

Draft statutory guidance on digital imprints | Electoral Commission Search
Draft statutory guidance on digital imprints You are in the Consultation on
draft statutory guidance: digital imprints section Home Our consultations
Consultation on draft statutory guidance: digital imprints Currently reading: of 6 -
Show page contents On this page What is digital material and when does it need an
imprint Requirements for the imprint Sharing and republishing material Non-party
campaigner imprints Enforcement of the regime Key terms About this guidance The
guidance has been prepared by the Electoral Commission, and laid before Parliament,
in accordance with section 54 of the Elections Act 2022. It applies throughout the
United Kingdom of Great Britain and Northern Ireland. The purpose of this guidance is
to: explain the operation of Part 6 of the Act, concerned with information that is to
be included with digital material and how to comply with its requirements explain how
the Electoral Commission and the police will undertake their enforcement functions
where there is a breach or suspected breach of Part 6 of the Act. Where the guidance
says that something must be done, this means that it is a requirement in either
primary or secondary legislation. Key terms are explained throughout the guidance,
and also provided as an alphabetical list at the end of the document. The Electoral
Commission and the police must have regard to this guidance when exercising their
functions under Part 6 of the Act. The Electoral Commission may propose revisions to
this guidance from time to time in accordance with the Act or when directed to do so
by the Secretary of State. Introduction When certain campaign material is published,
it must contain certain details to show who is responsible. These details are known
as an 'imprint'. The imprint helps to ensure there is transparency for voters about
who is campaigning. There are already laws requiring imprints on printed election,
referendum and recall petition material, and on digital election material used at
Scottish devolved elections. For these laws, please see the Electoral Commission's
non-statutory guidance . Under the Elections Act 2022, there are laws requiring
imprints on some kinds of digital material. Examples of the types of digital material
that need an imprint are explained in the guidance. The digital imprint requirements
do not apply in relation to digital material published prior to the commencement of
Part 6 of the Act. What sort of material requires an imprint? There are two different
tests to apply to determine if your digital material requires an imprint under the
Elections Act 2022. The first test applies to paid adverts. The second test applies
to any other material. This guidance refers to material that is not a paid advert as
'organic material'. If you have paid for the material to be published as an advert,
then it must have an imprint if it is 'political material'. The imprint laws apply to
anyone placing paid adverts. If you have not paid for the material to be published as
an advert, then it is organic material. Organic material must have an imprint if it
is election-related material, referendum material or recall petition material.
However, the laws for organic material only apply to certain official political
entities, such as candidates or registered political parties. An ordinary member of
the public does not need to include an imprint on any organic digital material. The
two imprint tests are explained in more detail in the following sections. What is
digital material? The digital imprint laws can apply to any digital material,
provided the material meets the tests which are set out in the following sections.
Digital material is material in electronic form that consists of or includes text,
moving images, still images, speech or music. It does not include telephone calls or
SMS messages. It can apply to material published in messaging services which do not
use SMS, such as WhatsApp or Signal. The imprint laws only apply to digital material
that is published, which means made available to the public or a section of the

public. For example, they would not apply to a private messaging group between friends, or an email sent out by a party only to its members. Imprints may be required on published material including (though this is not an exhaustive list):

- Pop-up ads
- Social media posts
- Any advert that appears in any website, search engine result, app or social media platform
- Adverts on internet radio or other streaming platforms
- Adverts in podcasts
- Adverts in online newspapers
- Messages on WhatsApp, Signal or Telegram
- MMS messages
- Websites
- Images
- Videos
- Electronic billboards

Definitions of material in scope of the regime may also be updated by secondary legislation to allow for emerging technology.

Paid adverts If you have paid for digital material to be published as an advert, then it must have an imprint if it is 'political material'. This test applies to anyone placing a paid advert. Payment is not limited to just money. It can also include benefits in kind, for example goods or services being provided for free or at a discount. It does not include payments as part of the costs of creating, setting up, operating or maintaining the material. It is limited to payments specifically to advertisers for the publication of adverts. If the service provider hosting the advert (for example, a digital platform or electronic billboard advertiser) has not been paid, then the material is not a paid advert.

Example For example, if you employ a digital agency to pay social media platforms for placing adverts on their platforms, then these are paid adverts because the agency is paying the platforms for the adverts to be published. By contrast, if you employ a digital agency to publish digital material on their own social media channels, then these are not paid adverts, because the platforms on which the material is published are not being paid. The fact that the agency is being paid does not make the material a paid advert.

Paid adverts 2 Political material Political material is digital material whose sole or primary purpose can be reasonably regarded as intended to influence the public, or any section of the public, to give support to or withhold support from: one or more political parties a particular candidate or a particular future candidate a particular elected office-holder political parties, candidates, future candidates or elected office-holders that are linked by their support for or opposition to particular policies, or by holding particular opinions other categories of candidates, future candidates or elected office-holders that are not based on policies or opinions – for example, candidates who went to a state school, or MPs who grew up in their constituency the holding of a referendum, or a particular outcome of a referendum any combination of the above

The laws can apply at any time, not just in election or referendum periods. For example, you could pay for a digital advert promoting a party or elected office-holder at any time, without it being related to an electoral event. Paid adverts only need an imprint if their sole or primary purpose can reasonably be regarded as one of those on the list above.

Example For example, a sponsored Facebook post of a comedian doing a routine criticising a government Minister would not need an imprint, because the primary purpose of the clip is reasonably regarded as being to promote the comedian.

Paid adverts 3 If you publish digital material on behalf of an organisation, the sole or primary purpose of any given piece of material will not always be the same as the overall purpose of the organisation. It will be a matter of fact in each case whether the sole or primary purpose of any particular piece of material can reasonably be regarded as being one of those in the list above.

Example For example, suppose a campaigning organisation in 2023 has as its main objective to bring back the death penalty. It runs three sets of paid adverts. The first criticises a political party which is opposed to the death penalty. The primary purpose of this material can be reasonably regarded as to influence the public to withhold support from the party.

Therefore it requires an imprint. The second argues for holding a referendum on reinstating the death penalty. The primary purpose of this material can be reasonably regarded as to influence the public to give support to the holding of a referendum. Therefore it requires an imprint. The third advert lists a number of positive predictions about the effects of reinstating the death penalty. The primary purpose of this material can be reasonably regarded as to influence the public to support the death penalty. Therefore it does not require an imprint. Although the organisation has an overarching primary organisational purpose, the different pieces of digital material it publishes have distinct primary purposes. This means that some of the material requires an imprint and some does not, depending on the facts.

Paid adverts

4 Referendums and political material The law for paid adverts can apply to material relating to the holding of, or a particular outcome of, any kind of referendum in the UK, such as: a UK-wide referendum a referendum held in England, Scotland Wales or Northern Ireland, or any combination of those a Senedd referendum a local authority governance referendum a local government referendum a local poll a council tax increases referendum a parish poll a Neighbourhood Planning referendum Any paid digital advert that supports an outcome in a referendum that is being held must have an imprint. Any paid digital advert that promotes an outcome in a potential future referendum must have an imprint, even if that referendum has not yet been called or legislated for. Example For example, suppose there is serious speculation about a referendum on an issue, but it has not yet been officially called or legislated for. If a campaigner places a paid advert saying 'VOTE YES' to the particular issue, this is reasonably regarded as promoting an outcome (Yes) in a future referendum. Therefore, under the digital imprint rules, it would require an imprint.

Paid adverts

5 Any paid digital advert that expressly advocates the holding of a new referendum must have an imprint. It does not matter if the referendum is unlikely to be held – the imprint laws still apply. Example For example, a paid digital advert calling for a referendum on an independent North of England would require an imprint.

Paid adverts

6 Paid adverts relating to referendums held in the past will not be political material under the referendum part of the test. Example For example, a paid advert marking the anniversary of the Good Friday Agreement would not need an imprint simply because of the referendum held in Northern Ireland in 1998.

Paid adverts

7 Some paid digital adverts may relate to: the subject matter of a past referendum the consequences of the outcome of a referendum the implementation of a referendum result Since in these cases the referendum is over, this material will only require an imprint if it meets one of the other parts of the test. Example For example, the material would need an imprint if it could be reasonably regarded as having the sole or primary purpose of influencing public support for or against having a second referendum on the same topic, or of promoting parties or categories of elected office-holders with particular views on the past referendum.

Paid adverts

8 You should always bear in mind that even if material does not require an imprint because it relates to a referendum, it may require an imprint for other reasons.

Organic material If you have not paid for the digital material to be published as an advert – for example, you just posted it on your own social media – then it is organic material. There is a different test for whether organic material requires an imprint. Organic material only needs an imprint if it is published by or on behalf of certain political entities. The political entities are: a registered party a registered non-party campaigner a candidate or future candidate an elected office-holder a registered referendum campaigner a registered recall petition campaigner These organisations and individuals must include an imprint on any digital material, even

if they have not paid for it to be published, if it is any of: election-related material referendum material recall petition material Unlike the rules for paid adverts, the rules for organic material are all related to specific electoral events. Organic material is therefore more likely to need an imprint during the campaigns leading up to these events. Election-related material Election-related material is material whose purpose can be reasonably regarded as intending to promote or procure electoral success for: one or more political parties a candidate or future candidate political parties, candidates, or future candidates that are linked by their support for or opposition to particular policies, or by holding particular opinions other categories of candidates or future candidates that are not based on policies or opinions – for example, candidates or future candidates who went to a state school, or independent candidates (who do not stand for a political party) any combination of the above The test is met even if there are other additional purposes which the material could reasonably be regarded as intended to achieve. Referendum material Referendum material is material that wholly or mainly relates to a PPERA referendum, and which is published during the referendum period. This means that in the rules for organic material, referendum material only relates to a referendum that is being held – unlike in the rules for paid adverts, which can also apply to material concerned with referendums that may not happen. A PPERA referendum is a referendum held under Part 7 of the Political Parties, Elections and Referendums Act 2000, including: a UK-wide referendum a referendum held in one or more of England, Scotland, Wales or Northern Ireland (but not including a Senedd referendum) The rules for organic material do not apply to material relating to any other type of referendum, for example: Senedd referendum local government referendum local authority governance referendum local poll council tax increases referendum parish poll Neighbourhood Planning referendum Recall petition material Recall petition material is material whose purpose can be reasonably regarded as intending to promote or procure the success or failure of a recall petition. Material that does not need an imprint The following types of material do not need to carry an imprint under either the test for paid adverts or the test for organic material: Journalistic material Any party political broadcast or referendum campaign broadcast Certain shared material which still includes the original imprint. See ‘ Sharing and republishing material ’ for more details Journalistic material Material published on a website or mobile app whose primary purpose (or one of whose primary purposes) is journalism does not need to include an imprint unless the material consists of an advert. This is regardless of whether the placement of the advert is paid for or not. This can include material published on: Online newspapers or news channels Newspaper apps Online radio shows Online TV shows E-books Podcasts Party political broadcast or referendum campaign broadcast Digital imprints are not required on any party political broadcast or referendum campaign broadcast included by a broadcaster in its broadcasting services. A “broadcaster” means: the holder of a licence under the Broadcasting Act 1990 or 1996, the British Broadcasting Corporation, or Sianel Pedwar Cymru. A ‘referendum campaign broadcast’ means any broadcast whose purpose (or main purpose) is or may reasonably be assumed to be to further any campaign conducted with a view to promoting or procuring a particular outcome in relation to any question asked in a referendum to which Part VII of the Political Parties, Elections and Referendums Act 2000 applies, or otherwise to promote or procure any such outcome. What information must you include in the imprint? You must include the name and address of: the promoter any person on behalf of whom the material is being published (and who is not the promoter) You must use a postal address where you can be contacted. It can be a

