

Guildford Borough Council

Report to: Council

Date: 23 January 2024

Ward(s) affected: All

Report of Director: Transformation and Governance

Author: Susan Sale, Joint Executive Head of Legal & Democratic Services

Tel: 01483 444022

Email: susan.sale@guildford.gov.uk

Report Status: Open

Amendments to the Guildford Borough Council and Waverley Borough Council Pre-Election Publicity & Decision-Making Policy

1. Executive Summary

- 1.1 A report was taken to GBC full Council on 5 April 2022 and to WBC full Council on 26 April 2022, recommending the adoption of the current Pre-Election Publicity Policy, a copy of which is attached as **Appendix 1** to this report. The policy is identical for both councils.
- 1.2 The main purpose of the existing policy is 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.
- 1.3 A key aspect of the existing Policy is to limit the 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.

- 1.4 However, after further careful review and consideration, it is proposed that the Pre-Election Publicity & Decision-Making Policy be amended to provide more flexibility for the Proper Officers of the Council to assess and decide which council meetings can be held during the pre-election period on a case-by-case basis. Such an approach provides the Proper Officers with the flexibility to take into account whether the forthcoming election is in respect of Borough elections, or another election, and the level of political sensitivity around each election which could impact on Council business.
- 1.5 This report recommends the adoption of a revised Pre-Election Period Publicity & Decision-Making Policy, attached as **Appendix 2** to this report with tracked changes, and a clean version of the Policy attached as **Appendix 3**. The amended policy focuses on the Pre-Election published guidance by the former DCLG and LGA which emphasises that councils should continue to discharge normal council business i.e., 'Business as usual'.
- 1.6 This report was considered initially by the Joint Constitutions Review Group (JCRG) at its meeting on 18 December 2023. The JCRG supports the proposed revised Policy, and referred it to the

Corporate Governance & Standards Committee and Waverley's Standards & General Purposes Committee for formal consideration, with a further recommendation that each committee recommends the adoption of the proposed revised Policy to their respective full Council meetings¹.

- 1.7 At its meeting on 8 January 2024, Waverley's Standards & General Purposes Committee, endorsed the recommendation in paragraph 2.1 of this report (see below), subject to the amendment of the fourth bullet point in paragraph 8 of the Policy (see Appendix 3) as follows:
 - *“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 meetings, does not, in the view of the Monitoring Officer, contravene the provisions of this policy”.*
 - 1.8 Details of the recommendation of the Corporate Governance & Standards Committee, following its consideration of this report on 18 January 2024, will be included on the Order Paper for the extraordinary Council meeting.
- 2. Recommendation to Council**
- Subject to consideration of the recommendation of the Corporate Governance & Standards Committee (18 January 2024) in respect of this matter, the Council is asked to agree the following:
- 2.1 That the revised Pre-Election Publicity & Decision-Making Policy, as set out in Appendix 3 to this report, be adopted for inclusion in the Council's Constitution.

¹ Extraordinary council meetings scheduled for 23 January (Guildford), and 24 January (Waverley)

3. Reason(s) for Recommendation:

- 3.1 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.
- 3.2 To provide further flexibility for the Councils' Proper Officers to assess and decide which council meetings can be held during the pre-election period.

4. Exemption from publication

- 4.1 No part of this report is exempt from publication.

5. Purpose of Report

- 5.1 This report asks the Council to consider the amendments to the Pre-Election Publicity & Decision-Making Policy proposed by the Joint Constitutions Review Group (shown as tracked changes in **Appendix 2**), and to adopt the revised policy (as set out in **Appendix 3**).

6. Strategic Priorities

- 6.1 The recommended revised policy continues to support the Council's strategic priorities including a commitment to open, democratic and participative governance.

7. Background

- 7.1 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.
- 7.2 The Pre-Election Publicity & Decision-Making 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/or business as usual. The pre-election period is the period of approximately 6 weeks prior

to an election. There are statutory restrictions that apply to Council publicity during the pre-election period.

- 7.3 The Council must comply at all times with restrictions outlined in Section 2 of the Local Government Act 1986 which states that councils should “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.”
- 7.4 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.
- 7.5 The Pre-Election Publicity & Decision-Making 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.
- 7.6 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. Quotes included in press releases and statements issued in response to media enquiries should generally be attributed to 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.

8. Equality and Diversity Implications

- 8.1 The Council must have due regard to the requirements of the Public Sector Equality Duty (Equality Act 2010) when making any recommendations concerning governance arrangements. There are no equality and diversity implications arising from this report.

9. Financial Implications

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

10. Legal Implications

- 10.1 The legal position in relation to the legislation and related Code is set out within paragraphs 7.3 and 7.4 of this report. The purpose of policy in any context is to support consistency of decision-making in any area, and in relation to pre-election publicity the policy will continue to support consistency as well as transparency and structure of decision-making in relation to such matters.

11. Human Resource Implications

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

12. Background Papers

- April 2022: Report to GBC Council on the Pre-Election Publicity Policy
- 26 April 2022: Report to WBC Council on the Pre-Election Publicity Policy
- 8 January 2024: Report to Waverley's Standards & General Purposes Committee
- 18 January 2024: Report to Corporate Governance & Standards Committee

13. Appendices

Appendix 1: Current Pre-Election Publicity & Decision-Making Policy
(April 2022)

Appendix 2: Proposed amended Pre-Election Publicity & Decision-Making Policy (with tracked changes December 2023)

Appendix 3: Proposed amended Pre-Election Publicity & Decision-Making Policy (without tracked changes December 2023)