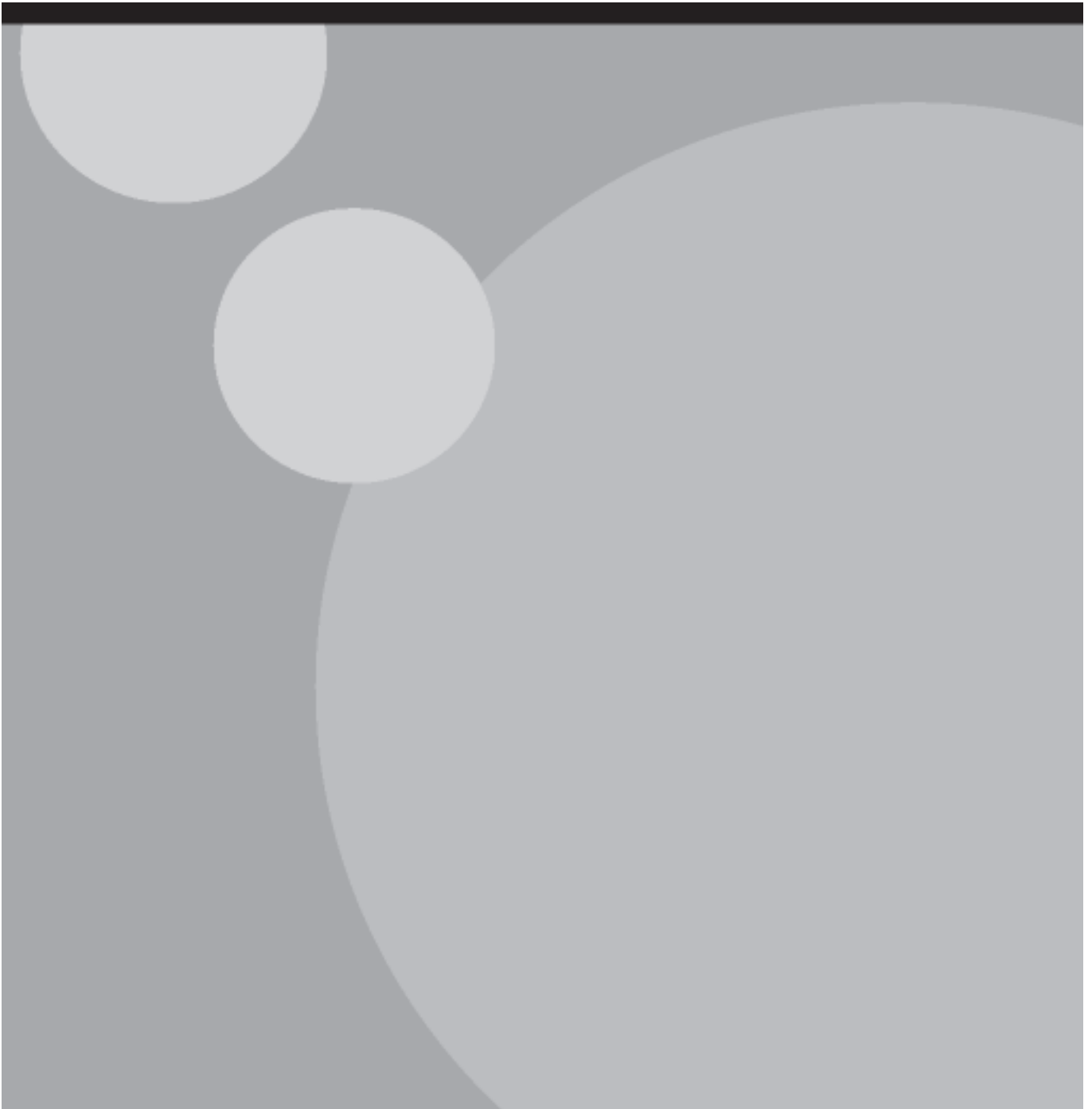




Code of Recommended Practice on Local Authority Publicity

Consultation



Department for Communities and Local Government
Eland House
Bressenden Place
London
SW1E 5DU
Telephone: 0303 444 0000
Website: www.communities.gov.uk

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Introduction

1. The Government is consulting on a new Code of Recommended Practice on Local Authority Publicity ('the proposed Code'), intended to replace the existing Codes for local authorities in England. A draft of the proposed Code is attached and your comments would be welcomed.

