

## County Council Elections – By-elections

### Frequently Asked Questions relating to a County Council By-election.

#### General information

#### **When does the pre-election period start and what are the restrictions in place during that period?**

The pre-election period is the period between the publication of the notice of election and the date of the election itself. During the pre-election period extra care needs to be taken about Local Authority publicity. The new *Code of Recommended Practice on Local Authority Publicity* ('The Code') (Paragraph 34) states:

*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 Member or group 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 Publicity relating to individuals involved directly in the election should not be published by Local Authorities during this period unless expressly authorised by or under statute.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.*

The restrictions that apply during a pre-election period arise from convention. This means that other than the restrictions on publicity, there are no absolute rules. It has however been the established position of the County Council that it does not take significant decisions relating to the Division where the by-election is taking place during a pre-election period. While the business of the County Council must continue, decisions on matters of policy and other issues such as large and/or key procurement contracts specifically relating to the Division where the by-election is taking place, are generally postponed until after the by-election, provided that the postponement is not materially detrimental to the County Council's interests, an individual, a waste of public money or detrimental to commercial interests.

## Information for existing County Council Members and election candidates

### Can I use my County Council e-mail address and the equipment supplied to me by the County Council, e.g. my laptop and my mobile phone, in the election campaign?

The County Council's Code of Conduct for Members states that you must ensure that:

*When using or authorising the use by others of the resources of the County Council that such resources are not used improperly for political purposes.*

The County Council's Protocol for Member/Officer relations states that:

*The only basis on which the County Council can lawfully provide support services (e.g. stationery, typing, printing, photocopying, transport, etc) to Members is to assist them in discharging their role as Members of the County Council. Such support services must therefore, only be used on County Council business. They should never be used in connection with party political or campaigning activity, or for private purposes.*

*It is acknowledged however, that certain equipment provided, such as personal computers and mobile phones, can be put to ancillary personal use by Members, provided that such use incurs no cost to the County Council. Any such equipment provided by the County Council, such as personal computers, must however only be used in accordance with any County Council policies which apply at the time. Furthermore, the Member will be fully responsible for the use or misuse of the equipment, including any use or misuse by anyone to whom the Member has given access to the equipment.*

So while your email address and the resources of the County Council can be used for ancillary personal use, they **cannot** be used in connection with any party political or campaigning activity. For example, the following would be contrary to the Code of Conduct and the Protocol for Member/Officer relations:

- Quoting a County Council e-mail address in party political publicity material
- Printing political information/e-mails/attachments on paper supplied by the County Council
- Making photocopies of party political literature using paper or photocopiers supplied by the County Council
- Using a County Council fax machine to transmit party political material
- Using County Council provided IT equipment including computers, telephones or mobile devices to conduct party political business (including posting party political material on blogs or making party political tweets)
- Use of the Members' individual web pages for party political material.

Members may continue to use those resources which relate to their day-to-day business as local Members, including their County Council e-mail address.

**I am a County Councillor and an event has been organised at a school in my division during the by-election pre-election period. Can I attend?**

Provided you are not standing for election in the by-election yes you can attend. There will however not be any County Council publicity relating to events held in the by-election Division.

**I am standing for election to the County Council. Can I use County Council meeting rooms and other public meeting rooms to hold public meetings as part of my campaign?**

By virtue of Section 96 of the *Representation of People Act 1983*, a candidate at a Local Government Election is entitled to use rooms in school premises and other publicly maintainable meeting rooms, free of charge to hold public meetings at reasonable times of the day and these must be booked by the candidate. This right applies during the period between the notice of election and the day of the election itself.

The obligation to provide rooms in schools falls on the County Council as the Local Education Authority and is an obligation to provide a suitable room in a maintained school (i.e. not academies and free schools), in the electoral area for which the candidate is standing, or if there is no such school in the electoral area, to such a school in an adjacent electoral area. The right to use rooms in schools does not authorise any interference with the hours during which a school is used for educational purposes and as with publically maintainable meeting rooms it does not override the prior letting of a meeting room.

