

Subject: Code of recommended practice on local authority publicity

Date of Meeting: 10 March 2009

Report of: Director of Strategy & Governance

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Wards Affected: All

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 This report brings to the Committee's attention a recent consultation paper, "Communities in control: Real people, real power Code of recommended practice on local authority publicity" issued by CLG, inviting comments on the future of the Code of Recommended Practice on Local Authority Publicity.

2. RECOMMENDATIONS:

- 2.1 That Members comment on the paper.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The White Paper, "Communities in control: Real people, real power" was about passing power into the hands of local communities. The paper, "Communities in control: Real people, real power Code of recommended practice on local authority publicity" is the next in a series consulting on a number of policy commitments. It invites views on the content of the Publicity Code as an instrument for protecting public money while allowing councils to issue effective publicity.
- 3.2 The paper, which was published on 17 December 2008, is attached as Appendix 1 to the report. The deadline for responding to the paper is 12 March 2009. It is to be considered by the Council's Governance Committee at its meeting on 10 March 2009. Any comments made by the Standards Committee will be forwarded to that Committee, which will be responsible for making the council's formal response to the consultation paper.

- 3.3 Communities and Local Government Department has indicated that it will take account of the responses received to the consultation before taking decisions on possible changes to the Code. A summary of the responses will be produced within 3 months of the close of the consultation period.
- 3.4 The paper does not make specific proposals for change but asks a series of open questions. It is proposed that Members of Standards Committee could discuss and agree their response to the consultation.

4. CONSULTATION

- 4.1 There has been no consultation on this report.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 There are none.

Finance Officer Consulted: Anne Silley Date: 18 February 2009

Legal Implications:

- 5.2 The Publicity Code is issued under powers conferred by the Secretary of State under section 4(1) of the Local Government Act 1986. Local authorities are required by section 4(1) of that Act to have regard to the Publicity Code in coming to any decision on publicity.

Lawyer Consulted: Liz Woodley Date: 18 February 2009

Equalities Implications:

- 5.3 There are none.

Sustainability Implications:

- 5.4 There are none.

Crime & Disorder Implications:

- 5.5 There are none.

Risk and Opportunity Management Implications:

- 5.6 There are none.

Corporate / Citywide Implications:

- 5.7 There are none.

SUPPORTING DOCUMENTATION

Appendices:

1. Communities and Local Government Paper. "Communities in control: Real people, real power Code of recommended practice on local authority publicity".

Documents in Members' Rooms:

1. None.

Background Documents:

1. None.

Summary

Code of Recommended Practice on Local Authority Publicity is currently being consulted on and responses are due on 12 March 2009.

The code, which was first introduced in 1986, needs to be refreshed to bring it in line with today's changing communications environment. It needs to reflect the current and evolving societal, political and technological landscapes if it is to be relevant.

The Government is carrying out a consultation on its '*Communities in Control: Real people, real power*' white paper, and within this document it proposes to amend the existing Code. The consultation is seeking views from local Councils and other agencies about the application of the Code and whether it should be revised to reflect and promote the needs of local communities. In short, it is asking whether local authority communications should reflect the status of Councils as political bodies led by democratically elected politicians who make decisions about local priorities.

The existing Code does not take into account best practice standards for communications and nor does it recognise that these standards are likely to change as communities, organisations and technology changes. Any proposed guideline should be aimed at encouraging effective communications based on modern, up-to-date best practice.

The council proposes to submit the following responses to the consultation which take in to account.

It is also worth including, as part of the formal response, the importance of the changing nature of technology and its impact on communications. When the Code was first proposed social media sites such as facebook, bebo, myspace, twitter etc, mobile phone technology, broadband technology that now creates integrated communications platforms (television, internet, radio and phone), were not in existence. Furthermore, the changes in technology have meant advertising has become cheaper if targeted through the correct channels and has opened up more avenues to engage with audiences.

Responses to:

Communities in Control: Real people, real power
Code of recommended practice on local authority publicity

Question 1: *Is there other guidance, (additional to the Publicity Code), that councils consider creates a barrier to the provision of publicity or support, or that needs clarifying?*

Yes. The Local Government Act 1986 (section 2) (amended in 1988 and 2001) states that:

A Council must not publish any material which in whole or in part appears designed to affect support for a political party. It cannot give financial or other assistance to any other organisation to publish such political material.

