



## DETERMINATION

### Authorisation of electoral campaign material

*Electoral Act 2002*, section 83

Determination 001/2022

#### Keywords

*Advertisement, authorise, campaign material, cause, distribute, electoral matter, electoral communication, handbill, notice, pamphlet, permit, political advertising, print, publish, social media.*

#### Preamble

This Determination states how the Victorian Electoral Commission (VEC) intends to perform its duties and functions and exercise its powers specific to section 83 of the *Electoral Act 2002* (Electoral Act).

Section 83 of the Electoral Act governs the authorisation requirements for the printing, publication and distribution of electoral campaign material, being electoral advertisements, handbills, pamphlets and notices.

Electoral campaign material requires 'authorisation'. 'Authorising' material means including a person's name and address on electoral campaign material. The name and address form an 'authorisation statement'.

The VEC encourages authorisation to ensure members of the public are aware of the origins of electoral campaign material. Authorisation ensures transparency and allows someone to decide for themselves how much they value or trust electoral campaign material.

#### Audience

The principal audience for this Determination includes:

- candidates
- political parties
- anyone making electoral campaign material.

#### Determination

I, Warwick Gately AM, Electoral Commissioner for the State of Victoria, by delegation of the Victorian Electoral Commission pursuant to section 16(1)(b) of the Electoral Act, make the following determination in accordance with section 9(3) of the Electoral Act.

**1. *Material that requires authorisation***

- 1.1 For this Determination, 'electoral campaign material' is an advertisement, handbill, pamphlet or notice that contains 'electoral matter'. Electoral campaign material requires authorisation.
- 1.2 Electoral campaign material may appear online, in digital or electronic format, or in print.
- 1.3 The VEC does not require the spoken or written words of a person to have an authorisation statement unless the words are represented as or in electoral campaign material.

**2. *What is 'electoral matter'?***

- 2.1. 'Electoral matter' is defined under section 4 of the Electoral Act. The VEC regulates electoral matter that is intended or likely to affect voting in an election.
- 2.2. Material made expressly for academic, artistic, educational or satirical purposes that is not intended or likely to affect voting in an election is not regulated by the VEC.

**3. *What 'contains' electoral matter?***

- 3.1. For electoral campaign material to 'contain' electoral matter, the electoral matter must have a sufficiently strong connection to an election. Proximity to an election day is relevant to whether the material has a sufficiently strong connection to the election.

**4. *What is an 'advertisement'?***

- 4.1. An 'advertisement' is anything that is made or intended to draw the attention of the public, or a section of the public, to a particular person, thing, event or movement.
- 4.2. An advertisement can appear in many forms, including online, by spoken, written or printed words, pictorial representation, light or sound, or by exhibition to the public.
- 4.3. The subjective intention of the maker of the material is not relevant in determining if it is an advertisement.

**5. *What is a 'handbill'?***

- 5.1. A 'handbill' is printed material delivered by hand, usually not more than a few pages.

**6. What is a 'pamphlet'?**

- 6.1. A 'pamphlet' is a printed document, which would ordinarily be available publicly.

**7. What is a 'notice'?**

- 7.1. A 'notice' is an item that conveys a brief piece of information to the public or a section of the public, by written or printed word. A notice may be accompanied by an image. A notice does not include audio or a moving visual image, such as a video or a digital media file.

**8. Who should authorise electoral campaign material?**

- 8.1. The person printing, publishing or distributing the electoral campaign material (or causing the same) should include the relevant authorisation on the material.
- 8.2. The VEC considers that a person is 'printing, publishing or distributing' electoral campaign material (or causing the same) if they:
- 8.2.1. cause electoral campaign material to appear on an electronic billboard, electric road sign or other similar device; or
  - 8.2.2. post electoral campaign material on a website or social media platform accessible by the public or a section of the public; or
  - 8.2.3. send electoral campaign material to a group (or groups) of strangers by electronic transmission, such as an email, text message, messaging application or social media.
- 8.3. Where electoral campaign material is deliberately separated from its authorisation statement, and proximity between the electoral campaign material and its authorisation no longer exists, the person who prints, publishes or distributes the separated electoral campaign material should authorise it.