Details of available publically maintainable meeting rooms can be obtained from the Electoral Registration Officer at the relevant District or Borough Council for the Division. Candidates interested in using rooms in schools should contact Richard Vaughan in Children's Services in the first instance tel no. 01962 846683. No hire charges can be made for the use of rooms, but candidates must pay for the expenses of the meeting, such as heating, lighting and cleaning and for any damage to the premises.

**As a Councillor, can I speak to the media or appear in an interview during the by-election pre-election period?**

Yes you can, the publicity restrictions apply to communications activity originating from the County Council, which are produced and distributed by officers and funded from the public purse. Individual Members remain free to engage with the media directly on local or party political matters during a pre-election period. The County Council's officers are simply prevented from facilitating that contact in relation to the by-election or assisting with it in any way.

The Codes of Conduct only applies to officers and Members and do not cover the media. It is anticipated that the media will seek alternative viewpoints and would be concerned about whether any claims that a political candidate made in the run-up to an election were true or exaggerated. There is no similar printed code for newspapers or broadcasters, although the BBC is required under the terms of its charter to ensure political issues are covered with accuracy and impartiality.

**As a Councillor or candidate in the by-election County Council election, I like a photograph that was taken by the County Council and would like to use it in my local newsletter. Is that ok?**

No, the County Council's Code of Conduct for Members states that they must *ensure that when using or authorising the use by others of the resources of the County Council, that such resources are not used improperly for political purposes*. Before any requests for County Council photographs are agreed, enquiries are made as to their proposed use, and an appropriate restriction on their use is imposed if the request is agreed, to ensure they are not used for political purposes.

No photographs that include candidates for an election will be issued by the County Council to the media during a pre-election period.

**A political newsletter delivered to households has published statements I believe to be untrue, what can be done about it?**

It is an illegal practice to make, or publish, a false statement of fact about the personal character or conduct of a candidate standing for election, unless the person making the statement had reasonable grounds for believing the statement to be true. Allegations of illegal practice should be made to the Police. False statements that are not about another candidate's personal character or conduct are not illegal under electoral law, but could be considered as libel or slander, and candidates may have personal remedies available to them.

**I am also a district/borough/city Councillor – what are the publicity restrictions for these councils as they are not having elections?**

The Code applies equally to other councils who will also want to exercise caution during a pre-election period within their own districts and boroughs about giving publicity to individual Members standing for in the County Council By-election.

**I am a Member of the County Council and I've been invited to sit on a panel at a public meeting that has been organised by a local campaign group against a controversial issue in the by-election division during the by-election pre-election period. Can I attend?**

There is nothing to prevent a candidate standing for election or an existing member of the County Council attending a public meeting organised by a third party during the by-election pre-election period. The County Council will not however, promote the event in any way and it would be a good idea for the other candidates, standing for election in the relevant division, to be invited by the organisers to ensure even-handedness.

**I am a candidate standing for election. Can I put campaign signs or posters on roadside verges?**

No. Any political signs or posters on the public highway are illegal and the County Council will remove them when it becomes aware of their presence on the highway. The offending political party may be charged for the removal.

## **Information for County Council staff**

### **Can Hampshire County Council events, exhibitions or open days etc. continue to be promoted during a by-election pre-election period?**

While the Code does not specifically refer to and prohibit organising events during a pre-election period, the County Council's general position is that no Hampshire County Council events should be organised which involve County Council Members in the by-election Division during the by-election pre-election period.

During this period of heightened sensitivity, great care should be taken to ensure that the County Council does not publicise, or report views or proposals relating to the by-election Division, in such a way that identifies them with any individual Members or groups of Members.

The Code, defines publicity as: *any communication in whatever form, addressed to the public at large or a section of the public.* The Code therefore applies to publicity in all its forms, including websites, social media, posters, leaflets, advertising, consultation exercises and letters to Editors. Campaign material, if planned in advance of an election and which is not sensitive e.g. foster carer recruitment, can continue if by cancellation would result in poor value for money, and if it was necessary to conduct it during this period. This does not apply to material that could be deemed to be likely to influence the outcome of an election.

