

Appendix B

ELECTORAL PURDAH GUIDANCE FOR HARLOW COUNCIL

INTRODUCTION

This guidance is intended for both Councillors and Officers of Harlow Council, as well as for explanation to Candidates and Agents during the election periods.

It covers a number of issues which arise as a result of elections being held while the Council needs to continue with its normal business.

WHAT IS PURDAH?

Purdah describes the period of time immediately before elections or referenda when specific restrictions on the Council's communications activities are in place. The terms "pre-election period" and "heightened sensitivity" are also used.

It applies from the date of the Notice of the election to after the results of the poll.

THE LEGAL BASIS AND OFFICIAL GUIDANCE

The Council is prohibited at all times (not only during Purdah) from undertaking activities or providing publicity designed to affect support for a political party.

These restrictions on political publicity are contained in Section 2 of the Local Government Act 1986, as amended by Section 349 Communications Act 2003 and Section 27 of the Local Government Act 1988.

The Government published a [Code of Recommended Practice on Local Authority Publicity](#) in 2011. The Code is based around seven principles to ensure that all communications activity meet the requirements of the statutory framework.

SUMMARY OF ADVICE

The statutory framework restricts the **Council's** activities. Those involved in the elections processes should not place Officers of the Council in such a position where any activity would call into question their political impartiality, or could give rise to the criticism that public resources are being used for party political purposes.

Purdah does not stop councillors from issuing their own publicity as long as council resources are not used.

Members holding Cabinet positions within the Council should avoid the use of titles within campaigning literature in such a way that a reasonable person would conclude that it was a statement of Council policy or that the Council were spending public money to influence the outcome of the election.

During the Purdah period the Council **will not**:

- Produce publicity on matters which are politically controversial. The Council's day to day work will continue on a business as usual basis with decisions

being made and services provided, but it will seek to avoid consideration of, or publicity for, politically contentious matters.

- Make references to individual politicians or groups in press releases, press statements and comments and other publicity materials including items on the Council's social media channels which relate to the Harlow District area which will not include the name, photograph or quotations from any politician.
- Arrange proactive media or events involving candidates, election agents, other members, MP's or groups who could reasonably be seen as supporting a particular candidate.
- Issue photographs which include candidates. (The Council may issue photographs of the Chair in some circumstances)
- Supply council photographs or other materials to Councillors or political group staff unless the Council have verified that they will not be used for campaigning purposes.
- Continue hosting third party blogs or e-communications.
- Help with national political visits, as this would involve using public money to support a particular candidate or party. These should be organised by political parties with no cost or resource implications for the Council.
- Issue any publicity which seeks to influence voters (an exception being situations covered by legislation or regulations directing publication of information for clarification purposes).

USE OF RESOURCES DURING PURDAH

- No Councillor (including a member of the Cabinet and a Chair of a Committee), or Officer, is permitted to use any Council building, assets, equipment or staff resources for private or party political purposes (except use of meeting rooms provided for within electoral law to facilitate a political meeting during campaigning).
- Requests for information by candidates and political parties will be responded to in accordance with legal requirements, and normal policies, in an even handed way.

DECISION MAKING DURING PURDAH

- Business as usual will continue for services with decisions being made and services delivered, for example, determining planning applications.

- However, decisions, meetings, public consultation exercises and publicity campaigns on issues which it is considered have the potential to be politically contentious may be re-scheduled until after the election, unless it is required by law to undertake them, or it's necessary to decide the matter to meet a statutory timetable. This will avoid the risk of the decision making process being skewed or otherwise affected.
- The Senior Management Board members and Team Managers should familiarise themselves with the Council's approach to Purdah as set out in this guidance. They should not permit any issue to be brought forward during the Purdah period which is likely to create, or having the perception of political advantage.

