



Guidance Note: Loans

This guidance note has been issued by the Governor following consultation with the Integrity Commission.

Section 20(2)(e) of the Political Activities Ordinance (the Ordinance) provides that any money lent to a party otherwise than on commercial terms shall be treated as a donation. This note offers guidance on what may and may not be regarded as money lent to political parties and candidates 'on commercial terms' for the purpose of reporting under the Political Activities Ordinance.

Loans, credit facilities and securities provided on commercial terms are not to be treated as donations to political parties and must be reported separately to the Commission. This means that when you enter into any of these transactions, you must check that you can accept it, record it and report it correctly to the Commission.

What constitutes a loan or similar facility provided on commercial terms:

“A bank loan is an extension of credit, to a political party, in the form of borrowed funds, which has to be paid back with interest on or before a fixed date and the funds or part of the funds are intended for the party’s or individual candidate’s political activities. The terms of which should be similar to those normally associated with such agreements available to members of the public from lending institutions in the open market”.

Examples of money lent not on commercial terms include loans on payment terms which would not normally be available on the open market; interest free loans; loans at a low rate of interest not available on the open market; or loans with a significantly longer repayment period than commercially available for a loan of a similar amount or purpose. All monies received not on commercial terms must be reported to the Integrity Commission as a donation or donation in kind, whichever is the most appropriate in each situation.

Where it is intended that any part of the money or benefit from a loan, including a credit facility, will be used in connection with political activities it should be reported in returns to the Integrity Commission. In a similar manner to donations, loan and transactions with a value of more than \$150 will need to be reported at the same time as donations. Relevant loan transactions include:

- Monetary loans on commercial terms

- Credit cards, overdrafts and other credit facilities
- Securities and guarantees for a party's obligations to someone else

If any part of the value of a loan is used in connection with political activities, it is a loan which should be reported to the Commission. This includes loans taken out for any other purpose (e.g. a personal credit card) where any part of it is used in connection with election-related political activities.

A loan or credit facility cannot be entered into unless all parties to the transaction fall into the categories of permissible lenders. Before accepting the loan, you must therefore make sure that the lender is permissible. A permissible lender includes the following:

- An individual registered in the Register of Electors;
- An individual who is not so registered but is ordinarily resident in the Turks and Caicos Islands;
- An individual who is neither registered in the Register of Electors nor ordinarily resident in the Turks and Caicos Islands but who is a Turks and Caicos Islander;
- A company formed and registered under the Companies Ordinance which, for a period of not less than 12 months before the donation is accepted has continuously carried on business in the Turks and Caicos Islands;
- A registered party;
- A trade union registered under the Trade Unions Ordinance; and
- A limited partnership registered under the Limited Partnerships Ordinance which carries on business in the Turks and Caicos Islands.

If in doubt about the permissibility of a loan provider, advice can be sought from the Integrity Commission.

Maintaining Records of Loans:

When you enter into a loan or credit agreement, you must record;

- the lender's name and address
- if the lender is a company, their registered company number
- the value of the loan
- the date the loan was entered into
- the date the loan is due to be repaid
- the rate of interest or how it is going to be calculated (if variable) and:
- whether or not any security has been given for the loan.

You should not accept a loan from an impermissible lender. In the event you receive an impermissible loan, you should record the same details as for a permissible loan and explain to the Commission how you dealt with this transaction, for example, how you repaid the loan or placed in escrow awaiting advice.

Reporting Loans During Election Periods

During the relevant period of an election, loans and credit facilities received should be reported weekly, in the same way as donations.

Reporting Loans Outside of Election Periods

The party treasurer is responsible for reporting loans to the Commission. Parties must submit reports to the Commission on a quarterly basis and these should be submitted within 30 days of the end of each reporting quarter. The following table sets out the quarter and reporting deadlines:

Quarter	Deadline to submit the returns	Publication by the Commission
One: January - March	30 April	Within 30 days of deadline
Two: April - June	30 July	Within 30 days of deadline
Three: July - September	30 October	Within 30 days of deadline
Four: October – December	30 January	Within 30 days of deadline

For the purposes of 2012, the first three quarterly reports should be submitted on 5 November 2012. It is appreciated some loans received recently may have also been included in the weekly donation returns required during the relevant period of the 2012 election period.

If there are any subsequent changes to existing loans, then you need to report these to the Commission. If you have not entered into any new loans or made any changes to your existing loans, you must still submit a “nil return”.

Regarding enquiries the Integrity Commission is assisting the Governor's Office. If you require further information, please contact:

General: 9461941 Patrick Noonan on 4326173 or via e-mail: pfaunit@integritycommission.tc or secretary@integritycommission.tc

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Note: These guidance notes are issued to assist political parties and candidates in complying with their obligations under the Political Activities Ordinance. They are not intended to supersede the Ordinance and Regulations and in the event of any inconsistency, the Ordinance and Regulations prevail. This also applies to any future guidance notes provided by the Integrity Commission