home address or an office or business address. You can also use a PO Box address, or other mailbox service. The imprint must be in text form, unless it is included as a part of solely audio material. In this case, the imprint must also be included as audio material. The imprint must be legible, or in the case of audio material, audible, no matter what device is used to access the information. In order to comply with the law, you must ensure that a written imprint is on screen for long enough that it can be read. Similarly, an audio imprint must be read at a speed at which it can be heard and understood. If digital material which requires an imprint is published without one, the promoter and anyone on whose behalf it has been published may be liable for an offence under section 48 of the Elections Act 2022. The promoter and anyone on whose behalf the material is being published. The promoter is whoever has caused the material to be published. Both the promoter and any person on behalf of whom the material is being published may be an individual or an organisation. Material could be published on someone's behalf for a number of reasons, including: the role someone plays in a campaign – for example, an agent who is the promoter may publish material on behalf of their candidate they are paying for a service – for example, an advertising agency who is the promoter may publish adverts on behalf of the political party that has employed them they are part of a wider group involved in publishing the material – for example, a non-party campaigner who is the promoter may publish material on behalf of a coalition of non-party campaigners. The imprint must include the details of both the promoter and anyone else on whose behalf the material has been published. This means that your own details will not always be enough to meet the imprint requirements. Example For example, suppose someone is an agent for a candidate, and also works for a political party. Some of the material they promote will be on behalf of the candidate, and so need to include the details of the candidate and agent. Some of it will be on behalf of the party, and so need the details of the party instead. What information must you include in the imprint? 2 If you are being paid to publish the material, the material must include an imprint which includes the details of whoever is paying you. This is because either they are the promoter, or you are publishing the material on their behalf. If the material is published by an organisation and authorised through the proper channels, then the promoter can be the organisation itself. The details of an individual are not required. If you are acting on behalf of a party and have put together material promoting more than one of your candidates or future candidates, the imprint does not need to include the details of every individual candidate or future candidate. You can instead include the party's details in the 'on behalf of' part of the imprint. Where must the imprint appear? The imprint must be included as a part of the material, unless it is not reasonably practicable to do so. If the imprint is included as a part of the material, it must be included in such a way that if the material is shared as it is, the imprint will still be a part of it. Example For example, if the material is a picture and contains an imprint, then if the picture is shared unaltered, the imprint will still appear. Where must the imprint appear? 2 If it is not reasonably practicable to include the imprint as a part of the material, then the imprint must appear somewhere directly accessible from the material. In practice, this means it can be reached via a direct link, usually one click or equivalent, where both the link and the imprint are easy for a voter to locate. If the imprint appears somewhere directly accessible from the material, it must be included in such a way that if the material is shared as it is, the imprint will still be accessible from the shared material. Example For example, if the material is a tweet, and the imprint is included in your Twitter bio, then if the material is

retweeted, the imprint in your bio will still be accessible from the retweet. Where must the imprint appear? 3 This means that you must not delete the imprint from your bio for as long as an imprint is required and the material remains published. If you were to delete the imprint, then it would no longer be accessible after your material is shared. Similarly, you cannot include your imprint somewhere which would not be accessible by those who can view the material itself. Example For example, the imprint cannot be behind a firewall or otherwise protected area of the internet, if that would mean that voters would see the shared material but would not have the necessary permission to view the imprint itself. Where must the imprint appear? 4 Beyond these requirements, the original promoter of the material is not liable for any imprint offences that are due to the material being shared by other people later on. The liability is on the people republishing the material – see Sharing and republishing . The next sections give some detailed guidance on particular types or categories of digital material, and on what is typically reasonably practicable.

Social media Usually, the material on social media will be the whole social media post. You must include the imprint in the post itself, unless it is not reasonably practicable. For example, for paid adverts , it will usually be reasonably practicable to include the imprint as a part of the material – you can include the imprint in the content of the advert, or in the disclaimer text which appears at the top of the advert. On some digital platforms, the design of the platform, such as there being a character limit on posts, may mean that it is not reasonably practicable to include the imprint as a part of the post. In this case, you must display the imprint legibly somewhere directly accessible from the post. The imprint must be directly accessible from the post no matter what device is used. There are a number of different ways that you can do this. Example For example, , it may often not be reasonably practicable to include the imprint in the post itself because of the design of the platform. If this is the case, your imprint can be included on your profile, for example underneath your name, or as a pinned post or tweet. Where must the imprint appear? 5 Usually the ‘About’ section of a profile on a digital platform is not directly accessible from a post, because the hyperlink to the profile does not directly take you to that section. In this case, the ‘About’ section will only be directly accessible from a post if you add your own direct link to the ‘About’ section into the post.

Videos, images and cartoons A video or image can still be required to display an imprint even if it contains no text. If your material is a video or image, it will usually be reasonably practicable to include the imprint in the video or image, especially if you have created it yourself. If this is not reasonably practicable, for example if the material is a very small image, you must include the imprint somewhere directly accessible from it. If your material is a social media post which contains a video or image, then it will usually be reasonably practicable to include the imprint as a part of the post. The best way to do this is to include it in the content of the video or image itself. Alternatively, you can include the imprint somewhere else in the post, for example for a video on YouTube you can include it in the post’s description. It is good practice to include the imprint in the content of the video or image itself. This is because if it is shared, the imprint is more likely to remain a part of the material. This means that voters will see the original imprint as it is shared, which is good for transparency. It is also less likely that people sharing the material will be required to include their own imprint when they share it. Further detail is included in the section ‘ Sharing and republishing ’.

Websites Where the digital material is a website or webpage, it will usually be reasonably practicable to include the imprint on the relevant

webpage. For example, it could be displayed in the footer. Where the material is just a part of the webpage, for example a social media post embedded in the page, then the imprint must be included as a part of the material unless it is not reasonably practicable. If it is not reasonably practicable, then it can appear somewhere directly accessible from the material – for example, somewhere else on the same webpage, or somewhere hyperlinked from the material. Audio material On solely audio material, the imprint must be included as a part of the material. For example, you could include someone reading out the imprint at the end. The imprint must be audible. The imprint must be read at a speed at which it can be heard and understood. For how long does material need an imprint? In all cases, digital material must include an imprint for as long as both: the imprint is required either by the law for paid adverts or for organic material the material remains published Material remains published for as long as it is being made available to the public or a section of the public. For example, if a post remains available on your social media channels, then it remains published. Organic material For organic material, the imprint is required on published material for as long as the published material remains any of: election-related material referendum material recall petition material Because these tests are all related to a particular electoral event, in many cases the imprint will stop being required once that event is over. For example, a video saying ‘Vote NO on 10 May’ in relation to an upcoming referendum will cease to be referendum material after 10 May when the referendum is over. Paid adverts For a paid advert, an imprint is required for as long as the material remains political material. How long the material remains political material will depend on who or what your material is promoting support for or against. If the material is linked to a particular electoral event or electoral cycle, then it will have a natural end point. For example: a future candidate either officially becomes a candidate or decides not to stand a candidate ceases to be a candidate on polling day an elected office-holder ceases to be an elected office-holder when their term ends a particular outcome in a referendum cannot be promoted after polling day Some political material will not have such a clear end point. For example, material promoting support for or against a political party could continue doing that for as long as the party exists. Sharing and republishing material When you share material on social media or otherwise republish it, this is a type of publication. The laws on imprints therefore also apply to material that you share – for example, using the ‘retweet’ function , the ‘Share’ button , or forwarding an email. However, if you share material that has already been published with a correct imprint and you do not materially alter the material, then you do not need to include a new imprint with your own details. The original imprint will suffice. Materially altering the material includes: changing the material in such a way as to change the meaning of the material removing the imprint (if it originally appeared as a part of the material) sharing it in such a way that the imprint ceases to be accessible from the material (if it originally appeared somewhere directly accessible from the material) If you share digital material that has already been published but you materially alter the material, then you must include your own imprint even if the original material had an imprint. If you do not, you may be committing an offence. Examples of republishing material The following tables show different examples of ‘chains’ by which material is shared. Each table begins with the same piece of digital material, but in each table it is then republished in a number of different ways. The examples within each table usually follow on from the example in the row above, unless it specifies that it follows from a different example. Chain of sharing organic material where the imprint is included

as a part of the material: Example Does it require an imprint? Why? What they did next A political party tweets an image criticising a rival party's election manifesto Yes. It is election-related material and promoted by a party. The party includes their imprint in the image itself. The image is retweeted by one of the party's MPs. No. It is election-related material and has been shared by an elected office-holder, but it is exempt under the sharing rules. It has been shared without being materially altered and the party's original imprint is still a part of the material. The MP does not need to include their own imprint. Another MP retweets their colleague's retweet. No. The sharing exemption still applies – the material is not materially altered and the original party imprint is still a part of the material, so no further imprint is required. The second MP does not need to include their own imprint. Chain of sharing organic material where the imprint is originally in the material but is removed during the republication. Example Does it require an imprint? Why? What they did next A political party tweets an image criticising a rival party's election manifesto Yes. It is election-related material and promoted by a party. The party includes their imprint in the image itself. A registered non-party campaigner screenshots the image and turns it into a Facebook post. They crop the image so that the imprint no longer appears Yes. By removing the imprint, they have materially altered the material. This means the sharing exemption does not apply. Because it is election-related material, and they are a registered campaigner, it requires the campaigner's imprint under the rules for organic material. The registered campaigner does not include an imprint, and so commits an offence. A candidate shares the altered image using the 'Share' button . Yes. The sharing exemption does not apply, because the campaigner in the previous example did not include an imprint. The candidate must include their own imprint. It is reasonably practicable to include it in the post, so the candidate includes it above the image. A member of the public shares the same altered image using the 'Share' button . No. Because it is not a paid advert, the imprint rules only apply to certain political entities. Members of the public do not need to include an imprint on unpaid material, regardless of whether they are publishing it originally or republishing it. No imprint is required. Chain of sharing organic material where the imprint is included somewhere directly accessible from the material: Example Does it require an imprint? Why? What they did next A political party tweets an image criticising a rival party's election manifesto. Yes. It is election-related material and done by a party. The party includes their imprint in the image itself. An MP from a rival party republishes the original image using the 'Quote Tweet' function . They add a lengthy comment which is critical of the material and the party which originally tweeted the image. Yes. The MP has shared the material but turned it into election-related material against the original party. The sharing exemption does not apply because the material has been materially altered. The MP's tweet is a new piece of material which requires an imprint in its own right. In this case, because the MP has used up a lot of the character limit with their comment, it is not reasonably practicable to include the imprint as a part of the tweet. The MP therefore adds their own imprint underneath their name in their Twitter bio. This is directly accessible from the tweet because of the hyperlink to the bio internal to the platform's functionality. An elected mayor retweets the MP's tweet. No. The mayor's tweet still contains a hyperlink with a direct link to the MP's Twitter bio. The imprint is therefore still accessible from the shared material. The mayor does not need to include their own imprint. A future candidate screenshots the mayor's retweet and posts it on another digital platform. Yes. Because of the way the image has been republished, there is no longer a hyperlink to the MP's profile, where the

