



Haverling

LONDON BOROUGH

GOVERNANCE COMMITTEE (*Special Meeting*) AGENDA

7.30pm

Wednesday
27 October 2010

Haverling Town Hall
Main Road, Romford

Members 11: Quorum 4

COUNCILLORS:

Conservative Group (7)

Michael White (C)
Becky Bennett (VC)
Robert Benham
Osman Dervish
Steven Kelly
Roger Ramsey
Eric Munday

Residents' Group (2)

Clarence Barrett
Ray Morgon

Labour Group (1)

Keith Darvill

Independent Residents' Group (1)

Jeffrey Tucker

For information about the meeting please contact:
Grant Söderberg (01708) 433091
e-mail grant.soderberg@haverling.gov.uk

AGENDA ITEMS

1 CHAIRMAN'S ANNOUNCEMENTS

The Chairman will announce details of the arrangements in case of fire or other events that might require the meeting room or building's evacuation.

**2 APOLOGIES FOR ABSENCE AND ANNOUNCEMENT OF SUBSTITUTE MEMBERS
(if any) - receive.**

3 DECLARATION OF INTERESTS

Members are invited to declare any interests in any of the items on the agenda at this point of the meeting. Members may still declare an interest in an item at any time prior to the consideration of the matter.

4 Item withdrawn

**5 APPOINTMENT OF REPRESENTATIVES TO THE DAMYNS HALL AERODROME
JOINT CONSULTATIVE COMMITTEE**

Members are invited to appoint two representatives of the Council to the JCC

6 e-PETITIONS

This report deals with the statutory obligation to provide means whereby the public can submit petitions electronically (ePetitions) and was deferred at an earlier meeting.

7 EXCLUSION OF THE PUBLIC

To consider whether the public should now be excluded from the meeting on the grounds that it is likely that, in view of the nature of the business to be transacted or the nature of the proceedings, if members of the public were present during the following item there would be disclosure to them of exempt information within the meaning of paragraph 1 of Schedule 12A to the Local Government Act 1972 which it is not in the public interest to publish; and, if it is decided to exclude the public on those grounds, the Committee to resolve accordingly on the motion of the Chairman.

8 CONSIDERATION OF A REPORT CONTAINING EXEMPT INFORMATION

**Philip Heady
Democratic Services Manager**

**GOVERNANCE
COMMITTEE**

REPORT

27 October 2010

Subject Heading:

**APPOINTMENT OF
REPRESENTATIVES TO THE DAMYNS
HALL AERODROME JOINT
CONSULTATIVE COMMITTEE**

CMT Lead:

Christine Dooley, Assistant Chief
Executive – Legal and Democratic
Services

Report Author and contact details:

Ian Buckmaster, Committee
Administration Manager, 01708 432431
ian.buckmaster@havering.gov.uk

Policy context:

None applicable

Financial summary:

There are no financial implications

The subject matter of this report deals with the following Council Objectives

- Clean, safe and green borough
- Excellence in education and learning
- Opportunities for all through economic, social and cultural activity
- Value and enhance the life of every individual
- High customer satisfaction and a stable council tax

Arising out of planning approval for the Aerodrome at Damyns Hall, Upminster, the Aerodrome Operator is obliged by a Section 106 agreement to establish the Damyns Hall Aerodrome Joint Consultative Committee (DHJCC).

The DHJCC is to comprise an independent Chairman and independent Vice-Chairman, two representatives of the Aerodrome Operator, three

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representatives of users of the aerodrome, representatives of “interested organisations” and two representatives of the Council.

The terms of reference of the DHJCC provide that it shall ordinarily meet three times a year. Meetings of the Committee shall be open to the public and press (with the usual caveat for confidential matters).

The DHJCC is established under Section 35 of the Civil Aviation Act 1982 to provide means of consultation on any matter concerning the management or administration of the aerodrome which affects the interests of its users, the Council and any other organisations representing the interests of all persons concerned with the locality in which the aerodrome is situated. It will serve as a focal point for the co-ordination of the interests of the aerodrome, its users and those who live, work and seek recreation in the local area, and to act as a means of exchanging information and promoting an understanding between the various interests.

IMPLICATIONS AND RISKS**Human resources implications and risks**

No implications or risks for the human resources arise from this report.

