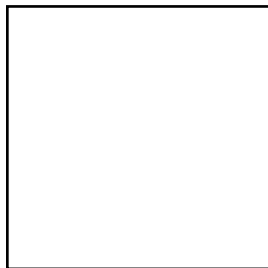


UK Government Election

Pre-election guidance

2024



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1 Introduction

Local authority officers must act and work in ways which are politically neutral at all times.^[1] However, due to heightened sensitivities during the run-up to elections, particular care must be taken during this period in order to ensure compliance with the statute and policy provisions governing the neutrality requirement. This guide seeks to provide key information on the legal and policy provisions underpinning this. However, it must be stressed that the Council is a local authority with responsibility for delivering services. Unlike the civil service who are policy-based servants of the UK government and undertake no active work whilst parliament is closed down in the pre-election period, Councils continue to deliver business as usual. At Aberdeenshire Council we will be going about our business in the normal way but with particular attention to the political neutrality provisions which we are subject to all year round.

The Pre-election Period^[2] will commence upon the publication of the Notice of Election, expected to be around the **31st May 2024**.

There are three aspects requiring particular attention during the Pre-Election Period:

- [Council Publicity & Communications](#)
- [Use of Council Premises & Facilities](#)
- [Officers who hold Politically Restricted Posts](#)

2 COUNCIL PUBLICITY & COMMUNICATIONS -

2.1 The Local Government Act 1986

Local authority publicity must be politically neutral and founded on clear principles of good practice. The Local Government Act 1986 (the “1986 Act”) Pt II S2 (1) states:

‘A local authority shall not publish^[3], or arrange for the publication of, any material which, in whole or in part, appears to be designed to affect public support for a political party’.

In determining whether material falls within this prohibited category, regard is to be had as to the **‘content and style** of the material, the **timing** and **other circumstances** of publication and the likely effect on those to whom it is directed’. In particular officers must ask themselves the questions outlined in S2 (2) (a) and (b) of the 1986 Act, namely:

- whether the material refers to a political party or to persons identified with a political party or promotes or opposes a point of view on a question of political

controversy which is identifiable as the view of one political party and not of another;

- where the material is part of a campaign, the effect which the campaign appears to be designed to achieve.

S2 (3) of the 1986 Act continues to state:

‘A local authority shall not give financial or other assistance to a person for the publication of material which the authority are prohibited by this section [2] from publishing themselves.’

Therefore it is clear that not only are local authorities prohibited from publishing (or arranging publishing) any materials which may affect, negatively or positively, public support for a political party, they also cannot give financial^[4] or other assistance to another person to do so.

2.2 Recommended Practice on Local Authority Publicity

Section 4(1)^[5] of the 1986 Act, provides for the Secretary of State to issue codes of recommended practice as regards ‘the content, style, distribution and cost of local authority publicity, and such other matters as he thinks appropriate’. Local authorities must have regard to the provisions of any such code in coming to any decision on publicity. The resulting Code of Recommended Practice on Local Authority Publicity^[6] (the “Code”) was created to ensure that local authority decisions on publicity are properly made, in accordance with clear principles of good practice.

Key points from the Code include the following:

- Local authorities should not issue any publicity which seeks to influence voters
- Particular care should be taken during the pre-election period to abide by the publicity provisions of the 1986 Act.
- Any publicity assistance given to charities/voluntary organisations must be based on the principles of the Code
- During the pre-election period, local authorities should not publish any publicity on controversial issues nor report views or policies in a way which identifies them with individual councillors nor groups of councillors.

Regarding the final bullet point above, please note that it is however acceptable for the Council to respond in appropriate circumstances to events and legitimate service enquiries, provided such responses are factual and not party political.

2.3 Guidance on Council Publicity

Examples of the types of publicity generated by the Council where particular care needs to be taken are as follows:-

- Council publications including the website.
- Use of photographs of persons who are/will be candidates at forthcoming elections.
- On-line Council or committee meetings which are livestreamed or subsequently published by the Council – While it is acceptable for Elected Members to wear small party badge (2cm diameter maximum) or lanyard to identify their membership of a party, otherwise they should not wear material (e.g. rosette) or have in the background any material which designed to promote a political party or a candidate or a group of candidates of the same party, or to reduce support for any party or its candidates. For the avoidance of doubt, having a Union Jack or Saltire in the background is not viewed as political publicity.
- Council events, whether held online or at a physical premises, e.g. project launches, opening of buildings, or ground-breaking ceremonies
- Use of Council social media sites to retweet, favourite, @mention, like and share any local / national politicians, people aligned to political parties or people whose avatars have a clear political bias such as a party-political logos.
- Mailshots by services to sections of the local community, or each household in Aberdeenshire

At any time, all such publicity must be designed so that it does not appear to persons outside the Council to be designed to promote a political party or a candidate or a group of candidates of the same party, or to reduce support for any party or its candidates.

