

**Manchester City Council  
Report for Information**

**Report to:** Resources and Governance Scrutiny Committee – 1 March 2018

**Subject:** Guidance on Publicity and Events during the Pre-election Period ('Purdah') Local Elections

**Report of:** The City Solicitor

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**Summary**

This report provides guidance on the local authority restrictions in relation to publicity during the pre-election period (known as Purdah) which starts when the Notice of Election for the local elections is published on Wednesday 21 March 2018

**Recommendations**

The Committee is asked to note the guidance

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**Wards Affected:**

All Wards

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**Alignment to the Our Manchester Strategy Outcomes (if applicable)**

<b>Manchester Strategy outcomes</b>	<b>Summary of how this report aligns to the OMS</b>
A thriving and sustainable city: supporting a diverse and distinctive economy that creates jobs and opportunities	Not applicable
A highly skilled city: world class and home grown talent sustaining the city's economic success	Not applicable
A progressive and equitable city: making a positive contribution by unlocking the potential of our communities	Not applicable
A liveable and low carbon city: a destination of choice to live, visit, work	Not applicable
A connected city: world class infrastructure and connectivity to drive growth	Not applicable

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**Background documents (available for public inspection):**

The following documents disclose important facts on which the report is based and have been relied upon in preparing the report. Copies of the background documents are available up to 4 years after the date of the meeting. If you would like a copy please contact one of the contact officers above.

- The Code of Recommended Practice on Local Authority Publicity:-  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/5670/1878324.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/5670/1878324.pdf)
- Section 2 of the Local Government Act 1986:-  
<http://www.legislation.gov.uk/ukpga/1986/10/section/2>

**Manchester City Council**  
**Memorandum to Chief Officers/Strategic Directors and Heads of Service**  
**Guidance on Publicity and Events during the Pre-election Period**  
**(‘Purdah’) Local Elections – Thursday 3 May 2018**

Local government elections for Manchester City Council are to be held on **Thursday 3 May 2018**. Due to changes to ward boundaries these elections will be “all out”, meaning that all three councillor positions within each of the Council’s thirty two wards will be up for election. In the lead up to these elections there is a pre-election period (commonly known as ‘purdah’), which starts when the Notice of Election for the local elections is published on **Wednesday 21 March 2018**<sup>1</sup> and ends when the elections are over. It should also be noted that an election of parish councillors for Ringway Parish Council is scheduled for the same date as the Manchester City Council elections.

While there are certain legal restrictions applying to local authority publicity at all times, during the pre-election period local authorities are required to take particular care regarding publicity to ensure that communications are balanced and without bias, and that there is no appearance of support for any particular party or individual seeking election. However, the essential business of the Council should continue subject to the restrictions applying during the pre-election period.

It is important that all Council staff and Council Members are aware of the pre-election restrictions and how they apply.

**This guidance covers:**

- What is defined as ‘publicity’
- Key points to consider for officers in the run up to an election
- How the restrictions will work in practice
- Where to seek further guidance

**1. What is defined as ‘publicity’?**

Section 6(4) 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**”. This includes the more obvious forms of communication such as

- Public meetings
- Speeches
- Leaflets/newsletters
- Press releases
- Posters
- Websites and social media
- Radio/TV interviews

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<sup>1</sup> This represents an earlier than usual publication of the notice of Election

However, it can also include less obvious forms of communication, including for example:

- Sponsorship
- Badges
- Printed T-shirts and carrier bags
- Events (such as exhibitions plays and conferences)

## 2. Key points for officers to consider

Part II of the Local Government Act 1986 and the Code of Recommended Practice on Local Authority Publicity made under it ('the Publicity Code') apply to all local authority publicity at any time, but in the pre-election period further rules apply and the provisions applying to publicity generally increase in importance.

Section 2(1) of the Local Government Act 1986 states that:

**“A local authority shall not publish, 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.”**

When considering whether or not a particular piece of Council publicity would contravene this prohibition various factors should be taken into account, including:

- The content and style of the material
- The timing and other circumstances of the publication
- The likely effect of the material on those to whom it is directed
- Whether the material refers to a political party or to persons identified with a political party
- Whether the material 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

Additionally, the Publicity Code states that local authority publicity must be lawful, cost effective, objective, even-handed, appropriate, have regard to equality and diversity, and issued with care during periods of heightened sensitivity. It also provides that during the pre-election period the Council should avoid publishing any publicity on controversial issues or report views or proposals in such a way that identifies them with any individual Members or groups of Members.