Equalities implications and risks

No implications or risks for the environment arise from this report

Financial implications and risks

No financial implications or risks arise from this report.

Legal implications and risks

No legal implications or risks arise from this report.

BACKGROUND PAPERS

The s106 agreement referred to in the report.

RECOMMENDATION

That two representatives of the Council be appointed to the Damyns Hall Aerodrome Joint Consultative Committee



**GOVERNANCE
COMMITTEE**

REPORT

27 October 2010

Subject Heading:

**PETITIONS – further report –
ePetitioning**

CMT Lead:

Christine Dooley
Assistant Chief Executive
01708 432442

Report Author and contact details:

Ian Buckmaster
Committee Administration Manager
ian.buckmaster@havering.gov.uk
01708 432431

Policy context:

Response to new duties around
engagement with the public through
petitions.

Financial summary:

There are no direct or significant financial
implications

The subject matter of this report deals with the following Council Objectives

Clean, safe and green borough	<input type="checkbox"/>
Excellence in education and learning	<input type="checkbox"/>
Opportunities for all through economic, social and cultural activity	<input type="checkbox"/>
Value and enhance the life of every individual	<input checked="" type="checkbox"/>
High customer satisfaction and a stable council tax	<input checked="" type="checkbox"/>

SUMMARY

This report is re-submitted, with updated information, following deferment at the Committee's previous meeting. Following previous reports on the new legal provisions relating to petitions, it deals with the statutory obligation to provide means whereby the public can submit petitions electronically (ePetitions).

RECOMMENDATIONS

- 1 That the proposals for an interim contract pending adoption of a permanent ePetitioning system, be noted.
- 2 That the Committee **RECOMMEND to the Council** that the statutory Petitions Scheme be amended, with effect from the launch of the Council's ePetition facility, by adding at the end of the Scheme the additional section relating to ePetitions set out in the Appendix to this report.

REPORT DETAIL

Introduction

- 1 At its past several meetings, the Committee has considered issues around the Petitions Scheme that the Council is required to have by provisions of the Local Democracy, Economic Development and Construction Act 2009. Council has adopted the Petitions Scheme and agreed Procedure Rules to govern the debating of petitions when appropriate and necessary.
- 2 The one issue remaining to be settled is "ePetitioning", that is, the creation of, and subscription to, a petition by electronic means. There is a statutory obligation on all local authorities to have an ePetitioning facility in place no later than 15 December 2010.
- 3 An ePetitioning system will allow the following:
 - (a) A member of the public to set up an ePetition
 - (b) Moderation of the ePetition – to ensure that:
 - it relates to a matter relevant to the Council;
 - it is not defamatory, vexatious or otherwise improper;
 - it is time limited, so as to ensure that a point will come where it can be dealt with; and
 - those "signing" it are entitled to do so (so far as that is possible to ascertain)
 - (c) Members of the public who wish to "sign" the petition electronically do so using a valid email address and stating their name, the address in Havering that qualifies them to be able to sign and whether they are a resident, local worker or student
 - (d) Once the time limit has passed and the ePetition has closed, officers to deal with it in accordance with the Petitions Scheme.

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- 4 Once an ePetition has been finalised, it will be processed in the same way as a “paper petition”, including – provided the appropriate thresholds are met – debate at the relevant Overview & Scrutiny Committee or full Council. It is possible that a petition will be submitted both as an ePetition and on paper (obviously without duplication of signatories being permitted): this will enable those who do not wish to do so on-line nevertheless to subscribe to the petition. The objective will be to treat all petitions in broadly the same way.
- 5 It is anticipated that, eventually, the majority of petitions will be ePetitions rather than the more traditional type, simply because it will be much easier for the public to set up and sign an ePetition. No estimate is possible of the number of ePetitions likely to be received, but a brief search of other authorities’ websites suggests that, at first, the ePetition facility will be lightly used but that, in time, it will be used quite extensively.
- 6 People wishing to set up an ePetition will be able to do so from within the Council’s website, either directly, or by going through the Leader of the Council’s blog.

