



Llywodraeth Cymru
Welsh Government

GUIDANCE

Local authorities: code of recommended practice

Guidance on the types of services and support that local authorities must provide.

First published: 18 August 2014

Last updated: 18 August 2014

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Status and application of the code

This Code was issued by the National Assembly for Wales (“the Assembly”) and revised by the Welsh Ministers in pursuance of their powers under section 4(1) of the Local Government Act 1986. The Code was drawn up and revised following the consultations with interested parties in local government required by section 4(4) of the 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 Code in coming to any decision on publicity.

This Code applies to County and County Borough Councils, National Park Authorities, Fire and Rescue Authorities and Town and Community Councils.

Why have a Code?

Local authorities are democratically accountable to their electorate. This will be promoted by local authorities explaining their objectives and policies to their electors and ratepayers. In recent years authorities have increasingly used publicity to keep the public informed, and to encourage greater participation about the future of service delivery. Local authorities also need to tell the public about the services which they provide. Increasingly, local authorities see the task of making the public aware of the services available as an essential part of providing all kinds of services. Good, effective publicity, aimed at improving public awareness of a council’s activities, is to be welcomed. This Code is not intended to discourage such publicity.

Publicity is, however, a sensitive matter in any political environment, because of the impact which it can have. Expenditure on publicity by some local authorities has been and will be significant in the exercise of the new statutory duty to prepare community strategies and to promote the economic, social and environmental well being of the area. It is essential, therefore, to ensure local authority decisions on publicity are properly made, in accordance with clear principles of good practice. The purpose of the Code is to set out such principles. It reflects the conventions which should apply to all publicity at public expense, and which traditionally have applied in both central and local

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government.

The principles set out below recognise the political nature of local government. They take account of the fact some local authority publicity will deal with issues which are controversial because of particular local circumstances, or because of a difference of view between political parties locally or nationally. The principles do not prohibit the publication of information on politically sensitive or controversial issues, not stifle public debate. They set out the matters a local authority should consider, to safeguard both the proper use of public funds and those members of the public at whom publicity is directed. They apply to all publicity, but some aspects will be especially relevant to publicity which deals with controversial or sensitive issues. The underlying objective of the Code is to ensure the proper use of public funds for publicity.

As well as addressing the provisions of the Local Government Act 2000, including local authorities' duties of consultation, publicity, community planning and exercising their new statutory powers, the Code also contains guidance relating to the provisions of the Local Government (Wales) Measure 2011.

Scope of the Code

The Code is not concerned with the interpretation of section 2 of the Local Government Act 1986. (This section provides a local authority shall not publish (or assist others to publish) material which, in whole or in part, appears to be designed to affect public support for a political party.) The Code is concerned with all the other publicity which a local authority may publish. In particular, it highlights factors which should be borne in mind in decisions on publicity which deals with matters or issues which are, politically or otherwise, controversial, but which are not prohibited by section 2.

Section 6 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 Code will therefore be relevant across the whole range of local authorities' work. It covers all decisions by a local authority on publicity and most public relations activities,

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such as paid advertising and leaflet campaigns, and local authority sponsorship of exhibitions and conferences, as well as assistance to others to issue publicity.

The Code has no relevance to the methods which a local authority may use to make its views known where these do not involve publicity in the sense of the 1986 Act.

The Code does not affect the ability of local authorities to assist charities and voluntary organisations which need to issue publicity as part of their work, but it requires local authorities, in giving such assistance, to consider the principles on which the Code is based, and to apply them accordingly.

By virtue of section 6(6) of the 1986 Act, nothing in the Code is to be construed as applying to any decision by a local authority in the discharge of their duties under the Local Government (Access to Information) Act 1985.

This Code and its contents does not affect the prohibition in section 2 of the 1986 Act on local authorities publishing material which appears to be designed to influence public support for a political party.

Nothing in this Code should be construed as applying to any decision of a local authority in accord with Part VA of the Local Government Act 1972 (concerning the rights of the public to have access to meetings and documents) or anything related to duties imposed through regulations made under section 22 of the Local Government Act 2000 (concerning access to information).

Subject matter

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; but there are several others.

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 2 of the Local

Government Act 2000 gives local authorities a power to do anything which will promote the economic, social or environmental well-being of their area, sections 142(A) of the 1972 Act authorises 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.

