

APPENDIX 2

RESTRICTIONS ON PUBLICITY AND EVENTS GUIDANCE FOR THE PREELECTION PERIOD OF THE GREATER MANCHESTER COMBINED AUTHORITY MAYORAL ELECTION

1. INTRODUCTION

The first election of a Mayor for the Greater Manchester Combined Authority will take place on **Thursday 4th May 2017**. The formal election process begins with the publication of the Notice of Election on **Friday 24th March 2017**, from this date until the election is over (“the **Election Period**”) local authority officers within the Greater Manchester Combined Authority must pay particular regard to the requirements that apply to proposed publicity and events.

The legal requirements for publicity and events apply to local authorities at all times. This is a guidance note on how those requirements should be applied and to issues that may arise during the Election Period. During the Election Period local authorities are required to take particular care over publicity to ensure that communications are balanced and without bias – that there is no appearance of support for any particular individual seeking election or for any party they may represent. As a result additional restrictions may apply. However the essential business of authorities should continue subject to the restrictions of the Election period.

It is important that all staff in the relevant authorities are aware of the pre-election restrictions and how they apply. It is however a matter for each local authority to decide whether their involvement with publicity or events is compliant with the legal requirements. This guidance is to assist local authorities when considering proposed publicity/events during the Election Period.

This guidance covers:

- What is defined as ‘publicity’?
- Key points to consider for officers, elected members and candidates in the run up to an election
- How the restrictions will work in practice
- Where to seek further guidance

2. WHAT IS DEFINED AS ‘PUBLICITY’?

Section 6 of the Local Government Act 1986 defines publicity as “any communication, in whatever form, addressed to the public at large or to a section of the public”. This includes the more obvious forms of communication such as:

- Public events
- Speeches
- Leaflets/newsletters
- Press releases
- Posters
- Websites and social media
- Radio/TV interviews
- Photographs

However, it can also include less obvious forms of communication including for example:

- Sponsorship
- T-Shirts and carrier bags
- Badges
- Events (such as exhibitions, plays, conferences)

3. KEY POINTS FOR OFFICERS AND CANDIDATES TO CONSIDER

The Local Government Act 1986 (as amended) and the resulting Code of Recommended Practice on Local Authority Publicity – often referred to as ‘the Code’ – applies to all local authority publicity, but in the Election period further rules apply and these provisions increase in importance.

Section 2 of the Local Government Act 1986 states that a local authority shall not publish any material which in whole or in part appears to be designed to affect public support for a political party. This means that any publicity must be lawful, objective, cost effective, even-handed, accurate, have regard for matters of equality and diversity and must avoid issues of political controversy which are specifically identifiable as the view of one political party but not another. Particular care must be taken with regard to publicity to be issued during periods of heightened sensitivity. When considering whether any material should be published certain factors should be considered:

- The content and style of the material;
- The time and circumstances of the publication;
- The likely effect of the material on those to whom it is directed;
- Whether the material promotes or opposes a point of view on a question of political controversy which is specifically identifiable as the view of one political party but not another;
- Whether the material contains references to a particular candidate or the political party they represent and the nature of those references;
- Where the material is part of a campaign, the effect which the campaign appears to be designed to achieve.
- Local authorities are also required not to give financial or other assistance to a person for the publication of materials which the authority is prohibited from publishing themselves and to ensure that controlled and influenced companies do not publish material which would contravene section 2.

4. HOW THE RESTRICTIONS WILL WORK IN PRACTICE

The following guidance is intended to give an overview of how the restrictions of the pre-election period will work in practice.

- **Local Authority Business:**

The pre-election restrictions are not intended to restrict local authority business and decision making. Members should largely be able to carry out their duties as normal. However, regard should be given to any publicity that will arise from ‘business as usual’ and whilst meetings and decision making should continue as normal, local authorities generally avoid scheduling decisions on any controversial issues during any pre-election period unless to do so is essential for legal, contractual or financial reasons. This is principally to avoid any potential challenge to the decision on the matter in question being brought based on arguments that the decision was influenced by the proximity of the decision-making meeting to the election, but it could also be argued that such a meeting provides candidates or parties with a platform for raising their profile and promoting their campaign.