This would seem counterintuitive in today's changing political environment. While it is accepted that councils should not be party political it ignores the fact that councils are governed by democratically elected representatives with a mandate to represent the views of their electorates. A strict interpretation of the legal position would suggest that councils would not be permitted to promote any policy of the elected representatives of the community.

Therefore, the legal position should be amended to reflect the political nature of local councils and provisions made to give councils the opportunity to promote policies that represent the views of the community. However, it is still important to make it clear that council should not promote one party over another.

Furthermore, the law should clarify the second paragraph where it states: *"It cannot give financial or other assistance to any other organisation to publish such political material."*

Many political parties are affiliated with a number of organisations that councils also work with; for example, some housing associations only house people of certain religious faiths and may hold a particular political view or even have local politicians representing the organisation on their boards. What is the threshold for deciding whether providing financial assistance to an organisation for promoting the council's policies is not in breach of this legal requirement? To illustrate the point further, take the equalities legislation. If an organisation were to promote this policy does it then breach this section of the Act?

Councils should be given greater powers to support organisations that will take forward their policies if it (a) is legal; (b) represents the views of the local community; (c) and is consistent with in its support to other organisations ie not showing favouritism for particular organisations.

Question 2: *Is there a requirement for different codes to apply to different types of authority?*

No. However, there should be a set of 'guiding principles' in place to help local authorities devise a local code of practice.

Question 3: *Should the Publicity Code specifically address the presentation of publicity on an authority's website?*

No. The public are unlikely to be interested in this sort of information but councils should, as a matter of good practice, publish the information on their website so citizens can access it if they want to. But it should not be made mandatory and possibly included in a set of 'guiding principles'.

Question 4: *Does anything need to be added to or removed from the list of matters an authority should consider in determining whether or not to issue publicity on a certain subject?*

The following sections should be amended:

Point 4, part (iii):

Councils should be given greater flexibility to be able to challenge central government, other tiers of local government, or other public authorities, even if they have the primary service or policy responsibility, on the basis that it runs contrary to local views. Local councils are also evolving into strategic commissioners of services and they should be given greater flexibility to voice the concerns of their communities if policies from other organisations, including central government, are not relevant, impractical or not welcomed by the local community.

Therefore, the existing Code would need to be amended to reflect the changing nature of local government.

Points 12, 13, 14, 15, 16 & 19:

Councils should be granted the freedom to campaign on issues of policy and be allowed to persuade the public to hold a particular view on a policy. For example, councils should be allowed to persuade the public about the importance of supporting measures to tackle climate change by adopting different attitudes and behaviours. Councils should also be granted greater flexibility to campaign on issues that are outside their direct influence but reflect local residents' views. For example, councils should be allowed to lobby supermarkets to reduce the amount of plastic bags they hand out if the public are opposed to plastic bags.

Point 20:

This should be amended. The level of local resident dissatisfaction with their councils is increasing and this is partly due to councils treating residents as 'passive recipients' rather than 'active participants'. The wording should be changed to encourage councils to inform and involve residents in an effort to build understanding and participate in the decision-making process.

Point 29:

This should be amended to reflect the changing demands of audiences and the media landscape. Councils are competing in a congested media environment and they need to be more dynamic and responsive to their residents' needs and how the media operates. A decision to use advertising based on its cost-effectiveness should not be the sole criteria. Other factors such as the complexity of the issue, the demographics and psychographics of the intended audience should also be taken in to consideration when deciding which media to use.

Points 33 & 34:

This needs to be clarified. Councils work with many partners for the benefit of the community and from time to time it is appropriate that they deliver joint-communications, which might mean jointly purchasing advertising space to promote an initiative or run a joint campaign highlighting their work for the local community.

Points 39-42:

Councils should be allowed to promote the democratically elected representatives of their community. Suggest deleting point 39.

Points 44-45:

Councils should be given greater flexibility to support local partners and community organisations in promoting their services particularly when funded by the council.

Finally, the evolving communications environment needs to be taken in to account to include the emergence of new technology such as social media (Facebook, Twitter, Bebo etc), internet, blogging, mobile phones and PDAs etc.

Question 5: *Should the Publicity Code specify the different criteria local authorities should use to determine whether or not publicity can be judged to be cost effective?*

Councils should be able to decide what criteria they should apply to assess the cost effectiveness of publicity. However, a set of 'guiding principles' could be useful in helping councils determine the cost effectiveness of publicity and this could be in relation to the size of the council and the community they serve.