The Local Government (Wales) Measure 2009 requires local authorities to publish their Improvement Plans and Community Strategies and the Local Government (Wales) Measure 2011 requires local authorities to make arrangements for each elected member to publish an annual report on their activity.

In considering the subject areas in which publicity is to be issued, the publicity should be relevant to the functions of the authority.

In considering the production and circulation of publicity, local authorities should ensure they comply with the Communications Act 2003 and any other relevant statutory duties or guidance.

Costs

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

In these times of financial stringency, it is particularly important local authorities have regard to the cost effectiveness of anything they are intent on publishing.

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.

In the case of council newspapers, for instance, the cost of their production and circulation needs to be balanced with the savings which local authorities can make by using their own newspapers rather than the local press to advertise

vacancies and publish official notices. Council newspapers are a useful resource for providing information on council services, and they reach the majority of the population which includes those who do not read the local press and those who do not have access to the internet, in particular older people and disadvantaged young people.

In deciding whether the nature and scale of proposed publicity, and consequently its cost, are justified, the following matters will be relevant:

- whether the publicity is statutorily required or is discretionary
- where it is statutorily required, the purpose to be served by the publicity
- whether the expenditure envisaged is in keeping with the purpose and expected effect of the publicity

Content and style

Local authorities produce a variety of publicity and promotional material. It ranges from factual information about the services provided by the authority, designed to inform service users 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, for example material produced under the Wales Programme of Improvement or on specific topics, for example as background to consultation on the route chosen for a new road.

Any publicity describing the council's policies and aims should be as objective as possible, concentrating on facts or explanation or both.

Where publicity is used to comment on, or respond to, the policies and proposals of the Welsh or UK Governments, other local authorities or other public authorities, the comment or response should be objective, balanced, informative, timely 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.

Publicity touching on issues which are controversial, or on which there are

arguments for and against the views or policies of the council, is unavoidable at times, particularly given the importance of wide consultation whenever material issues arise. Such publicity should be handled with particular care. Issues should be presented clearly, fairly and as simply as possible, although councils should not over-simplify facts, issues or arguments.

Local authorities should endeavour to ensure publicity material does not cause undue offence.

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.

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 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 this 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 it is to persuade the public to hold a particular view on a question of policy. The Housing Transfer Guidelines 2009, (para 2.2.31) state: "In carrying out the consultation exercise, local authorities should adhere to the National Assembly for Wales's Code of Recommended Practice on Local Authority Publicity. This encourages the local authority to explain and justify its proposals and ensures local authority publicity concentrates on facts or explanation or both." Therefore, when consulting the public on policy or proposals which affect the community there is a need to provide a balanced view with the supporting evidence for the policy or proposal to be clear to the public.

Where material is produced, particular care should be taken to ensure it is unambiguous, readily intelligible, and unlikely to cause needless concern or discomfort to those reading, seeing or listening to it. Any material produced should have regard to the Equality Act 2010 and should be produced in

accordance with the Welsh Language Act 1993, and when the relevant provisions come into effect, the Welsh Language (Wales) Measure 2011 and any standards specified by the Welsh Ministers under Part 4 of the Measure.

Dissemination

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 informed say about issues which affect them; to explain to electors and ratepayers the reasons for particular policies and priorities; and in general to improve local accountability.

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.

Local authority newspapers, leaflets, other publicity distributed unsolicited from house to house and information on websites, are able to reach wider audiences than publicity available on application to the council. Councils should give particular consideration to the use of Internet-based communication systems. They are 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. However, councils should ensure they do not rely solely on such mechanisms and they do not exclude those without access or easy access to such systems.

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 through links on others' Internet sites.

Advertising

Advertising (paid for media), can also be a cost-effective means of publicising a local authority's activities on promoting the social, economic and environmental well-being of the area.

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.

Advertising in media which covers an area significantly wider than of the authority is sometimes an appropriate means of attracting people to the area to use its facilities.

Social media as a communications and advertising tool can also be of value in respect of the wide reach it has, particularly with younger people and this could be good for raising awareness. There can also be a cost benefit in its use compared to traditional advertising.

Any advertising material produced by a local authority or contained within one of its publications which reach the public unsolicited, should clearly refer to its provenance.

Any decision to take advertising space in a publication produced by a voluntary, industrial or commercial organisation should be made only on the grounds it provides an effective and efficient means of securing the desired publicity.

Local authorities should never use advertising as a means of giving financial support to any publication associated with a political party.

