

Guidance for Local Groups on Regulation by the Electoral Commission

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1 Summary

We have received confirmation from the Electoral Commission that they are treating us as a “member’s association” and that we are regulated as such. This means that we have duties to check the permissibility of donations and loans and make various reports to the Commission on donations or loans we receive. Some of those reports will then be published on the Commission’s website.

This guidance document is intended to provide detailed information to local groups on how the regulations affect our organisation. Amongst other things, it contains some detail on the information local groups need to collect from donors and the reports they need to make to Momentum HQ. You should read it in conjunction with the document the associated document entitled “What you Need to do in Relation to Donations and Loans”, which contains a summary of the process local groups need to follow in relation to donations. These documents are intended to contain more information than you will ever need and should be the first port of call for any enquiries you have in relation to donations and loans. If you have any questions that this document does not answer, please direct them to Momentum HQ.

This summary provides information on the most important aspects of the rules. More detailed information is contained in the sections, which follow.

Permissibility

We can only accept donations and loans of over £500 if they come from identifiable sources that are permissible under the regulations. A permissible donor or lender must be one of the following:

- an individual registered in a UK electoral register
- UK registered company which is incorporated within the European Union (EU) and carries on business in the UK
- a Great Britain registered political party
- a UK registered trade union
- a UK registered building society
- a UK registered limited liability partnership that carries on business in the UK
- a UK registered friendly society
- a UK based unincorporated association that carries on business or other activities in the UK

Momentum HQ will check permissibility of donations and loans. For that reason, the appointed treasurer for each group will be required to collect the information required to check the permissibility of donations and report it to Momentum HQ.

The requirements on checking permissibility of loans and reporting them to the Electoral Commission are more onerous than those for donations. For that reason, local groups are not permitted to accept loans of £500 or more without prior authorisation from Momentum HQ.

Donations

We as an organisation must report to the Electoral Commission all donations of over £7,500 – whether in the form of money, or goods or services provided without charge or on non-commercial terms. Multiple donations from a single source which aggregate to more than £7,500 must also be reported, as well as aggregate loans and donations from the same source. When reporting, we must provide the value of the donation and the name, address and other relevant details of the donor.

We must also report any donations we have been given that were returned because the donor was unidentifiable or impermissible.

Loans

Loans and other credit arrangements must also be reported. The same thresholds and rules about aggregation apply to reporting of loans as to donations. We must provide the name, address and other relevant details of the lender or guarantor. Details of the value, terms and conditions of the loan must also be reported. We must also report any changes to the terms and conditions of existing loans. The changes must be reported as they occur.

2 Introduction

We as an organisation must report to the Electoral Commission details of the following donations and loans:

- any donations of more than £7,500 accepted from permissible donors
- any donation of more than £500 received from an impermissible or unidentified donor
- new loans entered into by the regulated donee with a value of over £7,500 where the other participants are authorised participants
- loans whose terms have changed, including loans that have ended with a value of over £7,500 where the other participants are authorised participants
- loans entered into by the regulated donee with a value of over £500 where one or more of the other participants is not an authorised participant
- aggregations of donations and loans of over £7,500

Momentum HQ will make the relevant reports to the Electoral Commission. However, local groups will need to be careful to collect the information required to ensure that reports made are compliant with the regulations. Please see the associated document entitled “What you Need to do in Relation to Donations and Loans”, which contains a summary of the process local groups need to follow in this regard.

3 Types of donation and loan

Donations

Any of the following is a regulated donation, which we need to check the permissibility of if their value is **more than £500**:

- a gift of money or other property, for example:
 - a cash donation
 - a photocopier
- sponsorship, for example of the following:
 - a meeting or other event we host or which is hosted on our behalf (e.g. a forum we host in order to debate policy questions)
 - a document we produce or which is produced on our behalf (e.g. a leaflet we produce to promote a policy forum)
 - research we undertake or which is undertaken on our behalf (e.g. research into views on a particular policy issue)

- money spent by anyone other than Momentum paying expenses incurred by local groups or any of their participants (e.g. payment for the use of a community space for meetings)
- the provision of property, services or facilities for our use free of charge or at a reduced rate for example:
 - office space provided to us without charge
 - provision by an employer of an individual to work for us at no cost to the done
 - a 50% discount offered to us when printing leaflets

Please note that this list is non-exhaustive.

Non-cash donations

Where non-cash donations, we must calculate the value of the donation. In order to do that, we may need to obtain commercial quotes for the provision of the donation in question.

For that reason, local groups will need to get a quote from the person or organisation making the donation and gather enough information to allow Momentum HQ to obtain quotes for similar goods, services or facilities and report both the quote obtained from the operator and the information required.

For example, where a local group is provided with the use of office space free of charge, they will need to ask the provided of the space how much they would usually charge and provide Momentum with that information together with, for example, the number of desks which the group had use of.