DUTIES OF THE RETURNING OFFICER

- The roles and responsibilities of the Returning Officer are set out by law. They are a series of powers and duties which are the personal responsibility of the person appointed.
- Brian Keane is the Returning Officer for the District Council Elections. He has personal responsibility for conducting the Election.
- Returning Officers are not local government employees for the purposes of conducting elections and are not accountable to the Council or its Councillors in carrying out their statutory functions.
- The Returning Officer is required to conduct all elections entirely in accordance with the law.

PUBLICITY

- The law says the Council must never publish any material which, in whole or in part, appears to be designed to affect public support for a political party. In this context publicity is defined as any communication, in whatever form, addressed to the public at large or to a section of the public.
- It may be appropriate to quote a politician who is involved in the election, for instance, in an emergency situation or where there is a genuine need for a member-level response to an important event beyond the Council's control.
- The above applies to events and spoken communications as well as written communications.
- This guidance applies to publicity and events organised by HTS particularly items on their website.

- As per the Council's Communications Protocol, all Harlow Council press releases, press statements and comments require the approval of the Chief Executive before publication and are issued by the Communications Team.

QUESTIONS AND QUERIES

- Officers should seek general guidance on the issues in this document from their Manager, Head of Service or from Brian Keane, Chief Executive or Simon Hill, Monitoring Officer.
- All publicity matters should be referred to Simon Pipe, Customer and Media Services Manager.
- Councillors should raise electoral issues with the Returning Officer via their candidate's Agents.

GENERAL

All of the above is general guidance which should cover the majority of circumstances. There may, however, be legitimate exceptions to the guidance. These could include, for example, a major event outside the control of the Council, an emergency, or a statutory requirement to act within the timeframe of the election. Judgements about those issues will be made on a case by case basis in light of the legal requirements and the need to maintain balance and impartiality.

Visits by politicians and use of the Town Centre for campaigning are covered within the appendices to this advice as are FAQ's produced by the Local Government Association.



Brian Keane
(Acting) Returning Officer & Chief Executive

Appendix 1

GUIDANCE ON VISITS BY POLITICIANS

This note is to confirm guidance for the use of Council resources and the involvement of Council staff in connection with visits by politicians. It is important to make sure that the Council, its Officers and Councillors are safe from accusations of impropriety or, at worst, legal challenge.

The base legal position regarding this activity is to be found in Section 2 Local Government Act 1986. This says that "a local authority shall not publish (or assist others to publish) material which, in whole or in part, appears to be designed to affect public support for a political party." The Act defines publicity very widely as any communication, in whatever form, addressed to the public at large or to a section of the public. The impact of this is that case law has established that no Councillor, whether a Portfolio Holder, Chair of a Committee or any other Councillor, or Officer will be permitted to use any Council resources for private or party political purposes. This is not just restricted to the so called 'Purdah' period before elections but at any time.

The Councillors' Code of Conduct has provisions on this point as does the centrally issued Code of Recommended Practice on Local Authority Publicity. Nonetheless the base position which overrides all else is the Act of Parliament and the case law relating to it.

Put simply the Council's resources, whether they be cash, premises, or staff should not be used in a way which can be perceived to be designed to affect public support for any political party.

How does this affect political visits? There is a spectrum of possible scenarios. Hopefully some examples may help.

Firstly a visit that has no media coverage at all cannot fall foul of this rule. If an elected politician of whatever political hue is seen as having some influence to the advantage of the Council they may be invited, and Council resources may be used to help facilitate their visit and any meetings/briefings felt to be appropriate may be organised with Council staff. However, this is only the case if there is no media coverage at all.

At the opposite end of the spectrum a political group or individual Councillor might arrange for a visit to the town by a politician of their own party. They might make all the arrangements without engaging with any Council staff at all and the visiting politician might visit Council property open to the public in the same way as any member of the public might. If any media arrangements were arranged by the political group/individual Councillor and no assistance was given by Council staff then this would be acceptable. This might even be the case if some Council staff were photographed incidentally during the visit. Nonetheless there should be no expectation or requirement for Council staff to participate in staged photographs.

