

Purdah: A short guide to publicity during the pre-election period

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Introduction

In response to requests from council communications teams to produce simple guidance to communicating during the pre-election period (also known as 'purdah'), we are publishing this short, updated guide.

This document provides advice on the publicity restrictions that should be observed during the purdah period. It should be read in conjunction with any guidance produced by your own Returning Officer or Monitoring Officer, which provides specific advice depending on your local circumstances.

The term 'purdah' has come into popular use across central and local government to describe the period of time immediately before elections or referendums when specific restrictions on communications activity are in place. The term 'pre-election period' is also used.

2016 Local Elections

Many authorities will have elections on 5 May 2016, including parish and town councils, borough or district and unitary, and police and crime commissioner elections.

The latest date that purdah can start is 30 March 2016. Local government sometimes views this period as a time when communications has to shut down completely. This is not the case, and the ordinary functions of councils should continue, but some restrictions do apply, by law, to all councillors and officers.

The Code

The Government published a new Code of Recommended Practice on Local Authority Publicity in 2011. The Code is based around seven principles to ensure that all communications activity:

- is lawful
- is cost effective
- is objective
- is even-handed
- is appropriate
- has regard to equality and diversity
- is issued with care during periods of heightened sensitivity.

This last principle, to ensure special care is taken during periods of heightened sensitivity is of particular relevance during the pre-election period.

Legal basis and official guidance

The pre-election restrictions are governed by Section 2 of the Local Government Act 1986¹, as amended in 1988². Essentially councils should “**not publish any material which, in whole or in part, appears to be designed to affect public support for a political party.**”

Section 4³ of the Act makes clear that councils need to have regard for the code of recommended practice that supports the Act. A new code of practice was published in 2011⁴ which replaced all previous guidance. The essential points from the code are:

- In general you should not issue any publicity which seeks to influence voters (an exception being situations covered by legislation or regulations directing publication of information about referendums for explanatory purposes, for example promoting the existence of the referendum and explaining how to take part).
- Particular care should be taken during the pre-election period to abide by the Act.
- Consider suspending hosting third party material or closing public forums if these are likely to breach the codes of practice.
- Do not publish any publicity on controversial issues or report views on proposals in a way which identifies them with individual councillors or groups of councillors.
- Publicity relating to individuals involved directly in the election should not be published unless expressly authorised by statute.
- You are allowed to publish factual information which identifies the names, wards and parties of candidates at elections.

Although this new code supersedes the previous versions and may seem less specific, in practice your conduct should be similar to previous elections.

1 www.legislation.gov.uk/ukpga/1986/10/section/2

2 www.legislation.gov.uk/ukpga/1988/9/section/27

3 www.legislation.gov.uk/ukpga/1986/10/section/4

4 www.gov.uk/government/publications/recommended-code-of-practice-for-local-authority-publicity

What this means in practice

Publicity is defined as “**any communication, in whatever form, addressed to the public at large or to a section of the public.**”

The first question to ask is ‘could a reasonable person conclude that you were spending public money to influence the outcome of the election?’ In other words it must pass the ‘is it reasonable’ test. When making your decision, you should consider the following:

You should **not**:

- produce publicity on matters which are politically controversial
- make references to individual politicians or groups in press releases
- arrange proactive media or events involving candidates
- issue photographs which include candidates
- supply council photographs or other materials to councillors or political group staff unless you have verified that they will not be used for campaigning purposes
- continue hosting third party blogs or e-communications
- help with national political visits (as this would involve using public money to support a particular candidate or party). These should be organised by political parties with no cost or resource implications for the council.

You should also **think carefully** before you:

- Continue to run campaign material to support your own local campaigns. If the campaign is already running and is non-controversial (for example, on issues like recycling or foster care) and would be a waste of public money to cancel or postpone them, then continue. However, you should always think carefully if a campaign could be deemed likely to influence the outcome of the election and you should not use councillors in press releases and events in pre-election periods. In such cases you should stop or defer them. An example might be a campaign on an issue which has been subject of local political debate and/or disagreement.
- Launch any new consultations. Unless it is a statutory duty, don't start any new consultations or publish report findings from consultation exercises, which could be politically sensitive.

You **are allowed** to:

- Continue to discharge normal council business (including determining planning applications, even if they are controversial).
- Publish factual information to counteract misleading, controversial or extreme (for example, racist/sexist information). An example might be a media story which is critical of the council, such as a media enquiry claiming that the salaries of all the council's senior managers have increased by five per cent. If this is not true, a response such as 'none of the council's senior management team have received any increase in salary in the last 12 months' is acceptable. It is perfectly right and proper that the council responds, **as long as it is factual**.
- Use relevant lead officers rather than members for reactive media releases.

- Use a politician who is involved in an election when the council is required to respond in particular circumstances, such as in an emergency situation or where there is a genuine need for a member-level response to an important event beyond the council's control. Normally this would be the civic mayor (as opposed to the elected mayor in those areas with elected mayors) or chairman (that is, someone holding a politically neutral role). If the issue is so serious, it is worth considering asking the council's group leaders to agree to a response which would involve all of them.
- If you are in any doubt, seek advice from your Returning Officer and/or Monitoring Officer, legal or communications colleagues.

Ultimately, you must always be guided by the principle of fairness. It is crucial that any decision you take would be seen as fair and reasonable by the public and those standing for office.

Further guidance

You can find more information from the following:

- referring to advice published by your Returning Officer or Monitoring Officer
- the Code of Recommended Practice on Local Authority Publicity
- the LGcommunications leaflet, Cracking the Code
- annex A – template letter to councillors.

