



# User Guideline 5:

## Third-party campaigners

This User Guideline is for third-party campaigners.

### What is a third-party campaigner?

A third-party campaigner is a person, group or entity that either:

- Incurs electoral expenditure in relation to an election
- Authorises another person to incur electoral expenditure in relation to an election or
- Receives a gift that is made for a political purpose.

### Who is not a third-party campaigner?

A third-party campaigner does not include the following types of political entities:

- A member of the Legislative Council;
- A member of the Legislative Assembly;
- An associated entity;
- A candidate;
- A political party; or
- A Legislative Council Group.

### What is a political purpose?

A political purpose is:

- to promote or oppose a political party
- to have a candidate elected
- to otherwise influence voting in an election.

### What is electoral expenditure?

Electoral expenditure is expenditure in relation to an election incurred on the following goods and services:

- broadcasting an advertisement
- publishing an advertisement in a journal
- displaying an advertisement at a theatre or other place of entertainment
- producing an advertisement as above
- producing any material (other than the above) which requires authorisation under the *Act* s.187
- producing and distributing electoral matter such as mail outs and letter box drops to households
- paying an advertising agent's or a consultant's fees for professional services for a political purpose
- carrying out an opinion poll, or other research, for a political purpose.

See User Guideline 4 for more information about electoral expenditure.

## Does a third-party campaigner need to be registered?

If a third-party campaigner incurs electoral expenditure more than \$500 in relation to an election, then the campaigner must register with the Commission.

The campaigner must apply to be registered no later than:

- within seven days of when their electoral expenditure exceeds \$500; or
- before the day before polling day in the election.

In order to apply, a third-party campaigner should lodge the following form with the Commission:

- *FD023 - Application to register a third-party campaigner*

The Commission will advise if the application is successful, and enter the details of the campaigner into the third-party campaigner register. This register is published on the Commission's website.

If details of the third-party campaigner change, the agent has 30 days to notify the Commission of the change of details from when the change occurs.

## Does a third-party campaigner need to appoint an agent?

A third-party campaigner can appoint someone to act as their agent. An agent must be more than 18 years of age, consent to the appointment and not be ineligible for appointment because of a prior conviction for an offence against the *Electoral Act 1907* (the *Act*).

If no appointment is in effect, then the agent of the third-party campaigner is the third-party campaigner unless it is an unincorporated body.

If the third-party campaigner is an unincorporated body, then:

- (a) each member of the executive committee; or
- (b) each member of the third -party campaigner (if there is no executive committee),

assumes the responsibility of the agent as if the obligation was theirs alone.

A third-party campaigner can submit the following form to the Commission at [fad@waec.wa.gov.au](mailto:fad@waec.wa.gov.au) to appoint an agent, *FD005 - Notice of Appointment of an Agent by a Third-Party Campaigner*.

## Can a third-party campaigner cancel their registration?

The agent of a third-party campaigner can request to cancel the campaigner's registration. If the third-party campaigners' registration is cancelled, the day of cancellation will be recorded in the third-party campaigner register. Requests for cancellation can be submitted to the Commission in writing.

## What are the obligations for a third-party campaigner?

A third-party campaigner needs to:

1. Disclose any gifts received for a political purpose over \$2,900 within the required timeframe.

Cumulative gifts from the same donor also need to be disclosed, if they are received in the same financial year and the combined total is more than \$2,900.

Once a donor has given gifts more than \$2,900 in the same financial year, any additional contributions from that donor are to be disclosed, regardless of the value.

There are two different periods that apply to disclosing gifts:

- Non-election period – within seven days of receipt.
- During an election period – by the end of the next business day after receiving a political contribution.

An election period commences once the writ is issued for an election and ends at 6.00 pm on polling day.

### Example A

The Light Association is a third-party campaigner and runs an annual appeal to promote the Association and increase donations to the Association. This appeal is not used for an election campaign, or to oppose or promote a candidate or party in an election, but to fund the Associations usual activities. The gifts received during their annual appeal are not required to be disclosed to the Commission as they are not for a political purpose.

2. Establish a State campaign account before incurring electoral expenditure.

A State campaign account is a dedicated bank account from which electoral expenditure must be paid. Only certain types of funds can be paid into the account, including:

- gifts
- other income
- interest paid on amounts in the account

If a State campaign account is established, then the campaigner will need to lodge an annual return for the account by 30 November for the preceding financial year.

