



EUROPEAN UNION REFERENDUM

**SOLACE GUIDANCE NOTE FOR COUNCIL OFFICERS ON
STATUTORY RULES REGULATING PUBLICITY PRODUCED
BY COUNCILS AND OTHER AREAS OF COUNCIL'S
OPERATIONS THAT MAY BE AFFECTED BY THE EUROPEAN
UNION REFERENDUM**

1. INTRODUCTION

- 1.1 This Guidance has been produced by the Society of Local Authority Chief Executives and Senior Managers (SOLACE) for Chief Officers many of whom will also be serving as Counting Officers at the forthcoming EU referendum. SOLACE is grateful for the comments of the Cabinet Office, Electoral Commission and Lawyers in Local Government on the content.
- 1.2 This is Guidance, and as such, it has no formal status. Each issue will be a matter for that Council / Chief Officer and each Council / Chief Officer will wish to adapt and interpret this guidance to meet their own local circumstances. This Guidance will be kept under review. Any additional issues or points that it is felt useful to be added should be sent to Martina Cicakova (Martina.Cicakova@solace.org.uk) at SOLACE.
- 1.3 The purpose of this Guidance is to provide advice and guidance on:-
- (a) the statutory rules regulating publicity produced at any time by the council or by other persons with the council's assistance;
 - (b) the tighter rules on council publicity produced by the council in the run up to polling day for the EU referendum; and
 - (c) the areas of the council's operations which are affected by the referendum process.
- 1.4 The statutory rules on council publicity in (a) above apply at any time and are not restricted to the run up to any polling day. The restrictions on council publicity in (b) above apply only in the 28-day period ending with the date of the referendum poll, namely 27th May to 23rd June. During such periods, these tighter rules are different for elections and for referendums. The Electoral Commission's factsheet and guidance can be found here:
http://www.electoralcommission.org.uk/_data/assets/pdf_file/0010/194635/Public-Bodies-and-EU-Referendum-material.pdf
- 1.5 The specific areas to be covered are:-
- a) publicity produced or facilitated by the council;
 - b) assistance to campaigners at the referendum poll;
 - c) use of council premises;

- d) visits to council premises by elected representatives such as MSPs, MPs, MEPs, and campaigners;
- e) promoting political literacy in schools in connection with the referendum;
- f) council employees in politically restricted posts; and
- g) time off work for council employees.

2. SENIOR OFFICERS / CHIEF EXECUTIVES

Chief Executives and other senior council officers (and councils themselves) engage in a range of ways with EU, not least on funding. As a result, many senior officers comment on specific European issues quite legitimately as part of their “day job”.

Many of these officers will also take a role in the conduct of the EU referendum when it takes place. In many cases, Chief Executives will be the Counting Officer and Regional Counting Officers.

As a consequence, such officers should be aware that in due course, they will be acting as Counting Officers (or working for the Counting Officer) in an entirely neutral capacity. Such officers should be aware of this now, and take account of this in what views they express now in regard to EU in this context.

As senior and seasoned public servants, senior officers will naturally manage their behaviour in regard to party politics. Expressing views on Europe (on social media for example) may not feel a potential issue at this stage but it will still be subject to public scrutiny as the referendum approaches.

As a consequence, senior officers who are likely to be undertaking a role in the EU referendum should be mindful of their actions and words in their day job in relation to Europe given the forthcoming referendum.

In addition, SOLACE advises Chief Officers, particularly those who hold the roles of Head of Paid Service (HoPS) or Monitoring Officer (MO), to give consideration to providing some proactive (rather than reactive) guidance to officers. Unlike “normal” elections, the traditional political divides along party lines may not apply. However, similar expectations and issues may arise, some legitimate and some

illegitimate. It is a matter for the HoPS and MO to give advice and guidance to the officers on matters such as those set out in this guidance. The provision of early proactive advice will avoid a vacuum and uncertainty, or worse a vacuum which may be filled by others (not necessarily correctly or reflecting the advice which the HoPS / MO would wish to give).

As in any election, those exercising CO roles will wish to consider the appropriateness of any “day job” advice they are called upon to give that may (even if only by perception) conflict with their CO role, and hence delegate the giving of that advice or remain silent.

