

Scrutiny Standing Panel Agenda



Constitution and Members Services Scrutiny Standing Panel Monday, 23rd February, 2009

Place: Committee Room 1

Time: 7.30 pm

Democratic Services Officer: I Willett - The Office of the Chief Executive
Tel: 01992 564243 Email: iwillett@eppingforestdc.gov.uk

Members:

Councillors Mrs M McEwen (Chairman), R Morgan (Vice-Chairman), Mrs P Brooks, J Demetriou, Ms J Hedges, J Markham, J Philip, B Rolfe, Mrs M Sartin, D Stallan and Mrs J H Whitehouse

A BRIEFING FOR THE CHAIRMAN OF THE PANEL WILL BE HELD AT
7.00 PM PRIOR TO THE MEETING

1. APOLOGIES FOR ABSENCE

2. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)

(Assistant to the Chief Executive) To report the appointment of any substitute members for the meeting.

3. DECLARATION OF INTERESTS

(Assistant to the Chief Executive). To declare interests in any items on the agenda.

In considering whether to declare a personal or a prejudicial interest under the Code of Conduct, Overview & Scrutiny members are asked pay particular attention to paragraph 11 of the Code in addition to the more familiar requirements.

This requires the declaration of a personal and prejudicial interest in any matter before an OS Committee which relates to a decision of or action by another Committee or Sub Committee of the Council, a Joint Committee or Joint Sub Committee in which the Council is involved and of which the Councillor is also a member.

Paragraph 11 does not refer to Cabinet decisions or attendance at an OS meeting purely for the purpose of answering questions or providing information on such a

matter.

4. TERMS OF REFERENCE (Pages 3 - 4)

(Chairman/Lead Officer) The Overview and Scrutiny Committee has agreed the Terms of Reference of this Panel and associated Work Programme. This is attached. The Panel are asked at each meeting to review both documents.

The OSC is about to formulate next years OS work plan incorporating a programme for this Panel. In view of this, the Panel may wish to bring forward suggestions/ideas on topics for inclusion in its work programme for next year.

5. CONSULTATION ON PUBLICITY CODE (Pages 5 - 40)

To consider the attached Government Consultation Document and to formulate a response to the 16 questions in the document.

The Overview and Scrutiny Committee has authorised this Panel to report direct to the Cabinet meeting on 9 March 2009 so that the latter also has an opportunity to comment.

The closing date for representations is 12 March 2009.

6. FUTURE MEETINGS

The next programmed meeting of the Panel is on 6 April 2009 at 7.30p.m.

Agenda Item 4

TERMS OF REFERENCE - STANDING PANEL

Title: Constitution and Member Services
Status: Standing Panel
Terms of Reference: <ol style="list-style-type: none">1. To undertake reviews of constitutional, civic, electoral and governance matters and services for members on behalf of the Overview and Scrutiny Committee. 2. To report to the Overview and Scrutiny Committee, the Council and the Cabinet with recommendations on matters allocated to the Panel as appropriate.
Chairman: Cllr Mrs M McEwen

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Communities in Control: Real people, real power
Code of recommended practice on local authority publicity
A consultation



Communities in Control: Real people, real power
Code of recommended practice on local authority publicity
A consultation

Communities and Local Government
Eland House
Bressenden Place
London
SW1E 5DU
Telephone: 020 7944 4400
Website: www.communities.gov.uk

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Communities and Local Government Publications
PO Box 236
Wetherby
West Yorkshire
LS23 7NB
Tel: 0300 123 1124
Fax: 0300 123 1125
Email: communities@capita.co.uk
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Chapter 1

The consultation and how to respond

Communities in Control consultation papers

- 1.1 The white paper, *Communities in Control: Real people, real power*, is about passing power into the hands of local communities. It sets out a range of policies to achieve this, building on work still in progress from the 2006 white paper, *Strong and Prosperous Communities*.
- 1.2 This paper is the next in a series consulting on a number of policy commitments and invites comments about the future of the Code of Recommended Practice on Local Authority Publicity (the 'Publicity Code'). It invites views on the content of the Publicity Code as an instrument for protecting public money (of either national or local taxpayers) while allowing councils to issue effective publicity.

About this consultation

- 1.3 The proposals in this consultation paper relate to relevant authorities in England. Authorities in Scotland and Wales have their own versions of the Publicity Code, which are the responsibility of the relevant devolved authorities.
- 1.4 The white paper *Communities in control* committed the Government to consulting on potential changes to the Publicity Code. This document is the first part of that consultation. The last Government consultation on the Publicity Code in January 2007 revealed support for the Publicity Code as a useful source of advice for authorities on sensitive issues on the use of resources. Following that, the Councillors Commission received views that the Publicity Code may have been seen as a hindrance to councils promoting the role of the councillor. This consultation paper explains the importance of local authority publicity, seeks confirmation of the results of our earlier consultation in January 2007, seeks also to establish views of the Publicity Code across the local government sector and stakeholders and goes on to ask how a Publicity Code might function without being, or being perceived as, a disincentive to effective communication.
- 1.5 If the Government considers that revisions to the Publicity Code are required then the comments and views received in response to this consultation document will form the basis for a revised Publicity Code, the text of which we will consult on in 2009.

- 1.6 Chapter 2 of this paper explains more thoroughly the context of the consultation, with particular reference to the promotion of democracy and a positive image of the role of councillors.
- 1.7 Chapter 3 of this paper seeks views on what should constitute the Publicity Code.
- 1.8 Particular questions on which we would welcome comments are set out in each chapter and summarised in annex A. In order to aid your consideration of the possible content of a future Publicity Code, the current code is reproduced at annexes B and C.
- 1.9 We are minded, subject to responses to this consultation, to implement the measures arising from the response to this and any subsequent consultation on the Publicity Code so that they can come into effect in line with any guidance that may be issued about the currently proposed authorities' duty to promote democracy in 2009.

