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Introduction

This document is laid before Parliament pursuant to section 4C(4) of the Political Parties, Elections and Referendums Act 2000 ('PPERA'). It contains the explanation of the Secretary of State's proposals, those proposals set out in the form of a draft Strategy and Policy Statement (the 'Statement') and the report prepared in accordance with section 4C(3) of PERA that sets out the government's response to the consultation carried out in accordance with section 4C(2) of PERA. Pursuant to section 4C(5) and (6) of PERA, this document is to be laid before both Houses for a sixty-day period within which members of both Houses may make representations on the document. The Secretary of State must consider these representations, before preparing the draft Statement for laying for Parliamentary approval. The sixty-day period excludes any period when Parliament is dissolved or prorogued, or when both Houses are not sitting for more than four days.

Parliamentarians may wish to make representations on the revised draft Statement in Annex A in writing. To do so, please email spsrepresentations@levellingup.gov.uk with the subject line **[Representations on the draft Strategy and Policy Statement for the Electoral Commission]**.

An explanation of the Secretary of State’s proposals

The Electoral Commission was established by section 1 of PERA and is the independent regulatory body responsible for ensuring that elections and referendums are run effectively and in accordance with the law, registering political parties and regulating the spending of, and donations and loans to, political parties and other campaigners. Its functions are outlined in PERA and the Elections Act 2022 ('the Act'). The Commission is independent of Government and accountable to Parliament through the Speaker's Committee on the Electoral Commission (established by section 2(1) of PERA) (the 'Speaker's Committee').

In recent years, some parliamentarians have questioned the adequacy of the existing accountability structures for the Electoral Commission. To facilitate scrutiny by the UK Parliament of the Commission's work, section 16 of the Act provided for a power for the Secretary of State to designate a strategy and policy statement for the Commission by inserting sections 4A and 4B into PERA. The procedural requirements are set out

in new section 4C to 4E of PPERA. Section 17(1) of the Act provided for the Speaker's Committee to be empowered to examine the performance by the Commission of the Commission's duty to have regard to the Statement.

The Secretary of State proposes to designate the draft Statement in Annex A. The first part of the Statement (paragraphs 1 to 13) sets out the strategic and policy priorities of the UK Government and the roles and responsibilities of the Commission in enabling the UK Government to meet those priorities. The second part of the Statement (paragraphs 14 onwards) sets out guidance relating to particular matters in respect of which the Commission has functions.

The Secretary of State's report responding to the consultation on the draft Strategy and Policy Statement for the Electoral Commission

Section 4C of PPERA requires the Secretary of State to consider the views of the Electoral Commission, Speaker's Committee and the Levelling Up, Housing and Communities Committee ('LUHCC') on a draft Statement, making any changes the Secretary of State deems necessary, before laying a draft Statement, and report on the Government's response to the consultation before the UK Parliament for representations to be made. On 22 August 2022, the Government published a draft Statement on GOV.UK and wrote to the statutory consultees as well as members of the Parliamentary Parties Panel and other relevant stakeholders to inform them about the start of the statutory consultation. The statutory consultation closed on 20 December 2022.¹ We also received and took into consideration comments from the Public Administration and Constitutional Affairs Committee² ('PACAC') and the Association of Electoral Administrators. The Government is grateful for the consultees' time and engagement with the consultation on the draft Strategy and Policy Statement for the Electoral Commission.

The Government is clear that the Statement must always be compatible with the foundational principle that the Commission should remain operationally independent. The Commission will only be required to have regard to the Statement in the exercise of its functions. This legal duty does not replace or undermine the Commission's other statutory duties or give the Government powers to direct the Commission's decision making. Therefore, the Government's view is that the Statement will not undermine the Commission's operational independence, with the Electoral Commissioners and the Commission's executive leadership remaining responsible for determining the Commission's strategy, priorities and how the Commission should discharge its duties, including its day-to-day operations.

Notwithstanding this, the Secretary of State has listened to the feedback of the consultees and has amended the draft Statement to make a number of clarifications and provide additional reassurances that the Statement in no way amounts to the Government directing the Commission. These amendments, outlined in part one of the report, also clarify that the Statement articulates the Government's view of factors which the Commission should have regard to, but that the Electoral Commissioners and the Commission's executive leadership remain responsible for determining how the Commission should exercise its functions. Part two of this report summarises the Government's response to issues raised by the consultees, which the in the Government's view, did not warrant changes to the draft Statement.

¹ Department for Levelling Up, Housing, and Communities, '[Draft Electoral Commission Strategy and Policy Statement](#),' date accessed, 17 April 2023.

² Via the Committee's Report on '[The Work of the Electoral Commission](#)' published on 20 October 2022 to which the Government [responded](#) on 19 January 2023.

In this report, most references to paragraph and section numbers refer to the numbering in the draft of the Statement published on 22 August 2022, in other words, the numbering of paragraphs prior to making any changes resulting from the consultation. Where we refer to 'new paragraph' or 'new section' we are referring to the new paragraph or section numbering in the amended version of the draft Statement laid alongside this report for parliamentary scrutiny.

Part one: Summary of consultee responses and changes to the draft Statement

Part one of this report sets out in **bold** key themes raised by the consultees. It then summarises the consultees' feedback for these themes, and the changes made to the Statement in response to this feedback.

Specifying the Commission's priorities

Consultees' feedback

The draft Statement included the Government's view of the Commission's 'core priority functions.' The consultees expressed concerns that this amounted to the Government interfering with the Commission's operational independence.

The consultees recommended that the Government remove paragraphs 3, 4 and 5 of the August 2022 draft of the Statement in their entirety noting that the Government should not state what the Commission's priorities should be. Instead, the consultees recommended that the draft Statement should set out the Government's current priorities and reference which of the Commission's functions relate to those priorities, whilst avoiding language of obligation to remove any implication that the Commission is obliged to adopt those priorities as its own. Some of the consultees also argued that parts of the first section of the August 2022 draft of the Statement restated the existing functions of the Commission without in places using the exact wording from the statute, arguing that this could introduce confusion about the Commission's role and increase the risk of legal challenge.

Government response

The provisions in the Act give the Secretary of State broad powers to set out the Government's strategic and policy priorities relating to elections and referendums (Section 4A(2)(a)) PPERA) and the role and responsibilities of the Commission in enabling the Government to meet those priorities (Section 4A(2)(b)) PPERA, as well as guidance relating to matters in respect of which the Commission has functions (Section 4A(3)(a)) PPERA.

Notwithstanding this, we have considered the consultees' feedback and amended the draft Statement to clarify where the guidance relates to the strategic and policy priorities of the Government relating to elections, referendums and other matters in respect of which the Commission has functions, and the role and responsibilities of the Commission in enabling the Government to meet those priorities. The Government has also amended the draft Statement to provide additional reassurances that it in no way amounts to the Government directing the Commission. This includes removing any references to 'core priority functions' and emphasising in the body of the Statement that the Commissioners and the Commission's executive leadership will remain responsible for determining the Commission's priority setting and allocation of its resources.

Having considered the consultees' views, the Government has also removed subparagraphs 4(a) to 4(e) from the August 2022 draft of the Statement which addresses concerns regarding the restatement of existing functions of the Commission in terms which differ in places from the exact wording in the statute. To address a

concern expressed by one consultee, the Government has also clarified for each section of the Statement the applicable statutory authority in the Elections Act under which it is included.

Guidance on how the Commission exercises its functions

Consultees' feedback

Some of the consultees argued that the Act does not allow the Government to use the draft Statement to set out guidance on *how* the Commission should carry out its regulatory functions.

Some of the consultees expressed concerns about examples of guidance in the draft Statement which refer to the Commission's existing functions in terms which differ or expand on the way these functions are described in statute. The consultees were also concerned that guidance in paragraphs 14 and 20 of the August 2022 draft of the Statement risked undermining the Commission's operational independence and enforcement policy, which could lead to an increased risk of legal challenge against the Commission. The consultees recommended that the Government should remove any guidance relating to how the Commission should exercise its regulatory functions, or where necessary to refer to the Commission's functions, that the Government should only use the statutory description of those functions, particularly in relation to the Commission's enforcement functions and format of its guidance.

Government response

Section 4A(3)(a) PPERA gives the Secretary of State broad powers to set out guidance in the Statement relating to particular matters in respect of which the Commission have functions. The Government's view is that it is appropriate for the Government to give guidance via the Statement for the Commission to consider, particularly in areas where primary legislation is not explicit, and the Commission is exercising a very significant amount of discretion.