Providing an ePetitioning facility

- 7 There is a statutory obligation to provide an ePetitioning facility. A number of providers of computer software have been developing programs for creating and managing ePetitions, both as stand-alone products and as additional facilities within existing software packages covering much larger areas of activity.
- 8 Members will be aware that a variety of computer program suites are used by the Council, many of which are currently being upgraded. Several of these suites offer ePetitioning facilities, or expect to be able to do so in the foreseeable future. At this stage, the combination of the newness of ePetitioning and the need to upgrade existing facilities makes it hard to assess which, if any, of the products on offer is best able to meet the Council’s needs.
- 9 Given the need for something to be in place for 15 December, therefore, an interim solution is proposed by officers. Details of the contract are currently subject to negotiation and it would be premature and inappropriate at this stage to provide more detail in the public part of the agenda. The intention is to use the facilities offered by a company with which the Council currently has a contract for particular IT facilities. Further details are given in Exempt Appendix 2, which is not available to the press or public.
- 10 The Committee will wish to note that the Government has recently indicated that, under the new burdens principles, it will meet the costs of the new burdens associated with the petitions duty. It is expected that the national cost to the public sector of responding to local petitions will be

approximately £4.7 million per year, decreasing over time. These costs arise from increased work for council officers, time at Council meetings and Overview and Scrutiny committees, and set up costs for e-petitions. Local authorities will each receive a grant for 2010/11. This amount will vary by local authority dependent on the local population. It is expected that funding for future years will be incorporated into the revenue support grant.

- 13 The ePetitioning facility must be in place by 15 December. Once the contract for its provision is in place, it is expected that the facility can be set up in a couple of weeks and staff training in its use will follow. It is intended to launch ePetitions once the facility has been set up and staff training is complete, if possible before 15 December.

Amending the Petition Scheme

- 14 The Petition Scheme needs now to be amended to reflect the introduction of ePetitioning. Little amendment is, in fact, needed: an additional section at the end of the Scheme will achieve the necessary change. The proposed text is set out in the Appendix 1 and the Committee is asked to endorse it for approval by the Council.

Updated information

- 15 At the last meeting, the Committee deferred consideration of this issue to this meeting, to enable the position to be considered in the light of:
- (a) the expected payment to the Council from the Department of Communities & Local Government of an element of Area Based Grant to support the introduction of the new statutory duties relating to petitions and ePetitioning in particular
 - (b) the withdrawal by the current Government of the previous Government's guidance to local authorities on the exercise their duties in relation to petitions and
 - (c) any relevant information arising from the then-expected announcement by the Chancellor of the Exchequer about further financial adjustments in the light of the national financial position.
- 16 Although expected on 15 October, no payment was received by the Council on that date. At the time of writing, further enquiries were being made about the promised funding and an update will be given at the meeting, if not before.
- 17 A copy of the DCLG letter withdrawing the previous guidance is attached. Enquiry has been made of the DCLG as to whether Ministers are minded to seek the repeal or modification of the legislation by, at the time of writing this

report, no response has been received – any response received before the meeting will be reported at the meeting, if not before.

- 18 In the meantime, as the DCLG letter points out, the legal obligation to have an ePetitioning facility in place by 15 December remains in force and, unless or until repealed, the Council would be in breach of its statutory duties if it failed to put a facility in place. Further issues arising are discussed in the Legal Implications section below.
- 19 The Chancellor's announcement is not due to be made until after the agenda for the meeting must be published. Accordingly, a supplementary report will follow once it has been possible to analyse the effects, if any, arising from the Chancellor's announcement.

IMPLICATIONS AND RISKS

Human resources implications and risks

No implications or risks for the human resources arise from this report.

Equalities implications and risks

No implications or risks for equalities arise from this report

Information and Communications Technology Implications

The software proposed for use for the interim ePetition facility is compatible with the Council's system.

During the course of procuring a permanent ePetition facility, appropriate steps will be taken to ensure continued system compatibility.

The cost of adjusting the Council's system to accommodate ePetitions is expected to be minimal.

Financial implications and risks

The Government has indicated an intention to contribute financially to the cost of dealing with petitions and setting up ePetitioning through a grant allocation. At the time of writing the amount available to the Council is unknown and in the current economic climate there is a potential risk that this funding may not materialise.

The cost of the interim arrangement with the contractor is expected to be of the order of £4,000 initially. If no grant materialises or if it is insufficient, an allocation will need to be made from contingency.

There will be a small cost in arranging the Council's side of setting up the ePetitioning facility (such as amending, or creating additional, website pages, and training staff in its use) but that will be minimal and contained within existing budget provision.