The Council is prohibited from giving financial or other assistance to a person for the publication of material which the Council is prohibited from publishing itself. Any Council controlled or influenced company is also prohibited by Article 5 of the Local Authorities (Companies) Order 1995 from publishing material which, if it was published by the Council, would contravene section 2(1) of the Local Government Act 1986. The Council is under a legal duty to ensure so far as is practicable, that any company under its control complies with this prohibition.

### **3. How the restrictions will work in practice**

The following guidance is intended to give an overview of how the restrictions of the pre-election period will work in practice (a number of illustrative scenarios are also included in the appendix to this document). The approach to be taken in specific cases will depend upon the particular facts and circumstances.

#### **Council Business:**

The pre-election restrictions are not intended to restrict Council business and decision making. Meetings and decisions can, in principle, continue as normal. However, regard should be given to any publicity that will arise from “business as usual” and the Council should avoid scheduling decisions on any controversial issues during the pre-election period unless to do so is essential for legal, contractual or financial reasons, or to urgently address a serious issue concerning public safety.

#### **Council Communications:**

Standard practice during the pre-election period is that there should be no proactive publicity of any sort relating to issues of political controversy, particularly any publicity that would require the involvement of individual Members or a political group. Press releases and publicity can be issued on routine Council business, though care should be taken to ensure information communicated is factual, makes no reference to individual Members or political groups and is not controversial. Publicity should portray Council decisions as made by the Council as a whole and not by a particular Member or political group and should avoid including quotes from individual members.

Occasionally, it may be necessary for the Council to publicly respond to significant events outside of its control. In these instances, Members holding relevant Executive portfolios can comment via Council-issued publicity provided that the information is factual and not party political. Where officers are asked to comment, it should not be in such a way that it identifies officers with individual Members or groups of Members.

Publicity materials of a political nature will not be permitted on any Council website or any social media accounts maintained by the Council. This includes the hosting of material which is created by third parties and links to other websites containing political material. Election notices and information published by the Returning Officer can however be published on the website.

Particular care should be taken with published photographs. Photo opportunities which could be seen as giving an unfair advantage to any candidate or party should not be organised or promoted by officers. The context in which photos are used is important. Photos taken previously may be deemed unsuitable for use in the context of the pre-election period. For example, a photograph of the Lord Mayor wearing the chain of office may seem quite innocuous, but if reprinted in an election leaflet could be deemed to be of a ‘political’ nature and may give rise to complaint.

Care should also be taken to avoid holding public consultations on politically controversial matters during the pre-election period. Unless there is a statutory obligation requiring the Council to consult during the pre-election period, any such consultations should be rescheduled if possible.

### **Council Events:**

Pre-election restrictions apply to events organised by the Council that are open to the public or a section of the public, or where the media may be present. Officers should not be involved in public events attended by candidates (including Members who are standing as candidates or acting as agents). Such events should not be used to publicise candidates, their parties or the policies or candidates they support and should, if possible, be postponed. It is better to avoid proactively scheduling PR events and photo opportunities that have any potential to be seen in that light during the pre-election period if possible.

Once a public event has been arranged it is difficult to prevent candidates from attending. The safest approach is to ensure that such events are wherever possible scheduled outside the pre-election period. If an event must take place during the pre-election period, it should not provide publicity or a platform for candidates.

Council meetings may continue as planned, although regard should be had to the guidance on "Council Business" above.

### **Council Venues:**

No political posters or leaflets should be displayed on any Council premises or vehicles. It is an offence under the Town and Country Planning Act 1990 to carry out flyposting and it is also an offence to deface traffic signs which are the property of the Highways Authority.

There are legislative provisions allowing candidates to use, free of charge during a specified period ahead of the election, certain publically funded meeting rooms and suitable rooms in certain school premises for public meetings in furtherance of their candidature. However, there are detailed requirements surrounding the exercise of this right and candidates should not be permitted to use Council facilities in this way without officers first having obtained advice from the Council's Electoral Services Unit.

Other than where the statutory right referred to above is engaged, requests by candidates or other political figures to visit Council premises should be refused where there is any potential for Council premises or facilities to be utilised for political publicity (such as the carrying out of a campaigning 'walkabout' for example). For the avoidance of doubt, this prohibition does not prevent Members acting on Council business from attending Council premises.

Permitting filming or photography inside Council premises or on Council land may contravene Section 2 of the 1986 Act if it is for the purposes of party political publicity. Filming/photography inside Council premises is allowed to the extent that it is permitted by regulations made under the Local Audit and Accountability Act 2014 which relate to the filming, recording and broadcasting of local authority meetings held in public. However, the potential for such meetings to be broadcast is a factor which may need to be taken into consideration when coming to a view as to whether it is appropriate for the meeting to proceed during the pre-election period.