With regards to enforcement, the guidance in the Statement does not interfere with the fact that the Electoral Commission's investigations are a matter for the Commission alone. Where it has reason to believe that electoral law has been breached, it has the power to investigate and impose sanctions. As a further safeguard of the Commission's operational independence, the Elections Act prohibits the Statement from containing provision relating to any specific enforcement or investigatory activity and places a duty on the Secretary of State when preparing the Statement, to have regard to the Commission's duty to monitor and secure compliance with offences under PPERA.

Notwithstanding this, the Government has listened to the consultees' feedback and has made various amendments to the guidance in the draft Statement. These changes focus on providing further clarification that the Statement articulates the Government's view of factors which the Commission should have regard to, but that the Electoral Commissioners and the Commission's executive leadership remain responsible for determining how the Commission should exercise its functions. The changes also provide additional reassurance in response to feedback from the consultees that the

principles in the Statement relating to the Commission's enforcement functions should not conflict with the Commission's existing Enforcement Policy.

Role of the Commission across the UK

Consultees' feedback

Some of the consultees argued that the draft Statement does not recognise the complexity of the Commission's accountability to the Senedd Cymru and Scottish Parliament, particularly in paragraph 23 of the August 2022 draft of the Statement which states that the Commission 'must have regard to the importance of acting for all parts of the UK equally'. The Commission's response to the consultation requested more information as to what acting 'equally' for all parts of the UK would mean in practice. The Commission's response also suggested that this guidance may not be compatible with its responsibilities in each of the UK nations which may vary due to local differences in processes or laws or based on priorities specifically agreed by the Senedd Cymru and Scottish Parliament.

Government response

The Commission is accountable to and funded by the UK Parliament for its reserved functions. For its devolved Scottish and Welsh functions, it is funded by and accountable to the Scottish Parliament and Senedd Cymru which agree its priorities as they relate to devolved matters. The draft Statement does not apply to the Commission's devolved Scottish and Welsh functions. PPERA provides that the Statement must not contain provision relating to those functions.

The aim of paragraph 23 of the August 2022 draft of the Statement was to stress the importance of the Commission being cognisant of, in the way it discharges its various functions, the differences that apply across each of the four nations. However, having listened to the consultees' feedback, we understand that the wording in the August 2022 draft of the Statement was unclear. The Government has therefore removed the reference to the need for the Commission to 'act for all parts of the UK equally' in new paragraph 21 of the revised Statement. In its place the Government has clarified that the Commission when discharging its non-devolved functions must have regard to how and where electoral law, processes and practices differ across all parts of the UK. The Government has also included wording to clarify that the Statement does not restrict the Commission's ability to exercise its functions differently across the UK where circumstances, priorities or law require it.

Principle of neutrality and impartiality

Consultees' feedback

Paragraph 16 of the August 2022 draft of the Statement contains guidance regarding the need for the Commission to 'uphold and demonstrate the principle of political impartiality by ensuring that the Commission and its staff communicate and treat all operations, decisions, regulated entities and political matters neutrally and impartially.'

The consultees questioned why the draft Statement requires the Commission to have regard to acting 'neutrally' as well as 'impartially'. They also questioned whether

'neutrally' could be seen to be inconsistent with the Commission's functions, for example its power to advise Government on certain electoral and political matters under section 6 of PPERA. The consultees recommended that the draft Statement be amended to ensure wording on impartiality is consistent with the Commission's existing legal role.

Government response

Paragraph 16 of the August 2022 draft of the Statement reiterates the Government's view that impartiality should be central to the way the Commission exercises its functions. The inclusion of the 'neutrally' was meant as a synonym for 'impartially' for emphasis. Having listened to the consultees' feedback, the Government agrees that this could cause confusion regarding the Commission's role and has therefore removed the word 'neutrally' from new paragraph 14 of the revised Statement.

Responsibilities of other organisations

Consultees' feedback

The consultees expressed concern that the August 2022 draft of the Statement includes references to other organisations with statutory responsibilities for delivering elections or enforcing the law. In particular, they expressed concern regarding the Commission being held accountable for matters beyond their control. For example, the consultees argued that paragraph 11 of the August 2022 draft of the Statement would hold the Commission accountable for the National Police Chiefs Council, Crown Prosecution Service and College of Policing updating their guidance.

The consultees questioned the requirement in paragraph 21 for the Commission to have regard to updating its website in relation to the status of police investigations into electoral matters. They flagged this may be difficult for the Commission to have regard to in practice because there is no requirement for the police or prosecuting authorities to tell the Commission if they have decided not to bring a prosecution. The consultees also questioned whether the Commission should act as a spokesperson for another enforcement or prosecuting authority by communicating their decisions.

Government response

The Government's view is that paragraph 11 of the August 2022 draft of the Statement required the Commission to have regard to updating its guidance including guidance that is jointly produced with other bodies. Having taken into consideration the consultees' feedback, the Government has amended paragraph 11 (new paragraph 7) to clarify that the Commission should update any guidance (or relevant sections in guidance) that it is responsible for. The Government has also clarified that the Commission is not responsible for ensuring that other stakeholders update guidance (or relevant sections in guidance) that they are responsible for providing, even where the guidance is jointly produced with the Commission. In new paragraph 7 of the revised Statement, the Government has also added that under section 4B(3)(b) of PPERA, the Commission is not required to have regard to information in the Statement relating to the roles and responsibilities of other persons.

The Government's view is that paragraph 21 of the August 2022 draft of the Statement requires the Commission to have regard to ensuring its website is up-to-date and reflects the latest developments in any enforcement matters, where the Commission is aware of them, and it is appropriate to do so. The Government agrees that the Commission can only be responsible for its own actions and decision making. Therefore, having considered the consultees' feedback, the Government has added clarifications to paragraph 21 (new paragraph 19) that the guidance only refers to cases where the Commission has initiated an investigation, has referred matters to the police, has mentioned the case on its website and has subsequently been informed that no prosecution will be brought.

Executive priorities not yet approved by Parliament

Consultees' feedback

The consultees expressed concerns that in some areas the August 2022 draft of the Statement (particularly paragraphs 8 and 9) would require the Commission to have regard to supporting the delivery of policies that have not yet been approved by Parliament or that are outside of the Commission's remit. The consultees recommended that the Statement should be amended to make clear that the Commission will not be required to have regard to supporting the delivery of policies that have not yet been approved by Parliament.

The LUHCC response to the consultation also expressed concern that paragraph 9 could be misinterpreted as the Statement suggesting that the Commission should be responsible for making policy or legislative changes that are outside its remit such as "addressing weaknesses in the current absent voting arrangements".

Government response

The Government's view is that that August 2022 draft of the Statement only includes guidance on existing functions of the Commission that have been approved by Parliament. Where the Statement includes functions and responsibilities of the Commission that are included in the Elections Act 2022, it includes a caveat that 'the parts of the Statement that relate to such a function will only apply after that function in the Act has been commenced'.

However, having considered the consultees' feedback and to avoid any confusion, the Government has amended the introduction of the first section of the draft Statement to provide further clarification that the Commission is only required to have regard to the Statement where it relates to functions of the Commission that have already been approved by Parliament. The Government has also amended the wording in paragraph 9 of the August 2022 draft of the Statement (new paragraph 5) to clarify that the Commission is not responsible for addressing weaknesses in the absent voting arrangements. The amendments make clear that this is one of the Government's leading objectives and the Elections Act provided for changes

accordingly, before setting out how the Commission's functions support these priorities.

The Commission's use of examples in guidance

Consultees' feedback

Paragraph 24 of the August 2022 draft of the Statement reads that 'the Commission should provide guidance that sets out the rules as simply as possible and offers practical advice with illustrative examples'. The consultees argued that it may not be appropriate or possible in all instances, such as for unscheduled polls or in relation to new types of campaigning, to provide illustrative examples.

Government response

Under section 145 of PPERA, the Commission has broad powers to provide guidance to secure compliance with electoral law, with substantial discretion as to the level of detail and content of such guidance. The Government's view is that paragraph 24 requires the Commission to have regard to making its guidance clear, for example, by setting out the rules as simply as possible and offering practical advice with illustrative examples. Having considered and agreed with the consultees' feedback that this may not always be appropriate in all circumstances, the Government has added the words 'where appropriate' before 'illustrative examples'.