Legal implications and risks

The Council has a statutory obligation to provide an ePetitioning facility, although the legislation is not prescriptive as to its precise form.

Failure to make an ePetitioning facility available would place the Council in breach of its statutory duty. While there is no specific penalty for doing so, the Monitoring Officer would be obliged formally to report to the full Council on the matter and the Council's external auditors might report adversely upon it as well. The Council would be vulnerable to action by persons aggrieved at the lack of a facility on or after the due date – 15 December – especially given that there has been a long lead-in period, the specific advice from the DCLG about complying with the Act and the (expected) availability of government-provided funding to support its introduction in due time. The Council would also be at a disadvantage given that most, if not all, other local authorities have complied with the legislation, and indeed many have provided ePetitioning facilities for some time.

The most likely approach for an aggrieved person would be to complain to the Local Government Ombudsman. Failure to comply with a statutory duty would unquestionably be maladministration, though whether the Ombudsman could or would conclude that its non-provision also caused injustice would remain to be seen. While currently an adverse report would do no more than cause reputational harm to the Council, Members should be aware that the Minister for Local Government (Bob Neill MP) has recently announced that the Government intends to introduce legislation, the effect of which will be to make compliance with an Ombudsman's recommendations mandatory.

There is a risk that some individuals will wish to petition on matters, or use words in the text of petitions, that are defamatory or otherwise improper in the legal sense. EPetitions will therefore need to be moderated in order to ensure that such risk is minimised.

The proposed interim contract for ePetition facilities will conform to the Council's procurement and Contract Procedure Rules.

BACKGROUND PAPERS

There are no background papers

PROPOSED ADDITION TO THE PETITION SCHEME

Petitions raised and submitted electronically (“ePetitions”)

The Council’s website contains a dedicated area that enables petitions to be raised and submitted electronically. Such petitions are referred to as ePetitions.

An ePetition may be raised by going to the Council’s website at www.havering.gov.uk/petitions and following the guidance given there.

Any ePetition raised on the website will be assigned a closing date. Once the closing date is reached, no further signatures may be added to it and its processing in accordance with this Petition Scheme will begin.

ePetitions will be treated in exactly the same manner as petitions submitted using more traditional methods. An ePetition may be submitted in place of, or in addition to, a petition on paper (but any individual may sign only an ePetition or a paper petition, not both).

It will be necessary for those signing a petition electronically to confirm that they are qualified to do so, by providing a postal address in Havering where they live, work or study.

All ePetitions raised on the Council’s website will be moderated to ensure that they comply with the requirements of this Petition Scheme. The Council reserves the right to refuse to place on the website any ePetition that does not comply with the Scheme.



Deputy Director, Community Action Division

**Department for Communities and Local
Government**

5/B4
Eland House
Bressenden Place
London SW1E 5DU

www.communities.gov.uk

24 September 2010

Dear Chief Executive

Withdrawal of statutory guidance on petitions

I am writing to you about the statutory guidance on the duty to respond to petitions. This guidance was issued by the previous administration under Section 19 of the Local Democracy, Economic Development and Construction Act 2009, to principal local authorities in England on 30th March 2010.

The Department for Communities and Local Government is withdrawing '*Listening to communities: Statutory guidance on the duty to respond to petitions*' with effect from 24 September (although the document will continue to be available for reference on the department's website). This means you will now have more discretion to decide how you approach petitions locally.

The petitions requirements in Chapter 2, Part 1 of the Local Democracy, Economic Development and Construction Act 2009 necessarily remain in force unless or until they are repealed by fresh primary legislation. This includes the requirement to provide a facility for people to make e-petitions which will come into effect on 15th December this year. Local authorities will be paid for the new burden through the area based grants process this financial year, with the first payment on 15th October.

Local authorities are legally bound to comply with the minimum requirements of all statutory duties. However in considering how you approach the petitions requirements, including in making arrangements to set up an e-petition facility, you will wish to consider current circumstances, and having regard to both the Government's commitment to remove unnecessary prescription for local authorities and the priority of cutting out all wasteful spending.

If you have any queries concerning this letter, please contact Carl Laughna on 0303 4442044, or e-mail on carl.laughna@communities.gsi.gov.uk

A handwritten signature in cursive script that reads "Claire Cooper".

