

Purdah – Guidance for elected Members and Staff

Introduction/Background

The Prime Minister has announced a General Election on 12 December 2019.

For this General Election purdah starts on 06 November 2019 and runs until close of poll, which is at 10pm on polling day, 12 December 2019.

Formal notice of the Parliamentary elections will be published on 11 November 2019 following the dissolution of Parliament. The formal legal restrictions now apply to Council actions until the close of polls on 12 December 2019. This pre-election period is informally known as “purdah”.

It is important that you understand the implications of purdah and the restrictions in broad terms, in order to ensure that neither the Council nor you personally are put at risk of challenge or prosecution.

The conduct of all Council business will become increasingly politicised and come under greater scrutiny as the elections approach. In practice, we are already working in the pre-election period.

Please pass on this guidance to any partners or external organisations who work closely with the Council and who may be impacted by purdah restrictions.

Guidance

Parliamentary elections will take place on 12 December 2019. While the restrictions that apply to all elections are broadly similar there are some notable differences with Parliamentary elections especially in respect of the status of candidates.

This guidance note has been produced to give advice to Members and Officers in respect of publicity and other related matters during, and leading up to, the elections. Although the Council will retain its responsibility to undertake its functions and, as such, it will largely be “business as usual”, special consideration must be given to publicity and to some areas of decision-making.

The general principles governing the conduct of Members and Officers are set out in Part II of the Local Government Act 1986, the Code of Practice issued under section 4 of this Act¹, the Members’ Code of Conduct and the Member/Officer Protocol.²

The objective of this guidance is to prevent the Council, as a corporate body, influencing, through its own publicity, support for any particular candidate or political party. It does not restrict what Members say or do in their individual capacity --however they must be careful not to breach the terms of the Members’ Code of Conduct and not to improperly use Council facilities.

General Election Candidates

Until 11 November 2019, the General Election candidates have the status of Prospective Parliamentary Candidates (PPCs). After that date the PPCs status changes as they then become

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The code of recommended practice on local authority publicity - approved 31 March 2011

² Some of the guidance also refers to the following:

- *Amended by section 27 of the Local Government Act 1988 and revised in April 2001*

Parliamentary Candidates (PCs) through to the election itself. It is important to note that PCs in the period leading up to the election have different rights to PPCs.

Most if not all PPCs have now been appointed by the political parties. As PPCs, they have very limited rights and status in relation to their dealings with the Council. The key points relating to PPCs are as follows:

1. PPCs have no official status and should be treated in the same way as members of the public if they request information. They are subject to the requirements of the Freedom of Information Act 2000 and the Data Protection Act 2018 in these circumstances.
2. PPCs cannot request Officers to do work for them, and Officers must not commit council resources to do work for individual PPCs. This could be seen as compromising the impartiality of the Officer.

Allowing PPCs to make official visits to or use Council premises for political purposes constitutes a breach of the Council's duty to act impartially and a breach of its duty not to allow its resources to be used for political purposes. To give a practical example, such requests are commonly accompanied by a request for a photo opportunity on-site (often through the local media), with the local or a prominent District Councillor present and with Officers invited to be involved. Any such request should be politely refused as there is no guarantee as to how such material would be used. The term 'Council resources' in 2 above includes staff and premises as well as facilities provided by companies on behalf of the Council and which relate to the delivery of Council services. If, however, the PPC wishes to stand on the highway outside of Council premises and have a photo taken with – for example – the local District Councillor then this is fine but no Officers should be actively involved in the photo.

Whilst in Purdah and the change in status from a PPC to a PC the following rules apply.

Use of Council's Facilities

The Council's powers, facilities and resources cannot be used for electoral campaigning or political purposes. The resources and facilities of the Council may be used only in connection with or in support of council business.

The basic rule applies throughout the year in different guises, irrespective of the electoral cycle. But the purdah period requires greater care and is covered by statutory guidance. The Council's headed stationery, logos and designs must not be used or replicated in any stationery or information for electioneering purposes. The use of the Council's resources for the purposes of a candidate's election, as well being unlawful in itself, may also amount to an unlawful donation which would have to be repaid.

Use of Council Premises

The Representation of the People Act 1993 provides that election candidates have a right to use rooms in schools or other public buildings for public meetings.

A candidate is entitled to use certain kinds of rooms free of charge and at reasonable times during the election period. While there is no hire charge for the use of these rooms, the candidate must pay for any expenses incurred during their meeting, such as heating, lighting and cleaning, and for any damage to the premises. In broad terms, the rooms that can be used are those funded by the local authority, this includes meeting rooms in the Council Offices.

The candidate must give reasonable notice of their wish to use the room and there must be no interference with its normal use.

These restrictions do not apply to a private house but 'meeting room' means any room that it is practical to let for public meetings and includes a hall, gallery or gymnasium.

Assistance to candidates

All correspondence, enquiries and the provision of facilities or information should be dealt with fairly between candidates and political parties, to ensure that no particular advantage or favour is given. Generally, there is an entitlement to the same information and access to premises as is available to the public. A full list of candidates can be obtained from the Electoral Services team on 11 November 2019, and will be published on the Council's website.