In the case of Government Ministerial visits the Council will co-operate with and make arrangements for the visit where it is taking place at the request of the Council. Where a Ministerial visit is not at the request of the Council, the Council will respond positively to requests for assistance. In both cases the Chief Executive will request (and expect) that representatives from all of the political parties on the Council will be invited to take part in the visit. If this request is not responded to positively the Chief Executive will decide whether or not the Council will provide support for such visits.

For the avoidance of doubt 'official' Ministerial visits are only those involving Government Ministers. All other visits are political visits.

Between these scenarios will be many other types of visit. The general rule however will be that Council staff and other resources should not be involved if there is to be publicity attached to the visit and that publicity may be perceived as making a point to the political advantage of any particular party. If you are in doubt about this then it is important to check with the Chief Executive or the Monitoring Officer before starting to make any arrangements. They will give a clear view on whether the perception of political advantage might be seen and whether or not the Council can support arrangements for such visits. Equally, it would be expected that a political party making their own arrangements as in the second situation above would inform the Chief Executive well in advance.

In the period known as election purdah, the period between the official notice of an election and the election itself, different arrangements will apply. During such periods no Council resources may be used at all and no Council staff may be involved in any visits by politicians whether from the Government in power or opposition parties.

If in doubt, please talk to the Chief Executive or the Monitoring Officer.

Appendix 2

USE OF THE TOWN CENTRE FOR CAMPAIGNING

Much of the land in the centre of Harlow is owned by the Council. Whilst, Council resources must not be used for party political purposes. Nonetheless it is also accepted that the streets, walks etc. in the centre of the town are public thoroughfares. The Council is thus prepared to accept the presence of electioneering stalls or similar activities in these public areas with certain procedures and restrictions attached to that permission.

The Council expects that:

- Political groups/parties will request permission for such activities to take place.
- Such permission must be requested a reasonable time in advance of the planned use.
- The actual position and type of activity needs to be communicated as well as the timing.
- Permissions will be issued on a 'first come, first served' basis but may be subject to alteration by the Council to ensure an equitable position between political groups.
- Activities connected with such stalls or similar activities must be reasonable in their behaviour (for the avoidance of doubt, this includes a requirement not to attach posters etc to street furniture or public art and a reasonable distance from any other campaigning group).
- Any associated littering must be cleared up by the user.

The request should be addressed to the Chief Executive, who will ensure that proper liaison with the town centre management takes place. Failure to adhere to these expectations may lead to the Council refusing permission or even asking that an activity is ended forthwith. All parties/groups will be expected to accept and comply with such a decision.

Appendix 3

The Local Government Association has helpfully provided some FAQ and answers below:

Frequently Asked Questions

Does this guidance only apply to councils?	No. The Code of Recommended Practice on Local Authority Publicity covers the full range of authorities.
What happens during the General Election purdah period in an area where there is no local election? Do these rules still apply?	Yes. In a general election year, the guidance applies to all local authorities, even if there are no local elections.
Do these rules apply to councillors who are not running for re-election?	Council business continues so all sitting councillors, whether seeking re-election or not, should have regard for the Publicity Code.
Can council officers get involved in campaigning in their own time?	Officers who hold politically restricted posts, or who are likely to be involved or employed in connection with the elections, should not take part in a political campaign or canvass on behalf of a political party or candidate. Please check local arrangements.
Do the restrictions apply to officers who are members of a trade union?	Trade unions themselves are not bound by the Code, but individual officers are, and must have regard to the Code.
Can council press offices still put out press releases ahead of the election?	Yes, but with limitations. Official, factual press statements about council decisions for public information purposes may still be issued. However, no publicity should deal with controversial issues or report views or proposals in a way which identifies them with individual councillors or groups of councillors.
Can a council put out a consultation, for example about changes to library provision, during purdah?	Consultations should be considered very carefully during purdah as it is a period of heightened sensitivity and should not be put out if they contravene pre-election rules.

