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ELECTIONS - 4 MAY 2023

PRE-ELECTION GUIDANCE FOR TENDRING DISTRICT COUNCIL MEMBERS AND OFFICERS

As you will be aware, on 4 May 2023 there will be elections for all 48 Tendring District Councillors (TDC) and Town and Parish Councils within the District. Therefore, I thought it would be useful to remind you about the guidelines and restrictions on publicity during the pre-election period that starts on 13th March 2023. These restrictions apply to all the elections happening during this period.

At all times, the Council must comply with restrictions outlined in Section 2 of the Local Government Act 1986; however, it is specifically important in pre-election periods. In addition, a Code of Recommended Practice on Local Authority Publicity published in 2011 makes clear that particular care should be taken in periods of heightened sensitivity, such as in the run up to an election. The Act defines publicity as “*any communication, in whatever form, addressed to the public at large or to a section of the public.*”

This guidance has been produced taking into account the guide to publicity during the pre-election period produced by the LGA in January 2021, which discourages the use of the term *purdah*.

INTRODUCTION

This guidance is intended for both Members and Officers of TDC however, will be circulated to all Town and Parish Councils in the area for their information.

It covers a number of issues, which arise because of an election is being held while the Council needs to continue with its normal business as usual.

SUMMARY OF KEY POINTS

- The pre-election period (previously known as “Purdah”) applies from the date the Notice of Election is published (13 March 2023) for the TDC and Town and Parish Council elections referenced above.
- The Council is prohibited at all times (not only during pre-election periods) from undertaking activities or providing publicity “designed to affect support for a political party” and during the pre-election period the obligation to ensure that no candidate or party is favoured is heightened.

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- Any publicity describing the Council's policies and aims should be as objective as possible, concentrating on the facts or explanation or both. Local authorities should not use public resources to mount publicity campaigns whose primary purpose is to persuade the public to hold a particular view on a question of policy.
- In general, local authorities should not issue any publicity, which seeks to influence voters. This extends to the Council publicising material of others where that material seeks to influence voters.
- The general rule is that during the pre-election period for the 4 May 2023 Polls the Council's press releases will not include the names, photographs or quotations from any politicians.
- The Council's day-to-day work will continue on a "business as usual" basis with decisions being made and services provided but we will seek to avoid consideration of, or publicity for, politically contentious issues during the pre-election-period.
- The basic principle for all officers is not to undertake any activity which would call into question their political impartiality, or could give rise to the criticism that public resources are being used for party political purposes. This includes, but is not limited to, participation in photo shoots involving Councillors/candidates.
- No elected member or officer is permitted to use any Council resources (including their TDC email account) for private or party political purposes. Use of Council resources for political campaigning purposes to promote one or more candidate over another at an election is strictly prohibited.
- Nothing in Section 2 of the Local Government Act 1986 or the Code of Recommended Practice on Local Authority Publicity prevents the Council from promoting voter registration or participation in elections. As such it is appropriate for the Council to support messaging around measures to make #FindItFriday and #friDay and steps to raise awareness of the requirement in the Elections Act 2022 for electors to present appropriate photo ID when they attend a polling Station in order to vote. The same applies to publicising the names and descriptions of all

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candidates/agents as included in formal Notices issued by the Deputy/Returning Officer.

- The Council is also specifically permitted to correct factual inaccuracies in material produced by third parties. It must do this in an even handed and objective way and will otherwise not seek to enter into political debate on issues.

DUTIES OF THE DEPUTY/LOCAL RETURNING OFFICER

- The roles and responsibilities of a Deputy/Local Returning Officer are set by law. They are a series of powers and duties which are the personal responsibility of the person appointed as Deputy/Local Returning Officer.
- Ian Davidson is the Returning Officer (RO) for the TDC elections referenced above – and has personal responsibility for conducting the Election. Keith Simmons is his Deputy with the full powers of the Returning Officer delegated to him.
- Returning Officers are not local government employees for the purposes of conducting elections and are not accountable to the Council or its members in carrying out their statutory functions.
- The Returning Officer is required to conduct all elections entirely in accordance with the law.
- The Returning Officer is obliged to provide information to residents around registration to vote, absent vote arrangements and arrangements for voting in person at Polling Stations. As such the Returning Officer may, as part of that duty, issue information around measures to make #PollingDaySafe including steps to make Polling Stations safe. They will also publicise the names, details of the home address, description (and if relevant the chosen party emblem) and the agent of all candidates as required by law.

