

Electoral Commission Strategy and Policy Statement (Illustrative Example)

15 September 2021

© Crown copyright 2021
Produced by the Cabinet Office

You may re-use this information (excluding logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, visit <http://www.nationalarchives.gov.uk/doc/open-government-licence/> or email: psi@nationalarchives.gsi.gov.uk

Where we have identified any third party copyright material you will need to obtain permission from the copyright holders concerned.

Alternative format versions of this report are available on request from publiccorrespondence@cabinetoffice.gov.uk.

Priorities for the Electoral Commission

This section comprises the 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 have functions. As such, this 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 their other statutory duties.

1. The Electoral Commission are the independent regulatory body responsible for giving guidance and support to Electoral Registration Officers and Returning Officers to undertake electoral registration and run elections and referendums effectively and in accordance with the law. They are also responsible for registering political parties, giving guidance to political parties and candidates on electoral rules as legislated by Parliament, and regulating donations and loans to political parties and other campaigners, and their spending.
2. The Government believes the Electoral Commission have 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 have a range of duties and responsibilities, most notably set out in 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 is intended to provide guidance to which the Commission must have regard in the discharge of their functions. This Statement does not seek to interfere with the governance of the Commission, nor does it seek to direct specific investigative or enforcement decisions of the Electoral Commission. This Statement does not affect the ability of the Commission to undertake enforcement activity as they see fit, having had regard to the Statement, but ensures greater accountability to Parliament on how the Electoral Commission discharge their functions.
3. The Government considers the core priority functions of the Electoral Commission, rooted in priorities already set out in law, to be:
 - a. The Commission are responsible for supporting Returning Officers and Electoral Registration Officers with the clear advice and guidance, and for Great Britain 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 are responsible for informing the public and promoting awareness of elections, including the different electoral systems used in the UK and encouraging accurate voter registration and access to polls;
 - c. Alongside the police and prosecution authorities, the Commission are 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, the Commission have a wide range of investigatory and civil sanctioning powers and are able to refer criminal matters to the police. The Electoral Commission have never brought criminal prosecutions. The Elections Bill will maintain that status quo and make clear that the proper place for criminal prosecutions of electoral law is the prosecution authorities;

- d. The Commission are 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 they must comply with.

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 Bill and are not currently part of the Commission's statutory duties. As such, the parts of the Statement that relate to those functions will only apply after those functions are commenced.

4. 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. We will 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 seek to keep up to date for our age.
5. The Commission in their work must have regard to the Government's delivery of legitimate executive priorities in relation to elections during this Parliament, and as listed below.
6. Tackling electoral fraud by introducing voter identification and by addressing weaknesses in the current absent voting arrangements:
 - a. The Commission must have regard to supporting effective delivery of the policy 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. The Commission must have regard to supporting issuing authorities in meeting the requirement to issue a free Voter Card to any elector requiring it through the provision of guidance to Election Administrators and the police that will support their understanding of the operation of voter identification.
 - c. The Commission must have regard to assisting in tackling electoral fraud by promoting awareness amongst voters about absent voting arrangements (postal and proxy voting).

- d. The Commission must have regard to the need to 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.
7. Improving 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 support voters with disabilities:
- a. The Commission must have regard to supporting this policy by issuing guidance to Returning Officers on these new requirements introduced by the Elections Bill.
8. Increasing participation by championing freedom of expression and tolerance, scrapping the 15 year rule, thus enfranchising all British citizens who were previously registered or resident in the UK, and by working to stamp out intimidation in public life through the delivery of a new electoral sanction:
- a. The Commission must have regard to continuing to support candidates facing intimidatory or abusive behaviour by updating guidance in the 'Joint Guidance on Intimidation for Candidates' jointly produced with the National Police Chiefs Council, Crown Prosecution Service and the College of Policing.
 - b. The Commission must have regard to supporting increased enfranchisement by informing and encouraging the public about electoral registration, including newly-enfranchised overseas electors.
9. Combatting foreign interference in UK elections:
- a. The Commission must have regard to publishing clear and easily accessible information about the spending and donations received by political parties, campaigners and other groups, as well as high quality and accessible guidance for campaigners on how to comply with new rules legislated by Parliament.
10. Improving transparency in UK elections:
- a. Alongside the police and prosecuting authorities, the Electoral Commission must have regard to proportionate enforcement of the new digital imprint regime, including 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 must also have regard to supporting compliance with the regime and recognising the importance of protecting free speech by individuals when producing the statutory guidance for the digital imprint regime.