Note that other bank accounts can be used to deposit funds into – and then transfer into the State campaign account. Furthermore, any funds left in the State campaign account once all expenditure has been paid for, is to be donated to a charity.

A third-party campaigner is to notify the Commission of their State campaign account by emailing a completed *FD018 – State Campaign Account Details* to [fad@waec.wa.gov.au](mailto:fad@waec.wa.gov.au).

3. Ensure electoral expenditure does not exceed the applicable expenditure cap.

4. Lodge an election return within 12 weeks of polling day.

The relevant form is [FD013 - Election Return - Third Party Campaigners](#).

## **How does a third-party campaigner disclose gifts received for its election campaign?**

If the third-party campaigner uses the Online Disclosure System, the Commission will have the information as soon as it is submitted. The information will be published as soon as practical after it has been received on the Commission's website.

To register to use the Online Disclosure System, a request needs to be sent to [fad@waec.wa.gov.au](mailto:fad@waec.wa.gov.au). If a third-party campaigner does not wish to use the Online Disclosure System, they should contact the Commission at [fad@waec.wa.gov.au](mailto:fad@waec.wa.gov.au) to discuss their requirements.

## **Do third-party campaigners have electoral expenditure caps?**

There are limits on electoral expenditure at State elections which are referred to as caps. The limit applies to electoral expenditure incurred during the capped expenditure period. Note however, that any expenditure incurred before the capped expenditure period will still count towards the cap if the expenditure is for goods or services to be provided during the capped expenditure period.

The capped expenditure period commences when the writ is issued for the election, and ends at 6pm on polling day.

The current electoral expenditure cap for third-party campaigners at a general election is \$539,600. Third-party campaigners will also not be allowed to spend more than \$14,100 for electoral expenditure in relation to a Legislative Assembly candidate, or \$7,100 in relation to a Legislative Council candidate. This additional cap is a further limitation that applies to expenditure for a candidate that:

- explicitly mentions the name of a candidate;
- is mainly communicated to electors in the candidate's district (for Legislative Assembly Candidates only), and
- is not mainly communicated to electors outside of the candidate's district (for Legislative Assembly Candidates only), or
- is a consultant or advertising agent fee incurred substantially for the candidate.

### **Example B**

The Light Association purchases \$15,000 in radio advertising from the radio station 23FM which broadcasts across the Perth metropolitan area. The advertising runs during the election period, promoting the election of Paolo, who is an independent candidate in a Legislative Assembly district at the election.

The \$15,000 is within the third-party campaigner cap of \$539,600. The cap of \$14,100 that applies to expenditure on a Legislative Assembly candidate does not apply because, although Paolo's name is explicitly mentioned and it is communicated to the electors in Paolo's district, it is not mainly communicated to those electors in Paolo's district as it is metropolitan-wide broadcast.

The Light Association will need to disclose the expenditure in their election return.

## What are the record keeping requirements for a third-party campaigner?

A third-party campaigner must keep:

- a receipt book to record gifts of money\*.
- an acknowledgement book for recording contributions, and services rendered, other than money, commonly referred to as gifts-in-kind\*.
- bank and financial statements, particularly in relation to a State campaign account.

\* Computerised accounting systems may be used in place of receipt and acknowledgement books.

All gifts should be deposited into bank accounts specifically designated for this purpose, as they could be subject to investigations by the Commission. It is not advisable to use personal accounts.

## Further information

All forms referenced in this User Guideline can be found on the Commission's website, [elections.wa.gov.au](https://elections.wa.gov.au)

This User Guideline contains general information only. It is not, nor is it intended to be, a substitute or replacement for the legislation. It is your obligation to comply with the legislation. The Commission can provide general guidance on matters, but it is not able to offer legal advice. If you are in doubt as to your obligations, please seek your own independent legal advice.

If you would like further information, please contact the Commission on 9214 0400 or by emailing [fad@waec.wa.gov.au](mailto:fad@waec.wa.gov.au)

Level 2, 66 St Georges Terrace  
Perth WA 6000

GPO Box F316  
Perth WA 6841

PHONE (08) 9214 0400 or 13 63 06  
EMAIL [waec@waec.wa.gov.au](mailto:waec@waec.wa.gov.au)  
WEBSITE [www.elections.wa.gov.au](http://www.elections.wa.gov.au)

Translating and Interpreting Service (TIS)  
13 14 50 and then ask for (08) 9214 0400  
National Relay Service  
Speak and Listen number 1300 555 727  
SMS Relay number 0423 677 767



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