Why we are consulting

2. The Coalition Agreement, *Our Programme for Government*, contains the commitment that the Government 'will impose tougher rules to stop unfair competition by local authority newspapers'. The Secretary of State for Communities and Local Government has made it clear that the existing rules on local authority publicity have resulted in taxpayers' money being wasted and the free press being undermined. He would like to see less local authority resource being expended on local authority newspapers, with it being focused on frontline services instead.
3. The Secretary of State considers that, over time, commercial newspapers should expect less state advertising as more information is syndicated online for free, but at the same time the free press should not face competition from a local authority publication passing itself off as a newspaper.
4. In addition, the Secretary of State is concerned at the use of lobbyists by local authorities. The Secretary of State is clear that local authorities do not need lobbyists to get their point across to Government. If local politicians want to change the way Government operates, they can write or pick up the phone. In addition, councillors can campaign for change at a personal or party political level. There is no need for lobbyists.
5. Councillors lobbying Members of Parliament or Government Ministers is wholly legitimate. Meetings between politicians are matters of public record and where public bodies engage with Government there is transparency as these matters are subject to Freedom of Information Act requests. Lobbyists, as private organisations, are subject to none of these rules. Taxpayers' money should not be spent on lobbyists with no public accountability.
6. By the same measure, local authorities should not have stalls at party conferences with the aim of lobbying Government. It may be legitimate for a local authority to have a stall promoting a particular service, such as a conference centre, just as it would at a trade show. However, the Government considers that it is not an appropriate use of public funds for a council to have a stall at a conference with the aim of lobbying for, for instance, extra resource from central Government.

Local authority publicity

7. Effective communication is key to developing understanding of issues at a local level and in recent years local authorities have used local publicity not just to inform the public about council services but also to encourage greater participation. Good, effective publicity, aimed at improving public awareness of the councils' activities is quite acceptable.
8. However, publicity is a sensitive matter because of the impact it can have and because of the costs associated with it, which can be considerable. It is essential, therefore, to ensure that decisions about local authority publicity are properly made. The stated underlying objective of the proposed Code is to ensure the proper use of public funds for publicity but it also provides guidance on content, dissemination and timing.

What we are proposing

9. The Code of Recommended Practice on Local Authority Publicity is currently contained in two separate circulars, the original one from 1988 (Department of the Environment: Circular 20/88) being revised in 2001 (Department of the Environment, Transport and the Regions: Circular 06/2001) to update the rules for county councils, district councils and London borough councils in England.
10. The proposed new Code is a significant restructuring of the existing Codes, which are to be replaced. The guidance is now grouped into seven principles that require local authority publicity to be lawful, cost effective, objective, even-handed, appropriate, to have regard to equality and diversity, and be issued with care during periods of heightened sensitivity. The proposed Code is also a single instrument rather than two circulars each addressing different tiers of local government.
11. To give effect to the Government's commitment to stop unfair competition by local authority newspapers, the proposed Code will contain specific guidance on the frequency, content and appearance of local authority newspapers or magazines. They must not appear more frequently than once a quarter, must only include material that is directly related to the business, services or amenities of the authority or other local service providers and should be clearly marked as being published by the local authority. These provisions also extend to web-based editions of publications.
12. The provision relating to the prohibition on the use of lobbyists appears in the proposed Code as a consideration that the use of lobbyists is related to the use of publicity, in that it is one of the methods by which authorities might spend taxpayers' money to influence people one way or another in relation to political issues. It is therefore within the general ambit of the code of practice.

13. Comments are invited on the draft code. In particular:
- Do the seven principles of local authority publicity as laid down in the Code encompass the full scope of the guidance required by local authorities?
 - Do you believe that the proposed revised Code will impose sufficiently tough rules to stop unfair competition by local authority newspapers?
 - Does the proposed Code enable local authorities to provide their communities with the information local people need at any time?
 - Is the proposed Code sufficiently clear to ensure that any inappropriate use of lobbyists, or stalls at party conferences, is clearly ruled out?

Who we are consulting

14. We are consulting the Local Government Association and the National Association of Local Councils. This document is also available on the Communities and Local Government website (www.communities.gov.uk) and we will be drawing it to the attention of all principal councils in England. It is open to all to make representations on the proposed code, which will carefully be considered.

How to respond

15. Your response must be received by 10 November and may be sent by email to: publicitycode@communities.gsi.gov.uk

Responses may also be returned to:

Rosalind Kendler
Communities and Local Government
Zone 3/J1
Eland House
Bressenden Place
London SW1E 5DU

16. Please title your response 'Response to Publicity Code consultation'.
17. It would be helpful if you could make clear in your response whether you represent an organisation or group, and in what capacity you are responding.

What will happen to the responses

18. The Department will take account of the responses received to this consultation before decisions are taken on possible changes to the Publicity Code.

