



NEIGHBOURHOOD PLAN REFERENDA

A GUIDE FOR WARD MEMBERS, PARISH COUNCILLORS & CAMPAIGNERS

- **RESTRICTIONS ON PUBLICITY DURING THE REFERENDUM PERIOD**
- **LIMITS ON EXPENSES**

Executive Summary

This guidance outlines the key issues that apply in relation to publicity during the period leading up to any Neighbourhood Plan Referendum. This period runs from the publication date of the information statement (a minimum of 28 working days before the date of the referendum) to the declaration of result, following the referendum.

This guidance deals with specific restrictions in relation to any individual's role as an elected or co-opted Councillor.

The guidance also deals with restrictions on how much may be spent by campaigners by way of expenses incurred in the conduct of a campaign either in support of or in opposition to the referendum question.

The term "**Members**" refers to any Mid Sussex District Council Ward Councillor. The term "**Council**" means the Mid Sussex District Council (MSDC).

KEY POINTS - PUBLICITY:

- All Members must comply with the provisions of the adopted Code of Conduct.
- Ward Members may create their own publicity, provided that MSDC resources are not used. Resources of a campaign group or the relevant Parish/Town council may be used.
- MSDC Council business will continue during a referendum period. This includes publicity around normal business and events. However this must be carefully thought through to ensure that Council "machinery" is not used in any way in relation to the referendum.
- Before arranging any events in a Referendum Area involving Members, Council Officers should take advice from MSDC's Legal and Electoral Services teams.
- Council Members should not be quoted in any press releases issued (if any) relating to the referendum.
- No posters or leaflets promoting a yes or no vote must be displayed on MSDC premises (including street furniture) or vehicles.
- Views on the referendum question, which could be seen as in favour of or against the proposal, must not be published by the MSDC.
- Any communication issued by the MSDC should not support or oppose the referendum question.
- Members representing the Neighbourhood Plan Area need to maintain a clear distinction between their duties as a serving District Councillor and their involvement with any referendum campaign group. Members must be clear with others that they comment or campaign as a Parish/Town Councillor if applicable.
- During the referendum period Members may continue to deal with ward work and represent their constituents.

- Particular care must be taken by Members who hold positions of responsibility within the Mid Sussex District Council where, by virtue of their role, they could be seen to be supporting or opposing a referendum question.
- Members of Mid Sussex District Council who are also Parish Councillors for a Referendum Area are entitled to campaign as a Parish Councillor. They must be clear in any comment or published material that they act as a Parish Councillor.

KEY POINTS - REFERENDUM EXPENSES:

- A maximum of £2,362 plus £0.059 for each entry in the relevant register of electors may be spent by campaign organisers in connection with a referendum campaign. The exact amount allowed for each referendum area will be published in the Information Statement or may be obtained from the Electoral Services team at Mid Sussex District Council. Email: elections@midsussex.gov.uk or call: 01444 47722.
- Expenses means the expenses incurred by or on behalf of any individual or body during the referendum period in relation to :
 - Advertising of any nature
 - Unsolicited material addressed to voters
 - Information about the referendum, information about the question, arguments for and against
 - Market research or canvassing
 - Provision of any property, services or facilities in connection with press conferences or dealings with the media
 - Transport (by any means) of persons to anywhere with a view to obtaining publicity in connection with a referendum campaign
 - Rallies and other events, including public meetings.
- Expenses also include any notional expenses, where property, services or facilities are provided free of charge or at a discount and must be entered upon a statement of expenses.
- **Campaign groups are asked to register with and submit a statement of expenses to the Counting Officer, Electoral Services, Oaklands, Oaklands Road, Haywards Heath, Mid Sussex, RH16 1SS. This is important as campaign groups are entitled to receive electoral registers and 3 alteration notices during the referendum campaign.**
- It is an offence for a campaign organiser to exceed the referendum expenses limits and if found guilty they would be liable to a fine of up to £5000 and/or imprisonment of up to 12 months.

QUESTIONS AND ANSWERS

1. What does the law say?

The Neighbourhood Planning (Referendum) Regulations 2012 (section 5) prohibits the Planning Authority (Mid Sussex District Council) from publishing any promotional material other than that required to be published under Section 4 – (Information Statement and specified documents, or factual information about the referendum) during the referendum period.

