

## **EAST HERTFORDSHIRE DISTRICT COUNCIL**

### **MEMBER/OFFICER RELATIONS PROTOCOL** **(Including Guidance on Access to Information)**

---

#### **A INTRODUCTION**

---

1. Following the adoption of the Code of Conduct for Members, the opportunity has been taken to produce the Protocol with regard to Member/Officer Relations. This protocol includes some general guidance on Access to Information.
2. Given the variety and complexity of Member and Officer relations, this Protocol does not seek to cover everything or be prescriptive in its application. General guidance is offered on some of the issues that most commonly arise or cause concern. It is hoped, therefore, that the approach which this Protocol adopts will serve as a guide to dealing with other issues that may arise from time to time.
3. This Protocol seeks to encourage best practice and to promote greater clarity and certainty between the various relationships. If Members are unsure about any matter, they should contact the Monitoring Officer for appropriate advice and assistance. If Officers are unsure about any matter, they should contact the relevant Executive Director, Assistant Director and/or the Monitoring Officer. If there is any disagreement in the interpretation of this Protocol, the opinion of the Monitoring Officer will prevail.
4. Where appropriate, the Monitoring Officer will also consult the Chief Finance Officer, the Head of Paid Service and the Leaders of the Political Groups on any further general guidance. In addition, there will be a specific code for planning matters and it is anticipated that a national code will be introduced for Officers. Members and Officers should, therefore, keep abreast of such issues and respect each other and not do anything to bring the Council, their offices or professions into disrepute.

---

## **B GENERAL MEMBER/OFFICER ISSUES**

---

5.1 The opportunity is taken to **reinforce** the following points:-

- (i) In order to ensure the business of the Council is transacted in an effective and efficient manner and with a view to ensuring that the Council is not brought into disrepute, the **key guiding principle** for Members and Officers has to be one of “**engendering mutual trust, openness, honesty, fairness, transparency and treating everyone with respect**”;
- (ii) Officers, being employees of the Council, must act in the best interests of the Council, as a whole and must not give politically partisan advice. Anyone breaching this requirement will face disciplinary action;
- (iii) Political Group meetings, whilst they perform an important part in the preliminaries to Council decision-making, are **not** formal decision-making bodies of the Council and, as such, are **not** empowered, even under the new constitutional arrangements, to **make** decisions on behalf of the Council. Conclusions reached at such meetings do not, therefore, rank as **Council** decisions and it is essential that Members and Officers understand and interpret such decisions accordingly;
- (iv) Officer support to Political Groups must **not** extend beyond providing information and advice in relation to **Council business** (not Party politics/business);
- (v) It is good practice for Party political debates and decision-making to take place **in the absence of** Officers, in order to avoid any suspicion of impropriety or misunderstanding;
- (vi) Officers must respect the confidentiality of any Political Group discussions; and
- (vii) any breach of this part of the Protocol by an Officer must be brought to the attention of the Head of Paid Service and/or

the Monitoring Officer for consideration.

### **Legal and External Audit Considerations:**

- 5.2 Members of the Council do not, as elected Members, have any special immunity from civil or criminal wrongs that they may commit against fellow Members, Officers or members of the public. Members must abide by the Code of Conduct for Members and ensure they do not, for example, slander or libel another person. During the course of their normal duties for the Council, Members will, therefore, only have a qualified (not absolute) protection against prosecution or civil action.
- 5.3 Members must also not pressurise Officers to change their professional opinions on any Council business matter or do anything that compromises, or which is likely to compromise, the impartiality of Officers or those who work for, or on behalf of the Council. It is also imperative that Members are clear about their roles and the roles of Officers, so as to avoid getting inappropriately involved in, for example, the internal office management, discipline and/or other employment related issues, as the actions of the Member(s) may be held to be the actions of the Council, as an “employer”.

### **Standards Board for England Issues:**

- 5.4 Any member of the public (including Members and Officers) can complain to the Standards Board for England against an alleged breach of the Code of Conduct for Members and/or bring private civil litigation proceedings against an elected Member. The External Auditor can also take legal action against an elected Member and the Council, as a whole, for any breaches of law.

### **Public Relations Issues:**

- 5.5 The Council’s Communications Section are responsible for dealing with the press and other media organisations on behalf of the Council. It is important, therefore, that all official communication relating to the Council (but not party political or private matters) is dealt with by this Section, so as to ensure the proactive, effective and efficient management of the Council’s public image, relations and interface.