2.4 Physical and Online Events

Caution should be exercised before planning and organising any public events to take place during the pre-election period. These events may be allowed if they are business as usual and must be organised in a politically even-handed way by including opposition representatives as well as from political administration. Where the event has already been organised then advice should be sought in the first instance. Where the event takes place during this period there may require to be restrictions placed on the surrounding publicity which may be issued before, during and after the event.

Where, during the pre-election period, the Provost and/or Committee Chair and /or elected members are invited to attend an event, such as an online consultation event, the leaders of other political groups should also be invited to attend in order to preserve political balance. Any related news releases should also observe this balance, publicity should not be in any way party political.

2.5 Social Media

As stated above, under the 1986 Act, 'publicity' refers to 'any communication, in whatever form, addressed to the public at large or to a section of the public.'^[7] This can capture social media and other online postings on platforms such as Facebook and Twitter and therefore extreme caution should be observed before any posts are made. For further information, please visit the Council's social media policy and procedures pages on Arcadia.^[8]

Please note that during the pre-election period, it is advisable to consider suspending blogs/e-communications by those within the Council who have any involvement in the elections.

2.6 Communications

As stated above, during the pre-election period, publicity should not be issued which deals with controversial issues, or which reports views or policies in a way that identifies them with individual members or groups of members or, in particular, specific political parties. Therefore, any press releases and other publicity material which causes may be contentious should be cleared prior to release with the Head of Customer and Digital Services.

Proactive promotion of council activities is recommended to be wound down during the pre-election period. Any launches, photo opportunities and events should be scaled back and, where possible, postponed until after the election

Any local newsletters to be issued by the Council during the pre-election period should be approved by the Returning Officer (or his/her staff team) prior to any release. No publicity should be given to matters which are politically controversial and no photographs of election candidates should be issued (including those who are sitting councillors).

Before fulfilling any request for council photographs and other materials, please enquire as to what use they are to be put to. Where the request is granted, appropriate restrictions on use should be imposed, for example, stating that the materials must not be used in connection with any election campaigns.

The position of the Provost as the civic head of the authority is different and material may be issued relating to his/her activities provided it is apolitical and is cleared by the Head of Customer and Digital Services.

3 USE OF COUNCIL PREMISES & FACILITIES

Public Meetings & Hustings

Under S96 of the Representation of the People Act 1983, election candidates may use local authority premises, including schools, to hold public meetings during the pre-election period. The let will be free of charge but the local authority is entitled to be reimbursed for heating, lighting and other utilities, as well for any damage caused to the room. The Act's Schedule 5 requirement for councils to prepare and maintain lists of available rooms in school premises applies to local government elections and these lists are to be made available for inspection by candidates and election agents (and any person authorised by these).^[9] In addition, local authorities may allow political parties to use their premises as offices where such facilities are provided on a first come, first served basis on normal commercial terms.

Community organisations, for example a Community Council, may wish to invite representatives of the campaign to take part in hustings in council premises which have been leased from the council. In this event they must invite all candidates and the husting can only go ahead if this offer has been made.

Visits

During the pre-election period, candidates may wish to visit local authority premises, for example to meet groups of residents in residential homes, or in order to be seen in the constituency area or to become more familiar with Council facilities.

- Any visits must be arranged in advance with the Head of Customer and Digital and through them with the manager of the particular facility.
- Visits should be kept short and a fair and consistent approach should be taken to ensure all candidates have the same opportunities to visit such facilities.
- Visits should not be used for publicity purposes.
- Visits should not interfere with the proper running of the facility and where they do the manager of the facility is entitled to immediately terminate the visit.

Please note the above procedure does not apply in certain circumstances, i.e. where the proposed visit is at the request of a resident in a Council facility, where the premises is leased by the candidate/party, where school and meeting rooms have been made available in accordance with legislation^[10] or where the visit is for the purpose of attending business/Council meetings etc.