CLAIRE COOPER

GOVERNANCE COMMITTEE (SPECIAL)

SUPPLEMENTARY AGENDA

27 October 2010

The following report is now attached: It replaces the withdrawn item 4 which was inadvertently included with the agenda papers

Report

4 RESPONDING TO THE GOVERNMENT'S CONSULTATION ON REVISIONS TO THE CODE OF RECOMMENDED PRACTICE ON LOCAL AUTHORITY PUBLICITY

This report provides a draft response on behalf of Havering Council to the Government's proposed new Code of Recommended Practice on Local Authority Publicity ("The Code").

**Philip Heady
Democratic Services Manager**



GOVERNANCE COMMITTEE

REPORT

27 October 2010

Subject Heading:

Responding to the Government's consultation on revisions to the Code of Recommended Practice on Local Authority Publicity

CMT Lead:

Cynthia Griffin

Report Author and contact details:

Mark Leech
Head of Communications
mark.leech@havering.gov.uk
01708 434373

Policy context:

The Council's Communications Strategy is guided by the Code. The revised Code proposed by the Government would impact on current communication policy and practice.

This report is submitted with the agreement of the Chairman as an urgent matter, pursuant to Section 100B(4) of the Local Government Act 1972

SUMMARY

This report sets out, for discussion, a draft response on behalf of Havering Council to the Government's proposed new Code of Recommended Practice on Local Authority Publicity ("The Code").

The draft Code would have significant impact on current communication policy and practice. It includes measures to prohibit the publication of Council newspapers/magazines more frequently than once every quarter and also presents new rules to encourage "even-handedness" in Council communications.

It is the view of officers that a number of these measures would reduce the clarity of Council communications and restrict the Council's ability to communicate

effectively with residents and the draft response to the consultation sets out these concerns in more detail.

RECOMMENDATIONS

1. That the Governance Committee discuss and comment on the draft response to the consultation that will be issued formally in the name of the Chief Executive.

REPORT DETAIL

1. The Code of Recommended Practice on Local Authority Publicity (“the Code”) (attached at Appendix 2) is the formal guidance for corporate communications activity on behalf of a local authority. It was first published in 1988 and revised in 2001. It is issued under section 4 of the Local Government Act 1986.
2. The Government has launched a consultation on a revised Code, which closes on 10th November this year. The implementation date set for the revised Code is 1st January 2011. This report sets out a formal draft response on behalf of the London Borough of Havering.
3. The revised Code introduces new and specific guidance on several aspects of publicity, including local authority publications, such as Havering’s own *Living* newspaper and the content of corporate communication.
4. Some of the measures introduced in the revised Code are likely to have a significant impact on Havering’s communications policies and practices. Most immediately, it would restrict the publication of *Living* to a quarterly cycle. Measures around ‘even-handedness’ are also not consistent with current practice.
5. The draft response sets out concerns around the prescribed limits to frequency and the ‘even-handed’ measures, making the point that some of these measures are inconsistent with central government policy and that their implementation will make it difficult to present clear, consistent and regular communications to local residents.

6. Consultation responses are being sought from the Local Government Association and will also be supplied by London Councils and LGComms (the trade body for local government communications officers). Havering will feed its views into these bodies to inform their responses – in addition to submitting its own response.

IMPLICATIONS AND RISKS

Financial implications and risks:

The Council will need to review the arrangements it has in place for the preparation, printing and distribution of *Living* and the publication of notices if Government enacts the proposals in this consultation. Related actions would need to comply with any published timetable.

The risks relate to the length of current print and distribution contracts and staffing levels but an initial analysis suggests that there is a degree of flexibility in the current arrangements.

Legal implications and risks:

This consultation is for changes to a code of practice related to the Local Government Act. The Council would be obliged to have regard to the provision of any new Code of Practice issued.

Human Resources implications and risks:

Should the proposals in this consultation be enacted then a review of required staffing levels would need to be undertaken.

Equalities implications and risks:

Living is circulated to all households in the borough. Alternative communication – for example, a switch to digital media could exclude some parts of the population from access to the information currently made available in *Living*.

Appendix 1 – Draft text - response to consultation

Dear Secretary of State,

I am writing on behalf of the London Borough of Havering to respond formally to your consultation on the draft Code of Recommended Practice on Local Authority Publicity.

