

Management of Council business and publicity during the pre-election period

Briefing Note No. 25-06

Service : Legal and Governance
Further Enquiries to: Perry Holmes (Director Legal and Governance and Monitoring Officer)
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1. This note provides general guidance for members and officers on the management of council business and publicity in the run-up to the Police and Crime Commissioner elections on 2 May 2024. It supplements the Council's Code of Conduct for Councillors and the Media Relations Protocol, included at Part 12 and Protocol 7 of the Constitution respectively. **The pre-election period begins on 26 March and runs until 2 May 2024.**
2. The principle point is section 2 of the Local Government Act 1986, which expressly prohibits local authority publicity of a party political nature. The Council must not publish (or assist others to publish) material which, in whole or in part, appears to be designed to affect public support for a political party. Publicity is defined in section 6(4) of the 1986 Act as 'any communication, in whatever form, addressed to the public at large or a section of the public.'
3. This is reinforced by the Council's Code of Conduct for Members which states: '*You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.*'
4. The Code of Recommended Practice on Local Authority Publicity 2011 (included as Appendix 1 to the Council's Media Relations Protocol) sets out seven key principles local authorities should apply when making decisions on publicity. Publicity by local authorities should be:
 - Lawful
 - Cost effective
 - Objective
 - Even-handed
 - Appropriate
 - Consistent with the council's equality and diversity responsibilities

- Issued with care during periods of heightened sensitivity

5. Paragraphs 33 - 35 of the 2011 Code state:

33. Local authorities should pay particular regard to the legislation governing publicity during the period of heightened sensitivity before elections. It may be necessary to suspend the hosting of material produced by third parties, or to close public forums during this period to avoid breaching any legal restrictions.

34. During the period between the notice of an election and the election itself, local authorities should not publish any publicity on controversial issues or report views or proposals in such a way that identifies them with any individual members or groups of members. Publicity relating to individuals involved directly in the election should not be published by local authorities during this period unless expressly authorised by or under statute. It is permissible for local authorities to publish factual information which identifies the names, wards and parties of candidates at elections.

35. In general local authorities should not issue any publicity which seeks to influence voters.

6. The council's approach is consistent with this guidance, and particular care will be taken during the period of heightened sensitivity (the pre-election period) leading up to the Police and Crime Commissioner elections on 2 May 2024.
7. Generally, with regard 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 most cases the pre-election period will have no impact on normal council business, including the determination of planning applications. Proposals or issues which may be controversial and likely to arise during the critical period should be identified and a common sense view taken in each case as to how the matter is to be handled. In cases where time is not critical it may be sensible to defer the matter until after the election. In other cases, this will not be possible because of statutory, contractual or other constraints.
8. The specific nature of the Police and Crime Commissioner election, as compared to local elections in Wiltshire, means that there needs to be consideration whether the decision or proposal is related to such matters as crime, anti-social behaviour or criminal justice. In other words relevant to the topics that electors will consider when voting. Some council services are more likely to be aligned to those issues and should seek advice if unclear how to proceed. Where there is no obvious link to such topics, council business can continue as usual.
9. Councillors should note that the display of election campaign material on council land and property, including highway land, is not permitted and action will be taken to remove any offending material.
10. The LGA has produced a short-guide on publicity in the pre-election period, available at: <https://www.local.gov.uk/publications/short-guide-publicity-during-pre-election-period>

11. Further advice may be obtained from:

Perry Holmes – Director of Legal and Governance/Monitoring Officer

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And on the handling of publicity:

Ceri Toccock – Head of Customer

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