Who we are consulting?

- 1.10 This is a public consultation and it is open to anyone to respond to this consultation document. We would, however, particularly welcome responses from council officials and councillors. **The consultation period runs for 12 weeks to 12 March 2009.**

How to respond

- 1.11 Your response must be received by 12 March 2009 and may be sent by e-mail or post to:

Karl Holden
Conduct and Council Constitutions Team
Communities and Local Government
Zone 5/B2, Eland House
Bressenden Place
London
SW1E 5DU
e-mail: publicitycode@communities.gsi.gov.uk

If you are replying by e mail please title your response 'Response to Publicity Code consultation'.

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?

- 1.12 The Department will take account of the responses received to this consultation before taking decisions on possible changes to the Publicity Code.
- 1.13 Within three months of the close of the consultation period we will analyse the responses to the consultation and produce a summary of them. This summary will be published on the Department's website at www.communities.gov.uk

Publication of responses – confidentiality and data protection

- 1.14 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).
- 1.15 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.
- 1.16 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.
- 1.17 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.

The Consultation Criteria

- 1.18 The UK Government has adopted a code of practice on consultations. Please see annex D of this document for the criteria that apply under this code, and advice about who you should contact if you have any comments or complaints about the consultation process.

Additional copies

- 1.19 You may make copies of this document without seeking permission. If required, printed copies of the consultation paper can be obtained from Communities and Local Government Publications, whose contact details may be found at the front of this document. An electronic version can be found at the Consultation Section of the Department's website at: www.communities.gov.uk.

In context – previous consultations and relevant legislation

- 1.20 The consultation document *Consultation on Amendments to the Model Code of Conduct for Local Authority Members* published in January 2007 asked, among other things, if the Publicity Code served a useful purpose. The responses suggested support for the Publicity Code as a useful source of advice for authorities on sensitive issues on the use of resources for publicity.
- 1.21 The Publicity Code is issued under powers conferred on the Secretary of State under section 4(1) of the Local Government Act 1986 ("the 1986 Act"). Local authorities are required by section 4(1) of the Act as amended by section 27 of the Local Government Act 1988 to have regard to the Publicity Code in coming to any decision on publicity.
- 1.22 The Publicity Code does not, and cannot, override section 2 of the 1986 Act, which provides that a local authority shall not publish, or assist others to publish, material which in whole or in part appears designed to affect public support for a political party.
- 1.23 Section 6(4) of the 1986 Act defines publicity as 'any communication, in whatever form, addressed to the public at large or to a section of the public'. The Publicity Code will therefore be relevant across the whole range of local authority work. It covers all decisions by a local authority on publicity and most public relations activities, such as paid advertising and leaflet campaigns and local authority sponsorship of exhibitions and conferences, as well as assistance to others to issue publicity.
- 1.24 Section 6(2)(a) of the 1986 Act sets out the types of authority to which the Code can apply in England:
- a county, district or London borough council
 - the Common Council of the City of London
 - the Broads Authority
 - a police authority established under section 3 of the Police Act 1996

- the Metropolitan Police Authority
- a joint authority established by Part 4 of the Local Government Act 1985
- the London Fire and Emergency Planning Authority
- the Council of the Isles of Scilly or
- a parish council

1.25 The Publicity Code also applies to National Parks Authorities by virtue of the Environment Act 1995.

1.26 By virtue of section 6(6) of the 1986 Act, nothing in the Publicity Code is to be construed as applying to any decision by a local authority in the discharge of their duties under Part 5A of the Local Government Act 1972 (which provides for access to meetings and documents of certain authorities, committees and sub-committees).

1.27 The Publicity Code was first published on 15 August 1988 and applied to local authorities in England Scotland and Wales. That Code was amended on 2 April 2001 in England only, as regards its application to county councils, district councils and London borough councils. This consultation is concerned with the application of the Publicity Code, including the amendments made in 2001, to local authorities in England.

1.28 The Publicity Code, as published in 1988, remains applicable in Scotland; the National Assembly for Wales issued a revised Code in October 2001 which applies in Wales.

Chapter 2

Effective communication and publicity

Effective communication

- 2.1 For a community to be a healthy local democracy requires local understanding. Effective communication is key to developing that understanding. In recent years local authorities have used local publicity not only to keep their communities informed of the services that they provide, but also to encourage greater participation. Good, effective publicity, aimed at improving public awareness of councils' activities is to be welcomed and encouraged.

The Publicity Code

- 2.2 Publicity, however, can be 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.
- 2.3 It was against this background that the Publicity Code was introduced in 1988. The purpose of the Publicity Code was to set out clear principles of good practice. In doing so, it reflected conventions that applied to publicity which had traditionally been applied in both central and local government.
- 2.4 The Publicity Code took account of the fact that some local authority publicity dealt with issues that are controversial because of local circumstances or because of a difference of view between political parties locally or nationally. The principles were not intended to inhibit or prohibit the publication of information on politically sensitive or controversial issues, nor to stifle public debate. Rather, it set out matters it was considered a local authority should give consideration to, to ensure public funds were not misused and to safeguard those members of the public at whom the publicity was directed. The Publicity Code was especially relevant to publicity that dealt with controversial or sensitive issues.
- 2.5 The stated underlying objective of the Publicity Code was to ensure the proper use of public funds for publicity.

