



GUIDANCE

Code of Recommended Practice for Local Authority Publicity

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Status and application of the code

1. This Code was issued by the Welsh Ministers in pursuance of their powers under section 4(1) of the Local Government Act 1986. The Code was last revised in 2014, and this version has been further revised following 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.

2. This Code applies to county and county borough councils, town and community councils (Section 6(2)(a) of the Local Government Act 1986) and national park authorities (Environment Act 1995 Section 65(7), Schedule 8, Paragraph 9) in Wales. The Code also applies to corporate joint committees by virtue of section 6(2) of the 1986 Act, which includes “any authority, board or committee which discharges functions which would otherwise fall to be discharged by two or more such authorities”.

3. The term ‘local authorities or authorities’ is used throughout this guidance as the collective term. ‘Principal council’ is used where a reference is specifically to county or county borough councils and ‘town and community councils’ is used to where references are specifically to those bodies. Likewise ‘national park authority’ is used in specific reference to that category of body.

Fire and Rescue Authorities

4. Fire and Rescue Authorities (FRAs) are not local authorities for the purposes of section 6(2)(a) of the 1986 Act, therefore this Code does not apply to them in the same manner as it applies to those bodies listed in paragraph 2 above. FRA’s are not required by statute to have regard to this Code when coming to any decision on publicity. However, the broad principles governing the use of publicity are the same for any public body, and we recommend this code to FRAs in that context. Furthermore, their different governance arrangements and narrower remit means that some of the issues in this Code, for instance around elections, may not be relevant to them.

5. FRAs are required by section 6 of the Fire and Rescue Services Act 2004 to take steps to prevent fires and promote fire safety. That will very often involve the use of publicity to raise awareness of fire risks, and to promote behaviour change. While the principles in this Code remain relevant to that, it is more important that such publicity reflects the National Framework for Fire and Rescue Services, and knowledge about particular fire risks and their mitigation.

Why have a Code?

6. Principal councils and town and community councils are democratically accountable to their electorate. This will be promoted by local authorities explaining their objectives and policies to their communities. National park authorities are constituted differently and draw their membership from both principal councils and members appointed by the Welsh Government. Nonetheless they deliver services of huge interest to the public which can generate significant debate.

7. Sections 39 to 41¹ of the Local Government and Elections (Wales) Act 2021 place a duty on principal councils to encourage local people to participate in decision-making and produce and keep under regular review strategies to encourage this participation. This statutory duty does not extend to other authorities covered by this Code but the principles of engagement, involvement and providing people with up to date information are all good practice that should be adopted by all bodies covered by this Code. Similarly, it should also be noted that principal councils and national park authorities are bound by the duties contained within the Well-being of Future Generations Act 2015 and again the principles set out in the Act are relevant to all bodies covered by this Code.

8. Authorities use publicity to keep the public informed, and to encourage greater participation in both democracy itself and to help to shape the future of service delivery. Local authorities also need to tell the public about the services which they provide. This is an essential part of being an organisation which provides vital public services. Good, effective publicity, aimed at improving public awareness of an authority's activities and how to access them, is to be welcomed. This Code is not intended to discourage such publicity.

9. Publicity is, however, a sensitive matter in any political environment, because of the impact it can have. Expenditure on publicity can be significant and will be necessary to comply with a range of statutory duties. It is essential, therefore, to ensure local authority decisions on publicity are properly and transparently made, in accordance with clear principles of good practice. The purpose of this Code is to set out such principles. It reflects the conventions which should apply to all publicity paid for from the public purse relating to the business and constitutional structure of the authority.

10. The principles set out below recognise the political nature of local authorities and the world in which they operate. 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, nor 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

¹ Come into effect on the 5th of May 2022 by virtue of SI 2021/231

or sensitive issues. The underlying objective of the Code is to ensure the proper use of public funds for publicity.

Scope of the Code

11. Section 2 of the Local Government Act 1986 states:

‘2 Prohibition of political publicity.

(1) A local authority shall not publish, or arrange for the publication of, any material which, in whole or in part, appears to be designed to affect public support for a political party.

(2) In determining whether material falls within the prohibition regard shall be had to the content and style of the material, the time and other circumstances of publication and the likely effect on those to whom it is directed and, in particular, to the following matters —

(a) whether the material refers to a political party or to persons identified with a political party or promotes or opposes a point of view on a question of political controversy which is identifiable as the view of one political party and not of another;

(b) where the material is part of a campaign, the effect which the campaign appears to be designed to achieve.

(3) A local authority shall not give financial or other assistance to a person for the publication of material which the authority are prohibited by this section from publishing themselves.

12. This Code is not concerned with the interpretation of section 2. It highlights the factors which should be borne in mind in decisions on publicity dealing with matters or issues which are, politically by nature or otherwise, controversial, but not prohibited by section 2.