COUNCIL DECISION MAKING

- “Business as usual” will continue for services with decisions being made and services delivered. This will include certain consultations including those on planning and licensing applications. It is important to

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remember to avoid any unapproved change in service delivery/approach/decision making being regarded as influencing political views during a pre-election period.

- The “Business as usual” approach includes the provision for meetings of Council, Cabinet and Committees in the pre-election period. Where these are provided for, this therefore permits public speaking provisions at those meetings and the operation of the democratic governance processes.
- However, decisions, meetings, public consultation exercises and publicity campaigns on issues which it is considered have the potential to be politically contentious may be re-scheduled until after the election. This will avoid the risk of the decision making process being skewed or otherwise affected. A record will be kept of such a decision to identify why the matter should not be considered in the pre-election period. Staff will submit these through their appropriate member of Management Team to ensure these are noted at that level in the organisation.
- Management Team members and senior officers should familiarise themselves with the Council’s approach to the pre-election period as set out in this guidance and should not permit any issue to be brought forward during the pre-election period which is likely to create political advantage or disadvantage. Again, records will be kept to identify the issue and this will be raised at Management Team to ensure this is noted at that level.

PUBLICITY

- The law says the Council must never publish “any material which, in whole or in part, appears to be designed to affect public support for a political party”. In this context “publicity” is defined as “any communication, in whatever form, addressed to the public at large or to a section of the public”.
- The above applies to events and spoken communications as well as written communications.

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- All TDC press releases during the Pre-election Period will require the approval of the Chief Executive or Monitoring Officer before publication. Likewise, all requests to correct factual inaccuracies must be submitted to the Chief Executive/Monitoring Officer to consider along with any intended correction.

USE OF RESOURCES

- No elected member – whether a member of the Cabinet, Chairman of a Committee or any backbench member – or officer is permitted to use any Council resources for private or party political purposes.
- Requests for information by candidates and political parties should be responded to in accordance with legal requirements and normal policies and in an even handed way.
- Specifically, the provisions of the Freedom of Information Act (and the Environmental Information Regulations) are not suspended during the pre-election period and must be complied with by the Council.

SECURITY

- The Returning Officer will receive detailed and restricted advice from the appropriate bodies in relation to any security issues directly during the election period.
- Based on past experience Tendring has not been vulnerable or prone to any significant or particular security concerns.
- Members and Officers should expect to see and be subject to rigorous security requirements in the days leading up to Polling day and on the day itself.
- Access to the Count will be rigorously controlled and limited. Only those issued with formal accreditation issued in the name of the Returning Officer will be admitted.
- There will be close liaison with Essex Police to prepare operational policing plans to deal with the day to day policing of polling stations and the Count venue and also to respond to any incidents which may arise.

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QUESTIONS AND QUERIES

- Officers should seek general guidance on the issues in this document from their Manager or Director or from Keith Simmons, Head of Democratic Services and Elections, or Lisa Hastings, Monitoring Officer.
- All publicity matters should be referred to Will Lodge, Communications Manager.
- Members should raise issues relating to the business of the Council as they are affected by the elections and pre-election period with the Returning Officer, their Deputy or the Monitoring Officer.

GENERAL

All of the above is general guidance which should cover the majority of circumstances. There may however be legitimate exceptions to the guidance – where for example there is a major event outside the control of the Council, an emergency or a statutory requirement to act within the timeframe of the election. Judgements about those issues will be made on a case by case basis in light of the legal requirements and the need to maintain balance and impartiality.

Ian Davidson

Chief Executive

Distribution

- All current TDC Members
- Senior Managers' Forum Members
- Communications Group Members