- 2.6 The Publicity Code has now been in place for twenty years. While many of the values it enshrines, such as ensuring that the authority should ensure that publicity produced is a proper use of public funds, are beyond dispute, we recognise that there may be an argument that a Publicity Code is not required, or not required in its present form, to ensure that this is the case. There are other safeguards in place which contribute to ensuring the proper use of public resource in an authority, principally through the authority's auditor but in addition, more locally, councils' spending can be held to account through overview and scrutiny committees, by the Audit Commission through Comprehensive Performance Assessment, Comprehensive Area Assessment and Use of Resources assessments and the behaviour of councillors through the local authority's standards committee. Ultimately, the council is accountable to its electorate.
- 2.7 The Publicity Code is thus part of a range of legislation intended to ensure that local authority publicly funded publicity is appropriate. Moreover, the Local Government Act 1972 gives local authorities the power to arrange to publicise services offered by them or by other local authorities in their community while the Public Health (Control of Disease) Act 1984 empowers local authorities to arrange for the publication in their area of information relating to health or disease. In addition, Part 1 of the Local Government Act 2000 empowers local authorities to promote well-being in their communities.

Local authority publicity

- 2.8 Since the 2001 white paper *Quality public services* there has been a move away from central government prescription to local government having more flexibility to decide how they wish to conduct business. The white paper began the process of devolving power to local government to enable it to make its own decisions about where to direct resources. This process continued with the 2006 white paper *Strong and prosperous communities*, the Local Government and Public Involvement in Health Act 2007 and continues in the 2008 white paper *Communities in control*.
- 2.9 Part of this process involved reinvigorating and rehabilitating politics at the local level. One aspect of this is acknowledging the political nature of local government; councils are political bodies, led by democratically elected politicians making decisions about local priorities. They are not simply neutral bodies for service delivery. We consider that it is important for the health of local democracy that citizens are aware of how decisions are made at the local level, and who is making them. To aid this, we consider that councils should be able to help publicise the role of the activities of the authority and the activities of individual councillors to help promote democracy in the community.

- 2.10 We want councils to be able to play a role in helping councillors to communicate with citizens and to allow people to understand who their elected representatives are, what views they have and what they are doing on behalf of those who elected them.
- 2.11 To achieve this, the Publicity Code should not prevent councils from producing publicity that explains clearly the political control of their council, who leads the council and the political composition of the council.
- 2.12 Nor should it be seen to prevent members having, in the interests of their constituents, a public voice funded by the taxpayer to inform their community about what activities they have been undertaking in their role as councillor, in either any particular role they fulfil on the council, or as a representative of their ward.
- 2.13 The Publicity Code should not form a barrier to members using publicly funded publicity to discuss, in the interest of their constituents, matters that are of personal interest to those members, nor should it bar them from providing useful and pertinent contact details and links to other bodies. All publicity funded by a local authority, or which they assist others to publish, is subject to the statutory prohibition that it cannot appear designed to affect public support for a political party.

Promoting democracy and the role of councillors

- 2.14 In the Government's response to the Councillors Commission report, published in July 2008, the Department for Communities and Local Government acknowledged that there was confusion in local government about how far councils should promote and support councillors' activities and explained that the Department wanted to clarify this, so that any guidance or advice recognises the legitimate support that should be given to councillors. In addition the white paper *Communities in control*, also published in July, recognised that there was confusion within local government about how far local authorities should promote and support councillors' activities and, in this context, recognised the need to review the Publicity Code.
- 2.15 The Councillors Commission research also made it clear that in order to make the councillor role easier and more attractive, the level of awareness of the role needs to be raised. Council publicity can be an effective tool in demystifying the role and making currently under-represented groups, and the wider community as a whole, more aware of what is involved and what decisions councillors make on their behalf.
- 2.16 Those who work in local government should feel confident about operating in a political environment and giving elected councillors the support they require. The response to the Councillors Commission report announced the Government's intention of introducing a new duty on local authorities to support democracy and encouraged councils to take a range of actions as part of their new responsibility, including:

- **better information:** council publications and websites should provide clear information about political control, council meetings, councillors' surgeries and how to contact both councillors and local political parties
- **a two-way process:** using local radio, blogs, podcasts and interactive websites to improve dialogue between councillors and local people
- **getting people involved:** explaining to all communities how to be a councillor or take up other civic roles – including school governorships or health board membership – through websites and newsletters
- **promoting democracy:** councils could involve officials or former councillors in promoting local democracy through making positive presentations to local volunteer groups or boards about how to get involved in local governance roles and by promoting the role of the council and councillors in the community
- **targeting:** disseminating information about involvement in local democracy to groups not well represented among councillors in the area

2.17 The Government's response to the Councillors Commission report also expressed the Department's wish to see councillors encouraged to make use of more types of media, such as community radio or the internet as well as traditional methods of communication. Local authority publicity has a key role to play in delivering a positive media profile of the work of councillors. Councillors should be role models for their communities, being a role model means being visible and publicity can aid that visibility.

2.18 We want to ensure that councils, and councillors, do not consider themselves unduly restricted in the types of communication that they can engage in. To ensure that councils will not be inhibited in their new duty to promote democracy, councils will need to be prepared to publicise how to get involved in local decision making processes, will have to target publicity at groups that are under-represented in the democratic process and make the most effective use of advertising.

Other guidance for councils

2.19 We also want to establish whether there is other guidance for councils, besides the Publicity Code, which is seen to be a disincentive in terms of being able to provide citizens with the publicity that they require or councillors with the support that they require and whether this guidance need clarifying or amending?

Question 1: Is there other guidance, (additional to the Publicity Code), that councils consider creates a barrier to the provision of publicity or support, or that needs clarifying?