Clarificatory amendments

The Government has made some clarificatory amendments to paragraph 1 (new paragraph 1), paragraph 5(a) (new paragraph 12a), paragraph 5(b) (new paragraph 12b), paragraph 9(b) (new paragraph 5b), and paragraph 13 (new paragraph 9) of the August 2022 draft of the Statement. These changes are marked up in Annex B and have been added to more accurately reflect the Commission's role and other related terminology.

Part two: Government response to other issues raised by the consultees which did not, in the Government's view, warrant changes to the draft Statement

Part two of this report sets out in **bold** key themes raised by the consultees which did not, in the Government's view, warrant changes to the draft Statement. It summarises the consultees' feedback for these themes, and then sets out the Government's response as to why having considered the consultees' views, a change to the draft Statement was not required.

Rationale for the Statement

Consultees' feedback

Some of the consultees questioned whether the Government has adequately articulated its rationale for the Statement and what issues it is seeking to resolve through the Statement. One of the consultees questioned whether the Commission's recent performance justified the need for a Statement and suggested that the Statement would not improve the Commission's accountability to Parliament.

Government response

The purpose of the Strategy and Policy Statement has been set out by Ministers on the record throughout the passage of the Bill including in written ministerial statements and debates.³ Before the Elections Act, the Commission was already accountable to the Speaker's Committee, however, the Committee had a limited statutory remit including scrutinising the Commission's finances and corporate plans. Lord Pickles' report 'Securing the Ballot: Review into Electoral Fraud' was clear that the Electoral Commission needed to change and that the existing system of oversight by the Speaker's Committee did not provide an effective third-party check on the Commission's performance. The Statement will empower Parliament to hold the Commission to account more effectively whilst respecting the Commission's operational independence. While some may already have a high level of confidence in how the Commission already exercises some of its functions, others may disagree. For example, the PACAC Report into 'The Work of the Electoral Commission' in 2022 identified several areas where the support the Commission provides to parties and campaigners and how it secures compliance with and enforces political finance laws could be improved.⁴ The expansion of the role of the Speaker's Committee to include the Commission's compliance with its duty to have regard to the Statement in the exercise of its functions will allow that Committee to take a view as to whether the Commission is performing well across its functions.

The draft Statement sets out the Government's strategic and policy priorities and the roles and responsibilities of the Commission in enabling the Government to meet those priorities, such as the Government's determination to tackle issues such as voter

³ Role of the Speaker's Committee in holding the Electoral Commission to account, HCWS269, 7 September 2021, <https://questions-statements.parliament.uk/written-statements/detail/2021-09-07/hcws269>. Increasing parliamentary accountability in electoral policy, HCWS100, 17 June 2021, <https://questions-statements.parliament.uk/written-statements/detail/2021-06-17/hcws100>

⁴ The Public Administration and Constitutional Affairs Committee, 'The Work of the Electoral Commission', Second Report of Session 2022-2023, HC462, accessed 18 April 2023.

fraud, to improve accessibility of elections and to improve participation. These are important aims and ones it would be wholly appropriate for an electoral regulator to support.

Consultation on parts of the draft Statement which are consistent with the illustrative Statement

Consultees' feedback

One of the consultees noted that it is the Government's duty to consider equally views arising from the consultation on all aspects of the draft Statement – not just those parts which vary from the illustrative Statement.

Government response

The Government agrees that the Secretary of State is required to consider equally the views arising from the consultation on all aspects of the draft Statement, including those parts which were retained from the illustrative Statement.

Changes made to the August 2022 draft of the Statement in comparison with the illustrative Statement

Consultees' feedback

One of the consultees noted that the letter from the former Minister with responsibility for elections, Paul Scully MP, to consultees on 22 August 2022, informing them about the launch of the consultation included some but not all of the changes made to the August 2022 draft of the Statement in comparison to the illustrative Statement published during the passage of the Bill. In particular, the consultee noted that the Government did not highlight that the phrasing 'the Commission must have regard to' was removed and replaced by 'the Commission should', which it claimed indicated a change in approach since the proposed legislation was before Parliament. The consultee suggested this wording in the August 2022 draft suggests some form of obligation, rather than (in the wording of the legislation) matters to which the Commission only needs to have regard to.

Government response

On 22 August 2022, the Government published a draft Statement on GOV.UK and wrote to the statutory consultees as well as members of the Parliamentary Parties Panel and other relevant stakeholders to inform them about the start of the statutory consultation.⁵ For brevity, rather than to avoid scrutiny, the letter included a summary of the key changes in the August 2022 draft of the Statement focusing on the most prominent changes to the draft Statement in comparison with the illustrative Statement. The substitution of the term 'the Commission must have regard to' with 'the Commission should' in the August 2022 draft of the Statement does not place a duty of obligation on the Commission. Under the provisions in the Elections Act, the Commission is required to 'have regard' to the guidance in the Statement, and the removal of this phrase from within the August 2022 draft of the Statement was simply

⁵ Department for Levelling Up, Housing, and Communities, '[Draft Electoral Commission Strategy and Policy Statement](#),' date accessed, 17 April 2023.

to avoid the tautology of requiring the Commission 'to have regard' to 'having regard' to guidance in the Statement.

The Commission's independence

Consultees' feedback

Some of the consultees expressed concerns that the Statement would enable the Government to direct the Commission which could undermine public confidence in the Commission and the wider democratic process. Another consultee argued that the Statement was in principle inconsistent with the Commission's independence. One of the consultees also questioned whether it was appropriate that the Statement is written by Government and not Parliament.

Government response

The Government agrees that the Statement must always be compatible with the foundational principle that the Commission should remain operationally independent and believes the August 2022 draft of the Statement does not undermine this. Fundamentally, the Statement will not undermine the Commission's operational independence because the Commission will only be required to have regard to the Statement in the exercise of its functions. This legal duty does not replace or undermine the Commission's other statutory duties or give the Government powers to direct the Commission's decision making.

The duty to have regard simply means that when carrying out its functions the Commission will be required to consider the Statement and weigh it up against any other relevant considerations. Therefore, the Government's view is that the Commission will remain operationally independent, with the Electoral Commissioners and the Commission's executive leadership remaining responsible for determining the Commission's strategy, priorities and how the Commission should discharge its duties, including its day-to-day operations.

The provisions in the Elections Act require the Statement to be subject to an extended period of parliamentary scrutiny, giving parliamentarians ample opportunities to make representations on the draft Statement before choosing whether to approve or reject the Statement in full. Furthermore, by improving the accountability of the Commission to the UK Parliament, it is the Government's view that this will increase public confidence in its work.

Electoral fraud as a key priority

Consultees' feedback

One of the consultees questioned the rationale for listing electoral fraud as a key priority in the Statement given the Commission's limited functions in relation to tackling electoral fraud.

Government response

The Government is clear that voter fraud is a crime that we cannot allow room for and we must reduce any potential for it to take place in elections, which is why we

introduced, via the Elections Act 2022, identification to vote at polling stations and safeguards against the abuse of postal and proxy voting. Another utmost priority for the Government is to protect the secrecy of the ballot as it is completely unacceptable for anyone's vote to be influenced or pressured inside a polling station or elsewhere. That is why the Government has supported the Ballot Secrecy Act 2023, which was introduced by Lord Hayward and seeks to tackle the important issue of so-called 'family voting', whereby voters are pressured at the point of completing their ballot paper in the polling station to vote in a particular way.

As set out in the August 2022 draft of the Statement, the Commission is not responsible for taking enforcement action regarding electoral fraud allegations, but it does play an important role in tackling fraud through some of its other statutory duties. This is why the August 2022 draft of the Statement therefore points to areas where the Commission can support the Government's objectives in tackling voter fraud when exercising its functions. Such as requiring the Commission to have regard to the importance of improving electoral integrity when setting and monitoring performance against standards by Electoral Registration Officers, Returning Officers and Counting Officers. This aligns with the Government's commitment to protect the integrity of our democracy.

Guidance in the Statement on how the Commission exercises its functions

Consultees' feedback

One of the consultees' argued that the provisions in the Elections Act do not allow the Government to use the draft Statement to set out guidance on *how* the Commission should carry out its regulatory functions.

Government response

Section 4A(3)(a) PPERA gives the Secretary of State broad powers to set out guidance in the Statement relating to particular matters in respect of which the Commission have functions. The Government's view is that it is appropriate for the Government to give guidance via the Statement for the Commission to consider, particularly in areas where primary legislation is not explicit, and the Commission is exercising a very significant amount of discretion.