original imprint appears. The imprint is no longer accessible from the future candidate's republishing, so the exemption does not apply. The future candidate therefore includes their own details in the post. Examples where organic material is republished and turned into a paid advert: Example Does it require an imprint? Why? What they did next A political party tweets an image criticising a rival party's election manifesto. Yes. It is election-related material and done by a party. The party includes their imprint in the image itself. A campaigner pays Facebook to 'boost' the party's post, thereby turning it into a paid advert. No. This is now a paid advert, and it is political material. However, the imprint is a part of the original post and is retained. The material has not been materially altered. The sharing exemption applies and the campaigner does not need to include their own imprint. No imprint is required. A member of the public creates and publishes a meme criticising a political party and some of their elected office-holders. They do not pay for it to be published as an advert. No. If material is not published as a paid advert, then only certain political entities are required to display an imprint. Members of the public do not need to display an imprint on unpaid material. No imprint is required. The campaigner pays Facebook to 'boost' the meme, thereby turning it into a paid advert. Yes. The original meme did not require an imprint because it was not a paid advert and was not posted by a political entity. However, by 'boosting' the post, the campaigner has turned it into a paid advert, and it is now political material. Since the original post did not contain an imprint, the campaigner must include their own details in the advert. The campaigner includes their details in the 'disclaimer' section. Non-party campaigner imprints Non-party campaigners are individuals and organisations who campaign around elections without standing candidates themselves. Non-party campaigners who spend over a certain amount on campaigning at elections must register with the Electoral Commission. s being able to get their messages to voters is a fundamental part of the democratic process, and it's important that voters hear from a wide and diverse variety of campaigners. Unlike a political party, where all or nearly all of their material is likely to require an imprint, if you are a non-party campaigner that campaigns on an issue, you may find that only some of your material requires an imprint. You should consider the imprint tests for each piece of material according to the facts. Paid adverts – all campaigners If you pay an advertiser to publish a digital advert, you will need to determine if the advert is 'political material'. Your advert will be political material if its sole or primary purpose is reasonably regarded as one of the purposes on the list. If you are a non-party campaigner campaigning on an issue, the primary purpose of your overall campaign is likely to be based on that issue. However, what matters for whether your digital advert is political material is not your organisation's overall aim, but whether the sole or primary purpose of a particular paid advert meets the 'political material' test (see paid adverts section). If you are a registered charity, then if you follow charity law and guidance from the relevant charity regulator, your material is unlikely to have a primary purpose on the list, because many of the sorts of campaigns that have those purposes are prohibited. For example, charities must remain independent of party politics and must not support a political party or candidate, or create a perception of support as a result of their actions or participation. This may also apply to other organisations who have limits on their political activities, for example in their constitution. Imprints are important for transparency in campaigning. It is therefore good practice to include an imprint on paid adverts that relate to elections, referendums and recall petitions, even if the advert does not need to include one by law. Organic

material – registered campaigners If you are a non-party campaigner who is registered with the Electoral Commission, then as well as paid adverts, you must also apply the imprints test for your organic material– including anything you post on social media. The test for election-related material is very similar to the 'purpose test' for regulated non-party campaigner spending (see the Commission's spending guidance for more information). If you have determined that your digital material meets the purpose test, then it will also need to carry an imprint. Examples are included below.

Example Two months before a UK Parliamentary general election, an animal welfare organisation that is registered with the Electoral Commission retweets a news article reporting that the party of government has announced they will legalise fox hunting if they are re-elected. This is not election-related material. This is merely sharing information, and the organisation would share any news relevant to their work. No imprint is required.

Example Once all the main parties have launched their manifestos in advance of a UK Parliamentary general election, a registered non-party campaigner compares their manifesto pledges. They create a graphic comparing the parties with regard to the issues the campaigner works on, giving marks out of ten and saying which party has the best policies in the area. They then publish the graphic on their own social media channels. Because the campaigner has compared the parties and said which is better in this context, they have effectively promoted some over others. The campaign is therefore reasonably regarded as promoting some parties over others and it is election-related material. An imprint is required on the material.

Example During the referendum period for a UK-wide referendum, a registered non-party campaigner publishes a blog post on their website setting out what they see as the consequences of each outcome for their service users. This requires an imprint. For organic material which is published during the referendum period, it does not matter whether or not the material promotes an outcome in the referendum – it only needs to wholly or mainly relate to the referendum.

Non-party campaigner imprints 2

You must also apply the imprints test for your organic material if you are registered with the Electoral Commission as a referendum campaigner in a particular referendum, or if you are registered with your local Petition Officer as a recall petition campaigner in a particular recall petition.

Organic material – unregistered campaigners

If you are a non-party campaigner who is not registered with the Electoral Commission, then you do not need to include an imprint on any organic digital material. For unregistered non-party campaigners it is only the rules for imprints on paid adverts that apply. However, even if an imprint is not required by law, imprints are good for transparency, particularly if you are spending money campaigning at elections, referendums and recall petitions. If you are spending money, it is good practice to include an imprint in your material even if you are not registered.

Offences and defences

If digital material which requires an imprint is published without one, then both the promoter of the material anyone else on whose behalf the material is published may commit an offence under section 44(1) of the Elections Act. It is a defence for a person charged with this offence to prove that: the failure to comply was due to circumstances beyond their control, and that they took all reasonable steps, and exercised all due diligence, to ensure they did comply. they complied with this guidance in the case of the republication of material, the person charged with the offence reasonably believed that the material was exempt under the sharing exemption (see section Sharing and republishing)

Responsibilities for enforcement of the regime

The Elections Act provides for enforcement of the offence under section 48(1) by the police, and the Electoral Commission. Which enforcement body is initially responsible depends on the purpose of

the material in question. Political material (paid adverts) and election-related material (organic material) The police will enforce material which relates to: a particular candidate a particular future candidate a particular elected office-holder The Electoral Commission will enforce material which relates to: political parties categories of parties, candidates, future candidates and/or elected office-holders, including those linked by their support for or against particular policies, or by holding particular opinions Recall petition material This will be enforced by the police, both for paid adverts and organic material. Material relating to referendums Any digital material, both for paid adverts and organic material, will be enforced by the Electoral Commission if it both: relates to a referendum held under Part 7 of the Political Parties, Elections and Referendums Act 2000 (is a PPERA referendum) is published during the referendum period Any other material relating to a referendum will be enforced by the police. This will all be paid adverts, and includes any paid advert which either: relates to a referendum which is not a PPERA referendum relates to a referendum which is a PPERA referendum, but which is published before the referendum period Approach to enforcement The police and the Electoral Commission will seek to enforce the offence under section 48(1) consistently, but the differing nature of roles and powers means that specific actions may vary. Both the police and the Electoral Commission will enforce effectively, proportionately, and fairly. Specifically: Consider enforcement action only where there are reasonable grounds to suspect an offence under section 44(1) of the Act Take enforcement action only where it is proportionate to do so Take the facts of each situation into account Enforce only where it is in the public interest to do so in the context of organisational priorities and resources. Whether or not a matter is in the public interest and justifies the use of resources in this way will depend on a number of factors. These factors may be different and/or differently weighted depending on the circumstances. Some of the factors that are likely to be considered, though this is not an exhaustive list, are set out below: Evidence of intent, rather than inadvertence or oversight Whether the required imprint is entirely absent or partial The extent of distribution of the material – how many people potentially saw it – and the geographical spread Both the police and the Commission recognise that it is important to conclude investigations as quickly as possible. This is both in the public interest and in the interests of justice for those involved. However, the first priority is always to conduct a fair and thorough investigation, and this will take priority over speed where the two conflict. Use of powers The Elections Act creates two new powers in relation to enforcement of the regime. Use of powers under Schedule 12 of the Elections Act 2022 – obtaining information The police and the Commission have powers under Schedule 12 of the Act to obtain two different types of information. There is a power to give notice in writing to any person requiring the person to provide it with information identified in the notice, which is reasonably required for: the purposes of determining whether electronic material has been published in contravention of section 41, or to enable the police or the Commission to make contact with the promoter of the material or the person on behalf of whom the material has been published. The police and the Commission also have a power to give notice in writing to any person requiring the person to provide it with electronic material identified in the notice, which is reasonably required for the purposes of determining whether electronic material has been published in contravention of section 41 of the Act. In both cases the police may choose to use this power as an alternative to its existing powers to obtain information. The Commission may exercise that power where it is proportionate and in the public interest to do so. Neither the

police nor the Commission will do so where that information is easily accessible by other means. Any information obtained under such a notice may not then be used as evidence in any enforcement action against the person who provides the information to the Commission.

Compliance with notices Where either of these powers are exercised by either the police or the Commission, a deadline for compliance will be set which must be complied with. The deadline will be proportionate, taking account of the facts of the specific situation, including the urgency of obtaining the information. Where such a notice is not complied with, the police or the Commission may seek a court order requiring the information.

Use of powers under section 51 of the Elections Act 2022 – taking down material The Commission has a power under section 51 of the Act to require that material be removed or access to it disabled after the Commission has determined an offence in relation to that material and imposed any sanction, or served a Stop Notice, or agreed an Enforcement Undertaking under its powers in Schedule 19C of the Political Parties Elections and Referendums Act 2000. The Commission may exercise that power where it is proportionate and in the public interest to do so, in accordance with its enforcement objectives. It will not generally exercise that power where, for example, the material has already been removed; the material has been amended to make it compliant; or for any other reason it is not proportionate or in the public interest to require it to be removed. A similar power is available to a court under section 49(2) of the Act, following a conviction for an offence under section 48(1). There is no equivalent power available to the police. It is a criminal offence for any person who receives a notice to take down material to fail to comply with it without a reasonable excuse.

Advice and guidance An area of difference between the roles and remits of the police and the Electoral Commission is in terms of providing guidance. The Electoral Commission has a legal duty to take reasonable steps to secure compliance with the law, under which it provides support, advice and guidance. This is different from the police. The Commission may use advice and guidance proactively in order to secure compliance and to give those the Commission regulates a clear understanding of their regulatory requirements, as an alternative to enforcement action.

What happens after an investigation The police, where there is evidence of an offence, may refer the matter to the relevant public prosecutor (the Crown Prosecution Service in England and Wales, the Crown Office/Procurator Fiscal in Scotland, and the Public Prosecution Service in Northern Ireland), who will decide whether to launch a criminal prosecution. Where the Electoral Commission is satisfied beyond reasonable doubt that an offence has been committed, the Commission may decide to impose a civil sanction using its powers under Schedule 19C of the Political Parties Elections and Referendums Act 2000. The Commission will generally sanction where it considers it appropriate to do so and when it is proportionate and in the public interest to do so. If the Commission seeks to impose a sanction, it will follow the statutory process set out in Schedule 19C of the Political Parties, Elections and Referendums Act 2000. This involves the serving of a notice proposing a sanction, and a period of time for the person who is the subject of the notice to make representations. When making representations, recipients can put forward any information they consider relevant. In particular, if they have not already done so, the recipient may want to put forward any defence to the offence. They may wish to comment on the reasons for the Commission proposing a sanction, including the facts on which the decision is based. Representations may be made on the application of the factors the Commission has taken into account when determining the type and size of a sanction. Finally, the recipient may want to comment on their ability of the person concerned to pay a

financial penalty and/or the cost to the person concerned of any non-financial requirement that might be imposed. Where possible representations or objections should be accompanied by supporting evidence. Any representations or objections will be considered by a senior officer of the Commission who was not involved in the decision to issue the initial notice. This includes determining if the Commission remains satisfied that an offence took place and, if so, that the proposed sanction is reasonable and appropriate. Any representations will be considered as part of this process. If, as a result, the Commission is no longer satisfied that an offence or contravention occurred, the matter will be closed. Otherwise, the senior officer will decide whether to issue a final notice, either reflecting the initial decision or changing it. Where any sanction is imposed, the subject of that sanction has a right of appeal to the county court in England and Wales, a county court in Northern Ireland, or the sheriff in Scotland.

Key terms

Candidate A candidate is a candidate at an election for a relevant elective office or a relevant Scottish elective office within the meaning of Part 5 of the Elections Act 2022, including a person who is included in a list of candidates submitted in connection with such an election.

Digital material In the Elections Act 2022, digital material is referred to as 'electronic material'. Digital material is material in electronic form which consists of or includes: text, moving or still images, or speech or music. It does not include material that is received by a person in the form a telephone call (e.g. to a landline telephone number) or material that is received via a text message using SMS to a telephone number.

