

Part 5.6 - Pre-election period publicity and decision-making Policy for all Elections conducted in the Borough of Waverley

1. This Policy applies from the date of the publication of the Notice of Election until after polls close being the period when Pre-election Period publicity restrictions apply. This policy restricts the Council and its officers during the pre-election period; it does not fetter candidates and councillors from their own political campaigning when doing so using their own resources.

Statutory requirements

2. There are statutory restrictions that apply to Council publicity before all elections. Although it should be *business as usual* in relation to decision-making, there are also some important sensitivities and conventions that councillors and officers should follow to reduce the risk of legal challenge being brought against the Council.
3. The Council must comply with restrictions outlined in Section 2 of the Local Government Act 1986 ('the Act'). In addition, a Code of Recommended Practice on Local Authority Publicity published in 2011 ("the Code of Practice") 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.**"
4. Section 2 of 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 Councils should generally not issue any publicity which seeks to influence voters and that publicity relating to candidates and politicians involved directly in the election should not be published unless expressly authorised by statute.
5. The Code of Practice recommends that communications are issued with care during periods of heightened sensitivity.

Publicity

6. The Council must not issue:
 - proactive publicity of candidates and other politicians involved directly in the elections (this includes a candidate, agent, proposer, seconder, or assenter) who are named in the published Statement of Persons Nominated notice for the elections (but see also the section on the mayoralty below)
 - publicity that deals with controversial issues that could specifically be linked to a relevant issue in the elections. If this cannot be

avoided, the publicity should present issues clearly and fairly with opposing points of views represented.

- publicity that reports views in such a way that clearly identifies them with individual members or groups of members directly involved in the elections.

7. Publicity includes:

- news releases and media enquiries
- emails, online and printed newsletters
- banners, posters, leaflets, booklets and publications
- social media information - such as postings on Facebook or Twitter – including video and audio clips and photographs
- consultation information
- information on our website

8. However, the Council can:

- respond to enquiries from the media provided that the answers given are factual and not party political
- if needed, publish factual information which identifies the names, wards and parties of candidates
- comment on a relevant issue where there is a genuine need for a councillor-level response to an important event outside of the Council's control or in relation to reactive media releases, with a response by a relevant lead officer
- continue with *business as usual* Council, Executive, and Committee meetings, subject to the proviso that the business to be transacted at those meetings, including motions brought and conduct displayed at those meeting, does not, in the view of the Monitoring Officer, contravene the provisions of this policy.

9. During the pre-election period the Council will avoid:

- **including councillors or persons directly involved in the election in any publicity** other than the factual information referred to above - relevant lead officers may be quoted instead as necessary
- organising photo opportunities or events which could be seen as giving candidates, councillors or other political office holders a platform for political comment

- publications, events or promotions, and postpone them until after the elections if proceeding could give the appearance of seeking to affect support for a political party or candidate involved in the elections
- commenting on matters of political controversy unless to refrain from comment would, in the opinion of the Joint Chief Executive and Monitoring Officer, be harmful to the Council's reputation and best interests
- references in publications to the period the current administration has been in office or to the Council's future commitments, if to do so could be seen to affect support for a political party or candidate involved in the elections

Social media

10. The following guidance applies to all Council social media channels that are managed and monitored by Council officers. These rules apply generally at all times but some need more careful consideration during the pre-election period.

11. Officers must not:

- Share content from political parties, councillors or politicians (but see also the section on the mayoralty below).
- Add content on matters that are politically controversial.
- Post, tweet, or share text, images, or video of political parties, councillors, politicians or subjects that are politically controversial.
- Start a significant digital campaign, unless it can be demonstrated that this was included in the communications schedule before the election was called and is not politically controversial.

Decision making and Committee Meetings

12. The principle of the Council carrying on with *business as usual* during the pre-election period is subject to the wider context of pre-election sensitivity as to publicity. Therefore, depending on the type of election or referendum called, 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.*

Specifically:

- Planning Committee, Licensing Sub-Committee and Licensing Regulatory Sub-Committee will be scheduled as usual during the Pre-election Period;

Meetings of the Full Council, Executive, and other Committees (including extraordinary and special meetings) may be scheduled with the approval of the Monitoring Officer.