---

## **C SPECIFIC POINTS ON MEMBER/OFFICER RELATIONS**

---

- 6.1 The relationship between Members and Officers generally is characterised by mutual trust, respect and courtesy. These are **essential** for good local government and serve to enhance local democracy.
- 6.2 Close personal familiarity between individual Members and Officers can damage professional relationships and can prove embarrassing to other Members and Officers. Situations should be avoided, therefore, that could give rise to suspicion and/or appearance of improper conduct of behaviour. This includes excessive socialising between Members and Officers.

### **Employer/Employee Issues:**

- 6.3 Any dealing between Members and Officers should, therefore, be conducted with mutual trust, respect and courtesy, and neither party should seek to take an unfair advantage. In particular, Members should recognise and pay due regard to their role as an employer in their dealings with Officers, as Officers could use inappropriate behaviour and conduct of Members in bringing employment cases against the Council. In particular, it is quite proper for a Member to make written/oral representations about a constituent employee to the relevant Executive Director or Assistant Director, but the Member should avoid taking a proactive part to represent or in any other way advocate on behalf of any such employee in any disciplinary procedures brought by the Council against any such employee.
- 6.4 Members must, in particular, guard against putting inappropriate pressure on junior officers and must ensure that all communication between them (including written communication) does not bring the Council into disrepute, cause any embarrassment to them, or lead to the breakdown of mutual trust, respect and courtesy in Member/Officer relations.
- 6.5 In seeking advice and support, Members should have due regard to the seniority of the Officer with whom they are dealing and recognise that, whilst those Officers owe an overriding duty to the Council as a whole, such duties are first expressed to their respective line managers and not to any individual Member. For

this reason, Members should not give direct instructions to staff.

### **Equality Issues:**

- 6.6 The Council has statutory duties with regard to equality issues and in accordance with the Code of Conduct for Members, Members must also promote equality by not discriminating against others. Members and Officers shall not, therefore, by their behaviour or speech act discriminatorily with regard to, for example, a person's gender, race, disability, religion, ethnicity, nationality or sexual orientation. Such principles will apply to the implementation of personnel policies, recruitment and promotion as they apply to day to day dealings with fellow human beings.

### **Officer Conduct or Capability Issues:**

- 6.7 Members should not raise matters relating to the conduct or capability of an Officer (or of Officers, collectively) at meetings held in public or before the Press, as Officers have no means of responding to the same in public. If Members feels that they have not been treated with the proper mutual trust, respect or courtesy or has any concern about the conduct or capability of an Officer, they should raise the matter, in private, with the relevant Officer and, if necessary, the relevant Executive Director or Assistant Director. Any concerns with regard to a Assistant Director should be discussed in private with the relevant Executive Director.
- 6.8 Members will be in breach of the Code of Conduct for Members if they require any Officer:
- (a) change any professional advice; or
  - (b) take any action which the Officer considers to be unlawful or illegal or which could amount to maladministration or breach any relevant Codes of Conduct (including professional codes of conduct).

### **Monitoring Officer/Chief Finance Officer Consultation:**

- 6.9 Members are required to consult with the Monitoring Officer and the Chief Finance Officer over any legality, maladministration, financial impropriety, or probity issues or where they have any doubt as to whether particular decisions are or were likely to be contrary to the Council's policy framework, the budget or the law.

Inappropriate or late consultation will not satisfy the need to consult those Officers at the relevant time.

**Political Groups:**

- 6.10 Members of the Executive, Scrutiny and Regulatory Committees shall, at all times, respect the political impartiality of Officers and must not expect or encourage Officers to give a political view on any matter.
- 6.11 For the avoidance of doubt, it must be recognised by all that, in discharging their duties, Officers serve the Council, as a whole, and not exclusively any Political Group, combination of groups, or any individual Members.
- 6.12 Officers may properly be called upon to support and contribute to the deliberations of Political Groups but they must at all times, maintain political neutrality. This applies, in particular, to Politically Restricted Officers, who are governed by the Local Government and Housing Act 1989. All Officers must, in their dealings with Political Groups and individual Members, treat them in a fair and even handed manner.
- 6.13 Any request for advice given to a Political Group or Member will be treated with the strictest of confidence by the Officers concerned and will not be accessible to any other Political Group(s). Factual information upon which any advice is based will, if requested, be available to all Political Groups.
- 6.14 When attendance is requested for Political Group meetings:
- 6.14.1 the request to attend a Political Group meeting must be made through and approved by the relevant Executive Director;
- 6.14.2 such a request can only be made in relation to Council business; and
- 6.14.3 Officers will:-
- (i) provide relevant factual advice and assistance;
  - (ii) leave during the deliberations of the Political Group on the issue;