Elected office-holder An elected office-holder is a person is to be treated as holding a relevant elective office or a relevant Scottish elective office during any period when— the person has been elected as, or declared to be returned as, the holder of the office, but their term of office has not yet begun

Election-related material Election-related material is material that is reasonably regarded as promoting or procuring electoral success for: one or more political parties a candidate or future candidate political parties, candidates, or future candidates that are linked by their support for or opposition to particular policies, or by holding particular opinions other categories of parties, candidates or future candidates that are not based on policies or opinions – for example, candidates or future candidates who went to a state school, or independent candidates (who do not stand for a political party) any combination of the above

Future candidate A person is a future candidate at an election for a relevant elective office or a relevant Scottish elective office if— the person has been declared, whether by the person or by someone on their behalf, to be a candidate at the election (and the declaration has not been withdrawn), the election is the next scheduled election for the office, and the notice of the election has not been published or, in the case of an election for the office of member of the House of Commons, the writ for the election has not been issued.

Organic material Organic material is any material which is not a paid advert. That is, material where neither the promoter of the material, nor the person on behalf of whom the material is published, has paid for the material to be published as an advertisement.

Paid advert A paid advert is material where the promoter of the material, or the person on behalf of whom the material is published, has paid for the material to be published as an advertisement. For the purposes of the definitions of 'paid advert' and 'organic material', payments are not limited to just money. They can also include benefits in kind. They do not include payments that are part of the background costs of creating, setting up, operating or maintaining the material. They are limited to payments specifically to advertisers for the publication of adverts.

Party officer A party officer is a registered officer of a

political party under section 24 or section 25 of the Political Parties, Elections and Referendums Act 2000. Political entities The certain political entities who must apply the test for including an imprint on organic material are: a registered party a registered non-party campaigner a candidate or future candidate an elected office-holder a registered referendum campaigner a registered recall petition campaigner

Political material Political material is material whose sole or primary purpose can be reasonably regarded as intended to influence the public, or any section of the public, to give support to or withhold support from: one or more political parties a particular candidate or a particular future candidate a particular elected office-holder political parties, candidates, future candidates or elected office-holders that are linked by their support for or opposition to particular policies, or by holding particular opinions other categories of parties, candidates, future candidates or elected office-holders that are not based on policies or opinions – for example, candidates or future candidates who went to a state school, or MPs who have had a job outside of politics the holding of a referendum, or a particular outcome of a referendum any combination of the above

Promoter The promoter is the person causing the material to be published.

Publish To publish is to make available to the public at large or any section of the public.

Recall petition A recall petition is a recall petition held under the Recall of MPs Act 2015.

Recall petition material Recall petition material is material that promotes or procures the success or failure of a recall petition.

Recall petition campaigner A recall petition campaigner is a person who is an accredited campaigner within the meaning of the Recall of MPs Act 2015 in relation to a recall petition.

Referendums: Referendums to which the test for paid adverts being political material applies include (but are not limited to) the following:

- Key terms 2 Council tax increase referendum** A referendum held under The Local Authorities (Conduct of Referendums) (Council Tax Increases) (England) Regulations 2012.
- Local authority governance referendum** A referendum held under the section 0MB and 9MC of the Local Government Act 2000.
- Local government referendum** A referendum held under the Local Authorities (Referendums)(Petitions)(England) Regulations 2011 or the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001.
- Local poll** A local poll (a form of referendum) held under section 116 of the Local Government Act 2003.
- Neighbourhood Planning referendum** A referendum held under the Neighbourhood Planning (Referendums) Regulations 2012 (as amended).
- Parish poll** A parish poll (a form of referendum) held under section 150 and Schedule 12 of the Local Government Act 1972.
- PPERA referendum** A referendum held under Part 7 of the Political Parties, Elections and Referendums Act 2000, including a UK-wide referendum a referendum held in one or more of England, Scotland Wales or Northern Ireland But not including a Senedd referendum.
- Senedd referendum** A referendum held under section 64 of the Government of Wales Act 2006.

Key terms 3 By contrast, referendum material in the test for organic material only applies to material wholly or mainly relating to a PPERA referendum.

Referendum material Referendum material is material that wholly or mainly relates to a referendum under Part 7 of the Political Parties, Elections and Referendums Act 2000, and is published during the referendum period for that referendum.

Referendum period The period before a PPERA referendum during which certain restrictions are in place, under section 102 of the Political Parties, Elections and Referendums Act 2000

Registered non-party campaigner A registered non-party campaigner is a campaigner recognised by the Electoral Commission under Part 6 of the Political Parties, Elections and Referendums Act 2000. In the legislation, registered non-party campaigners are referred to as ‘recognised third parties’.

Registered party A registered party is a political party

registered by the Electoral Commission under Part 2 of Political Parties, Elections and Referendums Act 2000. Registered referendum campaigner A registered referendum campaigner is an individual or organisation who is a permitted participant within the meaning of Part 7 of Political Parties, Elections and Referendums Act 2000, in relation to a referendum to which that Part applies. In the legislation, registered referendum campaigners are referred to as 'permitted participants'. Relevant election "Relevant election" means: a Parliamentary election, an election to the Scottish Parliament, an election to Senedd Cymru, an election to the Northern Ireland Assembly, a local government election within the meaning of section 191, 203 or 204 of the Representation of the People Act 1983, an election under Part 1A or 2 of the Local Government Act 2000 for the return of an elected mayor, an election for the return of a mayor for the area of a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009, a local election within the meaning of the Electoral Law Act (Northern Ireland) 1962 (see section 130(1) of that Act), or an election of a police and crime commissioner. Relevant elective office "Relevant elective office" means the office of: member of the House of Commons; member of Senedd Cymru; member of the Northern Ireland Assembly; member of a local authority in England, Wales or Northern Ireland; elected mayor (within the meaning of Part 1A or 2 of the Local Government Act 2000); mayor for the area of a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009; Mayor of London; member of the London Assembly; police and crime commissioner. "Relevant Scottish elective office" means the office of: member of the Scottish Parliament, or member of a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994. In the definition of "relevant elective office" "local authority" means: in relation to England, a county council, a district council, a parish council, a London borough council or the Council of the Isles of Scilly; in relation to Wales, a county council, a county borough council or a community council; in relation to Northern Ireland, a district council; in relation to City of London, an office to which a person may be elected by a municipal election in the City. Page history First published: 31 October 2022 Last updated: 31 October 2022

This version of the draft statutory guidance on digital imprints has been submitted for ministerial approval. Close alert

Statutory guidance on digital imprints - final draft

You are in the Response to consultation on draft statutory guidance: digital imprints

Home Our consultations Response to consultation on draft statutory guidance: digital imprints

Currently reading: of 5

- Show page contents

On this page

What is digital material and when does it need an imprint

Requirements for the imprint

Sharing and republishing material

Enforcement of the regime

Key terms

About this guidance

The guidance has been prepared by the Electoral Commission, and laid before Parliament, in accordance with section 54 of the Elections Act 2022. It applies throughout the United Kingdom of Great Britain and Northern Ireland. The purpose of this guidance is to: explain the operation of Part 6 of the Act, concerned with information that is to be included with digital material and how to comply with its requirements explain how the Electoral Commission and the police will undertake their enforcement functions where there is a breach or suspected breach of Part 6 of the Act. Where the guidance says that something must be done, this means that it is a requirement in either primary or secondary legislation. The guidance uses 'you' to mean both the promoter of the material, and anyone else on whose behalf it has been published. This is because it is the promoter and/or anyone on whose behalf material has been published who commit an offence under section 48 of the Elections Act 2022 if material is published contrary to Part 6 of the Act. Key terms are explained throughout the guidance, and also provided in an alphabetical list at the end of the document. The Electoral Commission and the police must have regard to this guidance when exercising their functions under Part 6 of the Act. The Electoral Commission may propose revisions to this guidance from time to time in accordance with the Act or when directed to do so by the Secretary of State. The examples used in this guidance relate to functionality on digital platforms as of May 2023. The general principles set out in the guidance continue to apply in the event that functionality changes, or new platforms emerge.

Introduction

When certain campaign material is published, it must contain specific details to show who is responsible for publishing it. These details are known as an 'imprint'. The imprint helps to ensure there is transparency for voters about who is campaigning. There are already UK-wide laws requiring imprints on printed election, referendum and recall petition material, and on digital election material used at Scottish devolved elections. For these laws, please see the Electoral Commission's non-statutory guidance . Under the Elections Act 2022, the law requires imprints on some kinds of electronic material. This guidance refers to electronic material as 'digital material'. Examples of the types of digital material that need an imprint are explained in the guidance. The digital imprint requirements do not apply to digital material published prior to the commencement of Part 6 of the Act. However if that material is republished once the Act has been commenced, the republished material will become subject to the requirements. What is digital material? An imprint may be required on any digital material, provided the material meets the criteria which are set out in the following sections. Digital material is material in electronic form that consists of or includes text, moving images, still images, speech or music. It does not include telephone calls or SMS messages. It can apply to material published in messaging services which do not use SMS, such as WhatsApp or Signal. The requirement to include an imprint only applies to digital material that is published, which means made available to the public or any section of the public. For example, it would not apply to a private messaging group between friends, or an email sent out

by a party only to its members. If material is made available in the UK, then the digital imprint rules will apply, no matter where the content is published from, or where the promoter is. For example, you could be outside the UK, but publish material on a digital platform making it available to a section of the public in the UK.

Imprints may be required on published material including (though this is not an exhaustive list): Pop-up ads Social media posts Any advert that appears in any website, search engine result, app or social media platform Adverts on internet radio or other audio streaming platforms such as Spotify Adverts on digital TV streaming services Adverts in podcasts Adverts in online newspapers Messages on WhatsApp, Signal or Telegram MMS messages Websites Images Videos Electronic billboards

Definitions of material in scope of the regime may also be updated by secondary legislation to allow for emerging technology. What sort of material requires an imprint? There are two different sets of criteria which determine if your digital material requires an imprint under the Elections Act 2022. The first applies to paid adverts. The second applies to any other material. This guidance refers to material that is not a paid advert as 'organic material'. If you have paid for the material to be published as an advert, then it must have an imprint if it is 'political material'. This requirement applies to anyone publishing political material as a paid advert. If you have not paid for the material to be published as an advert, then it is organic material. Organic material must have an imprint if it is election material, referendum material or recall petition material, and it is published by or on behalf of a relevant entity, such as a candidate or registered political party.

There are also exceptions for some kinds of material under the Elections Act. This guidance refers to these as exemptions. All these concepts are explained in more detail in the following sections. Imprints are important for transparency in campaigning. It is therefore good practice to include an imprint on all digital material that relates to elections, referendums or recall petitions, even if the material does not require one by law. Paid adverts If you have paid for digital material to be published as an advert, then it must have an imprint if it is 'political material'. This requirement applies to anyone placing a paid advert.

Payment includes payments of any kind – for example 'pay-per-click' and 'pay-per-impression' advertising. Payment is not limited to just money. It can also include benefits in kind, for example goods or services being provided for free or at a discount by the promoter to the digital platform hosting the advert. It does not include payments as part of the costs of creating, setting up, operating or maintaining the material. It is limited to payments made specifically to the service provider or platform hosting the adverts for the publication of those adverts. If the service provider hosting the advert (for example, a digital platform or electronic billboard advertiser) has not been paid for the material to be published on the platform, then the material is not a paid advert. Example For example, if you employ a digital agency to pay social media platforms for placing adverts on their platforms, then these are paid adverts because the agency is paying the platforms for the adverts to be published. By contrast, if you employ a digital agency to publish digital material on their own social media channels, then these are not paid adverts, because the platforms on which the material is published are not being paid. The fact that the agency is being paid does not make the material a paid advert. Similarly, if you pay an influencer or ambassador to post material on their own social media channels, then these are not paid adverts, because the platforms on which the material is published are not being paid for the material to be published. This is the case even if the posts are classed as adverts for the purposes of other

legislation. Paid adverts² Not all payments to the service provider hosting the material will mean the material is a paid advert – only those made to the service provider specifically for the material to be published as an advert. Example For example, if you pay a social media company for a certain type of account (e.g. the paid Twitter Blue account), this does not make all your posts paid adverts. By contrast, if you pay a social media company to increase the reach of a post by publishing it as an advert (e.g. boosting a post), then this will be a paid advert. Paid adverts³ If material is not a paid advert, then it is ‘organic material’. Organic material may still require an imprint – see the section ‘Organic material’.