13. 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 communications media and local authorities’ 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.

14. 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.

15. 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 apply them accordingly.

16. This Code and its contents do 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.

17. Finally, nothing in this Code should be construed as applying to any decision of a local authority in accord with Part VA of and Schedule 12 to the Local Government Act 1972 and section 55 of the Local Government (Democracy)(Wales) Act 2013 (concerning the rights of the public to have access to meetings and meetings-related documents). It also does not apply to anything related to duties imposed through regulations for principal councils made under section 22 of the Local Government Act 2000 (concerning access to information in relation to meetings and decisions of executives and executive members of principal councils).

Subject matter

18. 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.

19. 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, the Local Government and Elections (Wales) Act 2021 gives principal councils and eligible town and community councils the general power of competence, section 142(1A) 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 and section 52 of the Local Government and Elections (Wales) Act 2021 requires town and community councils to publish an annual report about the council's priorities, activities and achievements during the year. National park authorities are required to regularly consult upon and publish a national park management plan

20. The Well-being of Future Generations Act 2015 requires Public Service Boards to publish local well-being plans and the Local Government (Wales) Measure 2011 requires local authorities to make arrangements for each principal council elected member to publish an annual report on their activity.

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

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

Costs

23. Local authorities are accountable to the public for the efficiency and effectiveness of their expenditure, in the first instance through their statutory accounting and audit requirements. In addition, section 89 of the Local Government and Elections Act 2021 places a duty on principal councils to keep their performance under review, including using their resources economically, efficiently and effectively. This is clearly a sound principle for all authorities.

24. 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.

25. 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

26. Local authorities produce a variety of publicity and promotional material, through many forms of communication media including radio, television, digital media and print. This ranges from factual information about the services provided for the authority, designed to inform service users and/or attract new ones, to material necessary for the administration of the authority, such as staff recruitment advertising. There will also be publicity to explain or justify the authority's policies and practices. For example, the duty in section 45 of the Local Government and Elections (Wales) Act 2021 for each principal council to publish its constitution and constitution guide or as background to a consultation on new arrangements for schools provision in an area.

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

28. 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 authority's views, and should not be a prejudiced, unreasoning or a political attack on the policies or proposals in question or on those putting them forward.

29. Publicity touching on issues which are controversial, or on which there are arguments for and against the views or policies of the authority, 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 authorities should not over-simplify facts, issues or arguments.

30. Local authorities should endeavour to ensure publicity material does not cause undue offence. This applies whatever medium is used for the material whether this is websites, social media, other media, or hard copy.

31. 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.

32. 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.

33. However, 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. 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.

34. 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 be in accordance with the Equality Act 2010 and should be produced in accordance with the Welsh Language (Wales) Measure 2011 and the relevant standards specified by the Welsh Ministers under Part 4 of the Measure.

35. Local authorities should not incur any expenditure in retaining the services of lobbyists for the purpose of the publication of any material designed to influence public officials, Members of the Senedd, Members of Parliament, political parties, the Welsh Government or the UK Government to take a particular view on any issue. Local authorities should not incur expenditure on providing stands or displays at conferences of political parties for the purpose of publicity designed to influence members of political parties to take a particular view on any issue.

36. It is generally acceptable for local authorities to host publicity, such as a blog, which itself contains links to external sites over which the local authority has no control where the content of those sites would not itself comply with this Code. This does not

amount to giving assistance to any person for the publication of material which local authorities are not permitted to publish. It is also acceptable for publicity containing material prepared by third parties and hosted by local authorities to include logos of political parties or other organisations with which the third parties are associated provided that the material is not intended to influence support for a particular political party or individual.

37. Publicity produced or hosted by local authorities can also include a logo associated with a particular member of the authority, such as a directly elected mayor, or leader or chair of the authority. Publicity material produced by local authorities relating to a particular member must not seek to affect public support for that individual. Where local authorities provide assistance to third parties to issue publicity they should ensure that the principles in this Code are adhered to by the recipients of that assistance.

38. Local authorities are required by section 4(1) of the Act to have regard to the contents of this Code in coming to any decision on publicity. Section 6 of the Act defines publicity as “any communication in whatever form, addressed to the public at large or a section of the public”. The Code therefore applies in relation to all decisions by local authorities relating to paid advertising and leaflet campaigns, publication of free newspapers and news sheets and maintenance of websites – including the hosting of material which is created by third parties.

DISSEMINATION

39. 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 the reasons for particular policies and priorities; and to improve local accountability.

40. Information and publicity produced by the authority 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. A key part of determining the approach to publicity is determining the most cost effective channel but also ensuring this does not actively discriminate against particular groups.