Chapter 3

Review of the Publicity Code

3.1 The existing Publicity Code gives recommended practice on a number of aspects of publicity ranging from subject matter to assistance to others for publicity. This chapter gives a brief explanation of the current function of each section of the Publicity Code, it is not a proposal of what might constitute a revised Code. The explanation overlooks the distinctions between the 1988 Publicity Code (which continues to apply to certain bodies) and the Publicity Code as revised (which applies to principal bodies in England). A number of open questions about what changes might be required are also asked.

Question 2: Is there a requirement for different codes to apply to different types of authority?

Question 3: Should the Publicity Code specifically address the presentation of publicity on an authority's website?

First section of the current Code: Subject matter

In summary, the current Publicity Code provides as follows: Local authorities have a variety of statutory powers which enable them to produce publicity and circulate it, or to assist others to do so. Some of those powers relate directly to the authority's functions, others give a more general discretion to publicise matters which go beyond an authority's primary responsibilities. This discretion provides an important degree of flexibility, but also heightens the need for a responsible approach to expenditure decisions. The Publicity Code lists the matters an authority should consider when determining whether to issue publicity material (see annexes B and C).

Question 4: Does anything need to be added to or removed from the list of matters an authority should consider in determining whether or not to issue publicity on a certain subject?

Second section of the current Code: Costs

In summary, the current Publicity Code provides as follows: Local authorities are accountable to the public for the efficiency and effectiveness of their expenditure and expenditure on publicity should always be cost-effective. The Publicity Code recognises that publicity can be expensive and that while in some cases publicity may justify cost by virtue of savings produced, the unquantifiable benefits of publicity are also important. The Publicity Code lists matters local authorities should consider in determining whether the costs of their publicity are justifiable.

Question 5: Should the Publicity Code specify the different criteria local authorities should use to determine whether or not publicity can be judged to be cost effective?

Question 6: Is there any aspect of the cost section that is not required or anything which should be added?

Third section of the current Code: Content

In summary, the current Publicity Code provides as follows: Local authorities produce a variety of publicity material, from factual information about services to staff recruitment advertising. Publicity will also be produced to explain or justify the council's policies either in general or on specific topics. The Publicity Code requires that publicity describing the council's policies and aims should be as objective as possible, makes provision for the production of promotional material and states that publicity should not appear to undermine generally accepted moral standards. It also makes provision for the production of publicity material to support campaigns to influence behaviour or attitudes, for instance on health matters, but prohibits publicity campaigns intended to persuade the public to hold a particular view on a question of policy.

Question 7: Should the Publicity Code contain advice about ethical standards in publicity, or should this be left to local authorities to judge for themselves?

Question 8: Is there any aspect of the content section that is not required or anything which should be added?

Fourth section of the current Code: Dissemination

In summary, the current Publicity Code provides as follows: Local authorities should ensure that information and publicity produced by the authority is available to those that want or need it. The Publicity Code makes clear that publicity material should be targeted at those who would best benefit from it and that material closely affecting vulnerable members of the community should be clear and unambiguous. It is also clear that unsolicited material is more intrusive than publicity available on application.

Question 9: Should the Publicity Code be modified to specifically address the issue of privacy and the dissemination of unsolicited material?

Question 10: Is there any aspect of the dissemination section that is not required or anything which should be added?

Fifth section of the current Code: Advertising

In summary, the current Publicity Code provides as follows: Advertising can be an expensive but effective method of getting a message across to a wide audience. While effective at conveying simple messages, advertising is inappropriate for explaining more complex policy issues and should be used appropriately. The Publicity Code prohibits the purchase of advertising space as a means of subsidising another organisation, or advertising on their behalf.

Question 11: Is there any aspect of the advertising section that is not required or anything which should be added?

Sixth section of the current Code: Recruitment advertising

In summary, the current Publicity Code provides as follows: Local authority recruitment publicity should reflect the tradition of political impartiality in the local government service and the media chosen to advertise local authority positions should reflect the objective of maintaining the politically independent status of local authority staff. The current Publicity Code restricts any council posts from being advertised in political publications.

Question 12: Should adverts for local authority political assistants appear in political publications and websites?

Question 13: Is there any aspect of the recruitment advertising section that is not required or anything which should be added?

Seventh section of the current Code: Publicity about individual members of an authority

In summary, the current Publicity Code provides as follows: A local authority discharges its functions corporately and it is inappropriate to publicise the activities of particular councillors except when councillors are representing the council as a whole. Personalisation of issues or image making should be avoided and the publicity should not be liable to misrepresentation as being party political.

Question 14: Given the emphasis given to supporting and raising awareness of the role of the councillor in the white paper, is there any aspect of the section on councillors that is not required, or anything which should be added?

Eighth section of the current Code: Timing of publicity – elections, referendums and petitions

In summary, the current Publicity Code provides as follows: While a local authority may issue publicity during the period between notice of an election and the election itself, if it is not intended to affect the public's opinion of the authority or influence public opinion, care should be taken when publicity is issued after an announcement of an election, by-election or referendum affecting the authority's area to ensure that this could not be perceived as seeking to influence public opinion or using the authority's resources to promote the public image of a particular candidate or group of candidates.

Publicity issued by an authority in the period between the calling of a referendum and the date of the referendum should not be capable of perceived as seeking 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.

Authorities should not mount publicity campaigns where the primary purpose is to persuade the public to hold a particular view in relation to petitions generally or on a specific proposal.

Question 15: Is there any aspect of the timing of publicity section that is not required, or anything which should be added?

Ninth section of the current Code: Assistance to others for publicity

In summary, the current Publicity Code provides as follows: Local authorities should ensure that the principles of the Publicity Code should be taken into account by local authorities in decisions on assistance to others to issue publicity. The authority should, if incorporating principles of the Publicity Code into guidance for applicants for grants, make the observance of the principles a condition of the grant or other assistance and ensure that provision is made to monitor publicity produced to ensure that the guidance is being observed. Authorities should make fair and equal provision for the display or dissemination of publicity material produced by charities or voluntary organisations.

