

SL(5)727 – The Candidate Election Expenses (Senedd Elections) Code of Practice 2021

Background and Purpose

This Code has been prepared by the Electoral Commission to give guidance as to what does or does not fall within Part 1 or Part 2 of Schedule 7 of the National Assembly for Wales (Representation of the People) Order 2007 ('the 2007 Order').

Those Parts are relevant to the definition of 'election expenses' and therefore, in particular, to what expenses a candidate is required to report. Part 1 of Schedule 7 lists the matters in respect of which any expenses for the purposes of the candidate's election count as 'election expenses'. Part 2 lists the exclusions.

The Code also gives guidance as to the cases or circumstances in which expenses are, or are not, to be regarded as incurred 'for the purposes of a candidate's election' as referred to in Article 63 of the 2007 Order.

Procedure

Draft negative. Unless the Senedd resolves not to approve the draft within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of its being laid, the Code of Practice will be brought into force by an appointed day order made by the Welsh Ministers, and published by the Electoral Commission.

Scrutiny under Standing Order 21.7

Two points are identified for reporting under Standing Order 21.7 in respect of this code.

1. Paragraphs 1.18 to 1.20 of the Code sets out how notional spending is calculated for the purpose of election expenses. Paragraph 1.20 concludes by stating that "The rules on donations also apply to the associated gift". No reference is made as to what the rules on donations are or where they can be found. The Committee notes that rules on donations fall outside the scope of the Code but in order to assist those using the Code to comply with all of their obligations, reference should be made to where the rules on donations can be found.
2. The Code sets out the requirements relating to declaring expenses. Paragraph 1.23 states that, under Article 54(3) of the 2007 Order, a candidate on a regional list would be guilty of a corrupt practice if they knowingly make a false declaration. However, the Code makes no reference to Article 53(5) of the 2007 Order which similarly provides that a constituency candidate or their agent would be guilty of a corrupt practice if they knowingly make a false declaration. The Committee notes that consistency of approach and the provision of full information is crucial in the context



of Codes with statutory force such as this Code and would therefore welcome an explanation from the Welsh Government as to why no reference is made to Article 53(5).

Government response

A Welsh Government response is required.

Committee Consideration

The Committee considered the Code of Practice at its meeting on 1 February 2021 and reports to the Senedd in line with the reporting points above.