Political material Political material is material whose sole or primary purpose can reasonably be regarded as intended to influence the public, or any section of the public, to give support to or withhold support from: one or more political parties a particular candidate or a particular future candidate (in their capacity as such) a particular elected office-holder (in their capacity as such) political parties, candidates, future candidates or elected office-holders that are linked by their support for or opposition to particular policies, or by holding particular opinions other categories of candidates, future candidates or elected office-holders that are not based on policies or opinions – for example, candidates who went to a state school, or MPs who grew up in their constituency the holding of a referendum, or a particular outcome of a referendum any combination of the above The following are examples of digital paid adverts that constitute political material: Political material whose sole or primary purpose can reasonably be regarded as intended to influence the public, or any section of the public, to give support to a political party. Political material whose sole or primary purpose can reasonably be regarded as intended to influence the public, or any section of the public, to give support to a particular candidate. Political material whose sole or primary purpose can reasonably be regarded as intended to influence the public, or any section of the public, to withhold support from a particular elected office-holder. Political material whose sole or primary purpose can reasonably be regarded as intended to influence the public, or any section of the public, to withhold support from a particular elected office-holder. Political material whose sole or primary purpose can reasonably be regarded as intended to influence the public, or any section of the public, to give support to or withhold support from a category of candidates linked by something other than their support for a policy. Political material whose sole or primary purpose can reasonably be regarded as intended to influence the public, or any section of the public, to give support to the outcome of a referendum. Material can be political material at any time, not just in election or referendum periods. For example, you could pay for a digital advert promoting a party or elected office-holder at any time, without it being related to an electoral event. Paid adverts only need an imprint if their sole or primary purpose can reasonably be regarded as one of those on the list above. Example For example, a sponsored Facebook post of a comedian doing a routine criticising a government minister would not usually need an imprint, because the primary purpose of the clip is usually reasonably regarded as being to promote the comedian. Paid adverts⁴ If an organisation publishes digital material, the sole or primary purpose of any given piece of material will not always be the same as the overall purpose of the organisation. It will be a matter of fact in each case whether the sole or primary purpose of any particular piece of material can reasonably be regarded as being one of those in the list above. In particular, where the primary purpose of a specific piece of material is to do with a campaign issue itself and not any of those on the list above, then it will not be political

material. Example For example, suppose a campaigning organisation in 2023 has as its main objective to bring back the death penalty. It runs three sets of paid adverts. The first criticises a political party which is opposed to the death penalty. The primary purpose of this material can reasonably be regarded as to influence the public to withhold support from the party. Therefore it requires an imprint. The second argues for holding a referendum on reinstating the death penalty. The primary purpose of this material can reasonably be regarded as to influence the public to give support to the holding of a referendum. Therefore it requires an imprint. The third advert lists a number of positive predictions about the effects of reinstating the death penalty. The primary purpose of this material can reasonably be regarded as to influence the public to support the death penalty. Therefore it does not require an imprint. Although the organisation has an overarching primary organisational purpose, the different pieces of digital material it publishes have distinct primary purposes. This means that some of the material requires an imprint and some does not, depending on the facts.

5 Political material relating to referendums A paid advert will be political material if its sole or primary purpose can reasonably be regarded as intended to influence the public, or any section of the public, to give support to or withhold support from the holding of, or a particular outcome of, any kind of referendum in the UK, such as: a UK-wide referendum a referendum held in England, Scotland, Wales or Northern Ireland, or any combination of those a Senedd referendum a local authority governance referendum a local government referendum a local poll a council tax increases referendum a parish poll a Neighbourhood Planning referendum Any paid digital advert that supports an outcome in a referendum that is being held must have an imprint. Any paid digital advert that promotes an outcome in a potential future referendum must have an imprint, even if that referendum has not yet been called or legislated for. Example For example, there is speculation about a referendum being held on an issue, but it has not yet been officially called or legislated for. If a campaigner places a paid advert saying 'VOTE YES' to the particular issue, this could be reasonably regarded as influencing the public to support a particular outcome (Yes) in a future referendum. Therefore it would require an imprint.

6 Any paid digital advert that expressly advocates the holding of a new referendum must have an imprint. It does not matter if the referendum is unlikely to be held – the imprint requirements still apply. Example For example, a paid digital advert calling for a referendum on an independent North of England would require an imprint.

7 Paid adverts relating only to referendums held in the past will not be political material under the referendum part of the definition. Example For example, a paid advert marking the anniversary of the 1998 referendum in Northern Ireland which endorsed the Good Friday Agreement would not need an imprint.

8 Some paid digital adverts may relate to: the subject matter of a past referendum the consequences of the outcome of a referendum the implementation of a referendum result Since in these cases the referendum is over, this material will only require an imprint if it meets one of the other criteria for political material. Example For example, a paid advert published after a referendum saying 'RESPECT THE RESULT' could not be reasonably regarded as intended to influence the public to give support to the winning outcome in the referendum, because the referendum is already over. However, depending on the context and the material, it may be political material for another reason. For example, it might be reasonably regarded as intended to influence the public to give support to a particular party or category of elected office-holders who have particular views on how to implement the result, or to withhold support for the holding of a second

referendum. Organic material If you have not paid for the digital material to be published as an advert – for example, you just posted it on your own social media – then it is organic material. Organic material must include an imprint if it is both: published by or on behalf of a relevant entity any of: election material referendum material recall petition material These concepts are explained below. Relevant entities The relevant entities are: a registered party a registered non-party campaigner a candidate or future candidate an elected office-holder a registered referendum campaigner a registered recall petition campaigner If someone is not a relevant entity, and they publish organic material on their own behalf, then the material does not require an imprint. Organic material published by or on behalf of a relevant entity must include an imprint, even if they have not paid for it to be published, if it is any of: election material referendum material recall petition material Unlike in relation to paid adverts, the three kinds of organic material which require an imprint are all related to specific electoral events. Organic material is therefore more likely to need an imprint during the campaigns leading up to these events. Election material Election material is material whose purpose can reasonably be regarded as intending to promote or procure electoral success for: one or more political parties a candidate or future candidate political parties, candidates, or future candidates that are linked by their support for or opposition to particular policies, or by holding particular opinions other categories of candidates or future candidates that are not based on policies or opinions – for example, candidates or future candidates who went to a state school, or independent candidates (who do not stand for a political party) any combination of the above It includes material that is reasonably regarded as intended to influence voters to vote for or against one of the entities listed above – for example it includes both a positive campaign about a party's policies, and a negative campaign criticising a rival party's policies. If material meets any of these criteria, it will be election material even if the material can reasonably be regarded as intended to achieve other purposes as well. There is more detail on this point in the section about non-party campaigners. Organic digital material which is election material and is published by or on behalf of a relevant entity must include an imprint. The following are examples of organic material that constitute election material: Election material which can reasonably be regarded as intended to influence voters to vote against a political party. Election material which can reasonably be regarded as intending to promote or procure electoral success for a candidate. Election material which can reasonably be regarded as intending to promote or procure electoral success for a category of candidates that are linked by their support for a policy. Election material which can reasonably be regarded as intending to promote or procure electoral success for a category of candidates that are linked by something other than a policy. Referendum material Referendum material is material that wholly or mainly relates to a PPERA referendum, and which is published during the referendum period. This means that in the rules for organic material, referendum material only relates to a referendum that is being held – unlike in the rules for paid adverts, which can also apply to material concerned with referendums that may not happen. A PPERA referendum is a referendum held under Part 7 of the Political Parties, Elections and Referendums Act 2000, including: a UK-wide referendum a referendum held in one or more of England, Scotland, Wales or Northern Ireland (but not including a Senedd referendum) The rules for organic material do not apply to material relating to any other type of referendum, for example: Senedd referendum local government referendum local authority governance referendum local poll council tax increases referendum parish

poll Neighbourhood Planning referendum Organic digital material that is referendum material and is published by or on behalf of a relevant entity must include an imprint. Recall petition material Recall petition material is material whose purpose can reasonably be regarded as intending to promote or procure the success or failure of a recall petition. Organic digital material that is recall petition material and is published by or on behalf of a relevant entity must include an imprint. Exemptions The following types of material do not need to carry an imprint because they are specifically exempted: Material, other than an advert, published on a website or app which is primarily for journalism Any party political broadcast or referendum campaign broadcast Certain shared material which still includes the original imprint. See 'Sharing and republishing material' for more details Material published on a website or app which is primarily for journalism Material, other than an advert, which is published on a website or mobile app whose primary purpose (or one of whose primary purposes) is journalism does not need to include an imprint. This exemption does not apply to adverts, regardless of whether the platform has been paid to publish the advert or not. Websites or apps which have journalism as one of their primary purposes can include for example: Online newspapers or news channels Newspaper apps Online radio stations Party political broadcast or referendum campaign broadcast Digital imprints are not required on any party political broadcast or referendum campaign broadcast included by a broadcaster in its broadcasting services. A "broadcaster" means: the holder of a licence under the Broadcasting Act 1990 or 1996, the British Broadcasting Corporation, or Sianel Pedwar Cymru. A 'referendum campaign broadcast' means any broadcast whose purpose (or main purpose) is or may reasonably be assumed to be to further any campaign conducted with a view to promoting or procuring a particular outcome in relation to any question asked in a referendum to which Part 7 of the Political Parties, Elections and Referendums Act 2000 applies, or otherwise to promote or procure any such outcome. If a party publishes the same material on a digital platform, for example on their website, then this will not be a party political broadcast and so will not be exempt. Candidates and future candidates If you are a candidate or a future candidate, you must include an imprint on any material that meets the criteria set out in the previous sections. For example, although this is not an exhaustive list, both for paid adverts and for organic material, an imprint will be required on any material that: promotes your candidacy criticises another candidate promotes your political party (if you have one) in the election criticises another political party in the election Becoming a future candidate You become a future candidate when you announce your intention to stand in the next election, or someone else announces it on your behalf. For example, your party may have issued a press release when you were selected, or you might have mentioned your intention at a residents' meeting. This means that it is possible to be a future candidate for a long time before the election. As soon as your intention to stand is declared, you are a future candidate, and therefore you are a relevant entity who will be required to include imprints on organic material if it is election material, referendum material or recall petition material. You will stop being a future candidate if you withdraw your declaration of intention to stand, or when you become a candidate. If you are a future candidate, you will become a candidate on the last date for publication of notice of election, or for parliamentary general elections, on the date Parliament is dissolved. Even before you are a candidate or future candidate, you will still need to include an imprint on a digital paid advert if it is political material. Political parties It is good practice for political parties to include an imprint on all of their digital material. Organic material A

political party that is registered with the Electoral Commission is one of the relevant entities. This means that a registered party must include an imprint on any organic material that is either election material, referendum material or recall petition material. In particular, although this is not an exhaustive list, a party must include an imprint on any organic material which: promotes the party or any of its candidates or future candidates at an election criticises another party or any of its candidates or future candidates at an election promotes an outcome in a PPERA referendum – even if the party is not registered with the Electoral Commission as a referendum campaigner promotes an outcome in a recall petition – even if the party is not registered as a recall petition campaigner with the Petition Officer Paid advert

Like anyone else, a political party must include an imprint on any paid advert which is political material. In particular, although this is not an exhaustive list, this includes any digital paid advert, published at any time, which can reasonably be regarded as having the sole or primary purpose of influencing the public: to support the party or any of its candidates, future candidates or elected office-holders to withhold support from another party or any of its candidates, future candidates or elected office-holders to support or withhold support from the holding of a referendum to support or withhold support from an outcome in a referendum that is happening, even if the party is not registered with the Electoral Commission as a referendum campaigner to support or withhold support from an outcome in a recall petition – even if the party is not registered as a recall petition campaigner with the Petition Officer

Non-party campaigners are individuals and organisations who campaign around elections without standing candidates themselves. s being able to get their messages to voters is a fundamental part of the democratic process, and it is important that voters hear from a wide and diverse variety of campaigners. Non-party campaigners who spend over a certain amount on campaigning at elections must register with the Electoral Commission. Unlike a political party, where a lot of their material is likely to require an imprint, if you are a non-party campaigner that campaigns on an issue, you may find that only some of your material requires an imprint. You should consider whether an imprint is required for each piece of material, according to the facts. Imprints are important for transparency in campaigning. It is therefore good practice to include an imprint on all digital material that relates to elections, referendums and recall petitions, even if the material does not need to include one by law. If a campaigner includes an imprint on their material, that does not mean that the material requires one by law. The campaigner may well simply be including one as best practice for transparency. The following sections give guidance on the two types of material that may require an imprint.

