
ROSSENDALE BOROUGH COUNCIL

Council Publicity and Elected Members - a Protocol for Rossendale Borough Council

1. Scope of the Protocol

1.1 This protocol applies to all publicity issued or produced by Council Officers using the resources of Rossendale Borough Council.

- Publicity' means any communication intended for the public or a section of the public, such as press releases, brochures, leaflets, adverts, newsletters, Rossendale Free Press, the Council's internal and external websites and the staging of events that provide a platform for media publicity.
- Resources' means Council funds, premises, notice boards, equipment or stationery, and the paid time of Council Officers.

1.2 The protocol also applies to any material issued by organisations that are either partially or wholly separate from the Council but which are using Council grants or other public funds to produce the publicity.

1.3 The Protocol does NOT apply to publicity funded or otherwise obtained by individual elected Members or Political Groups using their own resources.

2. Statement of Intent

Rossendale Borough Council will at all times aim to ensure that any publicity it issues or funds complies with legal requirements, and has regard to all relevant national guidance on local authority publicity.

3. The Legal Framework

3.1 The fundamental test of whether publicity is legal is contained in Section 2 of the Local Government Act 1986.

This prohibits Authorities from issuing material that "in whole or in part appears to be designed to affect public support for a political party". The rule applies at all times and not just before an election. An objective test is applied, so that the intention behind the publicity is irrelevant.

"Publicity" is widely defined to include any communication to the general public, or any section of the public. The definition of publicity is wide enough to include the staging of events and the provision of political platforms.

3.2 In issuing publicity Councils are required to 'have regard to' the **Code of Recommended Practice on Local Authority Publicity** approved by Parliament. The Code was first issued in 1988 and revised in 2001 to take account of new forms of local governance. It provides guidance on issuing publicity that has passed the fundamental legal test outlined above, and includes sections on:

- Subject matter
- Costs
- Content and style
- Dissemination
- Assistance to others for publicity
- Individual Councillors
- Elections, referendums and petitions

3.3 The Code also defines the main functions of local authority publicity: "To increase public awareness of the services provided by the authority and the functions it performs; to allow local people a real and informed say about local issues that affect them; to explain to electors and ratepayers the reasons for particular policies and priorities, and in general to improve local accountability."

3.4 Rossendale Borough Council's protocol is intended to provide local guidance, in conjunction with the national Code of Practice, relating to issues that are frequently raised in a Rossendale context. It is not intended to replicate or replace the Code. Anyone producing publicity materials using Council funds is strongly advised to acquaint themselves with the provisions of the Code of Practice.

4. Publicity for Individual Members

4.1 Factual information about Members which simply lists their contact and surgery details, or their Council responsibilities, clearly presents no problem.

4.2 However publicity provided by way of quotes or photographs for individual members of the Council throughout the year can potentially be a difficult area. This was recognised by the government when it amended the original Code of Practice, which broadly advised against publicising individual Members. The

Code now reflects the reality of executive government in which Cabinet Members are directly responsible for policy making and decision taking.

4.3 The code includes the following statements:

"Publicity may also include information about individual councillors' proposals, decisions and recommendations where this is relevant to their position and responsibility within the Council."

"Publicity should not be, or liable to misrepresentation as being, party political. Whilst it may be appropriate to describe policies put forward by an individual Councillor which are relevant to his or her position and responsibilities within the Council, and to put forward his or her justification in defence of them, this should not be done in party political terms, using political slogans, expressly advocating policies of those of a particular political party or directly attacking policies and opinions of other parties."

4.4 In Rossendale many non-executive Members also have positions of responsibility – for example, Chairs of Council committees and Area Forums, spokespersons on Joint Authorities, etc. Publicity for individual Members, where it is otherwise legal, may be provided in the following circumstances:

- for executive Members speaking on their Portfolio (or in the case of the Leader and Deputy Leader, on any issue);
- for any Member publicising matters relevant to a position of responsibility to which they have been elected by the Council as a whole (for example Chairs of Council Committees, and Area Forums;
- the Mayor or Deputy Mayor.

4.5 Publicity will not normally be provided for individual Members if its purpose appears to be mainly to promote the image, profile or personal opinions of that Member acting in his or her ward capacity, nor will publicity be provided that creates a platform for attacking the views and policies of another political organisation or its representatives.