Use of MDC email by Members

Email communication made by elected members during the Purdah period is still permissible, including the use of the mendip.gov.uk address, provided it is for dealing with council (as opposed to party political) business. However, during the election period (which runs from the publication of the notice of election to the close of the polls), Members must not use their mendip.gov.uk email address in any divisional newsletters, or for any election or campaigning purposes.

Printing and postage

Political parties may use the MDC Print Service/Copy Shop for printing party political literature at our external rates, as follows:

(a) A4 B&W single sided:	15p per sheet (up to 49 sheets)
	10p per sheet (50-250 sheets)
	5p per sheet (250+ sheets)
(b) A4 B&W double sided:	28p per sheet (up to 49 sheets)
	18p per sheet (50-250 sheets)
	8p per sheet (250+ sheets)
(c) A4 Colour single sided:	45p per sheet (up to 49 sheets)
	35p per sheet (50-250 sheets)
	25p per sheet (250+ sheets)
(d) A4 Colour double sided:	85p per sheet (up to 49 sheets)
	65p per sheet (50-250 sheets)
	45p per sheet (250+ sheets)

The post room may be used to send out letters that are addressed and stamped.

Conduct of officers outside of work

If you hold a post that is politically restricted under the Local Government and Housing Act 1989, you are not free to engage in political activity. This applies at all times and not only during the pre-election period. The main activities prohibited to these officers are:

- being a candidate for election to the House of Commons, the European Parliament or Local Authority;
- acting as an agent for a candidate for the election to one of the bodies above;
- being an officer of a political party or acting on behalf of a candidate for election to one of the bodies above
- canvassing on behalf of a political party or on behalf of a candidate;

- speaking to the public or to a section of the public with the apparent intention of affecting support for a candidate or political party; and
- publishing any written work which appears to be intended to affect public support for a candidate or political party

Publicities and Political Sensitivities during the pre-election period

Officers are reminded that they must not at any time issue any publicity which might appear to be designed to affect support for, or disadvantage, a political party or an election candidate. This is particularly important during the pre-election period when no publicity about politically controversial issues should be issued. In particular, no photographs including candidates should be used.

‘Publicity’ in this context is defined as ‘any communication, in whatever form, addressed to the public at large or to a section of the public’. Publicity includes press releases, letters to editors, newspapers, newsletters, web sites (including the hosting of material that is created for third parties), social media platforms (including liking, sharing or linking to posts by others), posters, leaflets, booklets, banners, badges, t-shirts, carrier bags and so on. Advertising is publicity. Campaigns, exhibitions, plays, conferences and any other kind of public communication can be defined as publicity. The implementation of a consultation exercise may involve publicity.

The Council can continue to respond to events and legitimate service enquiries provided that answers given are factual and show no political bias.

Officers issuing publicity during the purdah period must be able to demonstrate a service need for the publicity. In most circumstances it would be preferable that the appropriate officer, rather than the relevant Cabinet Member, is quoted in any proactive publicity. It is not permissible to issue publicity about an issue that is not of immediate concern and to name a Councillor where there is no public interest in that Councillor being named. All corporate social media platforms operated by Mendip District Council staff are subject to the rules of purdah.

Factors to be taken into account when considering whether or not publicity is prohibited include: the content and style of the material; the time and circumstances of publication; the likely effect of the material on those to whom it is directed; whether the material promotes or opposes a point of view on a question of political controversy which is specifically identifiable as the view of one candidate but not all; and where the material is part of a campaign, the effect the campaign is designed to have.

It is also preferable that pro-active events involving Councillors and the media are also avoided during this sensitive period unless the event was pre-arranged and can be justified by a service need. If such an event goes ahead any Councillor involvement must be limited and proportionate to the service need.

All council publicity is potentially sensitive in the run-up to the elections.

Decision making and other business of the council

There is no statutory restriction on the Council’s decision making, meetings, or political debate during the purdah period. Indeed section 25 of the Localism Act 2011 clarifies that it is proper for Councillors to play an active part in local discussions and that the expression of a view on a particular local issue, or campaigning for election on a particular platform, should not be treated as evidence of a closed mind on the particular issue, which should prevent them from participating in Council business relating to such an issue.

Agendas for meetings held in the purdah period must not be set to create a political advantage for any one party. In addition care must be taken to ensure Officers are not put in a position of appearing to endorse one party and their policies above another.

Normal day to day business for the Council will continue through the whole of the election period. However, proposals of a sensitive or controversial nature will need careful consideration as it may not be appropriate for them to proceed during the purdah period, if there is a risk they will impact on public opinion for or against any political party.

Consequences

Making errors during the Purdah period could result in very serious consequences as the legislation allows officers to be individually prosecuted for breaching certain rules. Legal action could also be taken against either the Council or the Returning Officer.

If you have any queries in connection with this note please contact:

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