**9. What should be included in an authorisation statement?**

- 9.1. Electoral campaign material should include the name and address of the person who authorised the material. This person can be a natural person or a body corporate (e.g. a political party, company, organisation).
- 9.2. Where electoral campaign material is printed, published or distributed other than in a newspaper, the name and place of the business of the printer should also appear. This requirement only applies to printed material.
- 9.3. In the case of electoral campaign material that is published or distributed online, the material must contain an authorisation statement (e.g. on a

person's bio page or a pinned post that includes an authorisation statement) or link to a website which has an authorisation statement.

#### Name requirements

- 9.4. The full name of the person, body politic or body corporate who authorised and, where applicable, printed the electoral campaign material is required. A person, body politic or body corporate may use a name they are generally known by, provided they can be easily identified by the public.
- 9.5. An abbreviated name or alias, account name, username or social media handle is not a name, unless it is clearly attributable to the full name of a person. An initial and last name is accepted as clearly attributable to the full name of a person.

#### Address requirements

- 9.6. The geographical address of the person (typically a street address and suburb) should be visible in the authorisation statement. A post office box is not an acceptable address under the Electoral Act.
- 9.7. While the address should be the person's usual address, it does not need to be a residential address. It can include the address of an office, such as a company or business address, or the address of an election campaign office.
- 9.8. The person authorising the material needs to have more than sporadic or ad hoc access to the address.

#### Printer requirements

- 9.9. In the case of where the material is copied for distribution by a machine or an algorithm, the person with responsibility for the machine or the algorithm will be regarded as the person who is publishing and printing the material. The person should include an authorisation statement in the material.
- 9.10. In the case of a news alert with automatically generated content, the authorisation requirement will be satisfied by the news alert stating the name of the distributor of the news alert.

#### Language requirements

- 9.11. An authorisation statement must be in accordance with the following language requirements:
  - 9.11.1. If the electoral campaign material is only in English – the authorisation statement must be in English.
  - 9.11.2. If the electoral campaign material is in a language other than English – the authorisation statement must be in English and the

language used in the material.

- 9.11.3. If the electoral campaign material is in 2 or more languages – the authorisation statement must be in English and all other languages used in the material.

*Format requirements*

- 9.12. The authorisation statement must be formatted in a way that ensures it is reasonably prominent. It must:
- 9.12.1. be legible at the distance at which the electoral campaign material is intended to be read; and
  - 9.12.2. be in a text that contrasts with the background on which the authorisation statement appears; and
  - 9.12.3. be printed in a way that the authorisation statement will not fade, run or rub off; and
  - 9.12.4. not be placed over backgrounds that detrimentally impact its legibility (e.g. complex pictorial or multi-coloured backgrounds).

**10. *Exempt item as electoral campaign material***

- 10.1. If an item or thing referred to in section 83(3) of the Electoral Act (an ‘exempt item’) is made into an advertisement, handbill, pamphlet or notice and is intended or likely to affect voting in an election, it is no longer an exempt item. It becomes electoral campaign material and requires authorisation.

**11. *Exception during relevant period***

- 11.1. The relevant period starts on the day a writ is issued for the election and ends at 6 p.m. on election day.
- 11.2. During the relevant period, where a candidate in the election or a Registered Political Party under the Electoral Act holds a social media account in their full name, any electoral campaign material which appears on or is a product of the account is taken by the VEC to be authorised by the candidate.
- 11.3. During the relevant period, where a candidate in the election or a Registered Political Party under the Electoral Act sends an electronic communication in their full name, any electoral campaign material which appears within or comprises the communication is taken by the VEC to be authorised by the candidate.

**Revocation of previous instrument**

Not applicable.

## Commencement of this Determination

This Determination is applicable from 15 August 2022 and remains in effect until it is amended, revoked, superseded or otherwise replaced.

Warwick Gately AM  
Electoral Commissioner  
Victorian Electoral Commission

12 August 2022

## Document details

Determination name	Authorisation of electoral campaign material			
VEC Electra ref	EDRM155-166419294-11			
Custodian	Director, Electoral Integrity and Regulation			
Scheduled review date	1 July 2023			
Document history	Reference:	Effective date:	Supersedes:	Superseded by:
— Version 1.0	001/2022	15 August 2022	Not applicable	Not applicable

— END —