Publication of responses – confidentiality and data protection

19. Information provided in response to this consultation, including personal information, may be published, or disclosed in accordance with the access to information regimes. (These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004.)
20. If you want any of the information that you provide to be treated as confidential you should be aware that under the FOIA, there is a statutory Code of Practice with which public authorities must comply, and which deals, amongst other things, with obligations of confidence. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential.
21. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.
22. The Department will process your personal data in accordance with the DPA and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

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Code of Recommended Practice on Local Authority Publicity

1. I am directed by the Secretary of State to draw the attention of your authority to the annexed Code of Recommended Practice on Local Authority Publicity which the Secretary of State has issued under section 4 of the Local Government Act 1986 and which comes into force on 1st January 2011.
2. The Code has been prepared following a consultation [insert details and link to consultation document and response]. A draft of the code has been laid before and approved by a resolution of each House of Parliament.
3. From 1st January 2011, the Secretary of State withdraws, in relation to local authorities in England, the codes previously issued under section 4 of the 1986 Act contained in DoE Circular 20/88 and DETR Circular 06/2001.

P ROWSELL

a Senior Civil Servant in the Department for Communities and Local Government

THE CODE OF RECOMMENDED PRACTICE ON LOCAL AUTHORITY PUBLICITY

Introduction

1. This code applies to all local authorities in England specified in section 6 of the Local Government Act 1986 and to authorities which have that provision applied to them by other legislation. Where the term “local authorities” is used in this code it should be taken as referring to those categories of authority. References to “the Act” should be taken as meaning the Local Government Act 1986.
2. Local authorities are required by section 4(1) of the Act to have regard to the contents of this code in coming to any decision on publicity. Section 6 of the Act defines publicity as “any communication in whatever form, addressed to the public at large or a section of the public”. The code therefore applies in relation to all decisions by local authorities relating to paid advertising and leaflet campaigns, publication of free newspapers and newsheets and maintenance of websites – including the hosting of material which is created by third parties.

3. Nothing in this code overrides the prohibition by section 2 of the Act on the publication by local authorities of material which in whole or in part appears to be designed to affect public support for a political party. Paragraphs 21 to 24 offer some guidance for local authorities on the management of publicity which may contain or have links to party political material.

Principles

4. Publicity by local authorities should:-
 - be lawful
 - be cost effective
 - be objective
 - be even-handed
 - be appropriate
 - have regard to equality and diversity
 - be issued with care during periods of heightened sensitivity

Lawfulness

5. Local authorities should ensure that publicity complies with all applicable statutory provisions. Paid-for advertising must comply with the Advertising Standards Authority's Advertising Codes.
6. Part 3 of the Communications Act 2003 prohibits political advertising on television or radio. Local authorities must ensure that their publicity does not breach these restrictions.
7. Section 125 of the Political Parties, Elections and Referendums Act 2000 places a specific restriction on the publication by a local authority of material relating to a referendum under Part 7 of that Act, during the period of 28 days immediately before the referendum is held.
8. Regulation 5 of the Local Authorities (Conduct of Referendums) (England) Regulations 2007 (S.I. 2007/2089) prohibits local authorities from publishing material in the 28 days immediately before a referendum which expresses support for, or opposition to a particular answer to a referendum question relating to the constitutional arrangements of the authority.
9. Regulation 15 of the Local Authorities (Referendums, Petitions and Directions) (England) Regulations 2000 (S.I. 2000/2852) prohibits local authorities from incurring expenditure to publish material which appears designed to influence people in deciding whether or not to sign a petition relating to the constitutional arrangements of the authority, or to assist others to publish such material.

Cost effectiveness

10. In relation to all publicity, local authorities should be able to confirm that consideration has been given to the value for money that is being achieved.
11. In some circumstances it will be difficult to quantify value for money, for example where the publicity promotes a local amenity which is free to use. In such a case authorities should be able to show that they have given thought to alternative means of promoting the amenity and satisfied themselves that the means of publicity chosen is most appropriate.
12. If another public authority, such as central government, has issued publicity on a particular topic, local authorities should incur expenditure on issuing publicity on the same matter only if they consider that additional value is achieved by the duplication of that publicity. Additional value might be achieved if locally produced publicity gives a local context to national issues.
13. The purchase of advertising space should not be used as a disguised method of subsidising voluntary, public or commercial organisations.
14. Local authorities should consider whether it is appropriate to seek advice from economic analysts, public relations experts or other sources of expert advice before embarking on a publicity campaign involving very large expenditure.

Objectivity

15. Local authorities should ensure that publicity relating to policies and proposals from central government is balanced and factually accurate. Such publicity may set out the local authority's views and reasons for holding those views, but should avoid being perceived by readers as constituting a political statement.
16. Local authorities should ensure that publicity relating to their own policies and proposals are not designed to be (or are not likely to be interpreted as) aimed at influencing the public's opinions about the policies of the authority. It is acceptable for local authority publicity to correct erroneous material which has been published by other parties, despite the fact that the material being corrected may have been published with the intention of influencing the public's opinions about the policies of the authority. Such publicity should seek to explain the facts in an objective manner.
17. Where paid-for advertising is used by local authorities, it should be clearly identified as being advertising. Paid-for advertising, including advertisements for the recruitment of staff, should not be used in any publication owned or controlled by a political party.
18. Advertisements for the recruitment of staff should reflect the tradition of political impartiality of local authority employees and should not (except in the case of advertisements relating to the appointment of staff pursuant to

section 9 of the Local Government and Housing Act 1989 (assistants for political groups)) refer to any political activities or affiliations of candidates.