Paid adverts – all campaigners If you pay a digital platform to publish a digital advert, you will need to determine if the advert is ‘political material’. Your advert will be political material if its sole or primary purpose can reasonably be regarded as one of the purposes on the list. If you are a non-party campaigner campaigning on an issue, the primary purpose of your overall campaign is likely to be based on that issue. However, what matters for whether your digital advert is political material is not your organisation’s overall aim, but whether the sole or primary purpose of a particular paid advert is a purpose that makes the advert political material (see paid adverts section for examples on this point and the definition of political material). If you are a registered charity, and you follow charity law and guidance from the relevant charity regulator, your material is unlikely to have a sole or primary purpose on the list, because many of the sorts of campaigns that have those purposes are prohibited. For example, charities must remain

independent of party politics and must not support a political party or candidate, or create a perception of support as a result of their actions or participation. This may also apply to other organisations who have limits on their political activities, for example in their constitution. Organic material – registered campaigners If you are a non-party campaigner registered with the Electoral Commission, then as well as for paid adverts, you must also include an imprint on organic material – including anything you post on social media – if it is election material, referendum material or recall petition material. Election material is very similar to material which meets the ‘purpose test’ for regulated non-party campaigner spending (see the Commission’s spending guidance for more information). If you have determined that your digital material meets the purpose test, then it will also need to carry an imprint. The primary intention of your material may not be to influence voters. For example, you might publish material with one or more of the following intentions: raising awareness of an issue influencing political parties to adopt a policy in their manifestos campaigning for or against government legislation providing information to voters encouraging people to register to vote encouraging people to vote, but not for anyone in particular Material that can reasonably be regarded as having one of these intentions will not be election material unless it can also reasonably be regarded as having the intention to influence voters to vote for or against certain parties, candidates or future candidates. Even if your primary intention is something else, your material will still be election material if it can reasonably be regarded as intended to influence voters to vote for or against certain parties, candidates or future candidates. For example, suppose your intention is to influence political parties to adopt a policy. If you go about this by publishing material promoting parties and candidates who have already adopted the policy, then this will be election material because the purpose of your material can reasonably be regarded as being to influence voters to support those parties and candidates. Election material which can reasonably be regarded as intended to promote a party on the basis of its support for an issue. If issues-based material cannot reasonably be regarded as intended to influence voters to vote for certain parties, candidates or future candidates, then it is not election material. Campaign material which is not election material (but which carries an imprint as best practice). More examples are included below. Example Before any election is announced, an animal welfare organisation publishes a tweet-thread explaining what it regards as mistreatment of animals in captivity. As well as setting out problems, it argues that one of the causes is government policy and underfunding. It does not mention elections, candidates or political parties. This is not election material and does not require an imprint. Although the material is critical of the government, it is not reasonably regarded as intended to influence voters in an election. Example Two months before a UK Parliamentary general election, the animal welfare organisation, that is registered with the Electoral Commission, retweets, without commenting on it, a news article reporting that the party of government has announced they will legalise fox hunting if they are re-elected. This is not election material. This is merely sharing information, and the organisation would be expected to share any news relevant to their work. No imprint is required. Example Once all the main parties have launched their manifestos in advance of a UK Parliamentary general election, the registered non-party campaigner compares their manifesto pledges on fox hunting. They create a graphic comparing the parties’ positions on the issue, giving marks out of ten and saying which party has the best policies. They then publish the graphic on their own social media channels. Because the campaigner has compared the parties and said which

is better in this context, they have effectively promoted some over others. The graphic is therefore reasonably regarded as promoting those parties the campaigner considers to have better policies, so is election material. An imprint is required on the material. Example During the referendum period for a PPERA referendum, a registered non-party campaigner publishes a blog post on their website setting out what they see as the consequences of each outcome for their service users. This requires an imprint. For organic material which is published during the referendum period, it does not matter whether or not the material promotes an outcome in the referendum – it only needs to wholly or mainly relate to the referendum. Non-party campaigners² Organic material – unregistered campaigners If you are a non-party campaigner who is not registered with the Electoral Commission, then you do not need to include an imprint on any organic digital material you publish on your own behalf. This is because an unregistered non-party campaigner is not a relevant entity. Unregistered non-party campaigners who only publish material on their own behalf will only need to include an imprint on paid adverts. What information must you include in the imprint? You must include the name and address of: the promoter any person on behalf of whom the material is being published (and who is not the promoter) You must use a postal address where you can be contacted. It can be an office or business address, or a home address. You can also use a PO Box address, or other mailbox service. The imprint must be in text form, unless it is included as a part of solely audio material. In this case, the imprint must be included as audio material. The imprint must be legible, or in the case of audio material, audible, no matter what device is used to access the information. In order to comply with the law, you must ensure that a written imprint is on screen for long enough that it can be read. Similarly, an audio imprint must be read at a speed at which it can be heard and understood. If digital material which requires an imprint is published without one, the promoter and anyone on whose behalf it has been published may be liable for an offence under section 48 of the Elections Act 2022. The promoter and anyone on whose behalf the material is being published The promoter is whoever has caused the material to be published. Both the promoter and any person on behalf of whom the material is being published may be an individual or an organisation. If the material is published by an organisation, then the promoter is the organisation itself. The details of an individual are not required. Example For example, if an employee of a registered non-party campaigner publishes material for the campaigner in the course of their role as an employee, then it is the non-party campaigner itself who is the promoter and whose details must be provided. What information² The imprint must include the details of both the promoter and anyone else on whose behalf the material has been published. This means that your own details will not always be enough to meet the imprint requirements, depending on your particular situation. Example For example, if an agent publishes material on behalf of their candidate, then the imprint must include both the details of the agent, as promoter, and of the candidate on whose behalf the material has been published. For another example, suppose someone is an agent for a candidate, and also publishes material as part of their role volunteering for a political party. Some of the material they promote will be on behalf of the candidate, and so need to include the agent's details as promoter, and the candidate's details as the other person on whose behalf the material has been published. Some of it will be for the party, and so need the details of the party instead. What information³ Material could be published on someone's behalf for a number of reasons, including: the role someone plays in a campaign – for example, an agent may publish material on behalf of their candidate, making the agent the

promoter. they are paying for a service – for example, a social media influencer may publish their own organic material on behalf of the political party that has engaged them to do so, making the influencer the promoter. they are part of a wider group involved in publishing the material – for example, a non-party campaigner may publish material on behalf of a coalition of non-party campaigners, making that non-party campaigner the promoter. If you are being paid to publish the material, the material must include an imprint which includes the details of whoever is paying you. This is because, depending on the facts, either they are the promoter, or you are publishing the material on their behalf. If you are an organisation that receives donations for your general operations, this does not mean that material you publish is published on behalf of your donors. If a staff member or volunteer publishes their own material of their own accord, in their personal capacity on their own social media accounts, this will not count as being done on behalf of their organisation. For material published by or on behalf of a party which promotes more than one of the party's candidates or future candidates, the imprint does not need to include the details of every individual candidate or future candidate. You can instead include the party's details in the imprint. Where must the imprint appear? The imprint must be included as a part of the material, unless it is not reasonably practicable to do so. Whether it is reasonably practicable to include the imprint as part of the material depends on the technical capability of the platform on which the material is published. It does not depend on, for example, whether including an imprint will affect: your preferences about the design or appearance of the material how effective you think the material will be how much time it will take to publish the material If the imprint is included as a part of the material, it must be included in such a way that if the material is shared as it is, the imprint will still be a part of it. Example For example, if the material is a picture and contains an imprint, then if the picture is shared unaltered, the imprint will still appear. Where must the imprint appear? If it is not reasonably practicable to include the imprint as a part of the material, then the imprint must appear somewhere directly accessible from the material. In practice, this means it can be reached via a direct link, usually one click or equivalent, where both the link and the imprint are easy for a voter to locate. If the imprint appears somewhere directly accessible from the material, it must be included in such a way that if the material is shared as it is, the imprint will still be accessible from the shared material. Example For example, if the material is a tweet, and the imprint is included in your Twitter bio, then if the material is retweeted, the imprint in your bio will still be accessible from the retweet. Where must the imprint appear? This means that you must not delete the imprint from your bio for as long as an imprint is required and the material remains published. If you were to delete the imprint, then it would no longer be accessible if your material is shared. Similarly, you cannot include your imprint somewhere which would not be accessible by those who can view the material itself. Example For example, the imprint cannot be behind a firewall or otherwise protected area of the internet, if that would mean that voters would see the shared material but would not have the necessary permission to view the imprint itself. Where must the imprint appear? Beyond these requirements, the original promoter of the material is not liable for any imprint offences that are due to the material being shared by other people later on. The liability is on the people republishing the material – see Sharing and republishing . If the imprint is included somewhere directly accessible from the material, it must be clear that the imprint relates to the material. For example, it would not be acceptable to publish a list of different imprints in one location, directly

accessible from lots of different material, without it being clear which imprint relates to which material. The next sections give some detailed guidance on particular types or categories of digital material, and on what is typically reasonably practicable. Social media Usually, the material on social media will be the whole social media post. You must include the imprint in the post itself, unless it is not reasonably practicable. Example For example, for paid adverts, it will usually be reasonably practicable to include the imprint as a part of the material – you can include the imprint in the content of the advert, or in the disclaimer text which appears at the top of the advert. Where must the imprint appear?⁵ On some digital platforms, the design of the platform, such as there being a character limit on posts, may mean that it is not reasonably practicable to include the imprint as a part of the post. In this case, you must display a legible imprint somewhere directly accessible from the post. The imprint must be directly accessible from the post no matter what device is used. There are a number of different ways that you can do this. Example For example, it may often not be reasonably practicable to include the imprint in the post itself because of a character limit. If this is the case, your imprint can be included on your profile, for example underneath your name, or as a pinned post or tweet. Alternatively the imprint can be included somewhere else that you directly link to from your post, for example on your own website. Where must the imprint appear?⁶ Candidate imprint as a pinned tweet, where the candidate is their own agent. Candidate imprint in social media profile. Usually the ‘About’ section of a profile on a digital platform is not directly accessible from a post, because the hyperlink to the profile does not directly take you to that section. In this case, the ‘About’ section will only be directly accessible from a post if you add your own direct link to the ‘About’ section into the post. If material requires an imprint, you must ensure it is published on a platform that enables you either to include the imprint as part of the material or, if not reasonably practicable, somewhere directly accessible from the material. If a platform has such limited functionality that you cannot do either, then material that requires an imprint must not be published on that platform. If you publish material that requires an imprint on a platform that has limited functionality, you must include the imprint no matter what the limitations of that platform are. For example, TikTok has an 80-character bio, you cannot include links in a caption, and pinned posts are not available to all users. The best way to avoid these limitations is to include the imprint within the content of your TikTok video itself. Videos, images and cartoons A video or image can still be required to display an imprint even if it contains no text. If your material is a video or image, it will usually be reasonably practicable to include the imprint in the video or image, especially if you have created it yourself. If this is not reasonably practicable, for example if the material is a very small image, you must include the imprint somewhere directly accessible from it. If your material is a social media post which contains a video or image, then it will usually be reasonably practicable to include the imprint as a part of the post. Where it is reasonably practicable to include the imprint as part of the post, the best way to do this is to include it in the content of the video or image itself. This is because if it is shared, the imprint is more likely to remain a part of the material. This means that voters will see the original imprint as it is shared, which provides the most effective transparency. It is also less likely that people sharing the material will be required to include their own imprint when they share it. Further detail is included in the section Sharing and republishing. Alternatively, you can include the imprint somewhere else in the post. For example when uploading a video to YouTube,

