commissioner detailing all electoral expenditure incurred during the capped expenditure period.

A third-party campaigner may also be required to detail gifts (including gifts-in-kind) received, if:

- The third-party campaigner received from an individual or an entity, one or more gifts totalling \$1,000 or more, all or part of which was used to:
  - Enable the third-party campaigner to incur electoral expenditure during the disclosure period; or
  - Reimburse the third-party campaigner for electoral expenditure incurred during the disclosure period.

## When is the election return due?

Election returns are required to be lodged with the Commissioner within 60 days after election day. For the 2024 election the due date is 18 December 2024. Extensions to the deadline are not permitted under the Electoral Act and failure to lodge an electoral return may be subject to a penalty.

## Authorisation of electoral matter

Any material, in printed or electronic form, containing matter that falls within the definition of “electoral matter” must include an authorisation statement. This provision applies at all times, not only during an ACT Legislative Assembly election campaign.

### What is electoral matter?

Electoral matter is matter that is intended to affect or is likely to affect voting in an election for the ACT Legislative Assembly. It is taken to be intended or likely to affect voting if it contains an express or implicit reference to, or comment on:

- The election;
- The performance of the Government, the Opposition, a previous Government or a previous Opposition of the ACT Legislative Assembly;
- The performance of an MLA or former MLA;
- The performance of a political party, candidate or a group of candidates in an election; or
- An issue submitted to, or otherwise before, the electors in connection with an election.

For further information, see the [Authorising electoral material fact sheet](#).

## Further information

More detailed information can be found on the [Electoral expenditure cap fact sheet](#) and the [Electoral, Expenditure, Funding and Disclosure Handbook](#) available under ‘publications’ on the Elections ACT webpage at [www.elections.act.gov.au](http://www.elections.act.gov.au)

While this factsheet provides an overview of the requirements for third-party campaigners participating in the 2024 ACT election, it should not be regarded as a substitute for the law on any of the topics addressed. You are advised to obtain a copy of the *Electoral Act 1992* from [www.legislation.act.gov.au](http://www.legislation.act.gov.au) and seek your own legal advice if necessary.