- However, any meetings, formal decisions, Council motions or scrutiny projects on issues which are considered to have the potential to be politically contentious may be re-scheduled until after the pre-election period has ended, unless it is required by law to undertake them, or it's necessary to decide the matter to meet a statutory timetable.
- Where an unscheduled election is called, meetings scheduled to take place in the Pre-election Period (other than meetings of the Planning Committee, Licensing Sub-Committee and Licensing Regulatory Sub-Committee) may be cancelled if it is considered by the Monitoring Officer prudent to do so.

Public Consultation

13. Public consultation exercises should generally not take place during the Pre-election Period, unless not to do so would be harmful to the Council best interests or unlawful.
14. The Joint Chief Executive, in consultation with the Monitoring Officer, will make the final decision in relation to whether a public consultation exercise should take place or not.

Third parties

15. The restrictions on publicity in an election period apply to publicity issued by third parties if they are assisted by Council funding. For example, where it could be shown that Council funding is being used to pay for a charity's publicity, the Council will take reasonable steps to ensure that that organisation complies with this pre-election period policy.

The Mayoralty and Council events

16. The Mayoralty is considered to be politically neutral and where, during the pre-election period, an elected Councillor response is required the Mayor should be the spokesperson.
17. Council communications including Social media posts by and about the Mayor can continue as long as they are not of a political nature.
18. The Council should avoid holding events which could give the appearance of seeking to affect support for a political party or candidate involved in the elections. The Joint Chief Executive, in consultation with the Monitoring Officer, will make the final decision in relation to whether an event should be deferred or not.

Requests for Information

19. The Council is still legally required to respond to requests for information under Freedom of Information and related legislation. The Council should continue to ensure that all requests are treated even-handedly, with no preference shown to a particular group or party.

Elected councillors

20. Please note that the pre-election period restrictions generally relate to the Council and publicity in that period and not to individual councillors.
21. This means that individual councillors or political parties may contact the press directly, respond to their calls and set up their own photo shoots and publicity to promote a candidate or political party in the elections. However, they may not use the Council's resources (including ICT resources and email accounts), premises or facilities to do so. Councillors who breach or attempt to breach the restrictions or who put pressure on officers to break these rules may be in breach of the Councillors' Code of Conduct.

Council officers

22. Officers should take care in responding to requests for ad hoc meetings of a public nature to ensure that they are required only for the proper discharge of the Council's business.
23. Officers should not supply Council photographs or other materials to councillors or anyone directly involved in the election, unless they have verified that they will not be used for campaigning purposes.
24. Officers should exercise caution if invited to any event in which election candidates participate. They should seek the Monitoring Officer's advice in such circumstances.
25. Those officers who are in politically restricted posts must refrain from taking part in canvassing or campaigning for a political candidate or party.
26. *Business as usual* officer decisions may continue to be taken. However, politically controversial items may be deferred until after the election if to continue would, in the opinion of the Joint Chief Executive, the Borough Returning Officer and the Monitoring Officer, be harmful to the conduct of the election.

Risks

27. If these rules about publicity are broken, the Council could be subject to legal challenge and, in a worst-case scenario, election results could be invalidated. Officers who fail to observe the rules may be liable to disciplinary action.

By-Elections

28. Although the full pre-election publicity procedures set out in the Policy will not be appropriate for ward by-elections, the Council and its officers will exercise extra caution and may apply some of the principles of this policy.

Useful Links

The Code of Recommended Practice on Local Authority Publicity

[Recommended code of practice for local authority publicity - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/362222/Recommended_code_of_practice_for_local_authority_publicity_-_GOV.UK.pdf)

Local Government Association (LGA) – pre-election period overall section

[Pre-election period | Local Government Association](https://www.local.gov.uk/pre-election-period)

LGA short guide to publicity during the pre-election period

[A short guide to publicity during the pre-period | Local Government Association](https://www.local.gov.uk/pre-election-period)