Even-handedness

19. Where local authority publicity addresses matters of political controversy it should seek to present the different positions in relation to the issue in question in a fair manner.
20. Other than in the circumstances described in paragraph 34 of this code, it is acceptable for local authorities to publicise the work done by individual members of the authority, and to present their views on local issues. This might be appropriate, for example, when one councillor has been the “face” of a particular campaign. If views expressed by or attributed to individual councillors do not reflect the views of the local authority itself, such publicity should make this fact clear. Local authorities should ensure that publicity of the work done by individual members of the authority does not publicise solely the work of councillors holding executive positions, or who belong to the political group which controls the authority.
21. It is acceptable for local authorities to host publicity prepared by third parties – for example an authority may host a blog authored by members of the authority or a public forum on which members of the public may leave comments. Maintenance by a local authority of a website permitting the posting of material by third parties constitutes a continuing act of publication by that local authority which must accordingly have a system for moderating and removing any unacceptable material.
22. It is generally acceptable for local authorities to host publicity, such as a blog, which itself contains links to external sites over which the local authority has no control where the content of those sites would not itself comply with this code. This does not amount to giving assistance to any person for the publication of material which local authorities are not permitted to publish. However, particular care must be taken by local authorities during the period before elections and referendums to ensure that no breach of any legal restriction takes place. It may be necessary to suspend the hosting of material produced by third parties or public forums which contain links to impermissible material during such periods.
23. It is acceptable for publicity containing material prepared by third parties and hosted by local authorities to include logos of political parties or other organisations with which the third parties are associated.
24. It is acceptable for publicity produced or hosted by local authorities to include a logo associated with a particular member of the authority, such as a directly elected mayor, or leader of the authority. Publicity material produced by local authorities relating to a particular member must not seek to affect public support for that individual.

25. Where local authorities provide assistance to third parties to issue publicity they should ensure that the principles in this code are adhered to by the recipients of that assistance.

Appropriate use of publicity

26. Local authorities should not incur any expenditure in retaining the services of private specialists, contractors or consultants (“lobbyists”) with the intention of the publication of any material designed to influence public officials, Members of Parliament, political parties or the Government to take a particular view on any issue.
27. Local authorities should not incur expenditure to have stands or displays at conferences of political parties to issue publicity designed to influence members of political parties to take a particular view on any issue.
28. Local authorities should not publish newsletters, newsheets or similar communications which seek to emulate commercial newspapers in style or content. Where local authorities do commission or publish newsheets, they should not issue them more frequently than quarterly. They should not include material other than information for the public about the business, services and amenities of the council or other local service providers.
29. Publicity about local authorities and the services they provide should be freely available to anyone who wishes to receive such information in a format readily accessible and understandable by the person making the request or any particular group for which services are provided.
30. Local authority publicity should clearly and unambiguously identify itself as a product of the local authority. Printed material, including any newspapers published by the local authority, should do this on the front page of the publication.

Equality and diversity

31. Publicity by local authorities may seek to influence (positively and in accordance with the relevant law) the attitudes of local people or public behaviour in relation to matters of health, safety, crime prevention, race relations, equality, diversity and community issues.
32. Local authorities should consider how any publicity they issue can contribute to the promotion of any duties applicable to them in relation to the elimination of discrimination, the advancement of equality and the fostering of good relations.

Care during periods of heightened sensitivity

33. Local authorities should pay particular regard to the legislation governing publicity during the period of heightened sensitivity before elections and referendums – see paragraphs 7 to 9 of this Code. It may be necessary to suspend the hosting of material produced by third parties, or to close public forums during this period to avoid breaching any legal restrictions.
34. During the period between the notice of an election and the election itself, local authorities should not publish 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. Publicity relating to individuals involved directly in the election should not be published by local authorities during this period. It is permissible for local authorities to publish factual information which identifies the names, wards and parties of candidates at elections.
35. Subject to any express provision in any enactment authorising the incurring of expenditure on the publication of any material designed to influence the public whether to support or oppose a question put at a referendum, local authorities should not issue any publicity which seeks to influence voters. It is acceptable to publish material relating to the subject matter of a referendum, for example to correct any factual inaccuracies which have appeared in publicity produced by third parties, so long as this is even-handed and objective and does not support or oppose any of the options which are the subject of the vote.