

Town Clerk | Swaffham Town Council

From: Daniels, Sue <sue.daniels@breckland.gov.uk>
Sent: 04 March 2019 14:45
To: Town Clerk | Swaffham Town Council
Cc: Ringer, Rory
Subject: Elections advice - Purdah - Neighbourhood Plan
Attachments: Purdah_ A short guide to publicity during the pre-election period.pdf
Importance: High

Dear Richard

Further to our telephone conversation today - Purdah applies equally to District and Parish (Town) Councils. There is a useful Purdah guide issued by the LGA which I attach to this email for your information and sets out the main things to consider during this period.

It is worth noting that the period of purdah in Breckland will start on **20 March 2019** when the Notice of Election is published (not 26th March).

You need to treat the two things separately, i.e. The Councillor seeking (re)election and the Referendum Campaign Group.

A councillor seeking (re)election cannot personally advocate a Yes or No to the Referendum question. If there are existing councillors on the campaign group then they should not use the campaign group as a platform for seeking re-election as a councillor. However, they can mention in their election literature as a candidate seeking election for the parish / town council that they are an existing councillor.

If you have a campaign group it would be advisable to register the campaign group with the Counting Officer (Maxine O'Mahony) via Electoral Services at Breckland Council. You will be required to complete a statement of expenses. There is an expenses limit (please note expenses are not refundable) – that will apply in relation to the Neighbourhood Plan Referendum, the amount will be available on the Information Statement published by the local authority in accordance with the timetable for the Referendum.

Kind regards

Sue

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Property Estate Award

From: Town Clerk | Swaffham Town Council
[mailto:townclerk@swaffhamtowncouncil.gov.uk]
Sent: 25 February 2019 12:19
To: Daniels, Sue
Cc: Ringer, Rory
Subject: Elections advice - Purdah - Neighbourhood Plan

Hi Sue,

It is looking increasingly likely that our Neighbourhood Plan referendum will be held in Swaffham on 2nd May alongside the Breckland Council and Town Council elections. The issue of 'Purdah' kicks in around 26th March I believe, and I wonder how members of the Neighbourhood Plan Steering Group that are standing for election or re-election stand in this regard?

I would assume that they could state in their election literature that they have served as a member of the group, but would the line be crossed if they are personally advocating a Yes vote in the Neighbourhood Plan referendum? Can the group collectively produce literature campaigning for a Yes vote both prior to 26th March and in the run up the voting day of 2nd May? Again how would this affect the members of the Group that may be standing for election to the Council?

Your advice in this regard would be appreciated, we are holding a 'Do you want to be a Councillor?' event this Thursday, so it would be good to get things clear for those potential candidates where this might apply – many thanks.

Best regards,

Richard Bishop
Town Clerk



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

Updated February 2019

Guide

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

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.**

It is important to note that pre-election rules restrict activity wider than just publicity. Use of council facilities and resources; the member's code of conduct, developing new policies and holding of 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 Local Elections

A number of authorities will have elections on 2 May 2019, including:

- London boroughs
- metropolitan districts

- shire districts
- single tier shire districts.

The latest date that purdah can start for the local elections is 26 March 2019.

Local government sometimes views this period as a time when communication 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 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.

At all times, local authorities should ensure that publicity complies with all applicable statutory provisions and guidance, and have regard to 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

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.

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 to the code of recommended practice that supports the Act. The current 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 for explanatory purposes).
- Particular care should be taken during the pre-election period to have regard for the Code.

- 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

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

- 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 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 in an area where there is no local election? Do these rules still apply?	Yes. In a general election year, the guidance applies to all local authorities, even if there are no local elections.
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, should have regard for 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 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.
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 the election. 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?	Generally not; however if the timing of the event is unavoidable and postponing it would adversely affect local residents (for example the opening of the facility has been delayed by long-running work and postponing the opening will cause the council to lose income), you might choose to have the event hosted by a non-political spokesperson.
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.

Frequently Asked Questions

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.
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.

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 ahead of local elections

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 2 May 2019 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. 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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