



Protocol on communications related to the 2020 General Election process

July 2020

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Purpose

1. This protocol sets out the respective roles and responsibilities across the Electoral Commission and government agencies in relation to public communications for the 2020 General Election and the referendums (the General Election process).¹ The protocol outlines:
 - which government agencies will officially communicate to the public to support their participation in the General Election process, and how they will do so;
 - the approach to responding to public enquiries for the General Election process;
 - how issues about the integrity of information – including the accuracy and transparency of information and complaints about content - will be addressed; and
 - the approach to information sharing between agencies.

Context

2. General elections are at the heart of our democracy. New Zealanders expect to be able to exercise their democratic right to vote and, in doing so, their freedom of expression.
3. A wealth of information – including much that promotes healthy debate – is made available in the public domain during election time. This includes contributions from members of the public, media, parties, candidates and third parties.
4. A range of media channels and web-enabled platforms have impacted this information domain, both positively and negatively, by dramatically broadening public access to information and providing the ability to share views.
5. Government recognises the challenges associated with the integrity of information during an election period. This issue is heightened in 2020 due to the End of Life Choice and Cannabis referendums.
6. While government must not impinge on the lawful expression of ideas in the way they communicate with the public, the Electoral Commission and a range of government agencies have pre-existing and defined roles to play in addressing integrity of information during the election period and to support referendums.

¹ As per the other election protocols, the 'General Election process' refers to the pre-planning and delivery of the 2020 parliamentary election, as well as the two referendums being held with the 2020 election.

7. These agencies and their roles include:

Agency	Role	Mandate or guidance
Electoral Commission	<ul style="list-style-type: none"> • Oversees rules around election advertising, which cover traditional channels as well as online mediums. • Communicates to the public about the delivery of the General Election and referendums. Includes: <ul style="list-style-type: none"> ○ core communications around how the public can both enrol and vote ○ developing a communications strategy for the General Election process that is effective across local, regional and national levels. 	<ul style="list-style-type: none"> • Part 6AA of Electoral Act 1993 covers advertising rules.
Ministry of Justice	<ul style="list-style-type: none"> • Provides public information on the topics of the referendums - the Cannabis Legalisation and Control Bill and the End of Life Choice Act 2019. 	
(Department of the Prime Minister and Cabinet) Cabinet Office	<ul style="list-style-type: none"> • Responsible for providing general information about the matters Ministers, departments and other state sector agencies should consider in an election year. 	<ul style="list-style-type: none"> • Cabinet Manual
State Services Commission	<ul style="list-style-type: none"> • Sets out expectations of state servants and agencies in the lead up to, and in the period immediately after, an election. 	<ul style="list-style-type: none"> • State Services Act 1988 • Code of Conduct for the State Services • He Ārahitanga Pōtitanga Whānui General Election Guidance

Communicating about the General Election process

The Electoral Commission provides information about the General Election process

8. Most of the state sector’s proactive communications with the public on the General Election process comes from the Electoral Commission. Through its public communications campaign, the Electoral Commission promotes enrolment and voting processes to support the delivery of successful elections.

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9. The Electoral Commission's communications around election time are focussed on making it simple and straightforward for people to enrol and vote, as well as improving general understanding of our electoral system.
10. The Electoral Commission will communicate with the public through multiple channels:
 - the www.vote.nz website, which outlines core information on when, where and how to both enrol and vote;
 - the www.elections.nz website, which provides information about the electoral system and the Commission;
 - through a communications campaign that includes use of television, radio and online campaign material; and
 - written material such as pamphlets, and EasyVote material.
11. The Electoral Commission will follow best practice with regards to transparency and accuracy when communicating publicly on the General Election process. This includes ensuring all its communications have promoter statements to ensure the source is publicly attributed. This will enable the public to determine which communications are authentic and accurate from those that may not be.
12. To ensure overseas voters receive information, the Electoral Commission will work in partnership with the Ministry of Foreign Affairs and Trade to ensure the communications campaign reaches these voters.