Whilst the impact of S125 (see section 3 below) will not commence until 27th May, the elections that are due to take place on 5th May will overlap with the campaign period for the EU referendum. As a result, it is important to be aware of the overlap, the interplay between the differing electoral and referendum regimes and the restrictions that apply to both regimes.

Experience at the last few elections has shown the increase in the use of social media. Councils will need to be clear what blogs they will continue to allow councillors to use, and this also applies to any third party hosting. The experience in particular of the recent general election also shows the extent of the use of social media, as a result of which the CO and Chief Executive may well wish to ensure their communications support is monitoring social media channels.

Those exercising the roles and responsibilities of Chief Executives, Monitoring Officers and Counting Officers will need to liaise carefully and give advice depending upon their role and interest in the matter. Matters such as the impact on politically restricted posts should be picked up by the Head of Paid Service (and HR advisors) in Councils now so that advice can be given early.

3. PUBLICITY PRODUCED OR FACILITATED BY THE COUNCIL

- 3.1 Statutory rules apply to councils controlling publicity which they produce or facilitate. These rules are:-

Local Government Act 1986

This Act provides that the council cannot at any time publish any material which in whole or in part appears to be designed to affect public support for a political party [section 2(1)].

“Publicity”, “publish” and “publication” are defined in the Act as any communication in whatever form addressed to the public at large or to a section of the public [section 6(4)]. This means that publicity covers not just the obvious material, such as the council’s newspaper or press releases, but also public launches of new council initiatives or events attended by the public and which are organised or assisted by the council.

Because the Act uses the word “appears”, it means that the test whether publicity is prohibited is an objective one, i.e., what matters is what the purpose of the publicity material means to the public – not what the council considers is its intended purpose or effect.

“Affecting public support for a political party” includes disparaging opponents, i.e. affecting other political parties negatively.

The Act provides that in determining whether any publicity is caught by the Act, regard must be had to:-

- the content and style of the publicity material;
- the time and other circumstances of publication;
- the likely effect on those to whom it is directed; and
- in particular, the following matters:-
 - whether the publicity:-
 - 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.
 - where the publicity is part of a campaign, the effect which the campaign appears to be designed to achieve. [section 2(2)].

The Act also provides that the council cannot give any financial assistance, or assistance in kind, to any person to produce publicity which the council is prohibited from publishing itself [section 2(3)]. This means, for example, that the council cannot facilitate another person or body to produce prohibited publicity by allowing council facilities to be used by others for such purpose.

Council publicity should be designed and presented in such a way so that it does not appear to persons outside the council to be designed to promote a political party or a candidate or a group of candidates of the same party, or to reduce support for any party or its candidates. In the application of the publicity rules for the referendum, particular regard must be had to publicity which 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, and also whether the publicity is part of a campaign which is associated with the referendum question.

The Act also provides that the council, when producing any publicity, must have regard to the statutory Code of Recommended Practice on Local Authority Publicity [section 4(1)].

Code of Recommended Practice on Local Authority Publicity

This is a statutory code issued in 2011 under the 1986 Act. It is not concerned with the interpretation of the statutory rules on prohibited publicity outlined above. It is concerned with all publicity which councils may lawfully produce or facilitate, and it highlights factors which should be borne in mind in making decisions on publicity which deal with matters or issues which are, politically or otherwise, controversial but which are not prohibited by the 1986 Act.

The following section is of particular relevance:-

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 unless expressly authorised by or under statute. It is permissible for local authorities to publish factual information which identifies the names, wards and parties of candidates at elections.

35. In general, local authorities should not issue any publicity which seeks to influence voters. However this general principle is subject to any statutory provision which authorises expenditure being incurred on the publication of material designed to influence the public as to whether to support or

oppose a question put at a referendum. 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.

Whilst there is specific legislation in Section 125 of the Political Parties, Elections and Referendums Act 2000 (PPERA) addressing publicity prior to the referendum, it should be noted that the 1986 Act is relevant. The 1986 Act refers in a number of places expressly to support to a political party or parties, but there is also reference to campaigns on matters of political controversy. In the application of the publicity rules for the referendum, whilst the question may not relate to a party or parties, regard must be had to publicity which 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, and also whether the publicity is part of a campaign which is associated with the referendum question. The 1986 Act and Code are therefore relevant, but will need to be considered within the referendum and any local context.

