

Purdah: A short guide to publicity during the pre-election period (20th March 2019 to 2 May 2019)

Legal basis and official guidance

Local authorities in England and Wales are under a duty to have regard at all times to the relevant Code of recommended Practice on Local Authority publicity issued under sections 2 and 4 of the Local Government Act 1986.

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.”**

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).
- 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- Do not publish any publicity on controversial issues or report views on proposals in a way which identifies them with individual councillors or groups of councillors.
- Publicity relating to individuals involved directly in the election should not be published unless expressly authorised by statute.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.

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 a politician who is involved in an election when the council is required to respond in particular circumstances, such as in an emergency situation.

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.