

STAFF REPORT

TO: Chair and Members, Corporate Services Committee

FROM: Chris Choat, Communication Adviser

DATE: 16 June 2010

SUBJECT: **Election Communications – OAG Guidelines –
RFN10-06-08**

Purpose

The purpose of this report is to highlight the Office of the Auditor General (OAG) guidelines regarding communications in a pre-election period.

Background

In support of the recent notification to Councillors of the relevant dates for the 2010 Local Government elections this report highlights the guidelines for communication with communities by elected members during the pre-election period.

The pre-period identified by the Local Electoral Act referred to by the OAG runs three months prior to the close of polling on election day, 9 July - 9 October 2010.

The guidelines are specifically identified as Principle 12 in the OAG's 'Good practice for managing public communications by local authorities' publication of 2004. A review has shown these remain in force. A copy of Principle 12 is attached with Section 4 of the Local Electoral Act 2001 referred to in Principle 12.

Discussion

While the election period is some months away it is prudent to alert elected members of the guidelines for their planning purposes. The guidelines specifically identify the restrictions on the use of Council's communications vehicles and services i.e. Newswire or media releases generated by the Council. In doing so, the guidelines clearly identify the restrictions pertaining to Council officer assistance.

It is recommended that elected member presence in media vehicles such as –

- Council-funded newsletters to constituents;
- Councillor presence on the Council Website, and
- Mayoral or Members' columns in Council publications
- Councillor sponsorship of initiatives and projects in media

be suspended during a pre-election period.

This is to be balanced with the need to manage the business as usual roles elected members need to fulfil as Chairs of the respective communities and as delegated by the Council.

There is a need for a sensible and commonsense approach to this period. The test being 'could this action be challenged by a member of the community, an aspiring candidate or by fellow Councillors'.

To this end, and to protect the integrity of the Council and its sitting members for the pre-election period, 9 July 2010 – 9 October 2010, many initiatives will be presented by senior managers and specialist staff.

Recommendation

That the Election Communications Report (RFN10-06-08), dated 16 June 2010, be received.

Chris Choat
Communication Adviser

Appendix 1OAG Guidelines

Communications in a pre-election period

Principle 12

A local authority must not promote, nor be perceived to promote, the re-election prospects of a sitting member. Therefore, the use of Council resources for re-election purposes is unacceptable and possibly unlawful.

4.45

Promoting the re-election prospects of a sitting Member, directly or indirectly, wittingly or unwittingly, is not part of the proper role of a local authority.

4.46

A Council would be directly promoting a Member's re-election prospects if it allowed the member to use Council communications facilities (such as stationery, postage, internet, e-mail, or telephones) explicitly for campaign purposes.

4.47

Other uses of Council communications facilities during a pre-election period may also be unacceptable. For example, allowing Members access to Council resources to communicate with constituents, even in their official capacities as members, could create a perception that the Council is helping sitting Members to promote their re-election prospects over other candidates.

4.48

For this reason, we recommend that mass communications facilities such as –

- Council-funded newsletters to constituents;
- The Council Website, and
- Mayoral or Members' columns in Council publications

be suspended during a pre-election period.

4.49

Promoting the re-election prospects of a sitting Member could also raise issues under the Local Electoral Act 2001. For example:

- Local elections must be conducted in accordance with the principles set out in section 4 of the Local Electoral Act. The principles apply to any decision made by a Council under that Act or any other Act, subject only to the limits of practicality. A breach of the principles can give rise to an "irregularity" which could result in an election result being overturned.¹⁴
- The publication, issue, or distribution of information, and the use of electronic communications (including web site and e-mail communication), by a candidate are "electoral activities" to which the rules concerning disclosure of electoral expenses apply.

4.50

“Electoral expenses”¹⁵ include:

- the reasonable market value of any materials applied in respect of any electoral activity that are given to the candidate or that are provided to the candidate free of charge or below reasonable market value; and
- the cost of any printing or postage in respect of any electoral activity.

4.51

A Member’s use of Council resources for electoral purposes could therefore be an “electoral expense” which the Member would have to declare – unless it could be shown that the communication also related to Council business and was made in the candidate’s capacity as a Member.

Appendix 2: Principles of the Local Electoral Act 2001

4. Principles

(1) The principles that this Act is designed to implement are the following:

(a) fair and effective representation for individuals and communities:
(b) all qualified persons have a reasonable and equal opportunity to—

(i) cast an informed vote:
(ii) nominate 1 or more candidates:
(iii) accept nomination as a candidate:

(c) public confidence in, and public understanding of, local electoral processes through—

(i) the provision of a regular election cycle:
(ii) the provision of elections that are managed independently from the elected body:
(iii) protection of the freedom of choice of voters and the secrecy of the vote:
(iv) the provision of transparent electoral systems and voting methods and the adoption of procedures that produce certainty in electoral outcomes:
(v) the provision of impartial mechanisms for resolving disputed elections and polls.

(2) Local authorities, electoral officers, and other electoral officials must, in making decisions under this Act or any other enactment, take into account those principles specified in subsection (1) that are applicable (if any), so far as is practicable in the circumstances.

(3) This section does not override any other provision in this Act or any other enactment.