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## 61      PROTOCOL ON THE PRE-ELECTION PERIOD

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### 1.0      INTRODUCTION

- 1.1      The actions of the Councils, its Members and Officers are subjected to closer scrutiny in a pre-election period and many activities which would normally pass without comment, could become the subject of controversy.
- 1.2      This Protocol is intended to assist Officers and Members and covers rules on publicity, use of Council facilities, Council meetings, and use of premises during the pre-election period.
- 1.3      This Protocol aims to extend the principles underlying the conduct of Members and Officers and should be read in conjunction with the Council's Code of Conduct for Members, the Member / Officer Protocol, the Protocol on the Use of Council Facilities and Resources, and the Employee Code of Conduct. Also of relevance is any guidance note for Officers and/or Members that is issued by the Returning Officer for any particular election.
- 1.4      The pre-election period commences with the Notice of Elections and terminates the day after elections are concluded. The commencement date varies and the Returning Officer will notify all Members and Officers of the commencement date in advance of any pre-election period.

### 2.0      PUBLICITY

- 2.1      At any time the Councils are prohibited from publishing material which appears to be designed to affect public support for a political party. The Government's Code of Recommended Practice on Local Authority Publicity sets out the following key principles in relation to Local Authority communications and publicity generally:-
  - Publicity is defined in section 6 of the Local Government Act 1986, as amended, as: "*Any communication, in whatever form, addressed to the public at large or to a section of the public*". This definition is very wide and would include press releases, speeches, leaflets and newspaper articles issued by, or on behalf of, the Council as well as posters, sponsorships, events and displays.
  - Publicity about individual Members (whether or not they are, or may become, election candidates) should be objective and explanatory and should not be either party political or open to misinterpretation as such.
  - Publicity may include information about individual Members' views on issues, decisions and recommendations only where this is relevant to their position

and responsibilities within the Council. If views are expressed by, or attributed to, individual Councillors that do not reflect the views of the Local Authority itself, such publicity should make this fact clear.

### **3.0 PUBLICITY DURING THE PRE-ELECTION PERIOD**

3.1 The following additional guidelines apply to publicity during the pre-election period:-

- During the pre-election period all Council publicity should avoid the pro-active publicity of candidates and other politicians involved directly with the elections;
- There is a need to ensure that any publicity is objective, balanced, informative and accurate; concentrating on facts, explanations or both;
- Council publicity should, as far as possible, avoid controversial issues or report proposals which could be identified with individual Members or Groups. However, the Council may respond to any events and enquiries provided the answers are factual and not party political;
- Usually where an important unplanned event or emergency occurs during the pre election period, the Chief Executive, or their Deputy, would provide the response. However, where a Member level response is required this should either be from a Member holding a politically neutral position, such as the Chair of the Council, or alternatively an agreed response from all Group Leaders;
- Events providing photo and publicity opportunities should, where possible, be timed to avoid the pre-election period. Where this is not possible, candidates for election should not be involved.
- The timing of a publication is an important factor. The nearer the publication to the election, the more likely it is to be controversial and be perceived as designed to affect support for a particular party. Where possible, therefore, it is advisable to avoid publishing any controversial material near the elections.

### **4.0 CONTENT OF MEMBERS' PUBLICITY**

4.1 The content of any publicity issued by Members who are election candidates is very much a matter for each Member and his or her Political Group. However, there will be circumstances when the Council's Code of Conduct may apply, even to an individual Member's own election publicity, and as such the Code must be borne in mind. As Members of a Local Authority, it is also necessary to take into account the general duties of Local Authorities under equalities and other legislation.

### **5.0 IMPACT ON COUNCIL MEETINGS AND ACTIONS DURING THE ELECTION PERIOD**

5.1 In Local Government there is a broad convention that matters of political controversy, either locally or nationally, should not routinely be brought before Members if at all avoidable during a pre-election period. This can impact on, for

example, items brought to Committees, Questions from the public or from Members, Petitions, or Notices of Motion at Council.

5.2 In addition to the accepted convention, there are practical reasons for this approach from a publicity point of view. Firstly, whereas the agendas and minutes of official Council meetings are protected by the Local Government Act 1986 from being “publicity”, press releases publicising those minutes are not. This presents the Council with difficulties in publicising any sensitive or controversial decisions during the pre-election period, even if in other circumstances such publicity would be merited by the level of public interest. Secondly, the more restrictive publicity regime during the pre-election period means that where an initiative would benefit from a public launch or immediate advertisement or consultation, this will rarely be possible during the pre-election period.

5.3 Therefore any working practices or protocols which include publicity and media arrangements will need to be interpreted in the light of the restrictions mentioned above.

## **6.0 CONSULTATION**

6.1 Guidance contained in the 2021 Local Government Association Guidance recommends that no new public consultations should be launched during the election period, unless there is a statutory duty to do so or they are considered normal Council business, and nor should any findings from consultation exercises be reported during this period if they could be politically sensitive.