Services provided free of charge or at a reduced rate

Where we receive property, services or facilities at a reduced rate or free charge, then the discount that we receive is regulated as a donation. We must therefore calculate the market value of the service in order to determine the value of the donation. In order to do that, we may need to obtain commercial quotes for the provision of the service.

For that reason, local groups will need to get a quote from the person or organisation making the donation and gather enough information to allow Momentum HQ to obtain quotes for similar goods, services or facilities and report both the quote obtained from the operator and the information required.

An example of such a donation would be if a local group held a rally in a conference space and was allowed to use the conference space free of charge. The local group would then need to ask the operator of the space how much users would normally be charged for using it. They would also need to provide Momentum HQ with sufficiently detailed information on, for example, how big the space was, to allow Momentum HQ to find similar spaces in the area that quotes could be obtained for.

Commercial transactions

There is no requirement under the rules to treat as a donation any payment made on commercial terms.

As with the provision of property, services or facilities for our use free of charge or at a reduced rate, where we provide a service and the payment we receive is greater than the market value of the services provided, we must treat the excess payment as a donation. We must therefore calculate

what we could charge for the service in order to determine the value of the donation. In order to do that, we may need to obtain commercial quotes for the provision of the service

For that reason, local groups will need to get a quote from the person or organisation to whom the service is provided as to what they would normally pay for the service and report that information to Momentum HQ. They must also report to Momentum HQ sufficient detail about the service provided in order to allow Momentum HQ to obtain quotes for similar services.

An example of such a transaction would be if a member of a local group were asked by an independent local news publication to produce a four-page contribution for a document bringing together the views of different activist groups in the area and offered Momentum a £750 fee for the production of the article. Since the payment would be made in respect of work undertaken by our members, the payment as a whole would not be a donation. However, if the publication normally paid contributors a sum of £250 or less for similar contributions, then the remaining sum of more than £500 would be a regulated donation.

Payments and services that are not donations

Certain payments and services that we are provided are not treated as donations. Most importantly:

- **volunteer's time is not a regulated donation**, where volunteer's time defined as "the provision by an individual of their own services, provided voluntarily and in their own time"
- **any donation of £500 or less is not a regulated donation**

Note that even though "small donations" of £500 or under are not regulated, local groups will still need to ensure that records are kept on when such donations are received and that regular reports on the total the sum of small donations of under £500. Local groups will also need to make sure that all non-trivial donations of things other than money (such as of event space) are reported to allow for the calculation of their value to be made.

For example, if a local group hands out a collection bucket at a rally, and 30 participants at the meeting each make cash donations of £20, the local group will need to aggregate the small cash donations and record the fact small cash donations totalling £600 were made.

Note also that it is an offence to attempt to evade the controls on donations and loans. We therefore do need to look out for circumstances in which it appears that a donor or lender may be attempting to evade the rules. For example, where a donor who is unwilling to identify themselves makes numerous donations of £490, you should be on alert that they may be trying to avoid the controls and report that fact to Momentum HQ.

Loans

Loans, such as the loan of cash by a supporter to pay for hiring a venue, are also regulated.

As is detailed below, loans must be checked for permissibility *before* they are accepted. For that reason, **local groups are not permitted to accept loans of £500 or more** without prior authorisation from Momentum HQ.

Transactions which are not regulated and which local groups are permitted to enter without the prior authorisation of HQ include:

- the loan of property other than money, though note that this this may be considered a donation as specified above. For example the loan of a mini-bus in order to drive members of a local group to an event, though if the mini-bus is provided with a driver, it may be treated as the donation of transport services and therefore be regulated as a donation. Because of the ambiguity as to whether permission to use property is treated as a loan or a donation, local groups should exercise caution, particularly where the property or the use of it is likely to valued at more than £500.
- the provision of trade credit for the purchase of goods or services, for example where local groups open an account with a local printer which allows them to print a number of posters or leaflets on credit. Note that other forms of credit, such as a bank overdraft, *are* regulated. It is for that reason that local groups are not permitted to enter into such credit arrangements.

4 Permissible donors, lenders and donations

It is our legal responsibility when receiving a donation to take all reasonable steps to satisfy ourselves that the source of a donation is permissible within the relevant rules.

If a donation is received from an impermissible source, we must return it within 30 days. After this time, it is a **criminal offence** to retain the donation, with a potential penalty of a fine and up to one year in prison. Additionally, a sum equivalent to the value of the donation may be forfeited.

If a donation is returned because it was impermissible, the return of the donation must be reported to the Commission. It is for that reason that we need to put in place the robust procedures contained in this and associated documents and that local groups need to make timely reports to Momentum HQ to ensure that the required checks can be completed within the 30-day time frame allowed by the rules.

We may not legally enter into loans with impermissible lenders.

No 30-day period exists for us to check the status of the lenders. Therefore, Momentum HQ must carry out all checks on the status of lenders *before* entering into the loan. Entering into a loan with an impermissible lender is a criminal offence and such a transaction is void. It is for that reason that local groups are not be permitted to accept loans of £500 or more without prior authorisation from Momentum HQ.