Section 125 Political Parties, Elections and Referendums Act 2000 (PPERA)

The 28-day period before referendums is regulated by Section 125 of the Political Parties, Elections and Referendums Act 2000 (PPERA). PERA was passed following a review into political party funding in the UK by the Committee on Standards in Public Life, published in 1998. Section 125, which was modified specifically relation to Gibraltar) for the purposes of the forthcoming EU Referendum by the European Union Referendum Act 2015, states:

Restriction on publication etc. of promotional material by central and local government etc.

(1) This section applies to any material which—

- a) provides general information about a referendum to which this Part applies;*
- b) deals with any of the issues raised by any question on which such a referendum is being held;*
- c) puts any arguments for or against any particular answer to any such question; or*

d) is designed to encourage voting at such a referendum.

(2) Subject to subsection (3), no material to which this section applies shall be published during the relevant period by or on behalf of -

a) any Minister of the Crown, government department or local authority; or

(aa) the Government of Gibraltar or any Gibraltar government department;

b) any other person or body whose expenses are defrayed wholly or mainly –

(i) out of public funds or by any local authority; or

(ii) out of Gibraltar public funds.

(3) Subsection (2) does not apply to -

(a) material made available to persons in response to specific requests for information or to persons specifically seeking access to it;

(b) anything done by or on behalf of the Commission or a person or body designated under section 108 (designation of organisations to whom assistance is available);

(c) the publication of information relating to the holding of the poll; or

d) the issue of press notices;

and subsection (2)(b) shall not be taken as applying to the British Broadcasting Corporation or Sianel Pedwar Cymru or the Gibraltar Broadcasting Corporation.

(4) In this section—

(a) “publish” means make available to the public at large, or any section of the public, in whatever form and by whatever means (and “publication” shall be construed accordingly);

b) “the relevant period”, in relation to a referendum, means the period of 28 days ending with the date of the poll.

The “Commission” in subsection (3)(b) means the Electoral Commission.

The Commission has published a s.125 Factsheet:

[Electoral Commission Factsheet: Public bodies and EU Referendum material \(PDF\)](#).

It should be noted that s.125(3)(c) excludes information relating to the holding of a poll. Also that Schedule 3 Para 12 of the EU Referendum Act 2015 places a duty on the Chief Counting Officer(CCO), Regional Counting Officers (RCOs), Counting Officers (COs) and registration officers to encourage participation in the referendum in the area or region in which they act. In discharging that duty they must have regard to any guidance issued by the Commission. The Commission's guidance can be found below:

[Electoral Commission Guidance on EU referendum - Part B: Planning and organisation \(PDF\)](#) (pages 28 to 30). Note that the CCO has a duty to take whatever steps she thinks appropriate to facilitate co-operation between herself and the other officers mentioned in relation to their duty to encourage participation. This role is extended to RCOs and COs. This also is then reflected in the way in which a website encouraging participation may be run. Whilst one run by the Council provided it complies with Section 125(3)(c) be satisfactory, the broader powers given the CCO (and RCOs and COs) by virtue of S125(3)(b) mean that one run by a CO will not and is probably a better route to follow.

4. ASSISTANCE TO CAMPAIGNERS AT THE REFERENDUM POLL

- 4.1 PPERA as amended places limitations on the acceptance of donations by permitted participants in the referendum. A permitted participant may only accept a relevant donation from a permissible donor. PPERA sets out what is a relevant donation and who is a permissible donor. A local authority is not a permissible donor for the purpose of the referendum. A "relevant donation" includes not only a gift [of money] or sponsorship but also the provision otherwise than on commercial terms of any property, services or facilities for the use or benefit of a permitted participant.
- 4.2 The provision of free office accommodation or travel passes are examples of relevant donations. It makes no difference whether the council makes such facilities available to all campaigners on an equal basis. The council can provide office accommodation on a commercial basis to a permitted participant in line with normal council letting policy. It should also be noted that the law allows persons authorised by designated organisations to use suitable rooms within certain schools and other public meeting rooms maintained by the council, where available, for the holding of public meetings to promote their campaigns.