### **I am the Manager of a County Council-run care home in the by-election Division and a Government Minister/Shadow Minister wants to visit us during the by-election pre-election period. As they are not standing in the County Council elections, can they be allowed to do so?**

Yes, although care must be taken to give representatives of all parties equal opportunities. There can be no County Council publicity relating to any candidate standing for election that may also attend. The County Council should avoid helping or endorsing any particular candidate or political party, or being seen to attempt to influence the way people might vote.

### **A candidate standing for election wants to carry out a photo shoot at our school/care home or any other County Council facility in the by-election Division. Can I agree to this?**

No. The general presumption here is that during the by-election pre-election period the County Council must not be seen to be helping or endorsing any particular candidate or political party through the use of Council resources. Therefore political publicity events should not take place at County Council-run venues in the by-election Division..

### **I am employed by the County Council and I've been asked to appear in a photograph/be interviewed in a video for a local election candidate. Can I do so?**

Not in your capacity as an employee of the County Council. During a pre-election period, requests to assist with publicity in this way should be avoided as it could imply that the County Council was supporting a candidate or political party or attempting to influence voters.

However, provided you are not employed in a politically restricted post (see below for more information on politically restricted posts) you could appear in a personal capacity.

**I am employed by the County Council. Can I stand for election to the County Council?**

No. It is not possible for an employee of the County Council to be elected as a Member of the County Council. If an employee of the County Council wants to stand for election to the County Council, they must ensure that their employment ends before the date of an election.

**I am employed by the County Council. Can I stand for election to a different local authority?**

Yes you can, provided you are not employed in a politically restricted post by the County Council, and the other authority does not participate in any Joint Committees with the County Council.

**I am employed by a local authority separate to the County Council. Can I stand for election to the County Council?**

Yes you can, provided you are not employed in a politically restricted post by that authority, and further, provided that your authority does not participate in any Joint Committees with the County Council and does not have members appointed to it by the County Council. This would mean for example, that if you work for the New Forest National Park Authority or the Hampshire Fire and Rescue Authority, you would not be able to stand for election to the County Council.

**Is my post politically restricted and if it is what does this mean for me?**

Officers who are in a politically restricted post should have been notified of the restrictions which apply. If you are unsure if you are in a politically restricted post please see the guidance below or contact the Monitoring Officer.

The following posts are politically restricted:

- the Head of Paid Service
- statutory Chief Officers
- non-statutory Chief Officers
- Deputy Chief Officers
- the Monitoring Officer
- any person appointed to a post of assistant to a political group
- any person whose duties involve functions including the giving of advice to decision-makers or speaking on behalf of the County Council on a regular basis to Journalists or Broadcasters
- a person to whom functions are delegated.

Politically restricted officers may not:

1. Stand as a candidate for any Local Authority
2. Act as an agent or sub-agent for another candidate

3. Be an officer of a political party or, of any branch of such party, or a member of any committee or sub-committee of such party or branch if his or her duties as such an officer or member would be likely to require him or her to participate in the general management of the party or branch or act on behalf of the party, or branch, in dealing with persons other than members of the party or members of another political party associated with the party
4. Canvas on behalf of a political party or a candidate standing for election
5. Speak publically with the apparent intention of effecting public support for a political party
6. Publish any written or artistic work which appears to be intended to effect public support for a political party.

Politically restricted officers may however join political parties, stand for election to Parish Councils (provided it is not on a party ticket) and display a poster on property occupied by them as their dwelling or on a vehicle or article used by them.

<http://www3.hants.gov.uk/portal-help/hr/myrole/politicallyrestrictedposts.htm>

**A candidate standing for election has asked if they can place their campaign flyers in our school/museum/library etc. Can they do so?**

No, they cannot as this would involve using County Council resources to support a candidate or political party.

**If a sitting Member of the County Council requests a background briefing from me on a scheme/initiative they may use for electioneering purposes, can I go ahead and provide them with the information?**

The key principle is that no advantage is given to any particular candidate or party. So while it is appropriate to brief members on issues relevant to their role as County Councillors, in so far as is possible the same information should be provided to other candidates standing for election. Being even-handed and granting equal access, as far as it is possible to do so, is the key principle.

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