you can include the imprint in the video's description. Websites Where the digital material is a website or webpage, it will usually be reasonably practicable to include the imprint on the relevant webpage. For example, it could be displayed in the footer. Where the material is just a part of the webpage, for example a social media post embedded in the page, then the imprint must be included as a part of the material unless it is not reasonably practicable. If it is not reasonably practicable, then it can appear somewhere directly accessible from the material – for example, somewhere else on the same webpage, such as the footer, or somewhere hyperlinked from the material. Example For example, if your material is a Google search advertisement, the character limit of the description may not be sufficient to contain the information required by the imprint in the material itself. In this case, you can include the imprint somewhere directly accessible from the Google search advertisement, such as the page that the advert links to. Where must the imprint appear?7 Audio material On solely audio material, the imprint must be included as a part of the material. For example, you could include someone reading out the imprint at the end. The imprint must be audible. The imprint must be read at a speed at which it can be heard and understood. For how long does material need an imprint? In all cases, digital material must include an imprint for as long as both: the imprint is required by the law the material remains published Material remains published for as long as it is being made available to the public or a section of the public. For example, if a post remains available on your social media channels, then it remains published. Organic material For organic material, the imprint is required on material published by a relevant entity for as long as the published material remains any of: election material referendum material recall petition material Because these types of material are all related to a particular electoral event, in many cases the imprint will stop being required once that event is over. For example, a video saying 'Vote NO on 10 May' in relation to an upcoming referendum will cease to be referendum material after 10 May when the referendum is over. Paid adverts For a paid advert, an imprint is required for as long as the material remains political material. How long the material remains political material will depend on who or what your material is reasonably regarded as intended to influence public support for or against. If the material is linked to a particular electoral event or electoral cycle, then it will have a natural end point. For example: a future candidate could decide not to stand a candidate ceases to be a candidate after polling day an elected office-holder ceases to be an elected office-holder when their term ends support for or against a particular outcome in a referendum cannot be influenced after polling day Some political material will not have such a clear end point. For example, material promoting support for or against a political party could continue doing that for as long as the party exists. Sharing and republishing material When you share material to the public or a section of the public, including on social media, this is a type of publication. In the legislation, this is referred to as 'republishing'. The law on imprints therefore also applies to material that you share – for example, using the 'retweet' function , the 'Share' button , the 'duet' function on TikTok, or forwarding an email. This also applies when you share material that was first published before the law on digital imprints was in force. However, if you share material that has already been published with a correct imprint and you do not materially alter the material, then you do not need to include a new imprint with your own details. The original imprint will suffice. In this guidance we refer to this as the 'sharing exemption'. Materially altering the material includes: changing it in such a way as to change the meaning of the material removing the imprint (if it

originally appeared as a part of the material) sharing it in such a way that the imprint ceases to be accessible from the material (if it originally appeared somewhere directly accessible from the material) If you share digital material that has already been published, but you materially alter that material, and it still requires an imprint in its new form then you must include your own imprint, even if the original material had an imprint. If you do not, you may be committing an offence. When material is republished, the duty to include an imprint falls on the person republishing the material (and anyone else on whose behalf they are republishing it). The duty does not fall on the promoter of the original material which is now being republished. The promoter of the original material only has a duty to make sure that it is possible for the original material to be shared without losing either: the imprint (if it is included as part of the material) access to the imprint (if it is included somewhere directly accessible from the material) In all cases, but especially if a promoter encourages the sharing of their material, it is good practice to include the imprint somewhere where it will be most easily retained if the material is shared. If the post contains an image or video, this will usually be in the content of the image or video itself. If you are a member of the public sharing material, you will usually not need to include an imprint. This is because if you are not a relevant entity, and you are not publishing on behalf of one, you do not need to include an imprint with any organic material. Examples of sharing material

The following tables show different examples of 'chains' by which material is shared. Each table begins with the same piece of digital material, but in each table it is then republished in a number of different ways.

Chain of sharing organic material where the imprint is included as a part of the material:

Example Does it require a new imprint? Why? What they did A political party tweets an image criticising a rival party's election manifesto Yes. It is election material and promoted by a party. The party includes their imprint in the image itself. The image is retweeted by one of the party's MPs. No. It is election material and has been shared by an elected office-holder, but it is exempt under the sharing exemption. It has been shared without being materially altered and the party's original imprint is still a part of the material. The MP does not include their own imprint. A future candidate retweets their colleague's retweet. No. The sharing exemption still applies – the material is not materially altered and the original party imprint is still a part of the material, so no further imprint is required. The future candidate does not include their own imprint.

Chain of sharing organic material where the imprint is originally in the material but is removed during the republication.

Example Does it require a new imprint? Why? What they did A political party tweets an image criticising a rival party's election manifesto Yes. It is election material and promoted by a party. The party includes their imprint in the image itself. A registered non-party campaigner screenshots the image and turns it into a Facebook post. They crop the image so that the imprint no longer appears. Yes. By removing the imprint, they have materially altered the material. This means the sharing exemption does not apply. Because it is election material, and they are a registered campaigner, it requires the campaigner's imprint under the rules for organic material. The registered campaigner does not include an imprint, and so commits an offence. A candidate shared the altered image using the 'Share' button . Yes. The sharing exemption does not apply, because the campaigner in the previous example did not include an imprint. The candidate must include their own imprint. It is reasonably practicable to include it in the post, so the candidate includes it above the image. A member of the public shares the same altered image using the 'Share'

button . No. Because it is not a paid advert, the imprint rules for organic material only apply to relevant entities. Members of the public who are not a relevant entity, and are not publishing on behalf of one, do not need to include an imprint on organic material, regardless of whether they are publishing it originally or sharing it. No imprint is required, so the member of the public does not include one. Chain of sharing organic material where the imprint is included somewhere directly accessible from the material: Example Does it require a new imprint? Why? What they did A political party tweets an image criticising a rival party's election manifesto. Yes. It is election material and promoted by a party. The party includes their imprint in the image itself. An MP from a rival party republishes the original image using the 'Quote Tweet' function . They add a lengthy comment which is critical of the material and the party which originally tweeted the image. Yes. The MP has shared the material but turned it into election material intended to influence voters to vote against the original party. Because the meaning has been changed, the material has been materially altered. This means that the sharing exemption does not apply. The MP's tweet is a new piece of material which requires an imprint in its own right. In this case, because the MP has used up a lot of the character limit with their comment, it is not reasonably practicable to include the imprint as a part of the tweet. The MP therefore adds their own imprint underneath their name in their Twitter bio. This is directly accessible from the tweet because the tweet contains a hyperlink to the bio internal to the platform's functionality. A future candidate retweets the MP's tweet. No. The future candidate's tweet still contains a hyperlink with a direct link to the MP's Twitter bio. The imprint is therefore still accessible from the shared material. The future candidate does not include their own imprint. An elected mayor screenshots the future candidate's retweet and includes it as part of a TikTok video. Yes. Because of the way the image has been republished, there is no longer a hyperlink to the MP's profile, where the original imprint appears. The imprint is no longer accessible from the mayor's republished material, so the exemption does not apply. The future candidate therefore includes their own imprint at the start of the video. A candidate shares the mayor's video by using the stitch feature on TikTok. A section from the end of the mayor's video appears at the start of the candidate's video. Yes. Because the section of the earlier video that is included does not contain the mayor's imprint, the material has been materially altered. The sharing exemption does not apply. The candidate therefore includes an imprint in their video. Examples where organic material is republished and turned into a paid advert: Example Does it require a new imprint? Why? What they did A political party tweets an image criticising a rival party's election manifesto. Yes. It is election material and done by a party. The party includes their imprint in the image itself. A campaigner pays Facebook to 'boost' the party's post, thereby turning it into a paid advert. No. This is now a paid advert, and it is political material. However, the imprint is a part of the original post and is retained. The material has not been materially altered. The sharing exemption applies and the campaigner does not need to include their own imprint. The campaigner does not include an imprint. A member of the public creates and publishes a meme criticising a political party and some of their elected office-holders. They do not pay for it to be published as an advert. No. If material is not published as a paid advert, then an imprint is only required if it is published by or on behalf of a relevant entity. A member of the public is neither one of the relevant entities, nor publishing on behalf of one, and so does not need to display an imprint on organic material. The member of the public does not include an imprint. The campaigner pays Facebook to 'boost' the meme, thereby turning it into a paid advert.

Yes. The original meme did not require an imprint because it was not a paid advert and was not posted by a political entity. However, by 'boosting' the post, the campaigner has turned it into a paid advert, and it is now political material. Since the original post did not contain an imprint, the campaigner must include their own details in the advert. The campaigner includes their imprint in the 'disclaimer' section of the advert.

Offences and defences If digital material which requires an imprint is published without one, then both the promoter of the material anyone else on whose behalf the material is published may commit an offence under section 48(1) of the Elections Act. It is a defence for a person charged with this offence to prove any of the following: that the failure to comply was due to circumstances beyond their control, and that they took all reasonable steps, and exercised all due diligence, to ensure they did comply. that they complied with this guidance that in the case of the republication of material (see section Sharing and republishing): the material had previously been published it had not been materially altered when it was republished they reasonably believed that the original material required an imprint under section 41 and complied with the requirements of that section

Responsibilities for enforcement of the regime The Elections Act provides for enforcement of the digital imprints regime by way of an offence under section 48(1) where an imprint is not included when required.. Whether it is the police or the Electoral Commission that is initially responsible depends on the purpose of the material in question, as set out in section 50. Where there is uncertainty in a particular case as to which body is responsible for enforcement, this will be resolved between the enforcement bodies on a case by case basis.

Political material (paid adverts) and election material (organic material) The police will enforce material which relates to: a particular candidate a particular future candidate a particular elected office-holder The Electoral Commission will enforce material which relates to: political parties categories of parties, candidates, future candidates and/or elected office-holders including categories based on: their support for or against particular policies their holding particular opinions any other reason

Recall petition material This will be enforced by the police, both for paid adverts and organic material.

Material relating to referendums Any digital material, both for paid adverts and organic material, will be enforced by the Electoral Commission if it both: relates to a referendum held under Part 7 of the Political Parties, Elections and Referendums Act 2000 (is a PPERA referendum) is published during the referendum period Any other material relating to a referendum will be enforced by the police. This material will all be paid adverts, and includes any paid advert which either: relates to a referendum which is not a PPERA referendum relates to a referendum which is a PPERA referendum, but which is published before the referendum period

Approach to enforcement The police and the Electoral Commission will seek to enforce the offence under section 48(1) consistently, but the differing nature of roles and powers means that specific actions may vary. Both the police and the Electoral Commission will enforce effectively, proportionately, and fairly.