- (iii) respect the confidentiality of any Political Group decision at which they are present; and
- (iv) not champion, defend, action or spend any resources of the Council, or be held responsible for actioning in any way whatsoever the decisions of the Political Group(s), unless and until such decisions have become the formal decisions of the Council.

---

## **D SPECIFIC POINTS ON OVERVIEW AND SCRUTINY ARRANGEMENTS**

---

- 7.1 The Council's Overview and Scrutiny Committees will seek the advice of:-
- (a) the Monitoring Officer, where they consider there is doubt about the legality of any Executive decision(s); or
  - (b) the Monitoring Officer and other relevant Executive Directors and Assistant Directors, where they consider a decision (or decisions) of the Executive might be contrary to the Council's policy framework.
- 7.2 When considering calling Officers to give evidence to any Overview and Scrutiny Committee, the Chairman of that Committee shall not, without the consent of the relevant Executive Director, request the attendance of a junior officer.
- 7.3 When asking Officers to give evidence before any Overview and Scrutiny Committee, questions should be confined, so far as is possible, to questions of fact and explanation of any professional opinion relating to policies and decisions. Officers must respond to questions from Members in an open, constructive and helpful manner. Officers must not mislead or be economical with the truth.
- 7.4 Where they consider it appropriate, the Chairmen of the relevant Overview and Scrutiny Committee may ask Executive Directors and Assistant Directors to explain any advice given by them to Members of the Executive and explain any decision(s) the Executive Directors or Assistant Directors may have taken under the Scheme of Delegations to Officers. For the avoidance of doubt,

any private or confidential matter must be dealt with in a private or confidential manner.

### **Unacceptable or Inappropriate Behaviour:**

- 7.5 The Relevant Chairman of the Overview and Scrutiny Committee shall ensure that Members of the Executive and Officers are not questioned (whether through the nature, tone or language used), in such a manner as could be considered by a reasonable person to be hostile, offensive, derogatory, harassing, bullying, victimising, discriminatory or otherwise unacceptable or inappropriate behaviour by a Member. Equally, it has to be recognised that such Committees have no jurisdiction to deal with matters, which are of a disciplinary nature for the relevant Political Group (in respect of Members) or the relevant Executive Directors (in respect of Officers).
- 7.6 Any allegation of unacceptable or inappropriate behaviour by a Member, as set out in paragraph 7.5, will be reported to the Leader of the relevant Political Group for consideration and/or the Standards Board for England, if there has been a breach of the Code of Conduct for Members. The relevant Leader may also refer the matter to the Standards Committee for consideration, guidance or sanction, if the matter is not a breach of the Code of Conduct for Members, but may be a breach of protocols.

---

## **E ACCESS TO INFORMATION – ‘Need to know’**

---

### **Statutory provisions**

10. The Local Government (Access to Information) Act 1985 (which is Section 100F of the Local Government Act 1972) was introduced **to give additional rights** to Elected Members. The Act was at pains to stress that these rights were in addition to those at common law.
11. Section 100F makes it clear that any document which is in the possession or under the control of the Council and contains material relating to any business to be transacted at a meeting of the Council, or a committee or a sub-committee of the Council, **subject to confidentiality provisions**, will be open to inspection



by a Member of the Council.

12. Section 100F does not, however, go as far as the common law, vis-à-vis, the Committee Member. For non-Committee Members, their position is enhanced by section 100F. In both cases, however, if there appears to be confidential/exempt information, by virtue of the other parts of the Act, there is still the discretion for the relevant Proper Officer to withhold the confidential/exempt information.
13. It is also a matter of fact as to whether or not the information is 'in the possession or under the control of the Council'. The key issue to be determined is whether or not the information belongs to the Council or another person. If it belongs to another person, Officers will only release any confidential information, as defined in the Local Government Act 1972 S.100A, after an appropriate consent to release such information has been obtained from the relevant person. Officers will not, therefore, "hand over" their files to a Member, without the Officer being clear about the reasonableness of the request and the Officer's ability to share confidential information with a Member. If Officers are unsure about a request for information, they must discuss the same with their line manager and/or the Monitoring Officer.
14. Under the Local Government Act 2000 Executive arrangements and subject to important exceptions (see paragraph 15 below), any relevant document which -
  - (a) is in the possession, or under the control, of the Executive; and
  - (b) contains material relating to any business to be transacted at a public meeting of the Council, will be available for inspection by Members of the Council.