Commission engagement with other stakeholders

Consultees' feedback

Paragraph 22 of the August 2022 draft of the Statement required the Commission to have regard to the 'views of political parties, candidates and other campaigners'. One of the consultees welcomed the inclusion of this guidance in the Statement but recommended that the scope of engagement should be extended to parties and campaigners of all sizes, in addition to larger parties, to ensure that the training and guidance meets the needs of its users.

Government response

The Government's view is that the wording in the August 2022 draft of the Statement which requires the Commission to have regard to consulting the views of 'political

parties' and 'relevant stakeholders' is already inclusive of parties and campaigners of all sizes.

How the Commission's compliance with the Statement will be measured

Consultees' feedback

Some of the consultees' questioned how the Commission's compliance with its duty to have regard to the Statement will be measured. One of the consultees noted that the Elections Act did not provide for a measure of success or adherence in relation to the Commission's compliance with its duty to have regard to the Statement.

Government response

Section 17 of the Elections Act inserted Section 13ZA into PPERA which expanded the role of the Speaker's Committee to include examining the Commission's compliance with its duty to have regard to the Statement. To support this new scrutiny power, Section 13ZA PPERA also enables the Committee to request relevant information from the Commission. The Committee is responsible for determining its own proceedings. The Government's view is that this will provide the Committee with the necessary tools to perform its scrutiny function, however it chooses to do so. It would be inappropriate for the Government to constrain or prescribe the approach of the Speaker's Committee in discharging this function.

The Speaker's Committee's power to hold the Commission accountable for its duty to have regard to the Statement

Consultees' feedback

One of the consultees noted that, just as the Secretary of State's power to designate a Statement is optional, so is the Speaker's Committee's power to hold the Commission accountable for its duty to have regard to the Statement. The Speaker's Committee noted that if they did not consider the Statement fit for purpose, they would consider not holding the Commission to account for their duty in relation to it.

Government response

As previously noted, Lord Pickles' 'Securing the Ballot: Review into Electoral Fraud' noted that the existing oversight system of the Electoral Commission by the Speaker's Committee did not provide an effective third-party check on the Commission's performance. Which is why the Government introduced reforms that empower Parliament, through the Speaker's Committee, to hold the Commission more effectively accountable.

The Government acknowledges that the Speaker's Committee has a power, not a duty, to hold the Commission accountable for its duty to have regard to the Statement. Were the Speaker's Committee minded not to exercise this power, the Commission would still be required to have regard to the Statement.

The Government provided for an extended period of consultation (over 3 months) to ensure that the views of the consultees were considered properly. The Government has listened to the points raised by the consultees and has made changes to the draft

Statement to address various issues raised including to provide additional reassurances that the Statement will not undermine the Commission's operational independence.

The Statement is too long

Consultees' feedback

One of the consultees suggested that the Statement is too long noting that the longer the Statement is the more potential there is for risks, such as, the confusion about the Commission's responsibilities and the potential for legal challenge, to materialise.

Government response

The Government's view is that the Statement is an appropriate length required to set out properly the strategic and policy priorities of the UK Government and the roles and responsibilities of the Commission in enabling the UK Government to meet those priorities.

Consultation period and parliamentary procedure

Consultees' feedback

One of the consultees recommended that the Government commits to a 3-month timetable for statutory consultees to scrutinise all future Strategy and Policy Statements. They also recommended that the Government ensure a motion is tabled for the draft Statement to be debated on the floor of both Houses, before it is brought forward for final approval.

Government response

The Government welcomes the important engagement of the statutory consultees and parliamentarians with the draft Statement through the extensive consultation period. As recommended by PACAC during the passage of the Bill, we also provided for the subsequent extended parliamentary scrutiny process. The draft Statement will be scrutinised according to the requirements set out in the Act. The Government will ensure that parliamentary time is made available for a debate on the Statement in each House, during the 40-day period during which parliamentarians will be able to determine whether to approve or reject the Statement in full.

The Government does not agree with the recommendation to apply the same timeframe for consultation for all future Strategy and Policy Statements as we consider that specific minimum timeframes for consultation would be overly rigid and inflexible.⁶ The Act requires the Secretary of State (at least once every five years since a Statement was last designated) to review, consult on and then designate (or withdraw) a Statement subject to the approval of the UK Parliament. In this event the duration of the consultation period with statutory consultees will be set on the basis of what is considered appropriate at the time and in line with the Government's published

⁶ As explained as well in the Public Administration and Constitutional Affairs Committee, '[The Elections Bill: Government Response to the Committee's Fifth Report](#)', Fourth Special Report of Session 2021-22, 10 February 2022, HC 1133, p11

consultation principles.⁷ Beyond this five year requirement, it is important for the Secretary of State to have the power to make changes to the Statement where deemed appropriate. Under the provisions in the Act, any revisions that go beyond clerical or typographical errors to the Statement will be subject to consultation unless the Secretary of State makes a determination under new section 4E(4) of PPERA (as inserted by section 16 of the Elections Act 2022) that this obligation does not apply. Before taking this decision the Secretary of State must consult the Speaker's Committee on the Electoral Commission.

⁷ Cabinet Office, Guidance – '[Consultation principles: guidance](#)', 17 July 2012 (last accessed 18 April 2023)

Annex A: Revised draft Electoral Commission Strategy and Policy Statement

Draft Electoral Commission Strategy and Policy Statement

Government strategic and policy priorities relating to elections, referendums and other matters in respect of which the Commission has functions

This section comprises the strategic and policy priorities of the Government relating to elections, referendums and other matters in respect of which the Commission has functions, and the role and responsibilities of the Commission in enabling the Government to meet those priorities under section 4A(2) of the Political Parties, Elections and Referendums Act 2000 (PPERA). The Commission's role and responsibilities are set out in legislation as approved by Parliament. This section is not an exhaustive list of all the Commission's duties and responsibilities and does not suggest that the Commission should cease to carry out any of its other statutory duties. This Statement does not apply to the Commission's devolved Welsh or Scottish functions, and any reference in this Statement to "functions" excludes those devolved functions.

1. The Electoral Commission is the independent regulatory body responsible for giving guidance and support to Electoral Registration Officers and Returning Officers in undertaking electoral registration and conducting elections and recall petitions effectively and in accordance with the law. The Commission sets performance standards for these officers in Great Britain in terms of their activities and produces statutory reports on electoral events and recall petitions. It is also responsible for registering political parties, giving guidance to political parties, candidates and third party campaigners among others on electoral rules, and regulating donations and loans to political parties and other campaigners, and their spending.

2. The Chair of the Commission has the responsibility in law for acting as the Chief Counting Officer at national referendums in the UK (held under PERA) and the staff of the Commission support the Chair in that role, when it is required, to work through local electoral authorities to deliver such events.

3. The Government believes the Electoral Commission has an important role to play in maintaining the integrity of our elections and public confidence in that integrity. As a statutory body, the Electoral Commission has a range of duties and responsibilities, most notably set out in PERA. This Statement includes guidance to which the Commission must have regard in the discharge of its functions. This Statement does not seek to interfere with the governance of the Commission and the Commission remains operationally independent. When preparing the Statement, the Secretary of State has had regard to the duty placed on the Commission by Section 145(1) of PERA to monitor and ensure compliance with the rules set out in that Act. Further, this Statement does not affect the ability of the Commission to undertake enforcement activity within its remit as it sees fit and it cannot include reference to specific investigatory or enforcement activity of the Commission. The duty to have regard to the Statement means that when carrying out its functions, the Electoral Commission will be required to consider this Statement and weigh it up against any

other relevant considerations. The duty to have regard does not require the Commission to give lesser priority or to ignore any of its other statutory duties. The Electoral Commissioners and the Commission's executive leadership will remain responsible for determining the Commission's strategy, priorities, how it should discharge its duties including day-to-day operations and the allocation of its resources as agreed by the relevant parliaments. It will be for the Commission to determine how to factor the Statement into its decision-making processes and corporate documents such as the Five-Year Plan. The Statement seeks to ensure greater accountability to the UK Parliament on how the Electoral Commission discharges its functions.