The London Borough of Havering supports the stated underlying objective of the proposed Code of Recommended Practice on Local Authority Publicity “to ensure the proper use of public funds for publicity,” but would like to ask for some further clarity and revisions to be considered. Whilst the scope of the code is sufficiently wide, the guidance within it is extremely prescriptive and we believe that some of this guidance presents a significant and unnecessary challenge to local councils’ ability to communicate effectively.

I would like to focus Havering’s response on two elements within the Code – these are the guidance related to council publications (paragraph 28 of the Code) and the section in the proposed code on even-handedness (paragraphs 19-25).

Council publications

The Code prescribes very strict rules governing Council publications. We believe that more regular Council publications – such as our own fortnightly publication - represent a prudent use of public funds. They allow for public notices to be published in-house, rather than printed at significant cost in local newspapers and we do not see how the proposed new guidance links to the desire for better value for money.

The restriction on the frequency of council publications will undoubtedly restrict councils’ ability to communicate in a timely fashion. In a borough such as Havering, which has London’s oldest population, we do not have as high a take-up of internet channels of communication as in some other areas. Therefore the restriction on regular printed communication will make it harder for the Council to communicate with specific demographic groups within the borough – including many of the most vulnerable.

We would ask that the proposed rules regarding frequency are relaxed. If your stated aim is to reduce the competition with local newspapers, this can be achieved by restricting publication to a maximum of once every month, so that there is no chance for Council publications to compete in terms of function with local newspapers. At the same time, we would also ask that rules governing the publication of statutory notices should be relaxed by allowing internet publication, which would allow councils to achieve significant savings – in this we agree with the argument posited by the Local Government Association.

Even-handedness

It is our view that the section on even-handedness is largely, if not completely unnecessary. There are already clear rules ensuring that Council publicity is impartial and does not provide support for any one political party. These rules are unambiguous and are strictly enforced.

The proposed new rules, which aim to ensure greater publicity for back-bench members and an explicit acknowledgement of alternative political viewpoints to that of the Administration, are lacking clarity and could severely compromise the Council's ability to present clear and consistent information to residents.

Paragraph 19 of the code refers to the need to present "matters of political controversy" in a "fair manner". There is no explanation of how this might be achieved, when almost every decision taken by the Council could be deemed to be politically controversial – in that differing points of view will be held by different elected Members.

Likewise paragraph 20 suggests that the Council's corporate communications should acknowledge the views of backbench councillors, as appropriate. In an authority of 54 Members (grouped into four political parties), with a Cabinet and Overview and Scrutiny model in place, it will be difficult and costly to undertake this task in a manner that all members will regard as 'fair'.

At present, the position of the different parties is very clear at meetings of the full Council - which are broadcast on the internet - and in the respective political communications issued by the parties on significant matters. We are not convinced that subsuming this range of opinion into the Council's corporate communications will help our communities understand the policies and practices of the Council.

The guidance on blogs appears to be contradictory. It seems to suggest that the Council should host the blogs of all councillors who wish to have one and that these councillors should be able to post material linked to their political beliefs. At the same time, the Council retains the duty to moderate and remove unacceptable material. Does this include political material? If not, how is this measure consistent with the rules governing political impartiality?

Finally, the principles set out in this section of the Code would seem to be unique to local government and inconsistent with the practices of central government. I am not aware of any moves to ensure that Whitehall communications teams should publicise the views of opposition Members of Parliament or Peers.