Recruitment advertising

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 local authority staff are expected to serve the authority

as a whole, whatever its composition, from time to time.

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.

Advertisements for staff should not be placed in party political publications.

Council newspapers

A great deal of local authority advertising, including notification of employment vacancies, publication of official notices, and forthcoming public events, is contained in newspapers or newsletters produced by many local authorities. These are also useful vehicles for informing the public about the activities and services of the council.

There has been some criticism of these publications for taking business away from local commercial newspapers and for lacking objectivity. It is important that regard is had to this Code in relation to articles written in these documents even when the article is written as a piece of journalism.

The Welsh Government does not share the view local authority newspapers are responsible for the demise of local newspapers. With the growth of Internet-based sources and 24 hour news broadcasts, it is probably inevitable circulation of newspapers, including small, regional, newspapers, would suffer. Recent data on regional newspapers indicates circulation is falling significantly. However, local authorities need to ensure there are sufficient savings and other advantages to justify the ongoing publication of their own material and should examine the advantages of enabling members of the public to receive these electronically rather than in hard copy where it is their wish.

Individual councillors and annual reports

Publicity about individual councillors may include their contact details, their role in the Council and their responsibilities. It may also include information about

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individual councillors' proposals, decisions and recommendations if 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.

Publicity should not be party political or of a nature which could easily be misrepresented as so being. Whilst it may be appropriate to describe policies put forward by an individual councillor which are relevant to his or her position and responsibilities within the Council and to put forward her or 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 party or directly attacking policies and opinions of other parties, groups or individuals.

Section 5 of the Local Government (Wales) Measure 2011 provides that local authorities must make arrangements for each member of the authority to make an annual report about their activities during the year. The authority has a duty to publish these reports, though they may impose conditions as to the content, having regard to any guidance from Welsh Ministers.

Annual reports are the subject of separate guidance, to which local authorities must have regard; they are to be regarded as outside the scope of this Code.

Filming and broadcasting of council meetings

Society now expects to have far greater access to information than in the past, in particular in relation to the decision-making procedures of its elected bodies. This should be embraced by political representatives as providing an opportunity to communicate directly with their electorate. Local authorities are encouraged to make arrangements for their proceedings to be made more accessible to the public by allowing them to be broadcast. This might be achieved through the authority itself carrying a live stream or recordings on the council's website or through some other internet-based medium. The Welsh Government encourages local authorities to use social media to communicate with the public.

There have been well publicised cases of members of the public recording and

broadcasting the proceedings of council meetings and the Welsh Government would urge local authorities to look favourably on this, provided those attending the meeting are aware this is taking place and other members of the public are not distracted or disturbed unduly by the process.

Clearly, these facilities should not be available at such time as an authority or one of its committees is discussing confidential or exempt business as defined by Schedule 12A to the Local Government Act 1972.

Elections, referendums and petitions

The period between the notice of an election and the election itself should preclude proactive publicity in all its forms by candidates and other politicians involved directly in the election. Publicity in this period should not deal with controversial issues or report views, proposals or recommendations in such a way which 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 enquires provided their answers are factual and not favourable to a political party. Members holding key political or civic positions should be able to comment in an emergency or where there is a genuine need for a 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.

Local authorities need to take care also when a campaign is underway to influence local people in relation to a referendum to decide whether to have a directly elected mayor. The Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001 (as amended) 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
- influence or assist others to influence local people in deciding whether or not to sign a petition

Publicity in these circumstances should 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.

Local Authorities should ensure 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 Assembly and ending with the date of the referendum. The publicity from the local authority should not be capable of being perceived as seeking to influence public support for, or against, the referendum proposal and should not associate support for, or against 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.

Similar considerations apply when a community poll is taking place. The local authority should ensure any material it publishes is restricted to factual information and does not enter the debate on the issue which is the subject of the poll.

Assistance to others for publicity

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:

- incorporate the relevant principles of the Code in published guidance for applicants for grants
- make the observance of guidance a condition of the grant or other assistance
- undertake monitoring to ensure the guidance is observed

It may be appropriate for local authorities to assist other public bodies, charities or voluntary organisations' by arranging for pamphlets or other material produced and paid for by the organisation to be available for public collection in suitable locations, such as libraries. 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, in some cases) but, any such facility should be made available on a fair and equal basis.

This Guidance was laid before the National Assembly for Wales in accordance with Standing Order 27 of the National Assembly's Standing Orders and is made on 5 August 2014.

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