The Ministry of Justice provides public information about the topics of the referendums

13. The Ministry of Justice is the lead agency for providing public information on the End of Life Choice Act 2019 and Cannabis Legalisation and Control Bill referendums.
14. The Ministry of Justice will make explanatory material available online at www.referendums.govt.nz. In addition, summary information will be sent out with the Electoral Commission's enrolment update and EasyVote mailouts and will be available in voting places. All material will be strictly factual, unbiased and non-partisan. Materials will not provide opinion, analysis or commentary. Publicity across a range of media will let the public know where to find information.
15. The Ministry of Justice will not proactively monitor social media to identify misinformation or enter into any public debate or respond to public comments. Instead, the approach will be to ensure facts about the referendums are made readily available to the public and the media to allow them to come to their own views on any claims about the Cannabis Legalisation and Control Bill or the End of Life Choice Act 2019.
16. The Ministry of Justice and the Electoral Commission will coordinate their communications closely.
17. The Ministry of Justice will also consult regularly with the Ministry of Health, reflecting the two agencies' shared policy, legislative and public information responsibilities for the two referendums. A separate communication protocol is in place between the Ministry of Justice and the Ministry of Health to guide coordinated and consistent responses and messages in relation to the two referendums.

The role of the Chief Electoral Officer

18. The Chief Electoral Officer, as Chief Executive of the Electoral Commission, is responsible for issuing public notifications or making media comment about the conduct of the General Election process. The Chief Electoral Officer will notify the public or make a media response herself, or she may delegate this responsibility to a member of her Senior Leadership Team. As a member of the Electoral Commission Board, the Chief Electoral Officer will also update the Board and involve it as appropriate.
19. Specific instances in which the Chief Electoral Officer will consider public notification include if there is a disruptive event that has or could impact the conduct of the election², or should the Electoral Commission be required to seek government agency support for delivery of the election. These instances are further outlined in the respective protocols covering these issues.

Responding to public enquiries and complaints regarding the General Election and Referendums

Public enquiries

20. The Electoral Commission and other government agencies receive a high volume of public enquiries over a general election period. For the 2020 General Election process, additional public enquiries are expected because of the two referendums.
21. The Electoral Commission operates the primary channels for public enquiries on the General Election process, including on the conduct of the referendums. These are:
 - the www.vote.nz and www.elections.nz websites; and
 - the free 0800 service (0800 36 76 56).
22. The public can contact the Ministry of Justice with enquiries about the public information programme for the referendums by emailing cannabis@referendums.govt.nz or endoflifechoiceact@referendums.govt.nz or it can use the free public 0800 service (0800 36 76 56).
23. The process for agencies handling enquiries relating to the conduct of the General Election and the referendums is shown in Annex A.

Complaints

24. A complaint could be about multiple factors, for example, an advertisement may not have a promoter statement and there may be concerns about the content.
25. The Electoral Commission does not proactively respond to matters related to the content of information outside what is considered content on the conduct of the General Election or referendums. The processes for dealing with public complaints about content outside the General Election are set out in Annex B.

² This is outlined in paragraphs 64 – 66 of the *Protocol on the management and response to election disruptions*.

Issues with the integrity of information in the public domain

26. Integrity issues with some information about the General Election or the referendums are likely to be of public concern. Most notably, there could be integrity issues raised around the accuracy of information, transparency of information, or complaints about content.
27. No government agency, including the Electoral Commission, is responsible for proactively monitoring information that is in the public domain about the General Election or referendums.
28. Nevertheless, the Electoral Commission or other government agencies, in the course of their duties, may become aware of questionable information. They may also be referred information by the public in the form of a complaint or enquiry.
29. The table below sets out the types of issues that can be investigated and which agency is responsible.

