

PUBLICITY AND LOCAL ELECTIONS – A PROTOCOL FOR WIGAN

1. Scope of the Protocol

- 1.1. This protocol applies to all publicity issued or produced by Council Officers using the resources of Wigan Council.
 - 'Publicity' means any communication in whatever form, addressed to the public at large or a section of the public, such as paid advertising, and leaflet campaigns, publications of free newspapers and newssheets, such as *Borough Life* residents' magazine, the Council's internal and external websites and the staging of events that provide a platform for media publicity.
 - 'Resources' means Council funds, premises, noticeboards, equipment or stationery, and the paid time of Council Officers.
- 1.2. The protocol also applies to any material issued by organisations that are either partially or wholly separate from the Council but which are using Council grants or other public funds to produce the publicity. Examples could include township forum newsletters, regeneration board newsletters and events or newsletters funded by Brighter Borough.
- 1.3. The protocol does NOT apply to publicity funded or otherwise obtained by individual Elected Members or political groups using their own resources.

2. Statement of Intent

Wigan Council will at all times aim to ensure that any publicity it issues or funds complies with legal requirements, and has regard to all relevant national guidance on local authority publicity.

3. The Legal Framework

- 3.1. The fundamental test of whether publicity is legal is enshrined in Section 2 of the 1986 Local Government Act.

This prohibits authorities from issuing material that *"in whole or in part, appears to be designed to affect public support for a political party"*. The rule applies at all times and not just before an election. An objective test is applied, so that the intention behind the publicity is irrelevant.

"Publicity" is widely defined to include any communication to the general public, or any section of the public. The definition of publicity is wide enough to include the staging of events and the provision of political platforms.
- 3.2. In issuing publicity Councils are required to 'have regard to' the **Code of Recommended Practice on Local Authority Publicity** approved by Parliament. The Code was first issued in 1988 and was last revised in 2011. It provides guidance on issuing publicity that has passed the fundamental legal test outlined above, and includes sections on:
 - Principles
 - Lawfulness
 - Cost effectiveness
 - Objectivity
 - Even-handedness

- Appropriate use of publicity
 - Equality and Diversity
 - Care during periods of heightened sensitivity
- 3.3. Wigan Council's protocol is intended to provide local guidance, in conjunction with the national Code of Practice, relating to issues that are frequently raised in a Wigan context. It is not intended to replicate or replace the Code. Anyone producing publicity materials using council funds is strongly advised to acquaint themselves with the provisions of the Code of Practice.
4. **Publicity for Individual Members**
- 4.1. Factual information about members which simply lists their contact and surgery details, or their council responsibilities, clearly presents no problem.
- 4.2. However publicity provided by way of quotes or photographs for individual members of the Council throughout the year can potentially be a difficult area. This was recognised by the government when it amended the original code of practice, which broadly advised against publicising individual members. The code now reflects the reality of executive government in which cabinet members are directly responsible for policy making and decision taking.
- 4.3. The code includes the following statements:
"It is acceptable for local authorities to publicise the work done by individual members of the authority, and to present the views of those individuals on local issues. This might be appropriate, for example, when one Councillor has been the "face" of a particular campaign. If views expressed by or attributed to individual Councillors do not reflect the views of the local authority itself, such publicity should make this fact clear."
"Where local authority publicity addresses matters of political controversy it should seek to present the different positions in relation to the issue in question in a fair manner."
- 4.4. In Wigan executive, and many Non-Executive Members, have positions of responsibility – for example, Executive Leader, Member of Cabinet, Chairs of Council Committees and Sub Committees, Special Responsibility Members; spokespersons on joint authorities, etc. Publicity for individual members, where it is otherwise legal, may be provided in the following circumstances:
- for Executive Members, speaking on their portfolio (or in the case of the Leader and Deputy Leader, on any issue);
 - for any Member publicising matters relevant to a position of responsibility to which they have been elected by the Council as a whole (e.g. Chairs of Committees or Special Responsibility Members), or by a body supported by the Council;
 - the Mayor or Deputy Mayor.
- 4.5. Publicity will not normally be provided for individual members if its purpose appears to be mainly to promote the image, profile or personal opinions of that member acting in his or her ward capacity. Nor will

