

Police Authority Publicity and Elections

1. STATUTORY POSITION FOR AUTHORITY PUBLICITY

1.1 The Authority must comply at all times with both the statutory restrictions on publicity Acts 1986 and 1988, and the national Code of Recommended Practice on Publicity (issued under the 1986 Act) – see www.communities.gov.uk/documents/localgovernment/rtf/153169.rtf

1.2 Under Section 2 of the 1986 Act, and Section 27 of the 1988 Act, a local authority shall not publish any material which, in whole or in part, appears to be designed to affect support for a political party. In determining whether material falls within this prohibition, regard shall be had to the content and style of the material, the time and other circumstances of its publication, and the likely effect on those to whom it is directed. The legislation makes specific reference to:

- 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 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 campaigning appears to be designed to achieve.

1.3 The above restrictions apply to all parts of the local authority's operation, and not just to its marketing and PR operation.

1.4 The restrictions do not stand alone, and have to be read in conjunction with other legislation which justifies local authority funding or activity as part of the provision of a function or service of the local authority. Under Section 111 of the Local Government Act 1972 a local authority has the power to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions. Under Section 2 of the Local Government Act 2000, a local authority has a general power to promote or improve the economic, social or environmental wellbeing of its area, but in doing so it must have regard to the community strategy for its area.

1.5 The above restrictions apply to local authority publicity at all times. However, the Code states that, "*the period between the notice of an election and the election itself [the purdah period] should preclude proactive publicity in all its forms of candidates and other politicians involved directly in the election. Publicity should not deal with controversial issues or report views, proposals or recommendations in such a way that identifies them with individual members or groups of members ... Proactive events arranged in this period should not involve members likely to be standing for election*".

2. AUTHORITY PUBLICITY AND ELECTIONS – GENERAL

2.1 This Protocol is based on the Code of Recommended Practice on Local Government Publicity, and the Local Government Information Unit (LGIU) guide to the Code, 'The Right Side of the Law'.

2.2 The LGIU policy briefing was issued in March 2003, following the adoption of new executive arrangements from 2001, and the changes made to the Code of Conduct in 2001 to reflect this. The latter tightened the restrictions around elections, and in particular stated that authorities should stop all forms of proactive publicity relating to candidates and other politicians directly involved in elections.

2.3 There are three reasons to be cautious about publicity and other media events in the run-up to an election:

- The statutory restrictions on publicity contained in the Local Government Acts 1986 and 1988, and the national Code of Recommended Practice on Publicity (see above).
- Members must also comply with the Authority's Code of Conduct, drawn up in accordance with the Local Authorities (Model Code of Conduct) Order 2007, adopted by the Authority on 27 July 2007 (*Members' Handbook, B14*). This says that members must not use their position as a member to confer on or secure an advantage for themselves or any other person; and must ensure that the Authority's resources are not used improperly for political purposes (including party political purposes). Acting in breach of the Code could result in a complaint to the Standards Board.
- There are strict controls on the amount that a candidate can spend on election campaigns, and all expenses must be declared. Members who are candidates should not put themselves in a position that attracts a claim that they are using Authority resources for campaign purposes, in which case they would have to pay and declare the cost of those resources.

2.4 The Code of Recommended Practice states, amongst other things, that proactive events organised at election time should not include members standing for election, and that the safest policy between the notice of the election being published and polling day is to avoid mention of any councillor member who is seeking election. On press releases, it says that the safest route is not to mention members standing for election; and if it is necessary to have a member comment, also to consider including a quote from an opposition member.

2.5 The national Code is a statutory code of recommended practice, and authorities must have regard to its provisions in coming to any decisions about publicity; it applies to publicity issued by local authorities but not normally to other bodies

2.6 Lead members and committee chairs who are councillors may speak on and be associated with matters falling within their area of responsibility, so long as the law and the essential principles of the code of practice are not infringed.

2.7 The LGIU briefing states that there is no need to cease all proactive publicity during election periods, so long as the authority is mindful of the broad restrictions set out in the code

3. AUTHORITY PUBLICITY AND LOCAL ELECTIONS

3.1 Publicity is defined as any communication, in whatever form, addressed to the public and includes news releases, Authority publications, newsletters, e-mails, the Authority's website and consultation activities.