Example of issue	Agency responsibility
An issue with a promoter statement related to information about the election or the referendums	Electoral Commission
An authorisation issue with an election advertisement	Electoral Commission
A complaint about a television or radio programme about the election or the referendums	Broadcasting Standards Authority
A complaint about an advertisement on television on the election or the referendums	Advertising Standards Authority
A complaint about the content of a sponsored Facebook post for a political party or candidate	Advertising Standards Authority
An issue with the placement of an election or referendum hording	Local authority and advertiser
A complaint about unpaid content on Facebook or another social media platform	Facebook /social media platform (note the Advertising Standards Authority does not exercise jurisdiction here)
A complaint about content in a newspaper (e.g. New Zealand Herald or www.stuff.co.nz)	Media Council
A complaint about a radio advertisement on the referendums	Advertising Standards Authority
A complaint about a paid or unpaid advertisement in print (e.g. magazine or leaflet) or outdoor billboard	Advertising Standards Authority
An issue with incorrect information about the conduct of the election or referendums, e.g. enrolment or voting information	Electoral Commission and Advertising Standards Authority

A complaint about serious online harassment	NetSafe
An issue with information on the election that may be from a foreign state and negatively impacts New Zealand sovereignty, interests or values	Intelligence and security agencies

Process for managing misleading or inaccurate information related to the General Election and/or referendums

30. If a member of the public or an official becomes aware of misleading or inaccurate information about the conduct of the General Election and/or referendums, they should report it to the Electoral Commission. Inaccurate information about the conduct of the General Election and/or referendums includes information that, for example:
- reports that the election or referendums are no longer being held;
 - provides inaccuracies on the availability, opening hours, or location of certain voting places;
 - provides inaccurate information on the methods of voting in the election or referendums, including on marking ballots and submitting votes, and enrolling.
31. The Electoral Commission will decide whether a response is required to address cases based on a range of criteria. These include but are not limited to:
- whether the item is a one-off information item;
 - the intent of the mis/disinformation, and whether it appears to be intentionally misleading;
 - the level of readership and/or predicted impact on the public of the information item(s);
 - the extent of the inaccuracies in the information item(s); and
 - the level of access to accurate information, either from the Electoral Commission or other sources, that addresses the conduct issues raised in the information item(s).
32. In a less serious case, the Electoral Commission may decide that a direct response to the material is not required. For more serious cases, the Electoral Commission will respond, either indirectly or directly to the item, to clarify the correct information relating to the conduct of the election or referendums.
33. Should more serious measures be required, the Electoral Commission will consider contacting the platform hosting the material to request a take-down of that material. The Electoral Commission will ensure other government agencies are aware of the issue. If the matter needs to be raised further, the Chief Electoral Officer will call a meeting of relevant Chief Executives to seek their advice on further action.
34. In the case of false or incorrect information about the conduct of the End of Life Choice Act 2019 and Cannabis Legalisation and Control Bill referendums, the Electoral Commission will keep the Ministry of Justice informed.

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35. If a member of the public or an official becomes aware of misleading or inaccurate information about matters that are the responsibility of other agencies but relate to the General Election or referendums, agencies will work together to make sure those who should be involved are, and ensure the issue is directed to the most appropriate agency. Agencies will exercise their existing powers in assessing these issues.
36. The primary channels for this sharing of information will be through the Senior Officials Committee and the Risk and Security Working Group. Senior Electoral Commission staff may also brief established National Security System governance bodies, including the Security and Intelligence Board, Hazard Risk Board and Major Events Security Committee.
37. Outside of these bodies, information required to assess these cases will be shared on a business-as-usual basis between the Electoral Commission and government agencies electronically on the SEEMAIL system up to the 'In Confidence' level. This sharing of information will be conducted with respect to agencies' pre-existing obligations around protecting privacy, and the personal details of any complainants.
38. In the event there is no clear lead agency, agencies will work together to determine the best approach to clarify the origin and seriousness of the material and the recommended response.

Process for assessing public information that may endanger New Zealand's national security

39. If the Electoral Commission or officials from another agency are referred to information by a member of the public, or otherwise become aware of information, that appears to constitute a threat to New Zealand's national security, they will refer it to the intelligence and security agencies. These agencies will act in accordance with their roles as set out the Intelligence and Security Act 2017. The intelligence and security agencies will generally avoid making any public comment on such information.
40. It is a function of an intelligence and security agency to provide protective security services, advice, and assistance to any public authority, and any person or class of persons authorised to receive the services, advice, and assistance. This includes the Electoral Commission, Ministers and Members of Parliament.
41. If the matter concerns imminent threats of violence, threats to human life, and/or threats to property, New Zealand Police will be contacted.