4. One of the Government's policy priorities is ensuring our democracy is secure, fair, modern and transparent. We place citizens' participation at the heart of our democracy, trusting their choices and maintaining their confidence in our elections. We are guided by important principles that underpin our democracy:

- a) That those who are entitled to vote should always be able to exercise that right freely, securely and in an informed way;
- b) That fraud, intimidation and interference have no place in our democracy;
- c) That we are the stewards of our shared democratic heritage which we keep up to date for our age.

5. One of the leading Government objectives is tackling electoral fraud with the introduction of voter identification in Great Britain and addressing weaknesses in the current absent voting arrangements. The Elections Act 2022 provided for these changes accordingly. The parts of the Statement that relate to such a function will only apply after that function in the Act has been commenced. In support of these priorities the Commission should:

- a) Support continued effective delivery of voter identification by raising public awareness about the requirements to show an approved form of photographic identification before taking part in UK parliamentary elections, local elections in England and elections in Northern Ireland.
- b) Support issuing authorities in meeting the requirement to issue a free Voter Authority Certificate to any elector requiring it through the provision of guidance to Electoral Administrators and the police that will support their understanding of the operation of voter identification.
- c) Assist in tackling electoral fraud by promoting awareness amongst voters about absent voting arrangements (postal and proxy voting).

6. The Government aims to improve accessibility of elections by allowing a wider range of people to assist voters with disabilities if needed when voting in a polling station and by broadening the requirements for Returning Officers to provide equipment to support voters with disabilities in polling stations. The Commission should support this goal by issuing guidance to Returning Officers on these new requirements introduced by the Elections Act 2022, and reviewing and updating the guidance where appropriate.

7. Another key Government priority is supporting participation by championing freedom of expression and tolerance and by working to stamp out intimidation in public life through the delivery of a new electoral sanction. The Commission should support this work and candidates facing intimidatory or abusive behaviour by updating any section of the guidance that it is responsible for in the 'Joint Guidance on Intimidation for Candidates' jointly produced with the National Police Chiefs Council, Crown Prosecution Service and the College of Policing. The Commission should also update other relevant guidance it is responsible for providing, including any relevant sections of the guidance for candidates about qualifications for standing for election and the guidance for Returning Officers regarding the nomination process for offenders who have been disqualified from standing at a relevant election. The Commission is not responsible for ensuring that other stakeholders update guidance (or relevant sections in guidance) that they are responsible for providing, even where the guidance is jointly produced with the Commission. Under section 4B(3)(b) of PPERA, the Commission is not required to have regard to information in the Statement relating to the roles and responsibilities of other persons.

8. The Commission should also support participation by informing the public about the franchise and electoral registration, as well as associated changes such as extension of the franchise to all British citizens overseas who were previously registered or resident in the UK, and a new online application process for absent vote arrangements. This will include:

- a) Making sure electors are clear about the online and offline process for registering to vote and for applying for an appropriate absent vote arrangement where desired.
- b) Raising awareness among British citizens overseas of the extension of the franchise for expatriates.

9. To support the Government in combating the threat of foreign interference in UK elections by ensuring compliance with the political finance framework, the Commission should:

- a) Publish clear and easily accessible information about the rules and requirements in relation to the registration, spending, and donations received, of political parties, candidates, campaigners and others. The Commission should also produce high-quality and accessible guidance for campaigners on how to comply with new rules legislated by Parliament in the Elections Act 2022, such as the restriction on foreign third-party campaigning (section 26).
- b) When carrying its functions under section 100A of PPERA to prepare a code of practice on the controls for third party campaigners, the Commission should ensure that this guidance is clear, easily accessible and comprehensive. In particular, with regards to guidance on qualifying expenses in Part 1 of Schedule 8A of PPERA, the Commission should include clear and comprehensive guidance about the test of who should count as "the public at large or any section of the public". As part of the statutory consultation process, the Commission must consult "such other persons as the Commission consider

appropriate” and the Commission must have regard to the desirability of doing a public consultation before submitting the draft code to the Secretary of State.

10. To further the aim of improving transparency in UK elections, alongside the police and prosecuting authorities, the Electoral Commission must have regard to the importance of proportionate enforcement of the new digital imprint regime, including when considering whether to impose a sanction depending on the facts of each case and where it is necessary and proportionate to do so, in line with the Commission’s ‘Enforcement Policy’. The Commission should also support compliance with the regime and recognise the importance of protecting free speech by individuals when producing the statutory guidance for the digital imprint regime.

11. To support the Government’s efforts to clarify the law on notional expenditure, the Commission should reflect changes to the law on notional expenditure introduced by the Elections Act 2022 when updating the guidance on spending.

12. In addition, whilst the Commission is not responsible for taking enforcement action regarding electoral fraud allegations, it plays an important role in tackling fraud through some of its other statutory duties. As part of this, the Commission should:

- a) Effectively support the effective administration of elections and referendums by providing clear guidance to deliver robust polls that meet the UK’s high standards of democratic integrity. In particular, the Commission should support Presiding Officers in ensuring the secrecy of the ballot inside polling stations, by making it clear in both advice and guidance that any breach of the secrecy laws or attempt to influence someone’s vote while in the polling booth is an offence. The law expressly provides for children accompanying their parents into polling stations. The Government considers this important in order to allow children to witness how the democratic process works. The law also expressly provides for a companion (to assist a disabled voter). The Commission should also pay specific attention to the need to provide greater support to Electoral Registration Officers and Returning Officers through advice and guidance in local authorities at higher risk of electoral fraud, including those with a history of electoral fraud.
- b) Effectively support Returning Officers, Electoral Registration Officers, Presiding Officers and the police in identifying and addressing the risk of corrupt and illegal practices, including intimidation and undue influence as evident from past Election Court judgements including the London Borough of Tower Hamlets in 2015. This includes identifying and reporting on the observation of potential electoral fraud when publishing reports on the administration of elections and referendums.
- c) Assist the relevant authorities in tackling electoral fraud when observing working practices of Electoral Registration Officers, Returning Officers and Counting Officers.
- d) Have regard to the importance of improving electoral integrity when setting performance standards and monitoring the level of performance against those

standards, by Electoral Registration Officers, Returning Officers and Counting Officers.

- e) Support tackling electoral fraud when promoting public awareness about current electoral systems in the UK and any pending such systems and connected matters as detailed in paragraph 5 of this Statement.

13. Any allegations of electoral fraud should be referred to the police and prosecution authorities for investigation and prosecution.

Guidance relating to particular matters in respect of which the Electoral Commission has functions

This section contains guidance relating to particular matters in respect of which the Commission has functions under section 4A(3)(a) of PPERA. This does not suggest that these are the only relevant considerations that the Commission may wish to consider.

14. Impartiality: The Commission should uphold and demonstrate the principle of political impartiality by ensuring that the Commission and its staff communicate and treat all operations, decisions, regulated entities and political matters impartially.

15. Accountability: The Commission should be fully accountable as a public body with such important responsibilities relating to our democratic processes. The Commission should, as appropriate, provide transparency around its decision making including but not limited to its Report required under section 4B(4) of PPERA in relation to this Statement. The Commission should work closely with the Speaker's Committee on the Electoral Commission, as well as the UK Parliament to ensure public and democratic accountability.

16. Responsiveness to the public and the public interest: The Commission should respond to the need of the public and the public interest in the discharge of its functions, including when prioritising competing interests. For example, the Commission must have regard to the importance of accurate and prompt election results through supporting Returning Officers' conduct of counts and setting adequate performance standards for Great Britain.

17. Value for money: The Commission should ensure value for taxpayers' money in the discharge of its functions by considering the principles set out in Government guidance entitled 'Managing Public Money' on the spending of money in the UK public sector, including Cabinet Office guidance on grant standards and on lobbying by public bodies. For example, the Commission should ensure value for taxpayers' money when exercising its discretionary power to give advice and assistance (under section 10 of PPERA) by considering whether such requests are in the public interest and a justifiable use of the Commission's resources.

18. Enforcement:

- a) The Commission should ensure objective, impartial, consistent, effective, proportionate and fair enforcement of the rules legislated by Parliament as appropriate and in accordance with the guidance set out in its Enforcement Policy. The Commission should be sensitive and proportionate to the voluntary nature of much of political parties' infrastructure so as not to unduly discourage participation in public life. The Government is committed to engaging with the police to assess where support may be needed to enforce electoral regulation proactively and effectively. In addition, as recommended by the Committee on Standards in Public Life's report on 'Regulating Election Finance', the Commission must have regard to the importance of improving confidence in the fairness of its decision-making. This includes providing, where appropriate, those it regulates with a clear explanation of the rationale for the size of the sanctions it imposes in individual cases.
- b) In its approach to enforcement, the Electoral Commission should consider best practice from other regulators (such as the 'Macrory principles'), including where appropriate the use of requests for improvements before resorting to fines and the need to conduct investigations in a timely manner. The Electoral Commission should work closely and effectively with the police who hold responsibility for enforcing areas of electoral law and investigating where criminal offences are suspected.