We can only accept a donation or loan with a value of more than £500 if it permissible because it is from one of the following:

- an individual registered in a UK electoral register (including bequests)
- UK registered company which is incorporated within the European Union (EU) and carries on business in the UK
- a Great Britain registered political party
- a UK registered trade union
- a UK registered building society
- a UK registered limited liability partnership that carries on business in the UK
- a UK registered friendly society
- a UK based unincorporated association that carries on business or other activities in the UK

Momentum HQ will make the relevant checks on the permissibility of donations. However, local groups will need to be careful to collect the information required to ensure that reports made are compliant with the regulations. It is for that reason that the local groups need to collect the following information from donors and potential donors and report it to Momentum HQ:

- the amount or nature and value of the donation
- the full name of the donor
- the registered address of the donor
 - in the case of individuals, the address at which the donor is registered to vote
 - in the case of a donation from a bequest, the address at which the donor was last registered to vote in the five years before their death
 - in the case of an individual who is anonymously registered, a statement to this effect
- where the donor is a company, the company registration number
- the date on which the donation was received
- the date on which the donation was accepted

Please see the associated document entitled “What you Need to do in Relation to Donations and Loans”, which contains a summary of the process local groups need to follow in this regard.

A donation of more than £500 cannot be accepted if it is from any individual or organisation that does not fall into one of the categories above, or if the donation is from a source that cannot be identified (for example, a cash donation of £550 given to us anonymously).

Note that **local councils are not permissible donors or lenders**. Regulated donees may not accept loans or donations, including the use of council facilities at a reduced rate, from any local council.

5 Dealing with donations and loans

For the purposes of reporting donations to the Electoral Commission, there is a distinction between the date of receiving a donation (i.e. the date on which we take receipt of a donation) and the date of acceptance of a donation (i.e. the date on which we decide that we will keep the donation rather than return it).

Receiving a donation

On receipt of a donation, we are required to deal with it in accordance with the requirements of the relevant rules.

We receive a donation on the date on which we take actual possession of the donation. For example, where a donation is provided in cash, the date of the receipt is the date on which we receive the cash. If use of a space is promised to us a week in advance, the date of receipt is the date on which we use the space.

Verifying permissibility

On receipt of a donation of over £500, if it is not possible to identify the donor or if they are not willing to identify themselves, it will need to be immediately refused. If the donation is not immediately returned, we have 30 days in which to decide whether or not to accept a donation. Momentum HQ will use that 30-day period from the date of receipt to ascertain whether the donor is permissible. It is for that reason that it is important that local groups make timely reports to Momentum HQ.

Accepting a donation

If a donation has not been returned after 30 days, the Electoral Commission deems us to have accepted it. This means that Momentum HQ must complete checks on donations received by local groups within 30-days of them being received by local groups. If we cannot establish that the donor is permissible then we must return the donation as though the donor were impermissible. It is for that reason that it is important that local groups make timely reports to Momentum of all donations.

Having confirmed that a donation is from a permissible source, we have to ensure that we record the relevant information about the donation, to enable us to maintain accurate records of donations and submit a report to the Electoral Commission as necessary. It is for that reason that it is important that local groups make accurate records of the information required to check the permissibility of donations.

Returning a donation

Where a donation is received by a local group from an impermissible source, or if a Momentum HQ decides that we cannot accept a donation, we will need to return the donation to the donor within 30 days of receipt.

Where the donation is from an unidentifiable source, we must return the donation to either:

- the person who transferred the donation to the donee
- the financial institution used to transfer the donation, if identifiable or
- in any other case, the Electoral Commission

Momentum HQ will need to report to the Electoral Commission any donations which are returned.

Aggregating donations

All donations of more than £7,500 made to us must be reported to the Commission, whether they are made in a single sum or in aggregate. It is therefore important that we correctly record details of all permissible donations of more than £500, in order that we can report aggregate donations of more than £7,500.

If we have previously reported donations from a particular source, we must report any further donations from that source in the same calendar year of over £1,500.

Donations from multiple donors

Where a donor makes a donation on behalf of themselves and one (or more) other donor(s), each individual contribution of more than £500 is treated as a separate donation from each person. For each separate donation, we must ensure that the principal donor provides us with the relevant information about the donor.

Donations from an agent of the donor

In some cases, an individual or organisation may act as an agent in facilitating a donation to a regulated donee, for example where a donor transfers a donation to an agent, who then transfers the donation to the donee. Where a person acts as an agent in making a donation, we must ensure that the agent gives us all the relevant information. We must ensure that transferring a donation to an agent rather than directly to us is not used as an attempt to evade the controls on permissibility and transparency.

6 Common types of donation

Provision of free space

The provision of space without charge or at a discount is treated as a non-cash donation. We can only accept it from a permissible donor.

Staffing

Where an individual works for us while their salary is paid by someone else, the value of the work is a donation to us.

There is no requirement for us to report details of any work undertaken for us by an individual who volunteers and works for us free of charge and in their own time.