

NEIGHBOURHOOD PLAN REFERENDUM

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GUIDANCE NOTES FOR CAMPAIGNERS AND LOCAL WARD, TOWN AND PARISH COUNCILLORS

Table of Contents

OVERVIEW	3
KEY POINTS - PUBLICITY:	3
KEY POINTS - REFERENDUM EXPENSES:.....	4
KEY POINTS – INFORMATION FOR CAMPAIGNERS AND COUNCILLORS:	5
QUESTIONS AND ANSWERS	5
LEGISLATION AND USE OF RESOURCES.....	5
1. What does the law say?	5
2. When do the restrictions apply?.....	6
3. What are council resources?.....	6
4. What is meant by “use of council resources”?	6
5. What are the restrictions on the use of council resources?	6
6. Why are the restrictions imposed?.....	7
PUBLICITY	7
7. What does publicity mean?	7
8. What are the restrictions on a council’s publicity?.....	7
9. Can the Council comment on misleading campaign material?	8
10. Can councillors talk to the press and media during a referendum period?	8
11. What happens to press releases during this period?	8
12. What about publicity for events?	8
13. What about events that cannot be re-scheduled for operational reasons?	9
14. What about posters and leaflets?	9
15. What about meetings during this period?.....	9
16. Can councillors send out correspondence to constituents?	9
17. Can council premises be used for campaign meetings?.....	9
18. What sanctions apply?.....	10
Who do I speak to if I am not sure what to do?	10

OVERVIEW

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

This guidance deals with specific restrictions in relation to any individual's role as an elected or co-opted councillor, along with any key information that is relevant for campaign groups or councillors.

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

The term councillors refers to district, town and parish councillors unless stated otherwise. The term council refers to South Oxfordshire/Vale of White Horse District Councils and the relevant town/parish council.

KEY POINTS - PUBLICITY:

- Councillors can create their own publicity in their capacity as a member of a campaign group, provided council resources are not used.
- All councillors must comply with the provisions of the adopted Code of Conduct.
- Council business will continue during a referendum period. This includes publicity around normal council business and events. However this must be carefully thought through to ensure council "machinery" is not used or allowed to be used or manipulated by anyone in relation to the referendum.
- Before arranging any events in the referendum area involving councillors, advice must be sought from the parish clerk who may liaise with Democratic Services: democratic.services@southandvale.gov.uk.
- Councillors representing the referendum area should not be quoted in any council press releases issued (if any) relating to the referendum.
- No posters or leaflets must be displayed on council 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 South Oxfordshire or Vale of White Horse district councils or a parish/town council.
- Press releases issued by the district councils or a parish/town council should not be used to support or oppose the referendum question.

- **Councillors** in the Neighbourhood Plan 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. During the referendum period councillors may continue to deal with ward work and represent their constituents.
- Particular care must be taken by councillors who hold positions of responsibility within a council where, by virtue of their role, they could be seen to be supporting or opposing a referendum question.

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 (please note this is not council money). The exact amount allowed for each referendum area will be published in the referendum information statement.
- Expenses mean 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.
- It should be noted that there is no legal requirement for campaigners to submit their expenses to the relevant Counting Officer at the council.
- **However, campaign groups are encouraged to register with Electoral Services to receive any relevant information related to the referendum.** To do so, please email: elections@southandvale.gov.uk
- It is an offence for a campaign organiser to exceed the referendum expenses limits and if found guilty would be liable to a fine of up to £5000 and/or imprisonment of up to 12 months.

KEY POINTS – INFORMATION FOR CAMPAIGNERS AND COUNCILLORS:

- District councillors are entitled to a copy of the electoral register for the ward they represent. In order to receive a copy for the referendum, the councillor must be representing the area in which the referendum is being held. Copies of the register should be requested from the Electoral Registration Officer at the council.
- Parish councillors are entitled to a copy of the electoral register for the parish (or parish ward) they represent. To receive a copy for the referendum, the councillor must be representing the area in which the referendum is being held. Copies of the register should be requested from the Electoral Registration Officer at the council.
- Campaign groups are **not** entitled to request a copy of the electoral register or absent voting lists for the referendum.