19. Cooperation: Where appropriate, the Electoral Commission should cooperate with other regulators (such as the Information Commissioner and Ofcom) and public bodies and executive agencies (such as Companies House), to deliver its functions and avoid regulatory duplication or confusion. This includes ensuring the effective enforcement of electoral law by continuing to work with the Crown Prosecution Service, the Crown Office and Procurator Fiscal Service and the Public Prosecution Service NI for criminal prosecutions. Where decisions are taken by the prosecuting bodies not to take forward prosecutions for cases investigated by and referred to them by the Commission, and where the Commission is made aware of a decision not to prosecute and it is appropriate to do so, the Commission should ensure the record on its website (if any) is clear that individuals or organisations do not remain under criminal investigation.

20. Communication and consultation: The Commission should consider the views of political parties, candidates and other campaigners to better understand the realities of campaigning activities when preparing guidance by seeking regular feedback and consulting with relevant stakeholders including the Parliamentary Parties Panel to ensure its guidance is helpful to campaigners. This will help to ensure engagement with the guidance and trust in the Electoral Commission amongst the public and interested parties. The Commission should use the full skills and experience of its Electoral Commissioners, including those nominated by parties.

21. Devolution: The Statement does not apply to the Commission's devolved Scottish and Welsh functions. The Commission remains partly funded by and accountable to the Senedd Cymru and Scottish Parliament. However, the Commission is a UK wide body with responsibilities relating to electoral matters in all parts of the

United Kingdom. The Commission must have regard to the importance of reflecting, particularly through advice provided to campaigners and published guidance, how and where electoral law, processes and practices differ across all parts of the UK. This includes providing clear advice and guidance to political parties, candidates and third-party campaigners among others in relation to the impact on reserved rules of any regulatory divergence which may arise across the UK's nations as a result of the devolution settlements. In relation to political finance regulation, this should include the application of the reserved rules during combined regulated periods, which can occur retrospectively. This guidance does not preclude the Commission from exercising its functions differently across the UK where circumstances, priorities or law require it.

22. Support to campaigners: The Commission should provide campaigners with clear, consistent and user-friendly guidance that supports campaigners in complying with electoral law. Electoral law can be complex and the Commission should provide guidance that sets out the rules as simply as possible and offers practical advice, with illustrative examples, of how to comply with the rules, as legislated by Parliament. As recommended by the Committee on Standards in Public Life's report on 'Regulating Election Finance', the Commission should ensure that its website and online guidance are as user-friendly, interactive and accessible as possible to campaigners and the public. As recommended in the same report, the Commission should seek regular feedback from the Parliamentary Parties Panel and voluntary organisations, to ensure the Commission's advice meets the needs of those that require it.

23. Ensuring clarity on the law: When drafting guidance for campaigners, the Commission should clearly identify whether the guidance is statutory, which must reflect electoral law (and other legislation) or whether it is non-statutory guidance. In any guidance, the Commission should clearly identify the scope of legal obligations. Such guidance should clearly distinguish between legal requirements which must be complied with, and behaviour or activity which is being encouraged or discouraged as a matter of best practice, to help campaigners in their decision-making.

Annex B: Marked up revised draft Electoral Commission Strategy and Policy Statement

Draft Electoral Commission Strategy and Policy Statement

Government strategic and policy priorities relating to elections, referendums and other matters in respect of which the Commission has functions~~Priorities for the Electoral Commission~~

This section comprises the strategic and policy priorities of the Government relating to elections, referendums and other matters in respect of which the Commission has functions, and the role and responsibilities of the Commission in enabling the Government to meet those priorities under section 4A(2) of the Political Parties, Elections and Referendums Act 2000 (PPERA). ~~Government's view of the Electoral Commission's priorities and functions that support the Government's priorities in relation to elections, referendums and other matters in respect of which the Commission has functions. The Commission's role and responsibilities are set out in legislation as approved by Parliament. As such, this~~ This section is not an exhaustive list of all the Commission's duties and responsibilities and does not suggest that the Commission should cease to carry out any of its other statutory duties. This Statement does not apply to the Commission's devolved Welsh or Scottish functions, and any reference in this Statement to "functions" excludes those devolved functions.

1. The Electoral Commission is the independent regulatory body responsible for giving guidance and support to Electoral Registration Officers and Returning Officers in undertaking electoral registration and conducting elections and recall petitions effectively and in accordance with the law. The Commission sets performance standards for these officers in Great Britain in terms of their activities and produces statutory reports on electoral events and recall petitions. It is also responsible for registering political parties, giving guidance to political parties, candidates and third party campaigners among others on electoral rules, and regulating donations and loans to political parties and other campaigners, and their spending.

2. The Chair of the Commission has the responsibility in law for acting as the Chief Counting Officer at national referendums in the UK (held under PPERA)~~the Political Parties, Elections and Referendums Act 2000~~) and the staff of the Commission support the Chair in that role, when it is required, to work through local electoral authorities to deliver such events.

3. The Government believes the Electoral Commission has an important role to play in maintaining the integrity of our elections and public confidence in that integrity. As a statutory body, the Electoral Commission has a range of duties and responsibilities, most notably set out in PPERA~~the Political Parties, Elections and Referendums Act 2000~~. ~~Amongst these duties and responsibilities, the Government considers several to be core priority functions. It is the Government's view that these priority functions should be the focus of the Electoral Commission's work and allocation of resources.~~ This Statement includes~~is intended to provide~~ guidance to which the Commission must have regard in the discharge of its functions. This Statement does not seek to interfere with the governance of the Commission and the

Commission remains operationally independent. When preparing the Statement, the Secretary of State has had regard to the duty placed on the Commission by Section 145 (1) of ~~PPERA~~the Political Parties, Elections and Referendums Act 2000 to monitor and ensure compliance with the rules set out in that Act. Further, this Statement does not affect the ability of the Commission to undertake enforcement activity within its remit as it sees fit and it cannot include reference to specific investigatory or enforcement activity of the Commission. The duty to have regard to the Statement means that when carrying out its functions, the Electoral Commission will be required to consider this Statement and weigh it up against any other relevant considerations. The duty to have regard does not require the Commission to give lesser priority or to ignore any of its other statutory duties. The Electoral Commissioners and the Commission's executive leadership will remain responsible for determining the Commission's strategy, priorities, how it should discharge its duties including day-to-day operations and the allocation of its resources as agreed by the relevant parliaments. It will be for the Commission to determine how to factor the Statement into its decision-making processes and corporate documents such as the Five-Year Plan. -The Statement seeks to ensure greater accountability to the UK Parliament on how the Electoral Commission discharges its functions.

4. The One of the Government's policy priorities is ensuring our democracy is secure, fair, modern and transparent. We place citizens' participation at the heart of our democracy, trusting their choices and maintaining their confidence in our elections. We are guided by important principles that underpin our democracy:

- a. that those who are entitled to vote should always be able to exercise that right freely, securely and in an informed way;
- b. that fraud, intimidation and interference have no place in our democracy;
- c. that we are the stewards of our shared democratic heritage which we keep up to date for our age.

