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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