3.2 During the purdah period before a local election (i.e. from the date the notice of the election is published), members and officers should apply the following principles arising from the Code, subject to the merits of each individual case, and to none of the cases involving an event or issue which is politically controversial or clearly associated with a political campaign:

1) Lead members or committee chairs who are councillors may take part in events organised by the Authority which relate directly to their portfolio area, where the event is in respect of a Authority initiative that is already in the public arena and which has been approved by the Authority and where the timing of the event is incidental to the election process.

2) For such events, the Authority may issue press releases which refer to the lead members or committee chairs, but should not refer to or include quotes by them. The Authority will not arrange publicity events/photo calls for members involved in elections – it should be noted that this may include events taking place before the purdah period commences where the resultant publicity may realistically be expected to appear during the purdah period. As a guide this may be 7-10 days before a local newspaper's publication date.

3) Lead members or committee chairs who are councillors may also take part, by invitation, in events relating to their portfolio area which are arranged by another organisation and as a result may receive publicity independently of the Authority.

4) Councillor members (including the chairman, vice-chairman and leads) should not take part in any Sussex Police event where it may reasonably be expected to gain publicity. In the event of unexpected publicity arising from such event, members should avoid comment and refer enquiries to the press and public relations officer.

5) In the event of an emergency or other significant event outside of the Authority's control, comment should be made by a senior independent member, the chief executive, deputy chief executive or the press and PRO.

6) The Code does not prevent councillor members who are permitted to comment on the Authority's behalf (see Sussex Police Authority Communications Strategy) from responding to media enquiries made directly to them about Authority business or issues with which they are directly connected, but responses to these must not be used as a means of canvassing.

7) The following may be considered to be acceptable events and activities involving members who are candidates, subject to the event or activity not promoting the election or the councillor as a candidate, as follows:

- Sending letters or e-mails relating to Authority issues – so long as it is the member's regular practice to send them, and they are limited to information about the Authority.
- Public consultation meetings – so long as they are provided as part of the normal business of the Authority and are part of an agreed programme of work; care should be taken to ensure that they do not look as though they have been arranged as a potential opportunity for campaigning. This does not include joint meetings (such as street briefings) with Sussex Police – see note 4 above.

4. AUTHORITY PUBLICITY AND SUSSEX MPs

4.1 The general position with regard to invitations and publicity outside the election purdah period is set out in the ***Guidelines on Working with Sussex MPs***. This also deals with briefings, and facilities.

4.2 The position is different with regard to prospective parliamentary candidates (PPCs). They have no rôle as PPCs in any Authority event or publicity.

4.3 The position will be complicated if a situation arises where any of the PPCs are serving members of the Authority, whether councillor or independent. They will continue to have a reason to be involved in events and publicity where this flows from their rôles as a member, and which may include Authority and committee motions which they move or second and which are carried.

5. AUTHORITY PUBLICITY AND PARLIAMENTARY ELECTIONS

5.1 This part of the Protocol applies to the purdah period for a parliamentary election, following the dissolution of Parliament. From that date, the county's MPs cease to be MPs. If they have been re-selected to stand, their status will be as a parliamentary candidate; if they have not been selected to stand, or are retiring, then they will have no formal political status.

5.2 In addition, during the purdah period any members who are candidates must be treated as parliamentary candidates and not as councillors.

5.3 The general election is for Parliament and therefore the focus of attention regarding publicity and PR will be on parliamentary candidates.

5.4 The Authority must comply with both the statutory restrictions on publicity contained in the Local Government Acts 1986 and 1988, and the national Code of Recommended Practice on Publicity (issued under the 1986 Act).

5.5 The Code is written primarily with local elections in mind (hence the reference to Members). However, the same principles will apply with regard to parliamentary candidates, and other politicians who are actively involved in the election.

5.6 The Authority may continue to issue publicity and promote events relating to its ongoing activities as a police authority, and that part of this protocol will continue to apply, subject to the events or publicity not involving any of the parliamentary candidates, whether a member of the Authority or not.