5. USE OF COUNCIL PREMISES

For Campaigners' Meetings

- 5.1 The Electoral Commission may designate one of the campaign bodies registered with them as the lead campaign group for each of the Remain and Leave campaigns.
- 5.2 The law allows persons authorised by these designated organisations to use suitable rooms within certain schools and other public meeting rooms maintained by the council, where available, for the holding of public meetings to promote their campaigns.
- 5.3 Such authorised persons are entitled to use such rooms free of charge but are required to pay for any expenses incurred during the meeting, such as heating, lighting and cleaning, and for any damage to the premises.
- 5.4 The council is required to keep a list of such rooms available. This list is the same one as the council is required to keep for candidates' election meetings at UK parliamentary elections
- 5.5 The use of such accommodation is a statutory right of all authorised persons and is not subject to any conditions under the legislation other than the suitability and availability of the accommodation and the payment of the expenses described above.

Campaigners' Posters and Other Advertising

- 5.6 The 1986 Act prevents the council from facilitating publicity which appears designed to affect public support for a political party *[section 2(3)]*. Particular matters which must be taken into account in determining whether publicity is caught by this legislation are:-
 - (a) whether the publicity:-
 - 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 publicity is part of a campaign, the effect which the campaign appears to be designed to achieve. *[section 2(2)]*.
- 5.7 The referendum debate is a matter of considerable political interest. Campaigns have been launched and there is increasing media interest

in the activities of the campaigns. In relation to the display of posters on Council premises, Councils should therefore carefully consider whether such publicity contravenes the prohibition in the 1986 Act.

- 5.8 It is appropriate that public notification of councillors' surgeries should continue to be given. The placing of a normal surgery notice on notice boards in council buildings is therefore permissible. Surgery notices on notice boards should be monitored by the employees responsible for notice boards to ensure that they are reasonable in size and quantity and do not breach the 1986 Act or the Code of Conduct on Publicity.
- 5.09 Party political or campaigning material should not be placed on notice boards or displayed in council buildings.

6. VISITS TO COUNCIL PREMISES BY ELECTED REPRESENTATIVES AND CAMPAIGNERS

- 6.1 The rules on council publicity set out at section 3 above should be considered carefully when dealing with proposed visits to council premises or facilities by campaigners. These rules apply at any time, not just in the 28 day pre-poll period. Requests to visit council facilities, particularly schools, are likely to become more frequent and this is likely to continue until the date of the referendum poll.
- 6.2 It is normal for elected representatives to visit schools usually as invited guests for an event organised by the school. Mainly, these visits are linked to the curriculum in schools or to a council organised event or occasion and are not connected to any electoral event. There is no issue with such organised visits but, where possible, councils should seek to avoid them during the 28 day pre-poll period.
- 6.3 The key tests under the rules on council publicity for determining whether any proposed visit should be allowed are:-
- Whether the event is likely to give rise to references to a political party or persons identified with a political party.
 - Whether the event is likely to generate publicity directed at the public or a section of the public and which 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.

- Where the event is likely to appear to be part of a campaign, the effect which the campaign appears to be designed to achieve.
- 6.3 The first step is to assess whether the proposed visit would contravene any of those tests. To do so, it is essential to ascertain what the purpose of the visit is and who is initiating it, e.g. Council officers or the elected representative. For this purpose, the referendum and issues arising from the referendum question will be viewed as questions of political controversy that can be identified as the view of one political party and not of another.
- 6.4 If the event would contravene any of those tests, it is likely that the conclusion will be that the visit should not take place. Before confirming to the proposed visitors that the visit should not take place, the relevant senior officer, e.g. Head of Service should be consulted along with the Head of PR.
- 6.5 If the visit would not contravene the statutory rules on council publicity, the next step is to consider whether it would be appropriate for the proposed visit to take place in terms of any management rules or protocols in place regarding the delivery of service in the particular service area in question, e.g. whether the visit would disrupt normal business.
- 6.6 If the visit is considered appropriate from a service perspective, the next step is to consider the procedures to be followed in setting it up.
- 6.7 During the pre-referendum period, tighter rules apply to the council regarding council publicity. These rules are stated in section 3 above.