- publicity be provided that creates a platform for attacking the views and policies of another political organisation or its representatives.
- 4.6. In some circumstances, publicity may be provided for individual members if it passes the tests on timing and political nature previously described, and also reflects especially well on the Council as a whole, or a wider council policy, or the positive work of Councillors generally. Examples of this might be a particularly innovative Brighter Borough scheme, or a local event aimed at benefiting the ward as a whole such as a clean-up day.
 - 4.7. Publicity that falls within this category may be provided for any Elected Member, regardless of their political affiliation. However, as a matter of courtesy all Members of the ward should be provided with a copy of any publicity that is issued.
 - 4.8. The decision on what publicity can be provided in these circumstances is delegated to the Public Relations Officer, in consultation where necessary with the Assistant Director – Legal, Governance and Elections.
 - 4.9. Wigan Council does host web pages for individual Councillors on its own website.. The Code makes it clear that it is acceptable for those web pages to contain links to Councillors own websites over which the authority has no control.

5. **Timing of Publicity before Elections**

- 5.1. Paragraphs 33-35 of the Code deal with publicity during the run up to an election. They state:-

"Care during periods of heightened sensitivity

Local authorities should pay particular regard to the legislation governing publicity during the period of heightened sensitivity before elections and referendums – see paragraphs 7 to 9 of this code. It may be necessary to suspend the hosting of material produced by third parties, or to close public forums during this period to avoid breaching any legal restrictions.

During the period between the notice of an election and the election itself, local authorities should not publish any publicity on controversial issues or report views or proposals in such a way that identifies them with any individual members or groups of members. Publicity relating to individuals involved directly in the election should not be published by local authorities during this period unless expressly authorised by or under statute. It is permissible for local authorities to publish factual information which identifies the names, wards and parties of candidates at elections.

In general, local authorities should not issue any publicity which seeks to influence voters. However this general principle is subject to any statutory provision which authorises expenditure being incurred on the publication of material designed to influence the public as to whether to support or oppose a question put at a referendum. It is acceptable to publish material relating to the subject matter of a referendum, for example to correct any factual inaccuracies which have appeared in

publicity produced by third parties, so long as this is even-handed and objective and does not support or oppose any of the options which are the subject of the vote."

The Notice of Election is normally published some 4/5 weeks before an election is held.

What does this mean?

- 5.2. Not only candidates but also any politician involved directly in an election should not be afforded publicity save in an emergency, or in exceptional circumstances prompted by important events outside the Council's control. In practice most elected members should not be afforded publicity as they will in all probability have some involvement in an election, even if they are not personally standing.
- 5.3. The regulations apply to Officers of the Council and publicity which is issued in the name of the Council. Members of the Council are obviously free to issue their own political publicity under the usual electoral rules so long as there is no Officer involvement or assistance and no council facilities such as computers, printers, stationery, noticeboards etc. are used.
- 5.4. Members may not make party political calls on council telephones. However Members may publish their council telephone numbers as a surgery number for enquiries, complaints etc, provided that they pay for the line rental for the period between the Notice of Election and the election.

What Council Staff Cannot Do

- 5.5. During the period between the Notice of Election and the elections themselves no council Officer may attribute quotes to any Councillor in news releases other than in the exceptional circumstances set out in the code of practice. No council Officer may attribute views, proposals and recommendations to any particular member or group. No council Officer may issue publicity on any controversial issue unless it can be handled in a way that avoids a personal or party political dimension.
- 5.6. Publications and leaflets (other than election literature) addressed to the general public or a section of the public must observe the same restrictions.
- 5.7. Council staff and resources must not be used to arrange proactive events, such as photocalls, if they would provide politicians with a platform to communicate with the public that would not otherwise be available to them. However, there is no reason why Councillors of any party, MPs, or candidates should be refused access to the public parts of council premises, even if they intend to use it as a photo opportunity, so long as it is not organised or funded from council resources and council equipment and employees are not involved.
- 5.8. At no time should any party political election material be put on display in libraries, in other publicly owned or managed buildings, or on any of the town centre information noticeboards provided by the Council.

6. What Happens if we Break the Rules?

Any Councillor or member of the public may refer the matter initially to the Assistant Director - Legal if they feel that the Council has issued publicity that is not legal or which fails to have regard to the Code of Practice. If they are unhappy with the response they can ask the District Auditor to investigate.

7. **Where Can I Get Help?**

In the event of any queries or uncertainty help can be obtained from the Public Relations Officer. If necessary he will take advice from the Assistant Director – Legal, Governance and Elections and /or Chief Executive.

Further copies of this protocol or the Code of Practice are available from the Public Relations Officer, Town Hall, Library Street, Wigan WN1 1YN. . E-mail pr@wigan.gov.uk

September 2013