~~-considers the core priority functions of the Electoral Commission, rooted in priorities already established in law, are as follows:~~

~~a. The Commission is responsible for supporting Returning Officers and Electoral Registration Officers with clear advice and guidance, and in Great Britain for setting and monitoring robust performance standards, to ensure the successful delivery of polls that meet the UK's high standards of democratic integrity and free and fair elections.~~

~~b. The Commission is responsible for informing the public about and promoting awareness of current electoral systems in the UK, including systems that have been enacted by the UK Parliament but are not yet in force, and connected matters. As part of this duty, the Commission encourages accurate voter registration and access to polls.~~

~~c. Alongside the police and prosecution authorities, the Commission is responsible for enforcing the rules as legislated by Parliament relating to the regulation of political finance and electoral spending that provide for an even playing field and public confidence in the electoral process. As part of this,~~

~~Commission has a wide range of investigatory and civil sanctioning powers and can refer criminal matters to the police. The Electoral Commission has never brought criminal prosecutions. The Elections Act 2022 maintains that status quo and makes clear that the proper place for criminal prosecutions relating to electoral law lies with the prosecution authorities.~~

~~d. The Commission is responsible for providing clear and high-quality guidance, advice and support to political parties, candidates and other campaigners, that help their understanding of the rules as legislated by Parliament, with which they must comply.~~

~~e. With regards to national referendums held in pursuance of the Political Parties, Elections and Referendums Act 2000, the Commission's core functions include considering the wording of the referendum question and reporting on its intelligibility; maintaining a register of permitted participants; and enforcing the rules as legislated by Parliament relating to the regulation of referendum expenses. The Chief Counting Officer (be it the Chair of the Commission or someone appointed by the Chair) is responsible for the conduct of these referendums and for certifying the results of these referendums.~~

~~5. In addition, whilst the Commission is not responsible for taking enforcement action regarding electoral fraud allegations, it plays an important role in tackling fraud through some of its other core statutory duties. As part of this, the Commission should:~~

~~a. Effectively support Electoral Registration Officers and Returning Officers in the discharge of their functions by providing them with clear guidance to deliver robust polls that meet the UK's high standards of democratic integrity. In particular, the Commission should support Returning Officers in ensuring the secrecy of the ballot inside polling stations, by making it clear in both advice and guidance that any breach of the secrecy laws or attempt to influence someone's vote while in the polling booth is an offence. The law expressly provides for children accompanying their parents into polling stations. The Government considers this important in order to allow children to witness how the democratic process works. The law also expressly provides for a companion (to assist a disabled voter). The Commission should also pay specific attention to the need to provide greater support to Electoral Registration Officers and Returning Officers through advice and guidance in local authorities at higher risk of electoral fraud, including those with a history of electoral fraud.~~

~~b. Effectively support Returning Officers, Electoral Registration Officers and the police in identifying and addressing the risk of corrupt and illegal practices, including intimidation and undue influence as evident from past Election Court judgements including the London Borough of Tower Hamlets in 2015. This includes identifying and reporting on the observation of potential electoral fraud when publishing reports on the administration of elections and referendums.~~

~~c. Assist the relevant authorities in tackling electoral fraud when observing working practices of Electoral Registration Officers, Returning Officers and Counting Officers.~~

~~d. Have regard to the importance of improving electoral integrity when setting performance standards and monitoring the level of performance against those standards, by Electoral Registration Officers, Returning Officers and Counting Officers.~~

~~e. Support tackling electoral fraud when promoting public awareness about current electoral systems in the UK and any pending such systems and connected matters as detailed in paragraph 9 of this Statement.~~

~~6. Any allegations of electoral fraud should be referred to the police and prosecution authorities for investigation and prosecution.~~

Executive priorities in relation to elections as approved by Parliament

~~This section contains functions and responsibilities of the Commission that are included in the Elections Act 2022. As such, the parts of the Statement that relate to such a function will only apply after that function in the Act has been commenced.~~

~~7. The UK Government's 2019 Manifesto set out this Government's commitment to protecting our democracy and ensuring that it remains secure, modern, transparent and fair. The Government places citizens' participation at the heart of our democracy, trusting their choices and maintaining their confidence in our elections. We are guided by important principles that underpin our democracy:~~

- ~~a) that those who are entitled to vote should always be able to exercise that right freely, securely and in an informed way;~~
- ~~b) that fraud, intimidation and interference have no place in our democracy;~~
- ~~c) that we are the stewards of our shared democratic heritage which we seek to keep up to date for our age.~~

~~8. The Commission in its work should support the Government's delivery of legitimate executive priorities in relation to elections during this Parliament, including changes brought by the Elections Act 2022 and as listed below:~~

5. One of~~To support~~ the leading Government's objectives is~~of~~ tackling electoral fraud with the introduction of voter identification in Great Britain and by addressing weaknesses in the current absent voting arrangements. The Elections Act 2022 provided for these changes accordingly. The parts of the Statement that relate to such a function will only apply after that function in the Act has been commenced. In support of these priorities, the Commission should:

- a) Support continued effective delivery of voter identification by raising public awareness about the requirements to show an approved form of photographic identification before taking part in UK parliamentary elections, local elections in England and elections in Northern Ireland.

- b) Support issuing authorities in meeting the requirement to issue a free Voter Authority Certificate~~Electoral Identity Document~~ to any elector requiring it through the provision of guidance to Electoral Administrators and the police that will support their understanding of the operation of voter identification.
 - c) Assist in tackling electoral fraud by promoting awareness amongst voters about absent voting arrangements (postal and proxy voting).
6. The Government aims to improve accessibility of elections by allowing a wider range of people to assist voters with disabilities if needed when voting in a polling station and by broadening the requirements for Returning Officers to provide equipment to support voters with disabilities in polling stations. The Commission should support this goal by issuing guidance to Returning Officers on these new requirements introduced by the Elections Act 2022, and reviewing and updating the guidance where appropriate.
7. Another key Government priority is supporting participation by championing freedom of expression and tolerance and by working to stamp out intimidation in public life through the delivery of a new electoral sanction. The Commission should support this work and candidates facing intimidatory or abusive behaviour by updating any section of the guidance that it is responsible for in the 'Joint Guidance on Intimidation for Candidates' jointly produced with the National Police Chiefs Council, Crown Prosecution Service and the College of Policing. The Commission should also update other relevant guidance it is responsible for providing, including any relevant sections of the guidance for candidates about qualifications for standing for election and the guidance for Returning Officers regarding the nomination process for offenders who have been disqualified from standing at a relevant election. The Commission is not responsible for ensuring that other stakeholders update guidance (or relevant sections in guidance) that they are responsible for providing, even where the guidance is jointly produced with the Commission. Under section 4B(3)(b) of PPERA the Commission is not required to have regard to information in the Statement relating to the roles and responsibilities of other persons.
8. The Commission should also support participation by informing the public about the franchise and electoral registration, as well as associated changes such as extension of the franchise to all British citizens overseas who were previously registered or resident in the UK, and a new online application process for absent vote arrangements. This will include:
- a. Making sure electors are clear about the online and offline process for registering to vote and for applying for an appropriate absent vote arrangement where desired.
 - b. Raising awareness among British citizens overseas of the extension of the franchise for expatriates.
9. To support the Government in combating the threat of foreign interference in UK elections by ensuring compliance with the political finance framework, the Commission should:

- a) Publish clear and easily accessible information about the rules and requirements in relation to the registration, spending, and donations received, of political parties, candidates, campaigners and others. The Commission should also produce high-quality and accessible guidance for campaigners on how to comply with new rules legislated by Parliament in the Elections Act 2022, such as the restriction on foreign third-party campaigning (section 26).
- b) When carrying its functions under section 100A of ~~the Political Parties, Elections and Referendums Act 2000 (PPERA)~~ to prepare a code of practice on the controls for third party campaigners, the Commission should ensure that this guidance is clear, easily accessible and comprehensive. In particular, with regards to guidance on qualifying expenses in Part 1 of Schedule 8A of PPERA, the Commission should include clear and comprehensive guidance about the test of who should count as “the public at large or any section of the public”. As part of the statutory consultation process, the Commission must consult “such other persons as the Commission consider appropriate” and the Commission must have regard to the desirability of doing a public consultation before submitting the draft code to the Secretary of State.

10. To further the aim of improving transparency in UK elections, alongside the police and prosecuting authorities, the Electoral Commission must have regard to the importance of proportionate enforcement of the new digital imprint regime, including when considering whether to impose a sanction depending on the facts of each case and where it is necessary and proportionate to do so, in line with the Commission’s ‘Enforcement Policy’. ~~the need to avoid disproportionate sanctions against genuine mistakes where reasonable steps have been taken to comply with the new digital imprint regime.~~ The Commission should also support compliance with the regime and recognise the importance of protecting free speech by individuals when producing the statutory guidance for the digital imprint regime.

11. To support the Government’s efforts to clarify the law on notional expenditure, the Commission should reflect changes to the law on notional expenditure introduced by the Elections Act 2022 when updating the guidance on spending.