### **Council Members:**

Individual Members can generate their own publicity during the pre-election period subject to their own party's protocols. The pre-election restrictions only apply to Council organised publicity or publicity otherwise utilising Council resources.

Members should be aware that Council resources should not be used for political purposes. This includes the Council's printing or photocopying facilities and any ICT facilities provided by the Council. Members and candidates should instead use their own facilities and resources or those of their party.

### **Council Staff:**

Council staff should not assist any Member, candidate or agent, or any other person, in preparing or publishing any political publicity material.

Officers who hold politically restricted posts, or who are likely to be involved in or employed in connection with the administration of the elections, should be reminded of their obligations not to take part in the political campaign or canvass on behalf of a political party or candidate, even when acting in a personal capacity outside of their working hours.

Officers must not allow the discharge of their duties to be affected by undue influence or pressure from Members to resolve issues outside of standard procedures, as this may be seen as giving electoral advantage. It would also be wholly inappropriate for officers to deal with any matters relating to selection procedures for candidates, political differences between two or more political groups, or internal party issues.

## **4. Where to seek further guidance**

- As in previous years Chief Officers/Strategic Directors will be taking responsibility for ensuring that meetings, events and other publicity are in accordance with the restrictions on pre-election publicity. They must be contacted with queries regarding such matters in the first instance. If having contacted the relevant Chief Officer/Strategic Director a query remains unresolved, it may then be directed to the Democratic Services Legal Team for advice via: [demserv@manchester.gov.uk](mailto:demserv@manchester.gov.uk)
- The Electoral Services Unit can be contacted regarding candidates' statutory right to use certain meeting rooms and suitable rooms in school premises in the run up to the election via: [esu@manchester.gov.uk](mailto:esu@manchester.gov.uk)

- The Code of Recommended Practice on Local Authority Publicity can be found here: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/5670/1878324.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/5670/1878324.pdf)
- Section 2 of the Local Government Act 1986 can be viewed here: <http://www.legislation.gov.uk/ukpga/1986/10/section/2>



## APPENDIX – ILLUSTRATIVE SCENARIOS

These examples are provided simply to give guidance as to the type of situations which could arise. In practice each situation must be considered on its own facts and officers should exercise caution and seek guidance as indicated above wherever there is any uncertainty.

1. A local campaign group have a meeting scheduled to discuss a report highlighting potentially harmful impacts on air quality and highway safety of a development proposal backed by the Council. A Council officer has been invited to attend the meeting. It is a public meeting on a subject which has generated considerable public opinion and there is therefore the possibility that one or more of the candidates might attend the meeting. The issue that the Council must consider is whether its officer should attend. An important factor to consider is that the subject matter of the meeting is linked to the Council and appears to potentially be politically controversial. If, despite this, the decision is for the officer to attend they should be briefed as to how to manage any issues that may arise, particularly as, in the event that one or more of the candidates does attend, the officers should be advised to withdraw from the meeting. As it is a public meeting the press may be involved – photographs or statements must be very carefully managed and if not previously agreed they should be declined by the officers. In the circumstances, given the potentially controversial subject matter of the meeting, the safest approach would be for the officer not to attend even if no candidates were expected to be in attendance.
2. A publicity campaign has been proposed on the part of the Council, together with NHS Trusts, which is aimed at encouraging people to be more active and promoting the use of sustainable transport alternatives such as walking and cycling and encouraging people to use public transport. The proposal is for advertisements on bus shelters and at metro stops and flyers in community buildings and GP surgeries. This would not appear to be a controversial issue or to be aligned with a particular party and would not normally contravene the publicity restrictions.
3. A community spring clean event has been organised by a local community group to take place during the pre-election period. Members of the public and local political figures (including a candidate at the elections) are involved in the event, which has already been publicised on a social networking site by community members. A request has been made for officers to attend and assist with the event. During the pre-election period officers should not be involved in public meetings where candidates are present. This is to avoid any suggestion that the Council or its officers are supporting any particular candidate or party. Although this may not appear to be a “public meeting” in the traditional sense, it is nonetheless an event where officers and a candidate will both be present with members of the public. Furthermore, given that the event has already been publicised it is likely that there will be further publicity on the day. As candidates are involved then, assuming the event cannot be moved to outside of the pre-election period, it would be advisable if officers politely decline to attend the event and explain to the organisers why they are unable to take part.

4. An officer is meeting with a service user during the pre-election period. The service user has asked their local ward Councillor to support them at the meeting. The Councillor concerned is a candidate at the elections. As this is a closed private meeting that is not open to the public as a whole or to what might reasonably be considered to be a "section of the public", there should not be an issue with the officer attending the meeting.