Question 6: *Is there any aspect of the cost section that is not required or anything which should be added?*

No.

Question 7: *Should the Publicity Code contain advice about ethical standards in publicity, or should this be left to local authorities to judge for themselves?*

A set of 'guiding principles' might be useful, but it is our view that this should be left to local authorities to judge for themselves.

Question 8: *Is there any aspect of the content section that is not required or anything which should be added?*

Points 11-19:

Councils should be granted the freedom to campaign on issues of policy and be allowed to persuade the public to hold a particular view on a policy. For example, councils should be allowed to persuade the public about the importance of supporting measures to tackle climate change by adopting different attitudes and behaviours. Councils should also be granted greater flexibility to campaign on issues that are outside their direct influence but reflect local residents' views. For example, councils should be allowed to lobby supermarkets to reduce the amount of plastic bags they hand out if the public are opposed to plastic bags.

Finally, the evolving communications environment needs to be taken in to account to include the emergence of new technology such as social media (Facebook, Twitter, Bebo etc), internet, emails, blogging, mobile phones and PDAs etc.

Question 9: *Should the Publicity Code be modified to specifically address the issue of privacy and the dissemination of unsolicited material?*

Councils should be encouraged to ask their residents whether they wish to receive information or not and if so what sort of information would they like. Only by asking will they be able to identify who wants information and who doesn't. Furthermore, the legal definition surrounding UK privacy laws is quite complex. The UK is party to various international human rights treaties which recognise the existence of a right to privacy, yet UK law does not contain a single enshrined right to privacy. No Act of Parliament creates such a right, and the common law only allows a limited recognition of privacy rights in specific situations.

Therefore, it should be down to the local authority to respect an individuals' right to privacy, which is already contained in the Human Rights Act (article 8), and this could be included in the council's local code on publicity/communications.

Question 10: *Is there any aspect of the dissemination section that is not required or anything which should be added?*

Point 20:

This should be amended. The number of residents that are dissatisfied with their councils is increasing and this is partly due to councils treating residents as 'passive recipients' rather than 'active participants'. The wording should be changed to encourage councils to inform and involve residents in an effort to build understanding and participate in the decision-making process.

Point 22:

This should be amended to include communities where English is a second language, visually impaired and those with learning disabilities. Communications need to be devised in the appropriate format and disseminated through the relevant channels.

The evolving nature of communications and technology should also be acknowledged eg the emergence of new channels such as social media (Facebook, Twitter, Bebo etc), internet, emails, blogging, mobile phones and PDAs etc which were not around when the code was first drafted.

Question 11: *Is there any aspect of the advertising section that is not required or anything which should be added?*

Point 29:

This should be amended to reflect the changing demands of audiences and the media landscape. Councils are competing in a congested media environment and they need to be more dynamic and responsive to their residents' needs and how the media operates. A decision to use advertising based on its cost-effectiveness should not be the sole criteria. Other factors such as the complexity of the issue, the demographics and psychographics of the intended audience should also be taken in to consideration when deciding which media to use.

Point 31:

This should be revised. For example, councils should be able to use media that reach audiences outside the local area to promote the place as a destination to visit.

Points 33 & 34:

This needs to be clarified. Councils work with many partners for the benefit of the community and from time to time it is appropriate that they deliver joint-communications, which might mean jointly purchasing advertising space to promote an initiative or run a joint campaign highlighting their work for the local community.

Question 12: *Should adverts for local authority political assistants appear in political publications and websites?*

Yes.

Question 13: *Is there any aspect of the recruitment advertising section that is not required or anything which should be added?*

No.

Question 14: *Given the emphasis given to supporting and raising awareness of the role of the councillor in the white paper, is there any aspect of the section on councillors that is not required, or anything which should be added?*

No.

Question 15: *Is there any aspect of the timing of publicity section that is not required, or anything which should be added?*

This section should remain.

Question 16: *Is there any aspect of the assistance to others for publicity section that is not required, or anything which should be added?*

Points 44-45:

Councils should be given greater flexibility to support local partners and community organisations in promoting their services particularly when funded by the council.

Finally, the evolving communications environment needs to be taken in to account to include the emergence of new technology such as social media (Facebook, Twitter, Bebo etc), internet, blogging, mobile phones and PDAs etc.