Breaches of transparency or advertising rules

42. The Electoral Commission is responsible for ensuring that the rules regarding transparency of promoter statements, authorisation of advertising and electoral finance rules are being complied with. It has made detailed guidance on the requirements for parties, candidates and third Parties available on its website.
43. The Electoral Commission considers complaints about breaches of election advertising and the Election Day rules under the Electoral Act 1993, referendum advertising rules under the Referendums Framework Act 2019, and election programmes under Part 6 of the Broadcasting Act 1989.

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44. Government agencies should refer suspected breaches of election and referendum advertising rules and election programme rules to the Electoral Commission. These referrals can be made to enquiries@elections.govt.nz.
45. The Electoral Commission will further assess the information items in line with the process noted in Annex C.
46. If the Electoral Commission considers a person or group has committed an offence, it may report the information it holds to the New Zealand Police.
47. The New Zealand Police is responsible for investigating and taking enforcement action against any parties or individuals responsible for a breach. The Electoral Commission does not have a prosecution or enforcement role.
48. The New Zealand Police publication, *[Elections and political matters – a guide for Police employees](#)* provides guidance on enforcement and is available on the Police website.³



Andrew Kibblewhite
Secretary for Justice



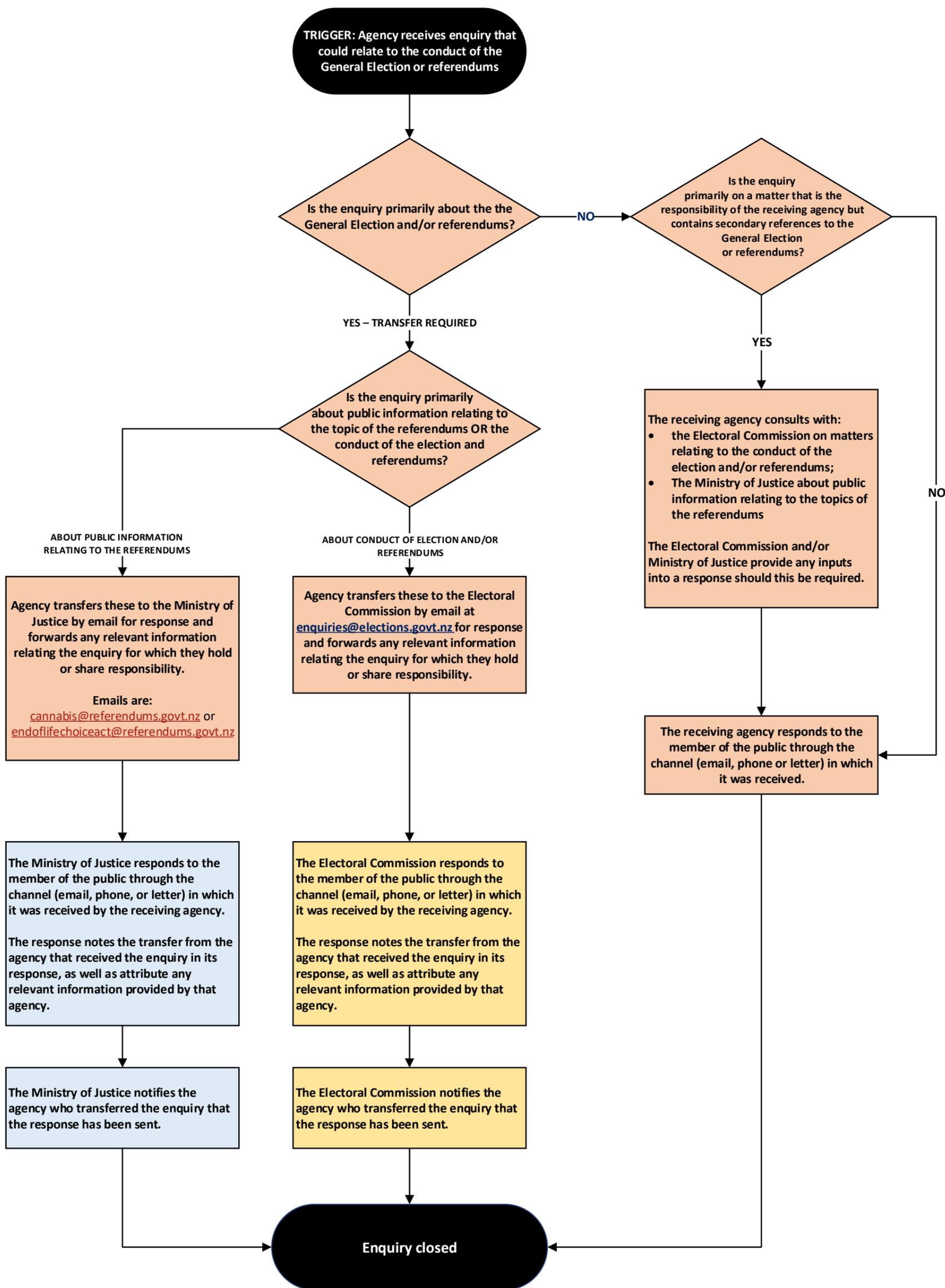
Alicia Wright
Chief Electoral Officer



Brook Barrington
**Chief Executive, Department of the Prime
Minister and Cabinet**

³ <https://www.police.govt.nz/sites/default/files/publications/elections-and-political-matters-policy.pdf>

Annex A: Process for agencies handling enquiries relating to the conduct of the General Election and the referendums



Annex B: Complaint processes for the public regarding content

1. The Electoral Commission does not proactively respond to matters relating to the content of information outside what is considered content on the conduct of the General Election or referendums.
2. However, the Electoral Commission and other government agencies that receive complaints from members of the public regarding the content of election or referendum information will direct people to the following organisations:

Agency	Coverage	Contact details