Given that the mayoral election campaigns are likely to focus on issues at a GM and national level the likelihood of the restrictions having any significant impact on ‘business as usual’ is less than it would be in the context of local or even general elections. The only local meetings or decisions which should potentially trigger this restriction are those which are either controversial in a wider political context or within the context of a campaign issue which has been taken up by candidates or parties involved in the mayoral election. For example, the issue of land allocation within the GMSF has generated a lot of public interest. Consideration would therefore need to be given to the

extent to which a decision on this issue could allow parties or candidates to adopt a position which could in turn be influential in terms of the mayoral election.

There is more potential for meetings and decision making within the authorities that operate at a GM level, such as GMSFR, the PCC, TfGM and the CA itself, to be affected by this particular restriction. Careful consideration would need to be given to whether to defer until after the election the consideration of potentially controversial matters which are specifically identifiable as the view of one candidate or political party but not another.

- **Local Authority Communications:**

The standard application of the Code during the pre-election periods in relation to General and Local elections means that local authorities generally do not publish proactive publicity of any sort during that period, particularly any publicity that would require the involvement of individual Members or a political group.

The position as to how the Code should be applied to communications in the context of the Mayoral election is less clear cut, principally because it can be difficult at times to separate out those issues which are GM or national issues and those which are purely local, given that many GM and national issues will have a local perspective and vice versa.

Press releases and publicity can be issued on routine business, though care should be taken to ensure information communicated is factual and makes no reference to individual candidates.

Where the subject of the press release or publicity has a GM or national aspect to it, it should not reference political groups linked to candidates in the election and should not be unduly controversial. Such publicity should portray decisions as made by the relevant authority as a whole and not by a particular group and should avoid including quotes from individual members.

It may be necessary for a local authority to publicly respond to events outside of their control. In these instances, whilst members who are also candidates should not be asked to comment, other members holding key political positions can comment, provided that the information is factual and not party political. Where officers are asked to comment, it should not be in such a way that identifies officers with individual members or groups of members.

Publicity materials of a political nature should not be permitted on any local authority website or any social media accounts maintained by the authority. This includes the hosting of material which is created by third parties and links to other websites containing political material. Election notices and information published by the Returning Officer and Local Returning Officer can however be published on the website.

Particular care should be taken with published photographs. Photo opportunities which could be seen as giving an unfair advantage to any candidate or their associated party should not be organised or promoted by officers. The context in which photos are used is important. Photos taken previously may be deemed unsuitable for use in the context of the pre-election period. For example, a photo of one of the candidates speaking at the launch of last year's LGA conference may seem quite innocuous, but it associates that candidate with an event of wider significance and could therefore be deemed to be promoting that candidate in a way which would be inappropriate during this pre-election period.

- **Local Authority Events:**

Pre-election restrictions will apply to some events organised by local authorities that are open to the public or a section of the public, or are of media interest. Officers should not be involved in public events attended by individuals who are standing as candidates, or acting as agents. Such events should not be used to publicise candidates, their parties or the policies or candidates they support. It is therefore better to avoid proactively scheduling PR events and photo opportunities which could be seen in that light during this period if possible.

Once a public meeting has been arranged it is difficult to prevent candidates from attending. The safest approach is to ensure that such events are wherever possible scheduled outside the Election Period. If an event must take place during the Election Period, it should not provide publicity or a platform for candidates. On the rare occasion when an event has been arranged and cannot be rescheduled, if candidates are present, there should be a political balance in representation. If possible, such events should be postponed. Routine meetings may continue as planned with regard to guidance on publicity.

- **Local Authority Venues:**

No political posters or leaflets should be displayed on any local authority premises or vehicles. It is an offence under the Town and Country Planning Acts to display fly-posters and it is also illegal to deface road signs which are the property of the Highways Authority. There are legal rules allowing candidates to use appropriate rooms for political meetings. For guidance on available rooms contact your Electoral Services team.

Requests to visit local authority premises by candidates or politicians should be refused as it is not permitted for local authority premises or facilities to be utilised to promote one political party over another.

Filming or photographing local authority services which are publicly and freely available may be permitted, subject to any conditions regarding photo consent, and to avoid disruption to services.

Filming/photography inside local authority premises or on local authority land is permissible to the extent that it complies with regulations issued under the Local Audit and Accountability Act 2014 which relates to the filming, recording and broadcasting of local authority meetings held in public. However, the potential for such meetings to be broadcast is a factor which would need to be taken into consideration when coming to a view as to whether it is appropriate for the meeting to proceed in the pre-election period.