7. EMPLOYEES IN POLITICALLY RESTRICTED POSTS

- 7.1 Under the Local Government and Housing Act 1989, Section 2, a number of council employees hold posts which are politically restricted.
- 7.2 A list of all the politically restricted posts is normally maintained by the Council's HR function. **It is recommended that the Chief Executive / Head of Paid Service draws this issue to the attention of their HR advisers so that appropriate and early advice can be given.**
- 7.3 The activities which such post holders cannot undertake are set out in the Local Government Officers (Political Restrictions) Regulations 1990, and include:-

- (a) announce, or cause, authorise or permit anyone else to announce that they are, or intend to be a candidate for election as a member of the House of Commons, the Scottish or European Parliaments or the Welsh Assembly or a local authority.
 - (b) act as an election agent or sub-agent for a candidate for election to the House of Commons, the Scottish or European Parliaments or the Welsh Assembly or a local authority.
 - (c) be an officer of a political party or of any branch of a party or a committee or sub-committee member of a party or branch, if this entails involvement in the general management of, or acting on behalf of, the party or branch in dealings with persons other than members of the party or members of another political party associated with the party.
 - (d) canvass on behalf of a political party or on behalf of a person who is or proposes to be a candidate for election to any of the bodies mentioned above.
 - (e) speak to the public at large or to a section of it with the apparent intention of affecting public support for a political party.
 - (f) publish any written or artistic work of which the post-holder is the author or co-author or cause, authorise or permit any other person to publish such a work if it appears to be intended to affect public support for a political party. However, this does not prevent the displaying of a poster or other document on their private property or vehicle.
- 7.4 Nothing in these prohibitions prevents an employee from engaging in such activities to such an extent as is necessary for the proper performance of their official duties.
- 7.5 Restrictions (a) to (d) above relate to activity connected to candidates and elections and do not apply to referendums. Restrictions (e) and (f) potentially could apply to the referendum since they relate to activity which appears to be intended to affect public support for a political party. "Affecting public support for a political party" is not defined in the 1989 Act nor the 1990 Regulations, unlike the 1986 Act which defines such activity for the purpose of council publicity as including activity which 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 or is part of a campaign the effect of which (in the context of the referendum) is to promote a remain or leave vote on the

referendum question. It could be argued that an employee campaigning for a particular outcome would appear to be supporting one or more political parties and opposing others.

- 7.6 While the application of the 1990 Regulations may be debatable, the holder of a politically restricted post who campaigns in the referendum debate is likely to be seen as not acting in a politically neutral way since the referendum question is undoubtedly a matter of particular political controversy. Although such activity would require to be undertaken in the employee's own time, such activity could give rise to the perception that the required political neutrality in carrying out their council duties would be affected adversely.
- 7.7 As a result, while the 1990 Regulations may not prohibit political activity such as campaigning publicly on the referendum question, holders of politically restricted posts should be advised to take advice and exercise caution if they wish to carry out such activity in case it undermines the confidence of elected representatives in the carrying out of their council duties and impairs their effectiveness in carrying out their council roles. For those with a direct role in the conduct of the referendum, it is clearly unacceptable.

8. TIME OFF WORK FOR COUNCIL EMPLOYEES -

For Polling Purposes -

- 8.1 It is the statutory duty of the council to place at the disposal of the Counting Officer and the Regional Counting Officer for the region the services of officers employed by the council to assist in the discharge of their functions. It is the usual policy of councils to allow council employees, without loss of pay, to be employed by the Returning Officer for elections or Counting Officer for referendums to assist with the conduct of the poll, such as polling staff, counting of votes or postal vote processing.

For Campaigning -

- 8.2 Any employee, whether or not in a politically restricted post, should not be granted paid leave of absence for the purpose of campaigning on the referendum question since that would mean the council facilitating publicity on a matter of political controversy which is identifiable as the view of one political party and not of another. Where an employee wishes to undertake such activity otherwise than in their own time, such

requests for time off should be dealt with under the normal council policy for granting annual leave or unpaid leave of absence.