If, however, the meeting is a private one (including a key decision by the Executive) any relevant document will be available for inspection after the meeting or immediately after a decision has been taken.

15. The exceptions, to the above general requirement of paragraph 14, are that -

- (a) exempt information (under paragraphs 1-6, 9, 11, 12 and 14 of Part 1 of Schedule 12A of the Local Government Act 1972 – see paragraph 18 below) would be disclosed; or
  - (b) the document (or part of it) would involve the disclosure of advice provided by a political adviser or assistant.
16. In addition to the above and subject to important exceptions (see paragraph 17 below), an Overview and Scrutiny Committee Member will be entitled to a copy of the relevant document which -
- (a) is in the possession or under the control of the Executive;
  - (b) contains material relating to:-
    - (i) any business carried out at a private or public meeting of the Council;  
(A private meeting is a meeting of the Executive (or its Committees) where it is not required to be held in public, e.g. because it is a briefing meeting.
    - (ii) any key decision of the Executive.
17. The exceptions to the above general requirements of paragraph 16 are that:-
- (a) such a document (or part of it) contains exempt or confidential information, unless it is relevant to any action or decision being reviewed or scrutinised under the overview and scrutiny arrangements; or
  - (b) the document (or part of it) would involve the disclosure of advice provided by a political adviser or assistant.
18. For the purposes of completeness, **Annex A** provides an extract of the statutory exempt information paragraphs, which permit reports to be considered in private. As a **guiding principle** and in keeping with good open government, Members of the Executive, Chairmen of relevant Committees and Officers will ensure that, so far as is possible and permitted by law, reports are considered in public. If Members or Officers have any concerns over whether a private report ought to be (or should have been) considered in public, they should raise the matter, at the earliest opportunity, with the relevant Executive Director, Chairman of the Committee or the

Monitoring Officer for a decision.

### **Common law principles**

19. In addition to the statutory provisions, the common law right of members to access information is based on the principle that Members have a *prima facie* right to inspect Council documents *so far as access to the documents is reasonably necessary to enable Members properly to perform their duties as Members of the Council*. This principle is commonly referred to as the “need to know” principle.
20. This principle applies equally to Leaders of the Political Groups and, under common law principles, the courts have not determined that any Leader has an ‘automatic’ right to information. Accordingly, for the purpose of legal considerations, Leaders are treated as ordinary Members, if they wish to see Council documents; although they will, in most situations, be able to readily satisfy the ‘need to know’ requirements on the submission of reasonable information or by reasonable implication to substantiate the same. Leaders of Political Groups will, therefore, still have to demonstrate that their request is a proper and reasonable one and give adequate reasons for requiring the information.
21. In addition, it should be remembered that the access to information right will vary from Member to Member, which will arise at different times and, as such, a Member’s ‘need to know’ will be considered on a **case by case basis** and will not last indefinitely.
22. The above statements on the common law position are subject to **additional safeguards** to protect Council information; namely, if the motive of a Member requesting to see documents is indirect, improper or ulterior, this may be raised by the Council as a bar to the Member’s entitlement to inspect documents that are addressed to the Council. The entitlement of a relevant Committee Member to inspect documents of the Committee is a strong one and certainly stronger than that of a non-Member of the Committee. However, as indicated earlier, the rights of the former are not absolute, as it would still be open to the Committee/Council to raise a bar to the exercise of such a right on the grounds of the Member’s motives being improper, indirect or ulterior.

