

A short guide to publicity during the pre-election period

Updated 2 December 2019

Guide

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Introduction

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

This document provides guidance on the publicity restrictions that should be observed during the pre-election period. **It should be read in conjunction with any guidance produced by your own Returning Officer and/or Monitoring Officer, which provides specific advice about your local circumstances.**

It is important to note that pre-election rules restrict activity wider than just publicity. Use of council facilities and resources; developing new policies and holding events (including some meetings) featuring elected officials should all be carefully considered during a period of heightened sensitivity.

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 terms 'pre-election period' and 'heightened sensitivity' are also used.

2019 General Election

The Prime Minister has announced a General Election on 12 December 2019.

The Government has also released guidance on purdah for the Civil Service, announcing that for central government, the pre-election period started at midnight (00:01hrs) on Wednesday 6 November. The guidance states that 'special care must be taken during the course of an election since material produced with complete impartiality, which would be accepted as objective in ordinary times, may generate criticism during an election period'.¹

Although this guidance relates to the Civil Service, it means local government is in a period of 'heightened sensitivity' as set out in the local government code governing publicity.

Whilst this is prior to the publication of the notice of election, the code applies at all times.

In line with the principles set out in the code, extra care should be taken when undertaking anything which could directly, or be perceived to, affect support for a party or candidate. However, it's always worth checking with your own Returning Officer and/or Monitoring Officer.

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 can continue, but some restrictions do apply, by law.

¹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/844380/General_Election_Guidance_2019.pdf

The Code

The Code of Recommended Practice on Local Authority Publicity 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.

The publication of press notices and information regarding the holding of polls are exempt from these restrictions as is providing factual responses to specific requests for information, for example, information about how people can register to vote.

At all times, local authorities should ensure that publicity complies with all applicable statutory provisions, including the Code of Recommended Practice on Local Authority Publicity 2011. Paid-for advertising must comply with the Advertising Standards Authority's Advertising Codes.

In general, authorities should not issue any publicity which seeks to influence voters, ensure that publicity relating to policies and proposals from central government is balanced and factually accurate, and comply with laws which prohibit political advertising on television or radio.

Legal basis and official guidance

The pre-election restrictions are governed by Section 2 of the Local Government Act 1986², as amended in 1988.³ 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 4⁴ of the Act makes clear that councils need to have regard to the code of recommended practice that supports the Act 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 for explanatory purposes).
- Particular care should be taken during the pre-election period to abide by the Act.
- Consider suspending the hosting of 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 candidates or parties.
- 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, constituencies and parties of candidates at elections.

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

³ www.legislation.gov.uk/ukpga/1988/9/section/27

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

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 are 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 candidates or parties in press releases
- arrange proactive media or events involving candidates
- issue photographs which include candidates
- supply council photographs or other materials to 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 recruitment, 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. 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 or considered normal council business, such as budget consultations. Councils should consider carefully before starting 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 budget consultations or determining planning applications, even if they are controversial)
- publish factual information to counteract misleading, controversial or extreme (for example, racist/sexist) information.

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 and/or Monitoring Officer
- the Code of Recommended Practice on Local Authority Publicity
- the LGComms leaflet, Cracking the Code⁵
- annex A – template letter to councillors.

5 www.lgcomms.org.uk/resources/resource-library

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.
What happens during the General Election purdah period when there is no local election? Do rules still apply?	Yes. As this year is a general election year, the guidance applies to local authorities, even if there are no local elections.
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. However, no publicity should deal with controversial issues or report views or proposals in a way which identifies them with election candidates or parties.
Can a council put out a consultation, for example about changes to library provision, during purdah?	Consultations should be considered very carefully during purdah as it is a period of heightened sensitivity and should not be put out if they contravene pre-election rules.
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 for campaigning purposes.
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 for campaigning purposes.
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.

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