



**Department for Levelling Up,
Housing & Communities**

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Baroness Scott of Bybrook OBE
Parliamentary Under Secretary of State

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13th September 2023

Dear Clive,

Non-party campaigner code of practice

I am writing to inform you that the draft statutory code for third-party campaigners on controlled expenditure, required by the Elections Act 2022, has been laid before Parliament today.

The Elections Act 2022 requires the Electoral Commission to produce a code of practice on the operation of controls relating to third-party national election campaigns contained within Part 6 of the Political Parties, Elections and Referendums Act 2000.

As you are already aware, the Electoral Commission ran a public consultation on an earlier draft version of code of practice for third-party campaigners in November 2022, and consulted the Levelling Up, Housing and Communities Committee following this. As set out in the Electoral Commission's response to that consultation, responses were received from a range of groups including third-party campaigners, academics and trade unions, and overall, the feedback was positive.

The Government has considered the draft guidance provided by the Commission and has laid the code, with some minor and technical modifications, before Parliament for approval. This code will provide certainty for third-party campaigners on how to comply with the rules relating to third-party campaigning by putting guidance on a statutory footing. It also provides a defence for third parties who are charged with offences under Part 6 of the Political Parties, Elections and Referendums Act 2000 (PPERA) and can demonstrate compliance with the code of practice. This guidance is useful and important for third-party campaigners.

There were two areas where the version of the code of practice presented to the department required minor modification. Leaving the code of practice unmodified risked providing a statutory defence in circumstances where no defence was envisaged under the primary legislation. Therefore, the Secretary of State has decided to make two minor changes to the code of practice to ensure that it accurately reflects the legislation. My officials have worked with the Electoral Commission on these modifications.

The first set of modifications adds the words "the Commission considers that" under the Overheads and Staff Costs headings, as these costs are not explicitly exempted from contributing to controlled expenditure under schedule 8A of PERA. This modification still

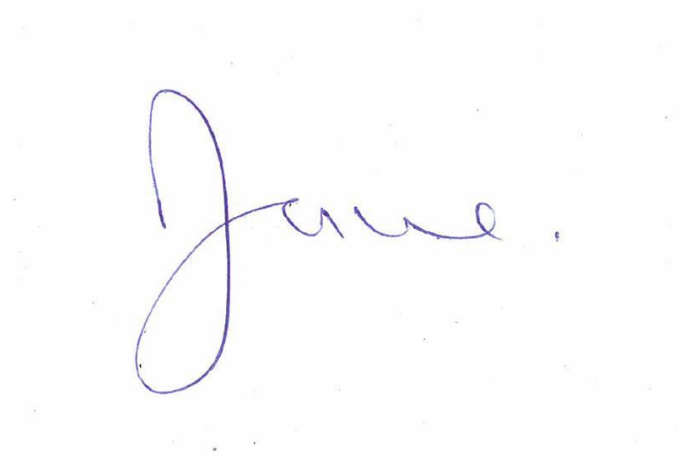
allows the Electoral Commission to follow their existing enforcement approach towards such expenses (including the provision of a statutory defence), while ensuring the code accurately reflects the legislation.

Secondly, a third party is party to a joint campaign if it is intended that controlled expenditure in pursuance of a common plan is incurred on their behalf. Therefore, the code has been modified to clarify that expenditure must be incurred “by or on behalf” of each non-party campaigner to be considered joint campaigning.

If the statutory code is approved by Parliament, it will come into force later this year. It is my hope that the code will give the third-party campaigners more confidence to navigate the rules on third-party campaigning, ahead of future elections.

I would like to thank you for the valuable role you have played as one of the statutory consultees and for your continued interest and engagement throughout the code’s drafting process.

Yours ever,

A handwritten signature in blue ink, appearing to read 'Jane', is centered on a light blue grid background. The signature is fluid and cursive, with a large initial 'J' and a trailing flourish.

BARONESS SCOTT OF BYBROOK OBE