9. FREQUENTLY ASKED QUESTIONS AND ANSWERS –

- 9.1 The scenarios listed in Appendix 1 are for illustration of the kind of situations that can arise from the holding of the referendum. If a service encounters any of the circumstances described advice should be sought from an appropriate senior officer.

This Guidance Note was issued by the Society of Local Authority Chief Executives and Senior Managers (SOLACE) on Monday 11th April 2016.

APPENDIX 1 FREQUENTLY ASKED QUESTIONS and ANSWERS

The following are examples of issues which can arise. It must be remembered that the final advice will turn on the exact circumstances and these FAQs are given only to provide an indication of the type of issues which should be considered. They are not a substitute for specific, detailed advice.

- 1. A council service proposes to hold a public meeting in the 28 day pre-referendum period to discuss a matter of particular concern to the community. It is likely to attract interest from local politicians. Should the meeting be postponed?**

Generally where the subject matter of the meeting is controversial, is directly related to European issues and hence likely to engage with the “remain / leave debate, it may not be appropriate to hold such a meeting in the pre-referendum period, nor immediately before it officially begins. However, it is a matter of local choice, and much will depend upon the subject matter, topic, local interest etc. In many cases there may be no issue with proceeding. However the decision should take into account the referendum and all the relevant factors including the possibility of the matter becoming controversial. Generally such decisions may be taken at a high level within the officer cadre than may normally be the case. Bear in mind the need to reflect about the advertising i.e. publicity surrounding such events.

- 2. A controversial item is on the agenda for a meeting of the council or a committee which will be held during the 28 day pre-referendum period. Should consideration of the item be postponed until after the referendum?**

Probably not. As a general rule, the work of the council should continue and the item should be considered. However, the Chief Executive or his/her staff may consider there is too great a risk in considering the item prior to the referendum and it may be postponed as a result. The general rule should be in favour of business as usual, particularly where the item of business is urgent from a service delivery perspective. Bear in mind the need to reflect about the advertising i.e. publicity surrounding such events.

Note that during the period covered by S125 (i.e. post 27th May till 23rd June), if the controversial issue is (say) a motion for a Full Council meeting relating to the referendum (remain / leave), S125 may well impact upon that. Chief Executives will wish to ensure their Monitoring Officer is aware of the issue and advising accordingly at an early point.

- 3. A school has been approached by an elected representative who wishes to meet pupils and have a general discussion with them about topics of concern to them. Is it okay to allow the visit?**

It is a matter for the Head teacher / Governors, but if asked to advise, you should point out that it is necessary to show even-handedness towards both sides of the campaign. It would therefore be acceptable to invite representatives from both

sides to meet the pupils, for example, by holding a mock hustings meeting, but it would not be appropriate to allow only one side to meet the pupils. As long as both sides have been given the opportunity to be represented, then the event can proceed.

4. Officers have been asked to attend an event to give advice on council services. Is this okay?

Generally where the services have some significant or direct relationship to Europe and hence likely to engage with the “remain / leave debate, it may not be appropriate to hold such a meeting in the pre-referendum period, nor immediately before it officially begins. However, it is a matter of local choice, and much will depend upon the subject matter, topic, local interest etc. In many cases there may be no issue with proceeding. Consideration should be given as to whether or not it would be appropriate for officers to attend. Relevant factors may include whether the event has any association with a campaigning group and is being held during or immediately before the beginning of the 28 day pre-referendum period. If it is being held outside this period, then whether or not the event appears to be designed to affect public support for a political party or a campaign group may well be a relevant consideration.

5. Is it okay for a campaigner to take photographs outside a council office or facility?

The taking of photographs by and of campaigners in any council building should be discouraged, and not facilitated by council staff. Campaigners should be aware that photography in and around schools is strictly prohibited.