23. Furthermore, the law does not entitle a Councillor to go on a “roving or a fishing expedition” or to receive every working document that Officers have access to or may have had access to in the past. Councillors will only be entitled to see those documents that are **relevant background papers** mentioned in any report received by the (Sub-) Committee or other reasonable requests for relevant papers in order to comply with their ‘right to know’. Clearly, any confidentiality attached to the same remains and the same must be kept confidential and not released to any other person. This includes, of course, members of the press. A breach of confidence by a Member is actionable by way of a complaint to the Standards Board for England. If the breach is serious enough, the person whose confidence has been destroyed may also bring a civil action against the Member (and/or the Council) for damages.
24. A balance has, therefore, to be struck between a Member’s right to know and an individual’s/business/organisation’s need for confidentiality, as defined in the Local Government Act 1972 S.100A; especially where the individual/business/organisation has requested confidentiality of the information provided to Council Officers.
25. If any confidential information is contained in public documents then it will, of course, lose its confidentiality. Equally, draft working documents are subject to change and it is reasonable for those documents to be withheld until the matter is formally reported to the relevant committee/decision maker.
26. The Freedom of Information Act 2000 will bring additional rights, responsibilities and safeguards regarding confidential information. The Act will become fully operational in January 2005. A “Publication Scheme” has been produced by the Council. This Protocol will, therefore, be revised to reflect any necessary changes brought about by the Act.

---

## **G COUNCIL PUBLICITY**

---

27. During the election period, special rules apply with regard to local authority publicity. For ease of reference, an extract from “The

Code of Recommended Practice on Local Authority Publicity” appears at **Annex B** to this Protocol. Members and Officers should also refer to the Council’s Media Protocol.

## **H SANCTIONS FOR BREACH OF THE CODE OF CONDUCT FOR MEMBERS AND THIS GENERAL GUIDANCE**

---

28. Complaints against any breach of the Code of Conduct for Members must be referred to the Standards Board for England, which could lead, ultimately, to the disqualification of a Member. Complaints against any breach of this Protocol by a Member may be referred to the Standards Committee. Complaints against any breach of this Protocol by an Officer may be referred to the relevant Executive Director, Assistant Director or the Monitoring Officer.

**RELEVANT EXTRACTS FROM THE LOCAL GOVERNMENT (ACCESS TO  
INFORMATION) ACT 1985  
(STATUTORY EXEMPTION INFORMATION PARAGRAPHS)**

Exempt information means information falling within the following 15 categories (subject to any condition):

Category	Condition
1. Information relating to a particular employee, former employee or applicant to become an employee of, or a particular office-holder, former office-holder or applicant to become an office-holder under, the authority	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated.
2. Information relating to a particular employee, former employee or applicant to become an employee of, or a particular office-holder, former office-holder or applicant to become an office-holder under, a magistrates court committee or probation committee	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated.
3. Information relating to any particular occupier or former occupier of, or applicant for, accommodation provided by or at the expense of the authority.	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated.
4. Information relating to any particular applicant for, or recipient or former recipient of any service provided by the authority.	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated.
5. Information relating to any particular applicant for, or recipient or former recipient of, any financial assistance provided by the authority.	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated.
6. Information relating to the adoption, care, fostering or education of any particular child.	Child means a person under 18 and anyone who is 18 and is still registered as a school pupil, or is the subject of a care order, within the meaning of section 31 Children Act 1989
7. Information relating to the financial or business affairs of any particular person (other than the authority)	Information within paragraph 7 is not exempt if it must be registered under various statutes, such as the Companies Act or Charities Act. To be exempt the information must relate to a particular third person who must be identifiable.

Category	Condition
8. The amount of any expenditure proposed to be incurred by the authority under any particular contract for the acquisition of property or the supply of goods or services.	Information within paragraph 8 is only exempt if, and for so long as, disclosure of the amount involved would be likely to give an advantage to a person entering into or seeking to enter into a contract with the authority in respect of the advantage would arise as against the authority or as against other such persons.
9. Any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract for the acquisition or disposal of property or the supply of goods or services.	Information within paragraph 9 is only exempt if, and for so long as, disclosure to the public of the terms would prejudice the authority in those or any other negotiations concerning that property or those goods or services. (The disposal of property includes granting an interest in or right over it)
10. The identity of the authority (as well as of any other person by virtue of paragraph 7 above) as the person offering any particular tender for a contract for the supply of goods and services	For the purposes of this paragraph "tender" includes a DLO/DSO written bid.
11. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a Minister of the Crown and employees of, or office-holders under the authority.	Information within paragraph 11 is only exempt if and for so long as its disclosure to the public would prejudice the authority in those or any other consultations or negotiations in connection with a labour relations matter "Labour relations matters" are as specified in paragraphs (a) to (g) of section 29(1) of the Trade Unions and Labour Relations Act 1974, i.e. matters which may be the subject of a trade dispute.
12. Any Instructions to counsel and any opinion of counsel (whether or not in connection with any proceedings), and any advice received, information obtained or action to be taken in connection with:  (a) any legal proceedings by or against the authority; or (b) the determination of any matter affecting the authority; whether, in either case, proceedings have been commenced or are in contemplation.	
13. Information which, if disclosed to the public, would reveal that the authority proposes -  (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment.	Information within paragraph 13 is exempt only if and so long as disclosure to the public might afford an opportunity to a person affected by the notice, order or direction to defeat the purpose or one of the purposes for which the notice, order or direction is to be given or made.
14. Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	

