

Council Report

Ward(s) affected: n/a

Report of the Interim Lead Specialist (Legal) and Monitoring Officer

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Pre-Election Period Publicity Policy

Executive Summary

The Pre-Election Period is the period prior to an election. There are statutory restrictions that apply to Council publicity during the Pre-Election Period.

The Pre-Election Period Publicity Policy seeks to ensure that the Council acts lawfully in relation to the use of Council resources in the lead up to an election, to provide guidance to Councillors and Officers and to limit Council and Committee meetings and other decision making which takes place during the Pre-Election Period to those which are strictly necessary and business as usual.

At its meeting held on 22 March 2022, the Executive considered this matter and endorsed the recommendation below.

Recommendation to Council

That the Pre-Election Period Publicity Policy, as set out in Appendix 1 to this report, be approved with immediate effect.

Reasons for Recommendation:

To protect the interests of the Council, and to provide guidance to Councillors and Officers on publicity and the use of Council resources during the Pre-Election Period.

Is the report (or part of it) exempt from publication? No

1. Purpose of Report

1.1 To adopt the Pre-Election Period Publicity Policy.

2. Strategic Priorities

- 2.1 To ensure the Council acts lawfully and consistently during the Pre-Election Period.

3. Background

- 3.1 The Pre-Election Period is the period of approximately six weeks prior to an election. There are statutory restrictions that apply to Council publicity during the Pre-Election Period.
- 3.2 The Council must comply at all times with restrictions outlined in Section 2 of the Local Government Act 1986 which states that Councils shall “*not publish any material which, in whole, or in part, appears to be designed to affect public support for a political party*”. Publicity is defined as “*any communication, in whatever form, addressed to the public at large or to a section of the public.*”
- 3.3 In addition, a Code of Recommended Practice on Local Authority Publicity published in 2011 makes it clear that particular care should be taken in periods of heightened sensitivity, such as in the run up to an election. 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.
- 3.4 The Pre-Election Period Publicity Policy (‘the Policy’) seeks to ensure that the Council acts lawfully in relation to the use of Council resources in the lead up to an election, to provide guidance to Councillors and Officers and to limit Council and Committee meetings and other decision making which takes place during the Pre-Election Period to those which are strictly necessary and business as usual.

Content of the Policy

- 3.5 The Policy defines what is covered by ‘publicity’ and sets out in detail what is and is not an acceptable use of Council resources during the Pre-Election Period. Press releases should generally come from Officers during the Pre-Election Period or the Mayor when an elected Councillor response is required. Particular care should be taken by Officers in relation to the Council’s social media accounts during the Pre-Election Period.
- 3.6 A key aspect of the Policy is limiting Council and Committee meetings during the Pre-Election Period. Specifically:
- Regular Full Council, Executive, and Committee meetings (excluding Planning Committee, Licensing Sub-Committee and Licensing Regulatory Sub-Committee) will not be scheduled during the Pre-election Period;
 - 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 Joint Chief Executive prudent to do so; and

- Extraordinary Full Council and/or Special Committee meetings will be arranged if, in the opinion of the Joint Chief Executive and Monitoring Officer, it is considered to be in the Council's interests to hold them for urgent items of business.

It should be noted that the current timetable of meetings approved by Full Council on 9 February 2022 took into account these principles so adoption of the Policy will not impact on timetabled meetings in the 2022-23 municipal year.

- 3.7 Other important aspects of the Policy to highlight are specific guidance for Councillors and Officers in carrying out their roles including delegated decision making. The Policy also specifically limits initiating public consultation processes during the Pre-Election Period. By-Elections are also covered in the Policy.
- 3.8 The Policy clarifies the position of the Mayor and provides guidance around the publicity from and about the Mayor.
- 3.9 The Policy makes it clear that decision making in relation to which Council and Committee meetings should proceed and the deferral of items, events and decisions are to be made by the Joint Chief Executive, in consultation with the Monitoring Officer, which makes the decisions non-political and gives clear accountability which is lacking currently.

4. Consultations

- 4.1 The following Councillors have been consulted: the Mayor and Deputy Mayor, the Leader and Deputy Leader, all political group leaders, all committee Chairmen and Vice Chairman.
- 4.2 The following officers have been consulted: Joint Chief Executive, Corporate Management Team, Head of Place, Communications Manager and the Democratic Services and Elections Manager.
- 4.3 At its meeting held on 22 March 2022, the Executive considered this matter and endorsed the recommendation to adopt the Policy.

5. Key Risks

- 5.1 The risks are set out in the report and the Policy.

6. Financial Implications

- 6.1 There are no financial implications arising from this report.

7. Legal Implications

- 7.1 The Legal Implications are set out in the Report.

8. Human Resource Implications

- 8.1 There are no human resource implications arising from this report.

9. Equality and Diversity Implications

- 9.1 Public authorities are required to have due regard to the aims of the Public Sector Equality Duty (Equality Act 2010) when making decisions and setting policies.

The Council has a statutory duty under section 149 of the Equality Act 2010 which provides that a public authority must, in exercise of its functions, have due regard to the need to (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. The relevant protected characteristics are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

This duty has been considered in the context of this report and it has been concluded that there are no equality and diversity implications arising directly from this report.

10. Climate Change/Sustainability Implications

- 10.1 No such implications apply.

11. Summary of Options

- 11.1 There are three options:
- The Council can adopt the Policy as drafted.
 - The Council can decide not to adopt the Policy and continue with the status quo.
 - The Council can ask for amendments to be made to the Policy and a further version to be drafted.

12. Conclusion

- 12.1 The recommendation is that the Pre-Election Period Publicity Policy is adopted by the Council, as drafted and set out in Appendix 1 to this report, to ensure that the Council, Councillors and Officers are protected.

13. Background Papers

None

14. Appendices

Appendix 1: Pre-Election Period Publicity Policy – February 2022