41. Publicity about local authorities and the services they provide should be freely available to anyone who wishes to receive such information in a format readily accessible and understandable by the person making the request or by any particular group for which services are provided. All local authority publicity should clearly and unambiguously identify itself as a product of the local authority. Printed material, including any newsletters, news sheets or similar publications published by the local authority, should do this on the front page of the publication.

42. Any material produced should be in accordance with the Equality Act 2010 and should be produced in accordance with the Welsh Language (Wales) Measure 2011 and the relevant standards specified by the Welsh Ministers under Part 4 of the Measure. It should recognise the diversity of communities and enable people of all ages and backgrounds to engage with the material. Local authorities should consider how any publicity material they issue contributes to the goal of a more equal Wales in the Well-being of Future Generations Act 2015.

43. 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

44. Advertising (paid for media), can also be a cost-effective means of publicising a local authority's activities.

45. 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.

46. 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.

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

48. 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.

49. 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 aim of the publicity.

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

Recruitment advertising

51. 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.

52. 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.

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

Individual councillors

54. Publicity about individual councillors may include their business contact details (although, as a matter of personal safety, it should not include the personal home addresses of members), their role in the Council and their offices and responsibilities. It may also include information about individual councillor's proposals, decisions and recommendations if this is relevant to their position and responsibilities within the authority (including their potential role as a member of a national park authority). 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 authority, personalisation of issues or personal image making should be avoided. It is acceptable for local authorities to publicise the work undertaken by individual councillors where that relates to the strategies of the authority and in some circumstances an individual councillor may become the 'face' of a local campaign. However, publicity material should always be clear when an individual member is not presenting the views of the local authority as a whole.

55. Publicity should not be party political or of a nature which could easily be misrepresented as so being, although there should be information on council websites making clear a councillor's political affiliations, be they to a political party, a political grouping within the council or completely non-affiliated. 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 authority and to also put forward her or his justification in defence of them. However, 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.

Councillor annual reports (Principal Councils)

56. Section 5 of the Local Government (Wales) Measure 2011 provides that principal councils must make arrangements for each member to make an annual report about their activities during the year. The principal council has a duty to publish these reports, though they may impose conditions as to the content, having regard to any guidance from Welsh Ministers. There is separate guidance on this matter and it is outside the scope of this Code.

Filming and broadcasting of meetings

57. 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 public bodies. This should be embraced as providing an opportunity to communicate directly with the public.

58. Section 46 of the Local Government and Elections (Wales) Act 2021 requires principal councils to make electronic broadcasts of full council meetings and provides the Welsh Ministers with powers to extend the types of meetings to be broadcast and the authorities to which the requirement applies.

59. However, all local authorities are encouraged to make arrangements for their proceedings to be made more accessible to the public by enabling them to be broadcast. This might be achieved through the authority itself carrying a live stream or recordings on its website or through some other internet-based medium.

Elections, referendums and petitions

60. The period between the notice of an election and the election itself should preclude proactive publicity in all its forms, including individual social media accounts run by officers or elected members, which could be perceived as providing electoral advantage to candidates and other politicians involved directly in the election.

61. Principal councils can publish information which is required under the Local Elections (Principal Areas) (Wales) Rules 2021, the Local Elections (Communities) (Wales) Rules 2021, any combination thereof or as required by any other electoral legislation. Principal councils may also publish information relating to the election or by-election which is purely informative or factual such as the date of the election, how to obtain a postal vote and the location of polling stations. However, all factual information relating to an election must be published in the form specified by the relevant legislation or in such a way that it does not give prominence to information relating to any candidate, candidates or political party. Other authorities may reference this material on their own websites.

62. However, publicity generated by the council 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 which might gain electoral advantage as a result. What constitutes a controversial issue is to some extent dependent on the local circumstance but in general they are likely to have characteristics such as, but not exclusively, significantly divided public opinion, lengthy periods of high profile debate and press interest and/or are those which involve the awarding of significant funding or contracts.

63. It may be necessary to suspend the hosting of materials produced by third parties, or to close public forums during this period to avoid breaching legal restrictions.

64. It is also 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 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.

65. 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;

66. 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.

67. 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 Welsh Ministers and ending with the date of the referendum.

68. The publicity from the principal council or any other 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.

69. 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.

70. Section 42 of the Local Government and Elections (Wales) Act 2021 places a duty on principal councils to put in place a petition scheme and to have regard to any guidance the Welsh Ministers might publish about such schemes. Again, any publicity material should be factual and should not be seen to be influencing the petition process in any way. The principal council's response to the petition scheme should comply with this Code.

Assistance to others for publicity

71. 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.

72. 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, or for material to be hosted on the authority's website.

73. Such material should not offend against any legal provision and any such facility should be made available on a fair and equal basis.

This Guidance was laid before the Senedd Cymru in accordance with Section 4 of the Local Government Act 1986 and Standing Order 27.14 of the Standing Orders of the Senedd Cymru.

Rebecca Evans
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