Specifically: Consider enforcement action only where there are reasonable grounds to suspect an offence under section 48(1) of the Act Take enforcement action only where it is proportionate to do so Take the facts of each situation into account Enforce only where it is in the public interest to do so in the context of organisational priorities and resources. Whether or not a matter is in the public interest and justifies the use of resources in this way will depend on a number of factors. These factors may be different and/or differently weighted depending on the circumstances. Some of the factors that are likely to be considered, though this is not an exhaustive list, are set out below: Whether there

was intent, rather than inadvertence or oversight Whether the required imprint is partially included or entirely absent The impact of the material -including but not limited to the extent and geographical spread of distribution of the material and how many people potentially may have seen it and been influenced by it Where the Commission opens an investigation, it will normally inform the subject of the investigation as soon as possible after the investigation is opened, unless doing so would frustrate the investigation. The Commission will provide details of the matters under investigation and ensure that the subject has the opportunity to respond to them. The police, in conducting criminal investigations, may proceed in a different way. Both the police and the Commission recognise that it is important to conclude investigations as quickly as possible. This is both in the public interest and in the interests of justice for those involved. However, the first priority is always to conduct a fair and thorough investigation, and this will take priority over speed where the two conflict. Use of powers The Elections Act creates two new powers in relation to enforcement of the regime. Use of powers under Schedule 12 to the Elections Act 2022 – obtaining information The police and the Commission have powers under Schedule 12 to the Act to obtain two different types of information. There is a power to give notice in writing to any person requiring the person to provide information identified in the notice, which is reasonably required for: the purposes of determining whether digital material has been published without an imprint where one was required or to enable the police or the Commission to make contact with the promoter of the material or any other person on behalf of whom the material has been published The police and the Commission also have a power to give notice in writing to any person requiring the person to provide it with electronic material identified in the notice, which is reasonably required for the purposes of determining whether electronic material has been published without an imprint where one was required. In both cases the police may choose to use this power as an alternative to existing powers to obtain information. The Commission may exercise that power where it is proportionate and in the public interest to do so. Neither the police nor the Commission will do so where that information is easily accessible by other means. Any information obtained under such a notice may not then be used as evidence in any enforcement action against the person who provides the information to the Commission. Compliance with notices Where either of these powers are exercised by either the police or the Commission, a deadline for compliance will be set which must be complied with. The deadline will be proportionate, taking account of the facts of the specific situation, including the urgency of obtaining the information. Where such a notice is not complied with, the police or the Commission may seek a court order requiring the information. Use of powers under section 51 of the Elections Act 2022 – taking down material The Commission has a power under section 51 of the Act to require that any material be removed or access to it disabled after the Commission has determined an offence has been committed under section 48(1) in relation to that material and imposed any sanction, or served a Stop Notice, or agreed an Enforcement Undertaking under its powers in Schedule 19C to the Political Parties Elections and Referendums Act 2000. In deciding whether to exercise its power under section 51 of the Act, the Commission will consider whether to do so: is proportionate and in the public interest is in accordance with its enforcement objectives will assist in maintaining or improving transparency. It will not generally exercise that power where, for example, the material has already been removed; the material has been amended to make it compliant; or for any other reason it is not proportionate or in the public interest to require it to be removed. A similar power is available to a

court under section 49(2) of the Act, following a conviction for an offence under section 48(1). There is no equivalent power available to the police because this power can only be used after an offence has been found, either by a court or the Commission. It is a criminal offence for any person who receives a notice to take down material to fail to comply with it without a reasonable excuse. Advice and guidance

An area of difference between the roles and remits of the police and the Electoral Commission is in terms of providing guidance. The police may choose to provide words of advice rather than pursue criminal prosecution in some cases. The Electoral Commission however has a legal duty to take reasonable steps to secure compliance with the law, under which it provides support, advice and guidance. The Commission may use advice and guidance proactively in order to secure compliance and to give those the Commission regulates a clear understanding of their regulatory requirements, as an alternative to enforcement action. Before opening any investigation the Commission will consider whether it is proportionate to do so, and whether the use of advice and guidance is more appropriate. The Commission will consider all of the facts of each individual case, but some examples of relevant factors are: New or inexperienced campaigners who may be unfamiliar with the requirements Where an isolated incident occurs with an otherwise compliant campaigner Where matters were rectified quickly by the campaigner What happens after an investigation The police, where there is evidence of an offence, may refer the matter to the relevant public prosecutor (the Crown Prosecution Service in England and Wales, the Crown Office/Procurator Fiscal in Scotland, and the Public Prosecution Service in Northern Ireland), who will decide whether to launch a criminal prosecution. Where the Electoral Commission is satisfied beyond reasonable doubt that an offence has been committed, the Commission may decide to impose a civil sanction using its powers under Schedule 19C to the Political Parties Elections and Referendums Act 2000. The Commission will generally sanction where it considers it appropriate to do so and when it is proportionate and in the public interest. If the Commission seeks to impose a sanction, it will follow the statutory process set out in Schedule 19C to the Political Parties, Elections and Referendums Act 2000. This involves the serving of a notice proposing a sanction, and a period of time for the person who is the subject of the notice to make representations. When making representations, recipients can put forward any information they consider relevant. In particular, if they have not already done so, the recipient may want to put forward any defence to the offence. They may wish to comment on the reasons for the Commission proposing a sanction, including the facts on which the decision is based. Representations may be made on the application of the factors the Commission has taken into account when determining the type and size of a sanction. Finally, the recipient may want to comment on the ability of the person concerned to pay a financial penalty and/or the cost to the person concerned of any non-financial requirement that might be imposed. Where possible, representations or objections should be accompanied by supporting evidence. Any representations or objections will be considered by a senior officer of the Commission who was not involved in the decision to issue the notice proposing a sanction. This includes determining if the Commission remains satisfied that an offence took place and, if so, that the proposed sanction is reasonable and appropriate. If, as a result, the Commission is no longer satisfied that an offence or contravention occurred, the matter will be closed and the outcome notified to the recipient. Otherwise, the senior officer will decide whether to issue a notice imposing a sanction, either reflecting the initial decision or changing it. Where any sanction is imposed, the subject of that sanction has a

right of appeal to the county court in England and Wales, a county court in Northern Ireland, or the sheriff in Scotland.

Key terms

Candidate A candidate is a candidate at an election for a relevant elective office, including a person who is included in a list of candidates submitted in connection with such an election.

Digital material In the Elections Act 2022, digital material is referred to as 'electronic material'. Digital material is material in electronic form which consists of or includes: text, moving or still images, or speech or music. It does not include material that is received by a person in the form a telephone call (e.g. to a landline telephone number) or material that is received via a text message using SMS to a telephone number.

Elected office-holder An elected office-holder is someone who holds a relevant elective office. An elected office-holder is to be treated as holding a relevant elective office during any period when— the person has been elected as, or declared to be returned as, the holder of the office, but their term of office has not yet begun

Election material Election material is material that can reasonably be regarded as promoting or procuring electoral success at one or more relevant elections for: one or more political parties a candidate or future candidate political parties, candidates, or future candidates that are linked by their support for or opposition to particular policies, or by holding particular opinions other categories of parties, candidates or future candidates that are not based on policies or opinions – for example, candidates or future candidates who went to a state school, or independent candidates (who do not stand for a political party) any combination of the above

Future candidate A person is a future candidate at an election for a relevant elective office if— the person has been declared, whether by the person or by someone on their behalf, to be a candidate at the election (and the declaration has not been withdrawn), the election is the next scheduled election for the office, and the notice of the election has not been published or, in the case of an election for the office of member of the House of Commons, the writ for the election has not been issued.

Organic material Organic material is any material which is not a paid advert. That is, material where neither the promoter of the material, nor the person on behalf of whom the material is published, has paid for the material to be published as an advertisement.

Paid advert A paid advert is material where the promoter of the material, or the person on behalf of whom the material is published, has paid for the material to be published as an advertisement. For the purposes of the definitions of 'paid advert' and 'organic material', payments are not limited to just money. They can also include benefits in kind. They do not include payments that are part of the background costs of creating, setting up, operating or maintaining the material. They are limited to payments specifically to the service provider or platform hosting the adverts for the publication of those adverts.

Political material Political material is material whose sole or primary purpose can reasonably be regarded as intended to influence the public, or any section of the public, to give support to or withhold support from: one or more political parties a particular candidate or a particular future candidate (in their capacity as such) a particular elected office-holder (in their capacity as such) political parties, candidates, future candidates or elected office-holders (in their capacity as such) that are linked by their support for or opposition to particular policies, or by holding particular opinions other categories of parties, candidates, future candidates or elected office-holders (in their capacity as such) that are not based on policies or opinions – for example, candidates or future candidates who went to a state school, or MPs who have had a job outside of politics the holding of a referendum, or a particular outcome of a referendum any combination of the above

Promoter The promoter

is the person causing the material to be published. Publish To publish is to make available to the public at large or any section of the public. Recall petition A recall petition is a mechanism under the Recall of MPs Act 2015 by which a sitting MP may be “recalled” by their constituents during the lifetime of a parliament, potentially resulting in a by-election. Recall petition material Recall petition material is material that promotes or procures the success or failure of a recall petition. Recall petition campaigner A recall petition campaigner is a person who is an accredited campaigner within the meaning of the Recall of MPs Act 2015 in relation to a recall petition. Referendums (paid adverts): A paid advert constitutes political material if its sole or primary purpose can reasonably be regarded as intended to influence the public, or any section of the public, to give support to or withhold support from any referendum, which includes but is not limited to, the following: Key terms² Council tax increase referendum A referendum held under The Local Authorities (Conduct of Referendums) (Council Tax Increases) (England) Regulations 2012 Local authority governance referendum A referendum held under the section 9MB and 9MC of the Local Government Act 2000. Local government referendum A referendum held under the Local Authorities (Referendums)(Petitions)(England) Regulations 2011 or the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001. Local poll A local poll (a form of referendum) held under section 116 of the Local Government Act 2003. Neighbourhood Planning referendum A referendum held under the Neighbourhood Planning (Referendums) Regulations 2012 (as amended). Parish poll A parish poll (a form of referendum) held under section 150 and Schedule 12 of the Local Government Act 1972. PPERA referendum A referendum held under Part 7 of the Political Parties, Elections and Referendums Act 2000, including a UK-wide referendum a referendum held in one or more of England, Scotland, Wales or Northern Ireland But not including a Senedd referendum. Senedd referendum A referendum held under section 64 of the Government of Wales Act 2006. Key terms ³ By contrast, organic material constitutes referendum material only if the material wholly or mainly relates to a PPERA referendum. Referendum material (organic material) Referendum material is material that wholly or mainly relates to a referendum under Part 7 of the Political Parties, Elections and Referendums Act 2000, and is published during the referendum period for that referendum. Referendum period The period before a PPERA referendum during which certain restrictions are in place, under section 102 of the Political Parties, Elections and Referendums Act 2000 Registered non-party campaigner A registered non-party campaigner is a campaigner recognised by the Electoral Commission under Part 6 of the Political Parties, Elections and Referendums Act 2000. In the legislation, registered non-party campaigners are referred to as ‘recognised third parties’. Registered party A registered party is a political party registered by the Electoral Commission under Part 2 of the Political Parties, Elections and Referendums Act 2000. Registered referendum campaigner A registered referendum campaigner is an individual or organisation who is a permitted participant within the meaning of Part 7 of the Political Parties, Elections and Referendums Act 2000, in relation to a referendum to which that Part applies. In the legislation, registered referendum campaigners are referred to as ‘permitted participants’. Relevant election “Relevant election” means any election listed in section 45(9) of the Elections Act 2022, as amended from time to time, including: UK Parliamentary general elections Scottish Parliamentary elections Senedd elections Northern Ireland Assembly elections Police and Crime Commissioner elections Local elections, including mayoral elections, Greater London Authority elections and parish, town and community elections Relevant elective office “Relevant elective office” means any office listed in section 37(1)

of the Elections Act 2022, as amended from time to time, including those defined there as a “relevant Scottish elective office”. This includes: A member of the House of Commons A member of the Scottish Parliament A member of the Senedd A member of the Northern Ireland Assembly A Police and Crime Commissioner An elected mayor A member of the London Assembly A councillor A member of the City of London Corporation

Relevant entity A relevant entity is one of the types of individual or organisation who may be required to include an imprint on organic material. The relevant entities are: a registered party a registered non-party campaigner a candidate or future candidate an elected office-holder a registered referendum campaigner a registered recall petition campaigner

Page history First published: 25 May 2023 Last updated: 30 May 2023