6. What do I do if a campaigner/political party refuses to accept my decision?

If the issue is say about a school visit, it is a matter for the Head teacher / Governors, but they may contact the appropriate senior council officer, who can discuss the issues raised with the Chief Executive’s Office as appropriate and let the school and the candidate/party know the outcome of these discussions. On other Council matters the Chief Executive may well be involved. On all these points however, if there is a conflict(or emerging conflict), whilst this may not strictly be an issue associated with the running of the referendum, the Counting Officer (and Regional Counting Officer) should also be advised – they may wish to bring the matter to the attention of the relevant agents

7. A campaigner turns up to a school as part of their campaign with media following them. Should they be allowed in?

It is a matter for the Head teacher / Governors, but generally no unless the candidate is attending a hustings event as per question 3 above and has agreed this with the Head teacher / Governors. Do bear in mind that some premises are by law usable for campaign meetings and if this relates to a pre booked arrangement at these premises that may affect the advice

8. **A public consultation meeting is scheduled during the 28 day pre-referendum period as part of the formal planning process for a new school. Can it go ahead?**

Yes, it can, but there is still a local choice about whether it should. This is both normal business and there are significant costs attached to any delay.

9. **A campaigner wants to use a council-managed public space for their campaign launch. Should it be allowed?**

There are certain rights to use schools and public meeting rooms set out in the law. In addition, there is a convention that certain public spaces are used for campaign activity. It is generally acceptable for these to take place so long as the events are limited, e.g. around one hour and that there is equal opportunity for all parties or candidates to use them. The council resource/effort in facilitating these should also be minimal, e.g. enabling access to a space.

10. **The council was intending to facilitate a debate on an important issue to our area. Should it be cancelled?**

The topic etc. is again highly relevant. Any event or debate such as this must be open to all, and hence participation by all campaigners, and it may be advisable to limit the media participation (e.g. reactive rather than proactive). With those caveats, it could go ahead, but thought would still need to be given to whether or not the issue at hand was likely to be particularly divisive along campaign lines. It may well not be in which case there will be no issue. Generally such decisions may be taken at a high level within the officer cadre than may normally be the case. Bear in mind the need to reflect about the advertising i.e. publicity surrounding such events.

11. **A partner organisation has asked to use a council venue for the launch of an initiative. A government minister will be attending and significant media presence is expected. Can we facilitate this?**

This should be treated with caution. There may be publicly accessible spaces that can be used instead, but a council venue probably should not be used to facilitate media coverage for a sitting minister who may well have a clear affiliation to one of the campaigns and hence use the opportunity to promote that. A material consideration here is that other parties don't have the same opportunity to carry out such activity (which will almost inevitably as a result be seen as campaigning with Council support – and hence challenged).

12. **An elected member wants to give their view on a matter debated at committee to the media. Is this allowed?**

Any elected member at any time is at liberty to do this. However, in doing so, they must not use council facilities for party political or campaigning purposes.

13. A charity which receives funding from the council has taken an advert in a political party's newsletter. Is this allowed?

There are two relevant issues here: what is the council's funding for (e.g. a general grant or for a specific purpose such as communications) and what is the advert for (e.g. notice of an event or self-promotion)? Generally, this is a low-risk activity so long as there is nothing overtly political about the organisation's activity or its advert, and will be dependent on the organisation's grant conditions. Section 125 may also apply to the charitable body itself.

14. There is an event scheduled for the launch of a new service. Can elected members be invited? And what about other politicians?

The key here is the subject matter. Is it directly related to European issues and hence likely to engage with the "remain / leave debate? If not, this may well not be an issue at all, in which case business as usual will apply. Much will depend upon the subject matter, topic, local interest etc. In many cases there may be no issue with proceeding. However the decision should take into account the referendum and all the relevant factors including the possibility of the matter becoming controversial. Generally such decisions may be taken at a high level within the officer cadre than may normally be the case.

15. We want to highlight a new initiative. Can the Leader / Executive Member / Chairman of the relevant Committee be involved?

Again, the key here is the subject matter. Is it directly related to a European issue and hence likely to engage with the "remain / leave debate? If not, this may well not be an issue at all, in which case business as usual will apply. If the Councillor attends, there should caution over publically funded photographs or press releases or other forms of publicity issued by the council so as to avoid the appearance of the council promoting one side of the referendum question. If the relevant Councillor attends and then is photographed or interviewed by someone from the media without council involvement, a council officer cannot (and should not) intervene.