12. In addition, whilst the Commission is not responsible for taking enforcement action regarding electoral fraud allegations, it plays an important role in tackling fraud through some of its other ~~core~~ statutory duties. As part of this, the Commission should:

- a. Effectively support the effective administration of elections and referendums ~~Electoral Registration Officers and Returning Officers in the discharge of their functions~~ by providing ~~them with~~ clear guidance to deliver robust polls that meet the UK’s high standards of democratic integrity. In particular, the Commission should support Presiding Officers ~~Returning Officers~~ in ensuring the secrecy of the ballot inside polling stations, by making it clear in both advice and guidance that any breach of the secrecy laws or attempt to influence someone’s vote while in the polling booth is an offence. The law expressly provides for children accompanying their parents into polling stations. The Government considers this important in order to allow children to witness how the democratic process works. The law also

expressly provides for a companion (to assist a disabled voter). The Commission should also pay specific attention to the need to provide greater support to Electoral Registration Officers and Returning Officers through advice and guidance in local authorities at higher risk of electoral fraud, including those with a history of electoral fraud.

b. Effectively support Returning Officers, Electoral Registration Officers, Presiding Officers and the police in identifying and addressing the risk of corrupt and illegal practices, including intimidation and undue influence as evident from past Election Court judgements including the London Borough of Tower Hamlets in 2015. This includes identifying and reporting on the observation of potential electoral fraud when publishing reports on the administration of elections and referendums.

c. Assist the relevant authorities in tackling electoral fraud when observing working practices of Electoral Registration Officers, Returning Officers and Counting Officers.

d. Have regard to the importance of improving electoral integrity when setting performance standards and monitoring the level of performance against those standards, by Electoral Registration Officers, Returning Officers and Counting Officers.

e. Support tackling electoral fraud when promoting public awareness about current electoral systems in the UK and any pending such systems and connected matters as detailed in paragraph 59 of this Statement.

13. Any allegations of electoral fraud should be referred to the police and prosecution authorities for investigation and prosecution. -

Guidance relating to particular matters in respect of which the Electoral Commission has functions~~Principles for the Electoral Commission~~

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This section contains guidance relating to particular matters in respect of which the Commission has functions under section 4A(3)(a) of PPERA. ~~the Government's view of the core principles that should be prioritised by the Electoral Commission in the exercise of its functions.~~ This does not suggest that these are the only relevant considerations that the Commission may wish to consider.

14. Impartiality: The Commission should uphold and demonstrate the principle of political impartiality by ensuring that the Commission and its staff communicate and treat all operations, decisions, regulated entities and political matters ~~neutrally and~~ impartially.

15. Accountability: The Commission should be fully accountable as a public body with such important responsibilities relating to our democratic processes. The Commission should, as appropriate, provide transparency around its decision making including but not limited to its Report required under section 4B(4) of PPERA~~the Political Parties, Elections and Referendums Act 2000~~ in relation to this Statement. The Commission should work closely with the Speaker's Committee on the Electoral

Commission, as well as the UK Parliament to ensure public and democratic accountability.

16. Responsiveness to the public and the public interest: The Commission should respond to the need of the public and the public interest in the discharge of its functions, including when prioritising competing interests. For example, the Commission must have regard to the importance of accurate and prompt election results through supporting Returning Officers' conduct of counts and setting adequate performance standards for Great Britain.

17. Value for money: The Commission should ensure value for taxpayers' money in the discharge of its functions by ~~carefully considering the balance between executive priorities in relation to elections as approved by Parliament listed in this Statement and its other functions. As part of this, the Commission should~~ considering the principles set out in Government guidance entitled 'Managing Public Money' on the spending of money in the UK public sector, including Cabinet Office guidance on grant standards and on lobbying by public bodies. For example, the Commission should ensure value for taxpayers' money when exercising its discretionary power to give advice and assistance (under section 10 of ~~PPERA) the Political Parties, Elections and Referendums Act~~) by considering whether such requests are in the public interest and a justifiable use of the Commission's resources.

18. Enforcement:

- a) The Commission should ensure objective, impartial, robust, consistent, ~~effective transparent and~~ proportionate and fair enforcement of the rules legislated by Parliament as appropriate and in accordance with the guidance set out in its Enforcement Policy. ~~, by balancing the need to engage constructively with campaigners to support compliance, with the need to sanction electoral offences. Proportionate enforcement includes the need for the Commission to balance the impact of its enforcement policy on providing an effective deterrent for deliberate breaches of electoral law and not unduly discouraging participation in public life.~~ The Commission should be sensitive and proportionate to the voluntary nature of much of political parties' infrastructure so as not to unduly discourage participation in public life. The Government is committed to engaging with the police to assess where support may be needed to enforce electoral regulation proactively and effectively. In addition, as recommended by the Committee on Standards in Public Life's report on 'Regulating Election Finance', the Commission must have regard to the importance of improving confidence in the fairness of its decision-making. This includes providing, where appropriate, those it regulates with a clear explanation of the rationale for the size of the sanctions it imposes in individual cases.
- b) In its approach to enforcement, the Electoral Commission should consider best practice from other regulators (such as the 'Macrory principles'), including where appropriate the use of requests for improvements before resorting to fines and the need to conduct investigations in a timely manner. The Electoral Commission should work closely and effectively with the police who hold responsibility for enforcing areas of electoral law and investigating where criminal offences are suspected.

19. Cooperation: Where appropriate, the Electoral Commission should cooperate with other regulators (such as the Information Commissioner and Ofcom) and public bodies and executive agencies (such as Companies House), to deliver its functions and avoid regulatory duplication or confusion. This includes ensuring the effective enforcement of electoral law by continuing to work with the Crown Prosecution Service, the Crown Office and Procurator Fiscal Service and the Public Prosecution Service NI for criminal prosecutions. Where decisions are taken by the prosecuting bodies not to take forward prosecutions for cases investigated by and referred to them by the Commission, and where the Commission is made aware of a decision not to prosecute and it is appropriate to do so, the Commission should ensure the record on its website (if any) is clear that individuals or organisations do not remain under criminal investigation.

20. Communication and consultation: The Commission should consider the views of political parties, candidates and other campaigners to better understand the realities of campaigning activities when preparing guidance by seeking regular feedback and consulting with relevant stakeholders including the Parliamentary Parties Panel to ensure its guidance is helpful to campaigners. This will help to ensure engagement with the guidance and trust in the Electoral Commission amongst the public and interested parties. The Commission should use the full skills and experience of its Electoral Commissioners, including those nominated by parties.

21. Devolution: ~~The Statement does not apply to the Commission's devolved Scottish and Welsh functions. The Commission remains partly funded by and accountable to the Senedd Cymru and Scottish Parliament. However, t~~The Commission is a UK wide body with responsibilities relating to electoral matters in all parts of the United Kingdom. The Commission must have regard to the importance of ~~acting for all parts of the UK equally. This will involve an understanding of reflecting, particularly through advice provided to campaigners and published guidance, how and where electoral law, processes and practices differ~~ across all parts of the UK. and ensuring that the Electoral Commission in the discharge of its functions, particularly through advice provided to campaigners and published guidance, reflect such differences accurately. This includes providing clear advice and guidance to political parties, candidates and third-party campaigners among others in relation to the impact on reserved rules of any regulatory divergence which may arise across the UK's nations as a result of the devolution settlements. In relation to political finance regulation, this should include the application of the reserved rules during combined regulated periods, which can occur retrospectively. This guidance does not preclude the Commission from exercising its functions differently across the UK where circumstances, priorities or law require it.

22. Support to campaigners: The Commission should provide campaigners with clear, consistent and user-friendly guidance that supports campaigners in complying with electoral law. Electoral law can be complex and the Commission should provide guidance that sets out the rules as simply as possible and offers practical advice, with illustrative examples, of how to comply with the rules, as legislated by Parliament. As recommended by the Committee on Standards in Public Life's report on 'Regulating Election Finance', the Commission should ensure that its website and online guidance are as user-friendly, interactive and accessible as possible to campaigners and the public. As recommended in the same report, the Commission should seek regular

feedback from the Parliamentary Parties Panel and voluntary organisations, to ensure the Commission's advice meets the needs of those that require it.

23. Ensuring clarity on the law: When drafting guidance for campaigners, the Commission should clearly identify whether the guidance is statutory, which must reflect electoral law (and other legislation) or whether it is non-statutory guidance. In any guidance, the Commission should clearly identify the scope of legal obligations. Such guidance should clearly distinguish between legal requirements which must be complied with, and behaviour or activity which is being encouraged or discouraged as a matter of best practice, to help campaigners in their decision-making.