Question 16: Is there any aspect of the assistance to others for publicity section that is not required, or anything which should be added?

Annex A

List of consultation questions

Chapter 2: Effective communication and publicity

Question 1	Is there other guidance, (additional to the Publicity Code), that councils consider creates a barrier to the provision of publicity or support, or that needs clarifying?
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Chapter 3: The Publicity Code

Question 2	Is there a requirement for different codes to apply to different types of authority?
Question 3	Should the Publicity Code specifically address the presentation of publicity on an authority's website?
Question 4	Does anything need to be added to or removed from the list of matters an authority should consider in determining whether or not to issue publicity on a certain subject?
Question 5	Should the Publicity Code specify the different criteria local authorities should use to determine whether or not publicity can be judged to be cost effective?
Question 6	Is there any aspect of the cost section that is not required or anything which should be added?
Question 7	Should the Publicity Code contain advice about ethical standards, or should this be left to local authorities to judge for themselves?
Question 8	Is there any aspect of the content section that is not required or anything which should be added?
Question 9	Should the Publicity Code be modified to specifically address the issue of privacy and the dissemination of unsolicited material?
Question 10	Is there any aspect of the dissemination section that is not required or anything which should be added?
Question 11	Is there any aspect of the advertising section that is not required or anything which should be added?
Question 12	Should adverts for local authority political assistants appear in political publications and websites?

Question 13	Is there any aspect of the recruitment advertising section that is not required or anything which should be added?
Question 14	Given the emphasis given to supporting and raising awareness of the role of the councillor in the White Paper, is there any aspect of the section on councillors that is not required, or anything which should be added?
Question 15	Is there any aspect of the timing of publicity section that is not required, or anything which should be added?
Question 16	Is there any aspect of the assistance to others for publicity section that is not required, or anything which should be added?

Annex B

Code of Recommended Practice on Local Authority Publicity as issued in 1988

Code of Recommended Practice

Subject matter

1. Local authorities have a variety of statutory powers which enable them to produce publicity and circulate it widely, or to assist others to do so. Those commonly used include the powers in sections 111, 142, 144 and 145 of the Local Government Act 1972.
2. Some of these powers relate directly to the publishing authority's functions. Others give a more general discretion to publicise matters which go beyond an authority's primary responsibilities. For example, sections 142(1A) of the 1972 Act and 88(1) of the 1973 Act authorise local authorities to arrange for the publication within their area of information as to the services available in the area provided by them or by other local authorities; and Section 54 of the Public Health (Control of Disease) Act 1984 empowers local authorities to arrange for the publication within their area of information on questions relating to health or disease.
3. This discretion provides an important degree of flexibility, but also heightens the need for a responsible approach to expenditure decisions.
4. In considering the subject areas in which publicity is to be issued, the following matters will be important:
 - (i) the publicity should be relevant to the functions of the authority.
 - (ii) it should not duplicate unnecessarily publicity produced by central government, another local authority or another public authority.
 - (iii) in areas where central government, another tier of local government, or another public authority have the primary service or policy responsibility, local authorities should issue publicity only on matters that are directly relevant to their own functions.

Costs

5. Local authorities are accountable to the public for the efficiency and effectiveness of their expenditure, in the first instance through the audit arrangements.

6. For publicity, as for all other expenditure, the aim should therefore be to achieve the greatest possible cost-effectiveness.
7. To achieve this, there may well be cases where the benefit of higher expenditure to gain better presentation or improve other aspects of publicity will justify the extra cost.
8. Local authorities should therefore always have in mind the extent to which expert advice is needed for publicity.
9. In some cases publicity may justify its cost by virtue of savings which it achieves. More commonly it will be necessary to take a view of the importance of the unquantifiable benefits as compared with other uses to which the resources could be put.
10. In deciding whether the nature and scale of proposed publicity, and consequently its cost, are justified, the following matters will be relevant:
 - (i) whether the publicity is statutorily required or is discretionary.
 - (ii) where it is statutorily required, the purpose to be served by the publicity.
 - (iii) whether the expenditure envisaged is in keeping with the purpose and expected effect of the publicity.

Content and style

11. Local authorities produce a variety of publicity material. It ranges from factual information about the services provided by the authority, designed to inform clients or attract new ones, to material necessary to the administration of the authority, such as staff recruitment advertising. There will also be publicity to explain or justify the council's policies either in general, as in the annual report, or on specific topics, for example as background to consultation on the line chosen for a new road.
12. Any publicity describing the council's policies and aims should be as objective as possible, concentrating on facts or explanation or both.
13. Where publicity is used to comment on, or respond to, the policies and proposals of central government, other local authorities or other public authorities, the comment or response should be objective, balanced, informative, and accurate. It should aim to set out the reasons for the council's views, and should not be a prejudiced, unreasoning or political attack on the policies or proposals in question or on those putting them forward. Slogans alone will not be an adequate means of justifying or explaining the authority's views or their policy decisions.
14. Publicity relating to the provision of a service should concentrate on providing factual information about the service.