Sections 6 and 7 of the Regulations set out the limit that may be spent on referendum expenses and the penalty for non-compliance.

2. When do the restrictions apply?

The relevant period is from the date when the 'Information Statement' is published by the Mid Sussex District Council until the date of the referendum.

3. What does publicity mean?

The meaning of publicity is wide and includes any communication, in whatever form, addressed to the public as a whole or to a section of the public.

- Publicity can take the form of speeches, interviews, items on a Parish Council's websites or notice boards, press releases, newsletters, leaflets, and newspaper articles issued by or on behalf of a Campaign Group or Parish Council.
- Publicity can also include publicity issued by organisations that receives funds from the Council. For example, if the Council funds an activity group which organises an event that overtly opposes or supports a referendum campaign that could amount to a breach of the rules. The Council cannot fund other organisations to produce publicity it is unable to issue itself.
- If the Council holds public meetings or supports or assists in meetings organised by others then this is also caught by the provisions.

4. What are the restrictions on a Council's publicity?

The law does not allow the Council to publish or to assist others to publish material, which appears to be designed to affect public support for a referendum campaign. The intention behind the publication does not matter – what is important is whether it "appears" to be designed to affect support. This covers broadcast items, as well as written material.

It can cover printing, even if the same information published at another time would be considered reasonable. It is safer to avoid giving support and facilities for campaign material during the referendum period.

5. What are Council Resources?

The definition of Council resources includes: IT, telephones, fax machines, photocopiers, stationery, headed notepaper, postage, transport and staff time.

6. What are the restrictions on the use of Council Resources?

The Code of Conduct for Members provides that a member must make sure that the Council's resources are used for proper purposes only.

Services or facilities provided for Members should be used exclusively for the purpose of council business or to enable the Member concerned to discharge their function as a Councillor. This applies to

- Council stationery (letterheads, envelopes, compliment slips)
- Telephones and fax machines
- Photocopiers / IT equipment
- Officer time

The use of Council resources for purely political purposes, including designing and distributing referendum campaign or party political material produced for publicity purposes is prohibited under The Code of Conduct for Members. Use of the Council's resources in such a way is likely to amount to a breach of the Code of Conduct.

7. What is meant by "Use of Council Resources?"

The use of Council resources for referendum campaign or party political purposes covers not only the publication of campaigning material but also any other activity intended to promote purely campaign or party political interests. Examples include the use of the Council's postal system to distribute campaign material or sending out material using the Council e-mail address, use of staff time to carry out research to assist in promoting a campaign.

8. Why are the restrictions imposed?

The reason for restrictions during the referendum period is not to prevent the Council carrying out its normal business, but to prevent Council business carried out during the referendum period being used to secure advantage for a referendum campaign.

Particular care needs to be taken to ensure that publicity or Council activities cannot be perceived as seeking to influence public opinion or to promote a referendum campaign.

9. What happens to press releases during this period?

During the referendum period press releases about the referendum will not be issued unless authorised by the Counting Officer.

Factors, which will be considered, include:

- The content and style of the material.
- The likely effect on those to whom it is directed.
- Whether material promotes or opposes a view on a referendum question.

10. Can the Council comment on misleading campaign material?

It is acceptable to “put the record straight” if damaging misinformation has been circulated as part of a campaign. The publication of press releases containing factual information where the sole purpose is to refute or correct any inaccuracy in material published is allowed. Advice must be sought from the Counting Officer before any steps are taken.

11. Can Councillors use Council Web Pages?

Except for statutory referendum notices, the content of Web Pages maintained on the Council’s website should not contain reference to a referendum campaign.

12. What are the rules for Council staff?

- During the referendum period there is a need for greater sensitivity; all staff should follow the guidance as set out in this document.
- Council staff must always be careful not to give the impression of supporting a referendum campaign.
- To maintain the appearance of neutrality, those members of staff whose work is confined to a very specific geographical area where the public knows them in their official capacity should not canvass or act in any visible manner in that area in support of a referendum campaign.
- Staff should not wear any campaign badges or stickers whilst carrying out their work, or have campaign stickers etc. on work items such as clipboards.
- Staff should not express their personal opinions about a referendum to the general public, tenants and residents (and their representatives), councillors, or Members of Parliament.
- Extra care should be taken by staff not to allow themselves to be photographed with campaigners. This is because if such photos are re-printed in a campaign leaflet, it could be seen as an endorsement of the campaign by an officer or the council itself especially if the photo is of a senior officer of the Council.