Category	Condition
15. The identity of a protected informant.	<p>A "protected informant" means a person giving the authority information which tends to show that</p> <ul style="list-style-type: none"> <li>(a) a criminal offence;</li> <li>(b) a breach of statutory duty;</li> <li>(c) a breach of planning control; or</li> <li>(d) a nuisance, has been, or is being, or is about to be committed</li> </ul>

## **INTERPRETATION**

For the purposes of the above extract:-

***child*** - means a person under the age of eighteen years and any person who has attained that age and:

- (a) is registered as a pupil at a school; or
- (b) is the subject of a care order, within the meaning of section 20 of the Children and Young Persons Act 1969;

***disposal*** - on relation to property, includes the granting of an interest in or right over it;

***employee*** - means a person employed under a contract of service;

***financial or business affairs*** - includes contemplated, as well as past or current, activities;

***labour relations matters*** means:

- (a) any of the matters specified in paragraphs (a) to (g) of section 29(1) of the Trade Union and Labour Relations Act 1974 (matters which may be the subject of a trade dispute, within the meaning of that Act); or
- (b) any dispute about a matter falling within paragraph (a) above and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office-holders under the authority as they apply in relation to employees of the authority;

***office holder*** - in relation to the authority, means the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority;



- protected informant*** - means a person giving the authority information which tends to show that:
- (a) a criminal offence;
  - (b) a breach of statutory duty;
  - (c) a breach of planning control, as defined in section 87(3) of the Town and Country Planning Act 1971, or
  - (d) a nuisance has been, is being, or is, about to be committed.
- tender for a contract*** - includes a written statement prepared by the authority in pursuance of section 9(2) of the Local Government Planning and Land Act 1980 (estimated cost of carrying out functional work by direct labour)

**Relevant extracts from the  
CODE OF RECOMMENDED PRACTICE ON  
LOCAL AUTHORITY PUBLICITY**

**“Elections, referendums and petitions**

41. The period between the notice of an election and the election itself 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. However, it is acceptable for the authority to respond in appropriate circumstances to events and legitimate service enquiries provided that their answers are factual and not party political. Members holding key political or civic positions should be able to comment in an emergency or where there is a genuine need for a Member level response to an important event outside the authority’s control. Proactive events arranged in this period should not involve Members likely to be standing for election.
42. The Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000 (which apply under the Local Government Act to county councils, district councils and London borough councils) prohibit an authority from incurring any expenditure to
- (i) publish material which appears designed to influence local people in deciding whether or not to sign a petition requesting a referendum on proposals for an elected mayor;
  - (ii) assist anyone else in publishing such material; or
  - (iii) influence or assist others to influence local people in deciding whether or not to sign a petition.

Publicity in these circumstances should, therefore, be restricted to the publication of factual details, which are presented fairly about the petition proposition and to explaining the council’s existing arrangements. Local authorities should not mount publicity

campaigns whose primary purpose is to persuade the public to hold a particular view in relation to petitions generally or on a specific proposal.

43. County councils, district councils and London borough councils should ensure that any publicity about a referendum under Part II of the Local Government Act 2000 (the 2000 Act) either prior to or during the referendum period is factually accurate and objective. The referendum period means the period beginning with the date on which proposals under Part II of the 2000 Act are sent to the Secretary of State and ending with the date of the referendum. The publicity should not be capable of being perceived as seeking to influence public support for, or opposition to, the referendum proposals and should not associate support for, or opposition to, the proposals with any individual or group. Local authorities must conform with any specific restrictions on publicity activities which are required by Regulations under section 45 of the 2000 Act.”