15. In some cases promotional publicity may be appropriate – for example about the local authority’s sports and leisure facilities or about tourist attractions.
16. Publicity touching on issues that are controversial, or on which there are arguments for and against the views or policies of the council, should be handled with particular care. It should not over-simplify facts, issues or arguments. Again, it is unlikely that slogans alone will achieve the necessary degree of balance, or capture the complexities of opposing political arguments.
17. Publicity should not attack, nor appear to undermine, generally accepted moral standards.
18. Publicity campaigns by local authorities are appropriate in some circumstances: for example, to promote the effective and efficient use of local services and facilities, or to attract tourists or investment. Publicity campaigns may also be an appropriate means of influencing public behaviour or attitudes on such matters as health, safety, crime prevention or race relations.
19. Legitimate concern is, however, caused by the use of public resources for some forms of campaigns which are designed to have a persuasive effect. Publicity campaigns can provide an appropriate means of ensuring that the local community is properly informed about a matter relating to a function of the local authority and about the authority’s policies in relation to that function and the reasons for them. But local authorities, like other public authorities, should not use public funds to mount publicity campaigns whose primary purpose is to persuade the public to hold a particular view on a question of policy.

Dissemination

20. The main purposes of local authority publicity are to increase public awareness of the services provided by the authority and the functions it performs; to explain to electors and ratepayers the reasons for particular policies and priorities; and in general to improve local accountability.
21. Information and publicity produced by the council should be made available to all those who want or need it. Local authorities should not discriminate in favour of, or against, persons or groups in the compilation and distribution of material for reasons not connected with the efficiency and effectiveness of issuing the publicity.
22. Where material is distributed on matters closely affecting vulnerable sections of the community – for example, the elderly – particular care should be taken to ensure that it is unambiguous, readily intelligible, and unlikely to cause needless concern to those reading, seeing or listening to it.

23. Local authority newspapers, leaflets, and other publicity distributed unsolicited from house to house are inevitably more intrusive than publicity available on application to the council.
24. Publicity that reaches the public unsolicited should be targeted as far as practicable on those whose interests are clearly and directly affected by its content.
25. Material touching on politically controversial issues should be distributed unsolicited only where there is a strong case for letting a particular group of people have information of direct concern to them and no other equally efficient and effective means can be found.
26. Local authority newspapers or information bulletins are a special case. They are often a cost-effective means of disseminating information, but they may touch on controversial issues. If they do, they should treat such issues in an objective and informative way, bearing in mind the principles set out in paragraphs 11 -19 of the Code.
27. Where it is important for information to reach a particular target audience, consideration should be given to using the communications networks of other bodies, for example those of voluntary organisations.

Advertising

28. Advertising, especially on billboards or on television and radio, is a highly intrusive medium. It can also be expensive. It may however provide a cost effective, efficient means of conveying public information to the widest possible audience. Advertising on local radio networks has, for example, been used as a relatively inexpensive means of telling potential clients about local authority services. Advertising can also be the most cost-effective means of publicising a local authority's activities on tourism, and in the area of economic development generally.
29. The primary criterion for decisions on whether to use advertising should be cost-effectiveness.
30. Advertisements are not normally likely to be appropriate as a means of explaining policy or commenting on proposals, since an advertisement by its nature summarises information, compresses issues and arguments, and markets views and opinions.
31. Advertising in media which cover an area significantly wider than that of the authority is not likely to be an appropriate means of conveying information about a local authority's policies as opposed to attracting people to the authority's area or to use its facilities.

32. The attribution of advertising material leaflets and other forms of publicity that reach the public unsolicited should be clearly set out.
33. It is not acceptable, in terms of public accountability, to use the purchase of advertising space as a disguised means of subsidy to a voluntary, industrial or commercial organisation. Such support should be given openly through the normal grant arrangements. However, the conditions attached to a grant may require the provision of publicity, including publicity for the work of the authority.
34. Any decision to take advertising space in a publication produced by a voluntary, industrial or commercial organisation should be made only on the grounds that it provides an effective and efficient means of securing the desired publicity.
35. Local authorities should never use advertising as a means of giving financial support to any publication associated with a political party.

Recruitment advertising

36. Local authorities have respected in their staff employment policies the tradition of a politically impartial public service. Their recruitment publicity should reflect this tradition, and the fact that local authority staff are expected to serve the authority as a whole, whatever its composition from time to time.
37. The content of recruitment publicity and the media chosen for advertising job vacancies should be in keeping with the objective of maintaining the politically independent status of local authority staff.
38. Advertisements for staff should not be placed in party political publications.

Publicity about individual members of an authority

39. The functions of a local authority are discharged by the council corporately. It is therefore inappropriate for public resources to be used to publicise individual councillors.
40. In the interests of public accountability, however, it may be appropriate to give publicity to the views or activities of individual members when they are representing the council as a whole: for example, when the chairman of a council speaks or acts as the first citizen of the whole community, or when a chairman of a committee opens a new scheme or launches a policy approved by the council or by his committee on the council's behalf.

- 41.** For the same reason a local authority may justifiably in certain circumstances issue press releases reporting statements made by individual members. Examples of cases where such press releases may be appropriate are as reports of the discussion at the meetings of the council or committees, or quotations of comments made by leading members of the council in response to particular events which call for a particularly speedy reaction from the council.
- 42.** This does not prevent a member of staff of a local authority from responding to questions about individual members, since that is not publicity as defined in the 1986 Act.

Timing of publicity

- 43.** Particular care should be taken when publicity is issued immediately prior to an election or by-election affecting the authority's area to ensure that this could not be perceived as seeking to influence public opinion, or to promote the public image of a particular candidate, or group of candidates. Between the time of publication of a notice of an election and polling day, 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.

Assistance to others for publicity

- 44.** The principles set out above apply to decisions on publicity issued by local authorities. They should also be taken into account by local authorities in decisions on assistance to others to issue publicity. In all such decisions local authorities should, to the extent appropriate:
- (a) incorporate the relevant principles of the Code in published guidance for applicants for grants;
 - (b) make the observance of that guidance a condition of the grant or other assistance;
 - (c) undertake monitoring to ensure that the guidance is observed.
- 45.** It can be appropriate for local authorities to help charities and voluntary organisations by arranging for pamphlets or other material produced and paid for by the organisation to be available for collection by the public in public libraries and other suitable locations. Such material should not offend against any legal provision, but (subject to this) any such facility should be made available on a fair and equal basis.