13. Are there any special rules that officers of the Mid Sussex District Council in politically restricted posts must abide by?

Staff in politically restricted posts will know the legal rules that apply to them. If you are unsure about whether or not you hold a politically restricted post, you should speak to your line manager or the HR department.

14. Can Councillors talk to the press and media during a referendum period?

The restrictions apply to official Council organised publicity including press releases or events and the use of the Council’s resources. However, to avoid enquiries relating to a referendum campaign being directed via Council employees councillors are asked not to include Council addresses and telephone numbers in any literature.

Councillors who represent the referendum area need to maintain a clear distinction between their official duties as a serving Councillor and their involvement with any campaign relating to the referendum. For example, they should guard against giving any impression of use of Council resources for referendum or private purposes or giving the impression they are acting in their capacity as a "Councillor".

15. What about publicity for events?

The restrictions apply to any events organised by the Council. It is better to avoid proactively scheduling PR events and photo opportunities in the referendum area during this period if possible.

16. What about events that cannot be re-scheduled for operational reasons?

If a Council event in a referendum area cannot be postponed until after the referendum, it is vital it is organised in such a way as to minimise the likelihood of criticism being raised that the real purpose of the event is to publicise a particular campaign.

If a representative from one campaign is to attend, then (where possible) representatives of other campaigns should also be invited, and all should be asked not to use the event for campaign purposes.

17. What about posters and leaflets?

No campaign posters or leaflets must be displayed on Council notice boards, premises (including street furniture etc.), or vehicles.

Any publicity material relating to the referendum published on behalf of any campaigning group should include the printer imprint i.e. state who the material was printed and published by.

18. What about meetings during this period?

Any meeting, which might be seen as having the potential to be seen as contentious, in relation to a referendum should be avoided. Where the Council controls the scheduling of such a meeting and it can reasonably be deferred until after the election without significant detriment, then the arrangements for the meeting should be organised accordingly.

Other meetings in support of the Council's functions can still take place provided that such meetings are not used, or could reasonably be considered to give rise to the perception that they are being used, in connection with a referendum campaign.

19. Can Councillors send out correspondence to constituents?

Councillors are permitted to respond to correspondence they may receive in the normal way and deal with casework as a result of surgeries. However, letters or e-mails, which are being sent to constituents, must have no reference to a referendum.

20. Can Council premises be used for campaign meetings?

Campaigners are entitled on reasonable notice to use meeting rooms maintainable out of public funds, providing there is no impact on the normal use of the room and as long as they meet the cost of the room payable at the commercial rate, including the cost of preparation, heating, lighting, staffing and similar costs and costs of damages. It is legitimate to use staff time to facilitate a booking.

21. Are school visits by campaigners different?

- The management of schools, which includes permitting access and visits, is usually vested in the governing body who are independent of the Council. The governing body would be advised to seek advice from Mid Sussex District Council. An explanation will be sought as to why campaigners are seeking access to schools during the school day, as there are few potential voters to influence.
- The same rules will apply to staff employed by the Council in that they will not normally support or facilitate a visit and need to take care about any photographs that are taken.

22. What sanctions apply?

- There are severe sanctions for inappropriate behaviour during a referendum period for the Council and individual Councillors and officers.
- The Council can be subject to action by its external auditors in the event of unlawful expenditure.
- If a Member uses Council resources for inappropriate purposes, that can be a breach of the Members' Code of Conduct.
- An employee who behaves in an inappropriate way will be in breach of the Employee Code of Conduct and could be subject to disciplinary action.
- For campaigners, referendum expenditure is clearly set out in this guidance. Expenditure in excess of referendum expense limits may be a criminal offence.

23. Who do I speak to if I am not sure what to do?

- Terry Stanley, Democratic Services - 01444 477415
- Tom Clark, Counting Officer - 01444 477459

Acknowledgement:

With thanks, Mid Sussex District Council wishes to acknowledge that this guidance is based upon work initially carried out by Electoral Services at The Royal Borough of Windsor and Maidenhead