4.6 In some circumstances, publicity may be provided for individual Members if it passes the tests on timing and political nature previously described, and also reflects especially well on the Council as a whole, or a wider Council policy, or the positive work of Councillors generally.

4.7 Publicity that falls within this category may be provided for any elected Member, regardless of their political affiliation. However, as a matter of courtesy all

Members of the ward should be provided with a copy of any publicity that is issued.

- 4.8 The decision on what publicity can be provided in these circumstances is delegated to the Head of Legal and Democratic Services.
- 4.9 Recently some Councils have started to host web pages for individual Councillors on their own websites. This is partly in response to a national initiative by the Local Government Association. At present, this service is not available to Members in Rossendale. However the principle is acceptable if the Members concerned prepare their own content, and it complies with the national Code of Conduct and Rossendale's local protocol.

5. Timing of Publicity before Elections

- 5.1 Paragraph 41 of the Code deals with publicity during the run up to an election. It states:-

"Elections Referendums and Petitions

The period between the Notice of an Election and the Election itself should preclude proactive publicity in all its forms of candidates and other politicians involved directly in the Election. Publicity should not deal with controversial issues or report views, proposals or recommendations in such a way that identifies them with individual Members or groups of Members.

However, it is acceptable for the Authority to respond in appropriate circumstances to events and legitimate service enquiries provided that their answers are factual and not party political. Members holding key political or civic positions should be able to comment in an emergency or where there is a genuine need for a Member level response to an important event outside the Authority's control.

Proactive events arranged in this period should not involve Members likely to be standing for election."

The Notice of Election is normally published some 4/5 weeks before an election is held.

What does this mean?

- 5.2 The Code makes it clear that not only Candidates but also any politician involved directly in an election should not be afforded publicity save in an emergency, or

in exceptional circumstances prompted by important events outside the Council's control. In practice most elected Members should not be afforded publicity as they will in all probability have some involvement in an election, even if they are not personally standing.

- 5.3 The Regulations apply to Officers of the Council and publicity which is issued in the name of the Council. Members of the Council are obviously free to issue their own political publicity under the usual electoral rules so long as there is no Officer involvement or assistance and no Council facilities such as computers, printers, stationery, notice boards etc. are used.
- 5.4 Members may not make party political calls on Council telephones. However, Members may publish their Council telephone numbers as a surgery number for enquiries, complaints etc, provided that they pay for the line rental for the period between the Notice of Election and the election.

What Council Officers Cannot Do

- 5.5 During the period between the Notice of Election and the elections themselves no Council Officer may attribute quotes to any Councillor in news releases other than in the exceptional circumstances set out in the Code of Practice. No Council Officer may attribute views, proposals and recommendations to any particular Member or Group. No Council Officer may issue publicity on any controversial issue unless it can be handled in a way that avoids a personal or party political dimension.
- 5.6 Publications and leaflets (other than election literature) addressed to the general public or a section of the public must observe the same restrictions.
- 5.7 Council Officers and resources must not be used to arrange proactive events, such as photo-calls, if they would provide politicians with a platform to communicate with the public that would not otherwise be available to them. However, there is no reason why Councillors of any party, Members of Parliament, or Candidates should be refused access to the public parts of Council premises, even if they intend to use it as a photo opportunity, so long as it is not organised or funded from Council resources and Council equipment and Officers are not involved.
- 5.8 At no time should any party political election material be put on display in libraries, in other publicly owned or managed buildings, or on any of the information notice boards provided by the Council.

6. What Happens if we Break the Rules?

Any Councillor or Member of the public may refer the matter initially to the Head of Legal and Democratic Services if they feel that the Council has issued publicity that is not legal or which fails to have regard to the Code of Practice. If they are unhappy with the response they can ask the District Auditor to investigate.

7. Where Can I Get Help?

In the event of any queries or uncertainty help can be obtained from the Head of Legal and Democratic Services and / or the Chief Executive.

Further copies of this Protocol or the Code of Practice are available from the Head of Legal and Democratic Services, Rossendale Borough Council, P O Box 74, Kingfisher Business Centre, Futures Park, Bacup OL13 0WU. Tel. 01706 252447. E.mail – lindafisher@rossendalebc.gov.uk.