QUESTIONS AND ANSWERS

LEGISLATION AND USE OF RESOURCES

1. What does the law say?

The Neighbourhood Planning (Referendum) Regulations 2012 (section 5) prohibit the planning authority (South Oxfordshire/Vale of White Horse district councils) 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 sets out the limit that may be spent on referendum expenses and the penalty for non-compliance.

South Oxfordshire/Vale of White Horse District Councils is not directly responsible for the actions of Town or Parish Councils. However, Town and Parish Councils are required by Section 4(1) of the Local Government Act 1986 to have regard to The Code of Recommended Practice on Local Authority Publicity. The code pre-dates the introduction of Neighbourhood Plans however a part which is considered relevant and should be taken into account says:

“In general, local authorities should not issue any publicity which seeks to influence voters. However, this general principle is subject to any statutory provision which authorises expenditure being incurred on the publication of material designed to influence the public as to whether to support or oppose a question put at a referendum. It is acceptable to publish material relating to

the subject matter of a referendum, for example to correct any factual inaccuracies which have appeared in publicity produced by third parties, so long as this is even-handed and objective and does not support or oppose any of the options which are the subject of the vote”

This means that in the absence of specific neighbourhood planning legislation for parish councils, they should only produce material which brings the referendum to the attention of the community, or which corrects any factual errors.

2. When do the restrictions apply?

The relevant period is from the date when the ‘Information Statement’ is published by South Oxfordshire or Vale of White Horse district councils until the date of the referendum.

3. What are council resources?

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

4. 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 a council’s postal system to distribute campaign material or sending out material using a council e-mail address, use of staff time to carry out research to assist in promoting a campaign.

5. What are the restrictions on the use of council resources?

The Councillors’ Code of Conduct provides that a councillor must make sure that the council’s resources are used for proper purposes only.

Services or facilities provided for councillors should be used exclusively for the purposes of council business or to enable the councillor 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 Councillors’ Code of Conduct. Use

of a council's resources in such a way is likely to amount to a breach of the Code of Conduct.

6. Why are the restrictions imposed?

The reason for restrictions during the referendum period is not to prevent a 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.

PUBLICITY

7. 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 council's websites or notice boards, press releases, newsletters, leaflets, and newspaper articles issued by or on behalf of a council.
- Publicity can also include publicity issued by organisations using council funds. For example, if the council funds an activity group which organises an event that overtly attacks or supports a referendum campaign that could amount to a breach of the rules. A council cannot fund other organisations to produce publicity it is unable to issue itself.
- If a council holds public meetings or supports or assists in meetings organised by others then this is also caught by the provisions.

8. What are the restrictions on a council's publicity?

The law does not allow a 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.

9. 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. If you believe inaccurate information has been produced you should **bring this to the attention of** the Counting Officer who will decide what steps are taken.

10. 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 impression of acting in their capacity as a councillor.

11. What happens to press releases during this period?

During the referendum period press releases about the referendum will not be made 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.

12. 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.

13. 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.

14. 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 an imprint. This must specify the name and address of the printer of the document; the name and address of the promoter of the material and the name and address of any person who on behalf the material is being published (where this is not the promoter).

15. What about meetings during this period?

Any meeting that might be seen as being potentially contentious, in relation to a referendum should be avoided. Where a 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.

16. 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.

17. 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.

18. What sanctions apply?

There are severe sanctions for inappropriate behaviour during a referendum period for a 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 councillor uses council resources for inappropriate purposes, that can be a breach of the Councillor's 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.

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

Electoral Services at South Oxfordshire and Vale of White Horse District Councils

Email: elections@southandvale.gov.uk

Tel: 01235 422528