Annex C

Code of Recommended Practice of Local Authority Publicity as amended in 2001 and which apply only to county councils, district councils and London borough councils in England

Code of Recommended Practice

Subject matter

1. Local authorities have a variety of statutory powers which enable them to produce publicity and circulate it widely, or to assist others to do so. Those commonly used include the powers in sections 111, 142, 144 and 145 of the Local Government Act 1972.
2. Some of these powers relate directly to the publishing authority's functions. Others give a more general discretion to publicise matters which go beyond an authority's primary responsibilities. For example, section 142(1A) of the 1972 Act and 88(1) of the 1973 Act authorise local authorities to arrange for the publication within their area of information as to the services available in the area provided by them or by other local authorities; and Section 54 of the Public Health (Control of Disease) Act 1984 empowers local authorities to arrange for the publication within their area of information on questions relating to health or disease.
3. This discretion provides an important degree of flexibility, but also heightens the need for a responsible approach to expenditure decisions.
4. In considering the subject areas in which publicity is to be issued, the following matters will be important:
 - (i) the publicity should be relevant to the functions of the authority.
 - (ii) it should not duplicate unnecessarily publicity produced by central government, another local authority or another public authority.

Costs

5. Local authorities are accountable to the public for the efficiency and effectiveness of their expenditure, in the first instance through the audit arrangements.

6. For publicity, as for all other expenditure, the aim should therefore be to achieve the greatest possible cost-effectiveness.
7. To achieve this, there may well be cases where the benefit of higher expenditure to gain better presentation or improve other aspects of publicity will justify the extra cost.
8. Local authorities should therefore always have in mind the extent to which expert advice is needed for publicity.
9. In some cases publicity may justify its cost by virtue of savings which it achieves. More commonly it will be necessary to take a view of the importance of the unquantifiable benefits as compared with other uses to which the resources could be put.
10. In deciding whether the nature and scale of proposed publicity, and consequently its cost, are justified, the following matters will be relevant:
 - (i) whether the publicity is statutorily required or is discretionary.
 - (ii) where it is statutorily required, the purpose to be served by the publicity.
 - (iii) whether the expenditure envisaged is in keeping with the purpose and expected effect of the publicity.

Content and Style

11. Local authorities produce a variety of publicity material. It ranges from factual information about the services provided by the authority, designed to inform clients or attract new ones, to material necessary to the administration of the authority, such as staff recruitment advertising. There will also be publicity to explain or justify the council's policies either in general, as in the annual report, or on specific topics, for example as background to consultation on the line chosen for a new road.
12. Any publicity describing the council's policies and aims should be as objective as possible, concentrating on facts or explanation or both.
13. Where publicity is used to comment on, or respond to, the policies and proposals of central government, other local authorities or other public authorities, the comment or response should be objective, balanced, informative, and accurate. It should aim to set out the reasons for the council's views, and should not be a prejudiced, unreasoning or political attack on the policies or proposals in question or on those putting them forward. Slogans alone will not be an adequate means of justifying or explaining the authority's views or their policy decisions.
14. Publicity relating to the provision of a service should concentrate on providing factual information about the service.

15. In some cases promotional publicity may be appropriate – for example about the local authority’s sports and leisure facilities or about tourist attractions.
16. Publicity touching on issues that are controversial, or on which there are arguments for and against the views or policies of the council, is unavoidable, particularly given the importance of wide consultation whenever material issues arise. Such publicity should be handled with particular care. Issues must be presented clearly, fairly and as simply as possible, although councils should not over-simplify facts, issues or arguments. Again, it is unlikely that slogans alone will achieve the necessary degree of balance, or capture the complexities of opposing political arguments.
17. Publicity should not attack, nor appear to undermine, generally accepted moral standards.
18. Publicity campaigns by local authorities are appropriate in some circumstances: for example, as part of consultation processes where local views are being sought, or to promote the effective and efficient use of local services and facilities, or to attract tourists or investment. Publicity campaigns may also be an appropriate means of influencing public behaviour or attitudes on such matters as health, safety, crime prevention or equal opportunities.
19. Legitimate concern is, however, caused by the use of public resources for some forms of campaigns, which are designed to have a persuasive effect. Publicity campaigns can provide an appropriate means of ensuring that the local community is properly informed about a matter relating to a function of the local authority and about the authority’s policies in relation to that function and the reasons for them. But local authorities, like other public authorities, should not use public funds to mount publicity campaigns whose primary purpose is to persuade the public to hold a particular view on a question of policy.

Dissemination

20. The main purposes of local authority publicity are to increase public awareness of the services provided by the authority and the functions it performs; to allow local people to have a real and informed say about issues that affect them; to explain to electors and ratepayers the reasons for particular policies and priorities; and in general to improve local accountability.
21. Information and publicity produced by the council should be made available to all those who want or need it. Local authorities should not discriminate in favour of, or against, persons or groups in the compilation and distribution of material for reasons not connected with the efficiency and effectiveness of issuing the publicity.

