

Guidance on Pre-election Period restrictions in the run-up to the Hobbayne local by-election on 16th September 2021

Background

Formal notice was published on Thursday, 5 August 2021 of a by-election to be held in the Hobbayne ward. Legal restrictions will apply to council actions from this date until the close of poll at 10pm on Thursday, 16 September 2021.

It is important that you understand the pre-election restrictions in broad terms, to ensure that neither the council nor you personally are put at risk of challenge or prosecution. It is important that you are aware of the restrictions and consider the implications for your work.

Please pass on this guidance to any partners or external organisations (such as schools) who work closely with the council and who may be impacted by pre-election restrictions.

Consequences

The legislation allows officers to be individually prosecuted for breaching certain rules. Legal action could also be taken against either the council or the Returning Officer.

General principles

The council and its officers (including schools and teachers) are under an obligation:

- To ensure that public resources are not used for party political purposes; and
- Not to undertake any activity which could call into question their political impartiality

Areas for particular care

Experience suggests that problems are most likely to arise in the following areas:

- Council support, or publicity, for political policies that could have a bearing on matters relevant to the election.
- Visits by politicians or dignitaries (see the additional guidance attached)
- Council-sponsored publicity campaigns; we must ensure that we are not open to the criticism that publicity is being undertaken for party political purposes
- There should be even-handedness in responding to information requests from the different political parties and campaigning groups
- Officers should not be asked to provide new arguments for use in election campaign debates

Publicity

Publicity is defined very widely as 'any communication, in whatever form, addressed to the public at large or to a section of the public'. As well as covering the more obvious forms such as speeches, leaflets and newspaper articles issued by or on behalf of the Council, it can include sponsorship, meetings, and even the colour of floral displays.

Factors to be taken into account when considering whether or not publicity is prohibited include:

- the content and style of the material;
- the time and circumstances of 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 candidate but not all; and
- where the material is part of a campaign, the effect the campaign is designed to have

All council publicity is potentially sensitive in the run-up to an election. A number of Ealing councillors may be involved in organising or supporting the election campaign of a potential candidate.

In any event, you must be careful not to give, or to be seen to give, greater prominence in council or council-resourced publicity, to any one candidate over another.

You must clear any council promotional activity in advance with the Communications team.

Remember to refer all media enquiries to the Communications team without making comment. You should make no speculative interpretations of government or political party policy or statements that might appear to be designed to affect support for one candidate or political party.

Apart from Executive Directors and designated officers in the Communications team, no officer is allowed to talk to the media without express permission from their Executive Director or the Head of Communications.

You should take particular care with any council proposal that may compete with candidates for the attention of the public, or which may influence support for any political party or candidate.

During the pre-election period, it's more important than ever that you act, and are seen to act, in a politically neutral manner.

If you are running any public events, you must take particular care to ensure that no candidates are given particular prominence, such as in any photo calls. Specific guidance on VIP visits and council events has been produced (see attachment), and note that this guidance also applies outside the pre-election period.

It is unlawful for the council to give financial or other assistance to other bodies to enable them to publish material that the council itself may not publish.

Assistance to candidates

All correspondence, enquiries and the provision of facilities or information should be dealt with fairly between candidates and political parties, to ensure that no particular advantage or favour is given. Generally, there is an entitlement to the same information and access to premises as is available to the public. If you have any doubts about the capacity in which a person is acting, you should speak with your manager or one of the officers below.

Candidates can be nominated from Wednesday, 11 August. A full list of candidates will be available from the Elections team after the close of nominations on Thursday, 19 August.

Ordinary council business during the pre-election period

There is no prohibition on decision making during the pre-election period. However, in the run-up to polling day it is possible that even 'business as usual' may become increasingly politicised. You will need to be careful to avoid the allegation that particular officer proposals will affect support for one candidate or political party – and defer a decision if that might reasonably be the case.

Canvassing

Questions may arise regarding politicians wishing to canvass for support in council-run establishments. If you are responsible for such a council-run establishment, you should first consider the wishes of the occupants/users and secondly ensure that there is even-handed treatment of all candidates and political parties. If you would not be comfortable permitting all candidates to canvass, then you should not permit any.

Conduct of officers outside work

No Ealing Council officer may stand for election as an Ealing councillor.

If you hold a post that is politically restricted under the Local Government and Housing Act 1989, further restrictions apply. These restrictions apply at all times and not only during the pre-election period. The main activities prohibited to politically restricted officers are:

- being a candidate for election to the House of Commons, GLA, or Local Authority;
- acting as an agent for a candidate for the election to one of the bodies above;
- being an officer of a political party or acting on behalf of a candidate for election to one of the bodies above
- canvassing on behalf of a political party or on behalf of a candidate;
- speaking to the public or to a section of the public with the apparent intention of affecting support for a candidate or political party; and
- publishing any written work which appears to be intended to affect public support for a candidate or political party

Further information

Helen Harris, Director of Legal and Democratic Services (020 825 8615)
Cheryl Curling, Media and Communications Manager (020 825 8049)
Ross Jackson, Head of Elections (020 825 6854)

Background

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").

Local Government Officers (Political Restrictions) Regulations 1990 (for detailed definition of restricted activity).