## **7.0 CODE OF CONDUCT FOR MEMBERS**

7.1 The Code of Conduct for Members applies not only when a Member conducts the business of their Authority but also when acting, or giving the impression they are acting as a representative of the Authority. In this respect, certain elements of the Code are particularly relevant during the pre-election period. Members are reminded to be particularly aware of the following provisions of the code of conduct:

- Paragraph 6.3: Impartiality of Officers
- Paragraph 6.5: Disrepute
- Paragraph 6.6: Use of Position
- Paragraph 6.7: Local Authority Resources and Facilities

## **8.0 GENERAL**

8.1 The Council does not and cannot vet or comment on Members’ election publicity. Generally, Members would need to seek any specific advice in relation to such publicity externally from the Council, for example through their Political Group.

## **9.0 USE OF COUNCIL FACILITIES**

- 9.1 The Council's Code of Conduct for Members provides that a Member must ensure that Council resources and facilities are not used improperly for political purposes. Any services or facilities provided by the Council for Members should be used exclusively for the purposes of Council business or to enable the Member concerned to discharge their function as a Councillor. This applies to all facilities including Council stationary, telephones, transport, photocopiers, officer time and ICT equipment. Further information can be found at Part 6D of the Constitution, Protocol on the Use of Council Facilities and Resources by Councillors.
- 9.2 Subject to paragraph 12.1 below, no election candidate or a person associated with a political party is entitled to access Council premises. Members and Officers need to take extra care to ensure that election candidates or other persons associated with political parties who are not serving Councillors are not seen to have unauthorised access to Council offices or facilities.
- 9.3 In relation to ICT equipment, Members should not use ICT equipment for party political purposes. Members sending messages to chat rooms, social media platforms or forums will need to consider whether to use their Councillor email address or a personal address. The former could be appropriate for simply sending information as a Councillor, but the latter will be appropriate if engaging in political debate.
- 9.4 Council business and party political business are not always mutually exclusive, and therefore the particular circumstances of each event will need to be considered.

## **10.0 USE OF EMAILS**

- 10.1 A Member's Council email address should not be used for political purposes, such as electioneering.
- 10.2 It is recognised that a local resident may contact their Ward Member about an election issue via that Member's Council email address, and it may be acceptable to respond to the email although it is political in nature. But Members should not initiate, or engage in extensive political discussions using Council provided email facilities.

## **11.0 USE OF TELEPHONE**

- 11.1 In line with the position on emails, Members may use Council supplied telephones for non party-political purposes or where the call is not initiated by a Member.
- 11.2 Council email addresses and telephone numbers should be avoided for any party political literature. If Members wish to refer to the facility for purposes of constituency work, it should be made clear that it is for Ward casework only and it is better kept in a discrete part of the document.

## **12.0 USE OF COUNCIL PREMISES DURING THE PRE-ELECTION PERIOD**

- 12.1 Between the Notice of Election being published and the day before the election, a candidate in the election is entitled to use Council meeting rooms to hold public meetings for furtherance of their candidature. This includes committee rooms and rooms in schools in the candidate's electoral area. The use of these rooms is free of hire charge though the candidate may be required to cover expenses associated with using the premises. Further information on these arrangements may be obtained from the Electoral Services Office.

## **13.0 CONFIDENTIAL INFORMATION**

- 13.1 Members are usually entitled to information not available to the public (exempt or confidential information) where that information is required by them to discharge their functions as Councillors. This may, for example, be the case if the information relates to an item coming before a Committee of which they are a Member. Exempt or confidential information cannot be used for electioneering purposes. It is for this reason that Officers, in the run up to an election, may seek to clarify the purpose for which a Member is seeking information. Members should not seek, nor may Officers provide, exempt or confidential information to help election campaigns.

## **14.0 MEMBER / OFFICER ROLES**

- 14.1 In general terms, the role of Members is to set strategies, policies and frameworks within which the Councils will operate, to monitor performance and to represent those who live in their Wards. Officers are employed to advise, undertake the detailed preparation and implementation work, and provide the day to day running of services. It is particularly worth bearing in mind this broad split of functions at election time and, in the interests of good administration, the need to avoid roles becoming confused.

## **15.0 SPECIAL RULES RELATING TO OFFICERS**

- 15.1 Officers at all levels should not engage in party political activity that compromises their neutrality and objectivity at work. Officers who hold politically restricted posts (generally Senior Officers and those who advise Members or speak on behalf of the Councils) are subject to additional restrictions.
- 15.2 If an Officer attends a political group meeting to brief Members on Council business, Members should ensure that the Officer is not present when political business is discussed. Any Officer attending such a meeting, should ensure that a similar briefing is offered to all political groups.

15.3 A central register of all posts which are Politically Restricted is held by Human Resources.

## **16.0 MEMBER / OFFICER PROTOCOL**

16.1 Further information and advice on the working relationship between Members and Officers is contained in the Member / Officer Protocol at part 6B of the Constitution.

## **17.0 COMPLAINTS AND ALLEGATIONS OF BREACHES OF THIS PROTOCOL**

17.1 Allegations of any failure to meet this Protocol must be made in writing, to the Monitoring Officer. The Monitoring Officer will consider how the complaint or allegation should be dealt with, but options include referring the matter to the Returning Officer for a particular election or referring to Thames Valley Police where there is evidence of an elections offence.

## **18.0 FURTHER GUIDANCE**

Further advice or clarification can be sought from the Monitoring Officer or Returning Officer, or from the Electoral Commission or Local Government Association.