Frequently Asked Questions

Does this guidance only apply to councils?	No. The Code of Recommended Practice on Local Authority Publicity covers the full range of authorities.
Do these rules apply to councillors who are not running for re-election	Council business continues so all sitting councillors, whether seeking re-election or not, are bound by the Publicity Code
Can council officers get involved in campaigning in their own time?	Officers who hold politically restricted posts, or who are likely to be involved or employed in connection with the elections, should not take part in a political campaign or canvass on behalf of a political party or candidate. Please check local arrangements.
Do the restrictions apply to officers who are members of a trade union?	Trade unions themselves are not bound by the Code, but individual officers are, and must have regard to the Code.
Can council press offices still put out press releases ahead of the election?	Yes, but with limitations. Official, factual press statements about council decisions for public information purposes may still be issued. However, no publicity should deal with controversial issues or report views or proposals in a way which identifies them with individual councillors or groups of councillors.
Can we use the chair of a council-commissioned review, who is up for re-election, as spokesperson for the report?	The best approach could be to delay publication of the review until after purdah. However, if there is an imperative to publish you should use another, non-political spokesperson.
Can we host a photo call for the council leader or other leading councillor to open a new council facility (such as a play park) during purdah?	No
Can councils sanction the use of schools for political purposes?	Schedule 5 of the Representation of the People Act 1983 covers the use of meeting rooms in school premises for parliamentary elections. The Registration Officer is required to keep lists of such premises.
Do the restrictions apply to council notice boards?	Councils are required to publicise details of the election and how to register to vote. Material relating to wider political issues should not be posted on official notice boards which may be seen by members of the public. This includes publicity issued by, or on behalf of, a trade union.
Can councillors issue their own press releases or talk to the media?	Councillors are free to talk to the media and issue press releases, but must not use council resources to do so.
Can councillors write letters 'for publication' to their local newspaper?	Yes, as long as they don't use council resources (such as staff) to help them do it.

Frequently Asked Questions

Can councillors still tweet or blog?	Councillors can continue, but must not use council resources (such as council twitter accounts, email accounts, telephones etc.) to do so.
Can councillors who are up for re-election refer to themselves as councillors in their public statements?	A person remains as a 'councillor' and can refer to themselves as such until they retire on the fourth day after the ordinary day of election.
Can councillors request to visit council establishments?	The guidance may vary by council. Generally reasonable requests by current members who are also candidates at the election to visit council establishments in the course of their council functions would be approved. Again, check local arrangements and any such visits must not be supported by the council's media team or council officers.
Can councillors speak/canvas at a student union (which is a registered charity) during the pre-election?	Yes they can. In fact it is to be expected. Councillors and those potentially standing for election can arrange to speak and canvass as long as these activities are not funded nor arranged by local authorities. The fact that the union is a charity has no bearing - the guidance applies to local authorities, not to other organisations.
Can the council still publish its newsletter/magazine during purdah?	Yes, if it is done in the ordinary course of business and meets all other purdah requirements.
Can the Mayor's office continue to promote events being organised on behalf of the Mayor or their charities?	Where the office of Mayor is a non-political post, it is appropriate for them to continue their civic duties and appearances at events and to be supported by council resources (including communications) as they fulfil this function. It would be inappropriate for the post holder to speak on controversial issues or those associated with a particular political party and care should be taken about using photos from such events if any members are standing for election.

Acknowledgements

The LGA would like to thank LGcommunications, Coventry City Council, Warwickshire County Council and Eastleigh Borough Council in the creation of this document.

Annex A : Template letter for sending to councillors

Dear Councillor

Guidelines and restrictions on decision making and publicity during the pre-election period

As you will be aware, the local elections are due to take place on 5 May 2016, so I thought it would be useful to remind you about the guidelines and restrictions on publicity during the pre-election period that starts on **XXXX date**. These restrictions apply to all elections happening during this period.

From the start of the pre-election period ('purdah'), the council must comply with restrictions outlined in Section 2 of the Local Government Act 1986. In addition a Code of Recommended Practice on Local Authority Publicity published in 2011 makes clear that particular care should be taken in periods of heightened sensitivity, such as in the run up to an election. The Act defines publicity as **"any communication, in whatever form, addressed to the public at large or to a section of the public."**

Generally, the Act says that we should **"not publish any material which, in whole, or in part, appears to be designed to affect public support for a political party."** The Code of Practice recommends that authorities should generally not issue any publicity which seeks to influence voters and that publicity relating to individuals involved directly in the election should not be published unless expressly authorised by statute.

Decision making

In relation to decision making within the council, the position remains that it is 'business as usual' unless there are very good reasons why this should not be the case. In the vast majority of cases, the pre-election period will have no impact on normal council business, including the approval of planning decisions.

What this means

- The primary restriction is on proactive publicity by the council which particularly relates to candidates and other politicians involved directly in the election.
- The council can still issue media releases on factual matters provided that these do not identify individual councillors or groups of councillors.
- Councillors are still free to respond to enquiries received from the media in a personal capacity.
- Individual councillors can issue their own statements, write letters to the local newspaper(s) for publication, contact the media directly or say what they like in a personal capacity, but must not use council resources to do so.

It is still possible for the council to issue statements on behalf of a councillor holding a key political or civic position provided it relates to important events which are outside the council's control and can be shown to justify a member response. These occasions are likely to be rare and to be the exception, rather than the rule.

I hope this letter provides you with the general information you need for the pre-election period, but if you have specific concerns or queries, please feel free to **contact xxxx**.

Yours sincerely



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