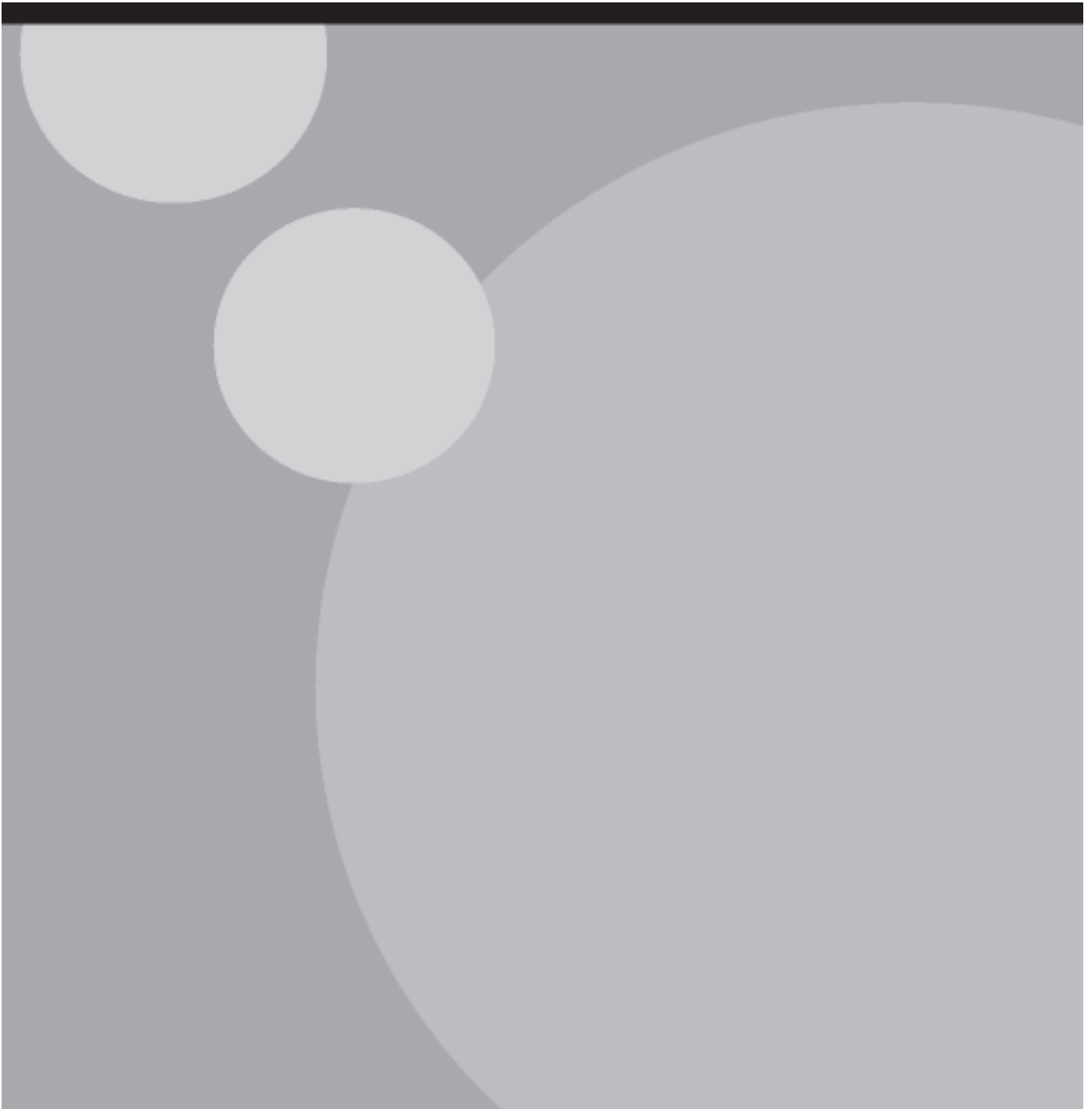
In conclusion, the London Borough of Havering is happy to support the majority of the proposed new code, but would ask that restrictions on the frequency of council publications are relaxed and that the measures addressing 'even-handedness' are comprehensively reviewed, or removed from the draft Code.

Governance Committee, 27 October 2010

Other than these specific issues, Havering concurs with the response provided by the Local Government Association / London Councils and LG Comms. (TBC when these submissions are available for review)

Code of Recommended Practice on Local Authority Publicity

Consultation



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

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Introduction

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

Why we are consulting

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

Local authority publicity

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

What we are proposing

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

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

Who we are consulting

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

How to respond

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

Responses may also be returned to:

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

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

What will happen to the responses

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

Publication of responses – confidentiality and data protection

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

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Code of Recommended Practice on Local Authority Publicity

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

P ROWSELL

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

THE CODE OF RECOMMENDED PRACTICE ON LOCAL AUTHORITY PUBLICITY

Introduction

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

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

Principles

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

Lawfulness

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

Cost effectiveness

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

Objectivity

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

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

Even-handedness

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

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

Appropriate use of publicity

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

Equality and diversity

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

Care during periods of heightened sensitivity

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