Candidates and local authority members:

Candidates and members can generate their own publicity during this period subject to their own party's protocols. The pre-election restrictions only apply to local authority organised publicity.

Local authority equipment should not be used for political purposes. This includes printing or photocopying facilities or any ICT facilities (this includes Council hosted e-mail addresses). Members and candidates should use their own facilities and resources or those of their own party. Authorities will need to consider the extent to which it may be appropriate to restrict their member ability to publish information on the authority's website, particularly where for example authorities allow a blog through modern.gov or links to blogs and twitter feeds.

- **Local authority staff:**

Local authority staff should not assist any Member, candidate or agent in preparing or publishing any publicity material, except where there is a genuine need for a political response to an event outside the authority's control. Officers who hold politically restricted posts, or who are likely to be involved or employed in connection with the elections, should be reminded of their obligations not to take part in the political campaign or canvass on behalf of a candidate or associated political party.

Officers must not allow candidates to exert undue influence or pressure to resolve issues outside of standard procedures, as this may be seen as giving electoral advantage. It would also be wholly inappropriate for officers to deal with any matters relating to selection procedures for candidates, political differences between two or more political groups and internal party issues. Officers involved in Council funded, hosted and managed social media sites should also ensure that these sites do not contain communications or photographs relating to issues of political controversy or promote any candidate, or associated party.

5. MANAGEMENT OF PUBLICITY AND EVENTS

The above information is provided for guidance. Each local authority is responsible for making decisions regarding publicity and events in their own area and must have in place arrangements for seeking advice on, and authorisation of them during the Election Period. This should be based on the existing management structures within each local authority and involve the relevant Strategic Director or equivalent. The ultimate responsibility for making a decision rests with the Local Returning Officer within each authority.

Where to seek further guidance

- If you require further guidance, advice or assistance please contact:

Sandra Stewart, Executive Director (Governance, Resources and Pensions) – email: sandra.stewart@tameside.gov.uk, tel: 0161 342 3028 or
Robert Landon, Head of Democratic Services – email: robert.landon@tameside.gov.uk, tel: 0161 342 2146
- To view Electoral Commission guidance to candidates and agents go to www.electoralcommission.org.uk
- Candidates can discuss any concerns with their Party Agent during the campaign who may consult further with the Returning Officer if necessary.
- Code of Recommended Practice on Local Authority Publicity:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/5670/1878324.pdf
- Section 2 of the Local Government Act 1986:
<http://www.legislation.gov.uk/ukpga/1986/10/part/II>

Examples:

These examples are provided simply to give some guidance as to the type of situations which could arise. However, each local authority is responsible for making its own decision in each case as to whether the Code applies. Each situation must be considered on its own facts and officers should exercise caution and seek guidance as indicated above wherever there is any uncertainty.

1. A local authority officer has been asked to circulate, through the local authority email system, notice of a meeting to discuss strategic planning issues. The invite refers to a speaker who is likely to be a Mayoral election candidate. The request has come from a local authority elected member. The request should be declined as local authority resources should not be used to promote a candidate or political party.
2. A local campaign group have a meeting scheduled to discuss a report highlighting potentially harmful impacts on air quality and highway safety implications of a development proposal backed by the CA. The local authority Environmental Protection officer and a representative of TfGM have been invited to attend the meeting. It is a public meeting on a subject which has generated considerable public opinion and there is therefore the possibility that one or more of the candidates might attend the meeting. The issue that both the local authority and TfGM must consider is whether their respective officers should attend. If the decision is for them to attend they should be briefed as to how to manage any issues that may arise, particularly as, in the event that one or more of the candidates does attend, the officers should be advised to withdraw from the meeting/event. As it is a public meeting the press may be involved –photographs or statements must be very carefully managed and if not previously agreed they should be declined by the officers.

3. A publicity campaign on the part of the CA, local authorities across GM and NHS Trusts, aimed at encouraging people to be more active and promoting the use of sustainable transport alternatives such as walking and cycling and encouraging people to use public transport has been proposed. The proposal is for advertisements on bus shelters and at metro stops and flyers in community buildings and GP surgeries. This would not appear to be a controversial issue or be aligned with a particular party and would not normally contravene the publicity restrictions.