



# Draft Electoral Commission Strategy and Policy Statement

Presented to Parliament pursuant to section 4C(7) of the Political  
Parties, Elections and Referendums Act 2000

December 2023



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ISBN 978-1-5286-4621-5  
E03039757 12/23

Printed on paper containing 40% recycled fibre content minimum

Printed in the UK by HH Associates Ltd on behalf of the Controller of His Majesty's Stationery Office.

## **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 to, 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 through 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 requirement 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 the 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 remove 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) 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 the 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, while 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 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 needs 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's Office 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 for Northern Ireland 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 them 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.