11. Supporting the Government's efforts to clarify the law on notional expenditure:

- a. The Electoral Commission must have regard to reflecting changes to the law on notional expenditure introduced by the Elections Bill when updating the guidance on spending by candidates and by parties.

Principles for the Electoral Commission

This section contains the Government's view of the core principles that should be prioritised by the Electoral Commission in the exercise of their functions. This does not suggest that these are the only relevant considerations that the Commission may wish to consider.

12. The following are key principles that the Electoral Commission must have regard to in the discharge of their functions.
13. Impartiality: The Electoral Commission must have regard to the need to uphold and demonstrate the principle of political impartiality by ensuring that the Commission and their staff communicate and treat all operations, decisions, regulated entities and political matters neutrally and impartially.
14. Accountability: The Electoral Commission must have regard to the need to be fully accountable as a public body with such important responsibilities relating to our democratic processes. The Commission should as appropriate provide transparency around their decision making and work closely with the Speaker's Committee on the Electoral Commission, as well as the UK Parliament, Scottish Parliament and Senedd Cymru, to ensure public and democratic accountability.
15. Responsiveness to the public and the public interest: The Electoral Commission must have regard to responding to the need of the public and the public interest in the discharge of their functions, including when prioritising competing interests. For example, the Commission must have regard to the importance of accurate and prompt election results through supporting Electoral Returning Officers' conduct of counts and setting adequate performance standards for Great Britain.
16. Value for money: The Electoral Commission must have regard to ensuring value for taxpayers' money in the discharge of their functions by considering carefully the balance between executive priorities in relation to elections as approved by Parliament listed in this Statement and their other functions. The Commission must have regard for the principles in guidance issued by the Government to Arm's Length Bodies on the spending of public money, including Cabinet Office guidance on grant standards and on lobbying by public bodies.
17. Enforcement:
 - a. The Electoral Commission must have regard to the need to ensuring robust, consistent, transparent and proportionate enforcement of the rules legislated by Parliament 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 have regard to balancing the impact of their enforcement policy on providing an effective deterrent for deliberate breaches of electoral law and not unduly discouraging participation in public life. The Commission must also have regard to the need to be sensitive and proportionate to the voluntary nature of much of political parties' infrastructure. 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 improving confidence in the fairness of their decision-making. This includes the need for the Commission to have regard to 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 their approach to enforcement, the Electoral Commission must also have regard to 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.

18. Cooperation: The Electoral Commission must have regard to the need to cooperate with other regulators (such as the Information Commissioner and Ofcom) and public bodies to deliver their functions and avoid regulatory duplication or confusion; and ensure 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, and where the Commission are aware of a decision not to prosecute and it is appropriate to do so, the Commission must have regard to ensuring the record is clear that individuals or organisations do not remain under criminal investigation.

19. Communication and consultation: The Commission must have regard to 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 Panels to ensure their guidance is helpful to campaigners. This will help to ensure buy-in to the guidance and trust in the Electoral Commission amongst the public and interested parties. The Commission must have regard to using the full skills and experience of their Electoral Commissioners, including those nominated by parties.

20. The Union: The Electoral Commission are a UK wide body with responsibilities relating to electoral matters in all parts of the United Kingdom. The Electoral Commission must have regard to acting in all their capacities for all four parts of the Union equally and the UK as a whole. This will involve an understanding of where electoral law, processes and practices differ and ensuring that the Electoral Commission in the discharge of their functions, particularly through advice provided to campaigners and published guidance, reflects those differences accurately.

21. Support to campaigners: The Commission must have regard to the need to 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 must endeavour to 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 must also have regard to ensuring that their website and online guidance are as user-friendly, interactive and accessible as possible to campaigners and the public.

22. Support to Electoral Registration Officers and Returning Officers: The Electoral Commission must have regard to the need to 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 and by monitoring performance against those standards. The Commission must also have regard 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 past history of electoral fraud.
23. Ensuring clarity on the law: When drafting guidance for campaigners, the Commission should clearly identify whether it is statutory guidance, which must reflect electoral law (and other legislation) or 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.