22. Where material is distributed on matters closely affecting vulnerable sections of the community – for example, the elderly – particular care should be taken to ensure that it is unambiguous, readily intelligible, and unlikely to cause needless concern to those reading, seeing or listening to it.
23. Local authority newspapers, leaflets, other publicity distributed unsolicited from house to house and information on websites are able to reach far wider audiences than publicity available on application to the council. Councils should give particular consideration to the use of electronic and other new media communication systems. However, councils should ensure that they do not rely solely on such mechanisms and that they do not exclude those without access or easy access to such systems.
24. Such publicity should be targeted as appropriate for its purposes, taking particular care with material touching on politically controversial issues.
25. There is no paragraph 25.
26. Local authority newspapers or information bulletins are a special case. They are often a cost-effective means of disseminating information, or facilitating consultation and can provide a means for local people to participate in debate on decisions the council is to take. The advantage of using websites and other information technology for consultations should also be considered. Inevitably such publications will touch on controversial issues and where they do they should treat such issues in an objective and informative way, bearing in mind the principles set out in paragraphs 11-19 of the Code.
27. Where it is important for information to reach a particular target audience, consideration should be given to using the communications networks of other bodies, for example those of voluntary organisations, and making use of electronic communication systems.

Advertising

28. Advertising, especially on billboards or on television and radio, is a highly intrusive medium. It can also be expensive. It may however provide a cost-effective, efficient means of conveying public information to the widest possible audience. Advertising on local radio networks has, for example, been used as a relatively inexpensive means of telling potential clients about local authority services. Advertising can also be the most cost-effective means of publicising a local authority's activities or promoting the social, economic and environmental well-being of the area.
29. The primary criterion for decisions on whether to use advertising should be cost-effectiveness.

30. Advertisements are not normally likely to be appropriate as a means of explaining policy or commenting on proposals, since an advertisement by its nature summarises information, compresses issues and arguments, and markets views and opinions.
31. Advertising in media which cover an area significantly wider than that of the authority is not likely to be an appropriate means of conveying information about a local authority's policies as opposed to attracting people to the authority's area or to use its facilities.
32. The attribution of advertising material leaflets and other forms of publicity that reach the public unsolicited should be clearly set out.
33. It is not acceptable, in terms of public accountability, to use the purchase of advertising space as a disguised means of subsidy to a voluntary, industrial or commercial organisation. Such support should be given openly through the normal grant arrangements. However, the conditions attached to a grant may require the provision of publicity, including publicity for the work of the authority.
34. Any decision to take advertising space in a publication produced by a voluntary, industrial or commercial organisation should be made only on the grounds that it provides an effective and efficient means of securing the desired publicity.
35. Local authorities should never use advertising as a means of giving financial support to any publication associated with a political party.

Recruitment Advertising

36. Local authorities have respected in their staff employment policies the tradition of a politically impartial public service. Their recruitment publicity should reflect this tradition, and the fact that local authority staff are expected to serve the authority as a whole, whatever its composition from time to time.
37. The content of recruitment publicity and the media chosen for advertising job vacancies should be in keeping with the objective of maintaining the politically independent status of local authority staff.
38. Advertisements for staff should not be placed in party political publications.

Individual Councillors

- 39.** Publicity about individual councillors may include the contact details, the positions they hold in the Council (for example, member of the Executive or Chair of Overview and Scrutiny Committee), and their responsibilities. Publicity may also include information about individual councillors' proposals, decisions and recommendations only where this is relevant to their position and responsibilities within the Council. All such publicity should be objective and explanatory, and whilst it may acknowledge the part played by individual councillors as holders of particular positions in the Council, personalisation of issues or personal image making should be avoided.
- 40.** Publicity should not be, or liable to misrepresentation as being, party political. Whilst it may be appropriate to describe policies put forward by an individual councillor which are relevant to her/his position and responsibilities within the Council, and to put forward her/his justification in defence of them, this should not be done in party political terms, using political slogans, expressly advocating policies of those of a particular political party or directly attacking policies and opinions of other parties, groups or individuals.

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 2000 to county councils, district councils and London borough councils) prohibit an authority from incurring any expenditure to:
- 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
 - assist anyone else in publishing such material or
 - 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.

Assistance to others for publicity

- 44.** The principles set out above apply to decisions on publicity issued by local authorities.

They should also be taken into account by local authorities in decisions on assistance to others to issue publicity. In all such decisions local authorities should, to the extent appropriate:

- (a) incorporate the relevant principles of the Code in published guidance for applicants for grants;
 - (b) make the observance of that guidance a condition of the grant or other assistance;
 - (c) undertake monitoring to ensure that the guidance is observed.
- 45.** It is appropriate for local authorities to help charities and voluntary organisations by arranging for pamphlets or other material produced and paid for by the organisation to be available for collection by the public in public libraries and other suitable locations. Such material should not offend against any legal provision, (authorities may be able to draw on their powers of well-being in section 2 of the Local Government Act 2000) but (subject to this) any such facility should be made available on a fair and equal basis.

Annex D

Consultation Code of Practice

- A.1 The Government has adopted a code of practice on consultations. The criteria below apply to all UK national public consultations on the basis of a document in electronic or printed form. They will often be relevant to other sorts of consultation.
- A.2 Though they have no legal force, and cannot prevail over statutory or other mandatory external requirements (eg under European Community Law), they should otherwise generally be regarded as binding on UK departments and their agencies; unless Ministers conclude that exceptional circumstances require a departure.

The Consultation Criteria

- Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy
 - Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
 - Ensure that your consultation is clear, concise and widely accessible.
 - Give feedback regarding the responses received and how the consultation process influenced the policy.
 - Monitor your department's effectiveness at consultation, including through the use of a designated consultation coordinator.
 - Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.
- A.3 The full consultation code of practice may be viewed at:
www.bre.berr.gov.uk/regulation/consultation/code/index.asp

A.4 Are you satisfied that this consultation has followed these criteria? If not, or you have any other observations about ways of improving the consultation process please contact:

Consultation Co-ordinator
Communities and Local Government
Zone 6/H10
Eland House
Bressenden Place
London
SW1E 5DU

email: consultationcoordinator@communities.gsi.gov.uk



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