Broadcasting Standards Authority (BSA) (Independent Crown Entity under the umbrella of Ministry of Culture and Heritage)	<p>For matters and complaints regarding broadcasting during the election, including content of election programmes (i.e. short promotional/campaign clips for parties or candidates, broadcast on television or radio), and party and candidate advertisements on television or radio.</p> <p>The BSA maintains an Election Programmes Code that election programmes must follow (www.bsa.govt.nz/broadcasting-standards/election-code/).</p> <p>People can lodge formal complaints in line with this code. The broadcaster must follow any order the BSA issues.</p> <p>Third party programmes must also follow relevant broadcasting standards for radio, free-to-air television or pay television. If a person thinks a programme has breached one of these standards, they must complain to the broadcaster first. If the complaint can't be resolved, they can go to the BSA.</p>	<p> 0800 366 996</p> <p> info@bsa.govt.nz</p> <p> bsa.govt.nz</p>
Advertising Standards Authority (ASA)	<p>For information and complaints regarding paid advertisements from parties, candidates and advocacy groups and individuals in all media about the election and referendums.</p> <p>Advertising must comply with ASA Codes of Practice. The ASA website has more information about the codes and how to complain: asa.co.nz/complaints</p>	<p> 0800 234 357</p> <p> asa@asa.co.nz</p> <p> asa.co.nz</p>
Media Council	<p>Information and complaints regarding the press, including complaints about the editorial content of newspapers, their websites and news and current affairs content on websites of some broadcasters.</p> <p>If a person wishes to complain about editorial content, they must go to the publisher first. If</p>	<p> mediacouncil.org.nz</p>

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the publisher cannot resolve the complaint, the matter can be taken to the Media Council.

Local authorities

For questions or complaints about the placement of election signs, which are handled by the council in the area the sign is located.

Contact details for all councils:

lgnz.co.nz/nzs-local-government/new-zealands-councils

Netsafe

Serious or repeated harmful digital communications, such as harassment, racist, sexist and religiously intolerant comments and other behaviour that breaches the Harmful Digital Communications Act 2015.

 0508 NETSAFE (0508 638 723)

Text 'Netsafe' to 4282

 help@netsafe.org.nz

 Online report form at netsafe.org.nz/report

Annex C: Electoral Commission consideration of information against the Electoral Act 1993.

