
DRAFT STATUTORY INSTRUMENTS

2012 No.

The Police and Crime Commissioner Elections Order 2012

PART 3

The election campaign

Candidate election expenses

Prohibition of candidate election expenses not authorised by election agent

34.—(1) No expenses may, with a view to promoting or procuring the election of a person who becomes a candidate at a PCC election, be incurred after the person becomes a candidate at the election by anyone other than the candidate, the candidate's election agent and persons authorised in writing by the election agent on account—

- (a) of holding public meetings or organising any public display, or
- (b) of issuing advertisements, circulars or publications, or
- (c) of otherwise presenting to the electors the candidate or the views of the candidate or the extent or nature of the candidate's backing or disparaging another candidate.

(2) Paragraph (1)(c) does not restrict the publication of any matter relating to the election in—

- (a) a newspaper or other periodical,
- (b) a broadcast made by the British Broadcasting Corporation or by Sianel Pedwar Cymru, or
- (c) a programme included in any service licensed under Part 1 or 3 of the Broadcasting Act 1990⁽¹⁾ (independent television and radio services) or Part 1 or 2 of the Broadcasting Act 1996⁽²⁾ (digital terrestrial television and sound broadcasting).

(3) Paragraph (1) does not apply to any expenses incurred by any person—

- (a) which do not exceed in the aggregate the permitted sum (and are not incurred by that person as part of a concerted plan of action), or
- (b) in travelling or in living away from home or similar personal expenses.

(4) For the purposes of paragraph (3)(a), the permitted sum in respect of a candidate at a PCC election for a police area listed in an entry in the first column of table 1 is the amount shown for that entry in the second column.

Table 1

<i>Police area</i>	<i>Permitted sum</i>
Avon & Somerset	£ 6,278
Bedfordshire	£ 2,347

(1) 1990 c.42.

(2) 1996 c.55.

<i>Police area</i>	<i>Permitted sum</i>
Cambridgeshire	£ 3,055
Cheshire	£ 4,015
Cleveland	£ 2,155
Cumbria	£ 2,024
Derbyshire	£ 3,993
Devon and Cornwall	£ 6,573
Dorset	£ 3,003
Durham	£ 2,499
Dyfed-Powys	£ 2,035
Essex	£ 6,605
Gloucestershire	£ 2,422
Greater Manchester	£ 10,046
Gwent	£ 2,199
Hampshire	£ 7,345
Hertfordshire	£ 4,260
Humberside	£ 3,557
Kent	£ 6,433
Lancashire	£ 5,682
Leicestershire	£ 3,952
Lincolnshire	£ 2,805
Merseyside	£ 5,139
Norfolk	£ 3,392
North Wales	£ 2,674
North Yorkshire	£ 3,142
Northamptonshire	£ 2,686
Northumbria	£ 5,507
Nottinghamshire	£ 4,116
South Wales	£ 4,904
South Yorkshire	£ 5,030
Staffordshire	£ 4,314
Suffolk	£ 2,828
Surrey	£ 4,345
Sussex	£ 6,197
Thames Valley	£ 8,551

<i>Police area</i>	<i>Permitted sum</i>
Warwickshire	£ 2,144
West Mercia	£ 4,750
West Midlands	£ 10,080
West Yorkshire	£ 8,098
Wiltshire	£ 2,630

(5) For the purposes of paragraph (3)(a), expenses are to be regarded as incurred by a person “as part of a concerted plan of action” if they are incurred by that person in pursuance of any plan or other arrangement whereby that person and one or more other persons are to incur, with a view to promoting or procuring the election of the same candidate, expenses which (disregarding paragraph (3)(a)) fall within paragraph (1).

(6) Where a person incurs any expenses required by this article to be authorised by the election agent—

- (a) that person must within 21 days after the day on which the result of the election is declared deliver to the police area returning officer a return of the amount of those expenses, stating the PCC election at which and the candidate in whose support they were incurred, and
- (b) the return must be accompanied by a declaration made by that person (or in the case of an association or body of persons, by a director, general manager, secretary or other similar officer of the association or body) verifying the return and giving particulars of the matters for which the expenses were incurred,

but this paragraph does not apply to any person engaged or employed for payment or promise of payment by the candidate or the election agent of a candidate.

(7) The return and declaration under the preceding provisions of this article must be in Form 24 and Form 25 set out in Schedule 6 or a form to like effect, and the authority received from the election agent must be annexed to the return and is deemed to form part of it.

(8) The police area returning officer must forward to the registration officer for each local authority wholly or partly comprised in the police area every document sent to the officer in pursuance of paragraph (7), and rule 68 of the PCC elections rules shall apply to any such documents.

(9) If a person—

- (a) incurs, or aids, abets, counsels or procures any other person to incur, any expenses in contravention of this article, or
- (b) knowingly makes the declaration required by paragraph (6)(b) falsely,

that person is guilty of a corrupt practice.

(10) If a person fails to deliver or send any declaration or return or a copy of it as required by this article the person is guilty of an illegal practice.

(11) The court before which a person is convicted under paragraph (9) or (10) may, if it thinks it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by virtue of section 173 of the 1983 Act (read with article 77) (incapacities on conviction of corrupt or illegal practices).

(12) A candidate is not liable and the candidate’s election is not to be avoided for a corrupt or illegal practice under paragraph (9) or (10) committed by an agent without the candidate’s consent or connivance.

(13) Where any act or omission of an association or body of persons, corporate or unincorporate, is an offence declared to be a corrupt or illegal practice by this article, any person who at the time of the act or omission was a director, general manager, secretary or other similar officer of the

association or body, or was purporting to act in any such capacity, is deemed guilty of that offence by virtue of this paragraph, unless that person proves—

- (a) that the act or omission took place without the person’s consent or connivance, and
- (b) that the person exercised all such diligence to prevent the commission of the offence as the person ought to have exercised having regard to the nature of the person’s functions in that capacity and to all the circumstances.

(14) For the purposes of paragraph (1), expenditure incurred before the date when a person becomes a candidate at the election is to be treated as having been incurred after that date if it is incurred in connection with anything which is used or takes place after that date.

(15) References in this article to an election agent include a sub-agent.