3.1 Surgeries & Notice Boards

Public notification of existing councillors' surgeries should continue to be given however surgery notices on noticeboards should be monitored to ensure that they are reasonable in size and in quantity. Aberdeenshire Council prohibits the posting of election material which promotes a particular candidate or party on council premises and land, this includes roadside verges and street furniture/ lighting columns. If any costs are incurred in the removal of offending material, this will be borne by the appropriate candidate.

3.2 Councillors' Code of Conduct and support to Councillors

The Councillors' Code of Conduct^[11] states that Councillors *"will only use council resources, including employee assistance, facilities, stationery and IT equipment, for carrying out council duties in accordance with all my council's relevant policies"* and *"will not use, or in any way enable others to use, council resources...for any party political or campaigning activities or matters relating to these"*.

Each local authority has a statutory duty to 'promote the observance by its councillors of high standards of conduct and assist them to observe the councillors' code.'^[12] It is therefore vital that officers ensure not only that they do not contribute to the breaching of the councillors' code but that they actually assist councillors in observing the code. Existing councillors remain in post throughout the pre-election period and are accordingly entitled to support from officers in carrying out their Council business. However, where an officer receives a request from an elected member for services which that officer believes may be party political or campaign related, they should seek advice from their line manager in the first instance.

4 OFFICERS WHO HOLD POLITICALLY RESTRICTED POSTS

Under S2 of the Local Government and Housing Act 1989^[13], a number of local authority positions are designated as politically restricted posts. Each local authority is under a duty to draw up and regularly update a list of such posts^[14]. S1 (5) and (6) of the Act provides for the Secretary of State to enact regulations governing such posts. The resulting Local Government Officers (Political Restrictions) Regulations 1990^[15] provides the terms of appointment and conditions underpinning these posts. Restrictions on post holders include that they cannot:

- Be an officer of a political party or a committee or sub-committee member of a party or branch, if this entails involvement in the general management of, or acting on behalf of, the party or branch.
- Canvass on behalf of a political party or on behalf of a person who is or proposes to be a candidate for election.
- Speak to the public at large or to a section of it with the apparent intention of affecting public support for a political party.
- Publish (nor cause, authorise or permit any other person to publish) any written or artistic work if it appears to be intended to affect public support for a political party

Regarding the final two bullet points, please note that nothing in the 1990 Regulations prevents the officer from engaging in such activities 'to the extent necessary for the proper performance' of his/her duties.

Queries and Further Information

This guidance note is not intended to be used as a substitute for specific advice. If you have any queries regarding the pre-election period or require any further information on any aspect relating to this period please contact preelection.guidance@aberdeenshire.gov.uk for further assistance.

[1] Councillors' Code of Conduct, Annex A

[2] Sometimes known as 'Purdah'. Please note this term is not used by the Aberdeenshire Council in line with many other organisations, as the word has a specific meaning for some religious groups and its use in this context may be seen as being offensive.

[3] "'Publicity", "publish" and "publication" refer to any communication, in whatever form, addressed to the public at large or to a section of the public.' S6 (4) Local Government Act 1986. Forms of publicity include press releases, websites, leaflets, letters to editors, banners, badges, printed t-shirts etc.

[4] Please also note that S76 of the Representation of the People Act 1983 (as amended by the Representation of the People (Variation of Limits of Candidates' Local Government Election Expenses) (Scotland) Order 2012/16) limits the election expenses which may be incurred by or on behalf of candidates.

[5] As amended by S 27 of the Local Government Act 1988

[6] To read the Code in full please visit [Councillors' Code of Conduct | The Standards Commission for Scotland \(standardscommissionscotland.org.uk\)](https://standardscommissionscotland.org.uk)

[7] S6 (4) Local Government Act 1986

[8] <http://arcadialite.aberdeenshire.gov.uk/?p=14028>

[9] S96(4), Representation of the People Act 1983

[10] S96 Representation of the People Act 1983

[11] S1 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 charged Scottish Ministers with issuing a code of conduct for councillors setting out the principles and rules governing their roles. The (revised) Councillors' Code of Conduct came into force on the 7th December 2021 and can be accessed through this link: [Councillors' Code of Conduct | The Standards Commission for Scotland \(standardscommissionscotland.org.uk\)](https://standardscommissionscotland.org.uk)

[12] S 5(1) of the Ethical Standards in Public Life etc. (Scotland) Act 2000

[13] <http://www.legislation.gov.uk/ukpga/1989/42>

[14] For the list of politically restricted posts at the Aberdeenshire Council please see [Copy of RA-UR-SF-025-Politically Restricted Posts.xlsx](#)

[15] <http://www.legislation.gov.uk/uksi/1990/851/made>