Can we use the chair of a council-commissioned review, who is up for re-election, as spokesperson for the report?	The best approach could be to delay publication of the review until after the election. However, if there is an imperative to publish you should use another, non-political spokesperson.
Can we host a photo call for the council leader or other leading councillor to open a new council facility (such as a play park) during purdah?	Generally not; however if the timing of the event is unavoidable and postponing it would adversely affect local residents (for example the opening of the facility has been delayed by long-running work and postponing the opening will cause the council to lose income), you might choose to have the event hosted by a non-political spokesperson.
Can councils sanction the use of schools for political purposes?	Schedule 5 of the Representation of the People Act 1983 covers the use of meeting rooms in school premises for parliamentary elections. The Registration Officer is required to keep lists of such premises.
Do the restrictions apply to council notice boards?	Councils are required to publicise details of the election and how to register to vote. Material relating to wider political issues should not be posted on official notice boards which may be seen by members of the public. This includes publicity issued by, or on behalf of, a trade union.
Can councillors issue their own press releases or talk to the media?	Councillors are free to talk to the media and issue press releases, but must not use council resources to do so.
Can councillors write letters 'for publication' to their local newspaper?	Yes, as long as they don't use council resources (such as staff) to help them do it.
Can councillors still tweet or blog?	Councillors can continue, but must not use council resources (such as council twitter accounts, email accounts, telephones etc.) to do so.
Can councillors who are up for re-election refer to themselves as councillors in their public statements?	A person remains as a 'councillor' and can refer to themselves as such until they retire on the fourth day after the ordinary day of election.
Can councillors request to visit council establishments?	The guidance may vary by council. Generally reasonable requests by current members who are also

	<p>candidates at the election to visit council establishments in the course of their council functions would be approved. Again, check local arrangements and any such visits must not be supported by the council's media team or council officers.</p>
<p>Can councillors speak/ canvas at a student union (which is a registered charity) during the pre-election?</p>	<p>Yes they can. In fact it is to be expected. Councillors and those potentially standing for election can arrange to speak and canvass as long as these activities are not funded nor arranged by local authorities. The fact that the union is a charity has no bearing – the guidance applies to local authorities, not to other organisations.</p>
<p>Can the council still publish its newsletter/magazine during purdah?</p>	<p>Yes, if it is done in the ordinary course of business and meets all other purdah requirements</p>

Appendix 4

PURDAH – SOCIAL MEDIA GUIDANCE

Given the council's increased use of social media and websites we provide the following specific guidance on the use of digital communications during purdah.

Officers who update social media accounts will operate under the following advice based on LGA guidance:

1. All social media platforms operated by staff are subject to the rules of Purdah.
2. When using Twitter, Facebook, YouTube or Instagram, explain that as a council channel of communication you are governed by Purdah. It may be helpful to tweet a link to an explanation of Purdah for guidance.
3. Do not retweet or share political opinion or content posted by political parties or politicians.
4. Do not tweet, post images or share updates on matters which are politically controversial.
5. Monitor your page and delete any content which is politically controversial.
6. Do not stage a significant social media-based campaign unless it can be demonstrated that it was planned before the election was called.
7. Social media by and about the Chair of the Council may be retweeted, shared or used as long as it is not of a political nature.
8. Disable the ability to download images of politicians during Purdah.
9. In exceptional circumstances seek permission from the communications team to tweet or retweet a comment by a politician or to use video and images of a politician during Purdah.
10. Third party social media profiles, including business partnership profiles which the council supports, are also governed by Purdah. Council staff who update these profiles can either continue to add content in line with Purdah restrictions or hand over ALL admin to a non-council member of the partnership during Purdah.

The following additional advice is provided to **Councillors**:

1. Members should ensure that during the pre-election period, Electoral Commission good practice is that your social media profiles should contain a link to where you electoral imprint can be found online.
2. Do not use social media output by the Chair of Council to make a political point. Any replies should not tag in the Chair's account.