

# THE USE OF GLA RESOURCES

**Guidance Issued by the Head of Paid Service, Chief Finance Officer and Monitoring Officer of the Greater London Authority, January 2021**

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## **Table of contents**

Introduction .....	3
<b>I. Use of GLA's statutory powers.....</b>	<b>4</b>
Summary .....	4
The exercise of statutory powers .....	4
Decisions affecting future administrations .....	4
Liability for misconduct.....	4
Taking prior legal advice .....	4
<b>II. Mayor's and Assembly Members' duties .....</b>	<b>5</b>
Summary .....	5
The GLA Code of Conduct .....	5
The Code's obligations.....	5
<b>III. Rules for GLA Staff .....</b>	<b>6</b>
Summary .....	6
Politically restricted and other staff .....	6
Rules for all staff: the Staff Code of Ethics.....	7
Rules for politically restricted staff .....	8
The Membership of political parties .....	10
Election posters and badges etc.....	10
Staff wanting to canvass etc .....	10
Filling vacancies .....	10
<b>IV. Use of GLA Resources and Facilities.....</b>	<b>11</b>
Use of stationery.....	11
Use of GLA logos and designs.....	11
Pre-paid postage.....	12
<b>V. GLA Publicity and Communications. ....</b>	<b>12</b>
Summary .....	12
Law relating to publicity.....	12
General rules for GLA publicity and communications .....	13
Publicity campaigns .....	13
Publicity of individuals .....	14
Use of Hyperlinks.....	14
<b>VI. Publicity and Communications Material Published by the Greater London Authority Group's bodies in a Pre-Election period.....</b>	<b>17</b>
Introduction .....	17
Normal business .....	18
Publicity and events .....	18
Use of Premises.....	20
Request for briefings and information/consultations.....	21
Use of Resources (general) .....	21
Contacts.....	22
<b>Appendix 1 Questions Regarding the Use of Resources</b>	
<b>Appendix 2 Advice on the Use of Resources Policy</b>	
<b>Appendix 3 Code on Local Authority Publicity</b>	
<b>Appendix 4 Advice on Use of Social Media</b>	
<b>Appendix 5 Pre-elections Period Guidance for External Partner Organisations</b>	

## **Introduction**

This is guidance issued by the GLA's statutory officers, with the agreement of the Mayor of London and London Assembly. It supplements the existing formal codes and protocols regarding conduct and activities during pre-elections periods and incorporates advice received from two Legal Counsel on the use of resources and the new Code of Recommended Practice on Local Government Publicity, which is summarised and set out in appendices 1 – 3 of this guidance document.

Part VI of this document contains further guidance on publicity and communications material in the period leading up to a GLA election for all of the bodies that make up the GLA Group and, as such, has been agreed by relevant representatives of the GLA, TfL, MOPAC, LFC, the LLDC and OPDC.

## **Status of this Guidance**

This document contains guidance only. However, a breach of the provisions of the guidance document would likely constitute a breach either of the Code of Conduct for the Elected Members of the Authority or of the Code of Ethics and Standards for GLA staff, and other GLA Group bodies' equivalent standards.

A complaint alleging a failure by any person to comply with this guidance will be dealt with via the Authority's formal complaints procedures and GLA Group bodies' equivalent documents. It may lead either to an adverse finding by the Monitoring Officer (for elected Members) or disciplinary action (in respect of officers). Depending on the circumstances, action could also be taken by the GLA's auditors, the Local Government and Social Care Ombudsman, the Electoral Commission and/or the courts.

Any complaint alleging a failure by any person to comply with this guidance should be made to the contact officers listed at the end of this guidance note.

# **I Use of GLA's statutory powers**

*These rules apply at all times, including during the Pre-Election Period.*

## **Summary**

- 1. It is unlawful to exercise the GLA's statutory powers with a view to achieving a political advantage. This applies to the Mayor, Assembly Members and GLA staff equally. Legal action can be taken against those involved if the Authority loses money as a result.**

## **The exercise of statutory powers**

2. Powers conferred on public authorities like the GLA may only be exercised for the public purposes for which they were given by Parliament and not for some other, non-public purpose. These powers must be exercised honestly and according to what those doing so perceive, on reasonable grounds, to be what is best in the public interest and in accordance with the Principles of Public Life.
3. It is unlawful to exercise a statutory power for the purpose of promoting or seeking to promote or achieve electoral advantage.

## **Decisions affecting future administrations**

4. If a statutory power gives a discretion that can be exercised from time to time, then a future exercise of that power by a future Mayor cannot be "fettered" or constrained by a previous decision of a former Mayor. It is acceptable, however, to enter into commitments for GLA business that must continue, or which is reasonable for future planning. Uncontroversial actions likely to attract general support are usually easier to justify. In other cases, legal advice will need to be sought to ensure what is proposed is lawful.

## **Taking prior legal advice**

5. Observing legal advice that has been obtained in the light of all proper questions being asked and the full facts should provide protection from any complaint that this guidance has been breached. However, the taking of prior legal advice only affords limited protection if it would be obvious to a reasonable person that the proposal/policy would be unlawful, had the proper questions been asked and had the person advising them been given the full facts.

## **II Mayor's and Assembly Members' duties under the GLA's Code of Conduct**

*These rules apply at all times, including during the Pre-Election Period.*

### **Summary**

**6. The Mayor and the 25 Members of the London Assembly have duties under the GLA's Code of Conduct to observe proper standards of behaviour. If they do not do so, any complaints about their conduct may be investigated by the Authority's Monitoring Officer under the GLA's ethical standards regime.**

### **The GLA Code of Conduct**

7. The GLA Code of Conduct ("the Code") applies to the 25 Assembly members and to the Mayor.
8. GLA staff also need to know what these obligations are, so as to inform advice they give, and to avoid them being placed in a position where they are asked to do something that might breach the Code.
9. The Mayor and the 25 Members of the Assembly must, comply with the GLA Code of Conduct whenever they act in their capacity as elected members of the Authority.
10. The GLA Code of Conduct can be found on the Authority's website.

### III Rules for GLA Staff

*These rules apply at all times, including during the Pre-Election Period.*

#### 11. Summary

- **All staff must avoid any action or behaviour which is not politically neutral when on work related time or using GLA funded resources and facilities. This includes not doing any of the “restricted activities” listed below.**
- **In addition, politically restricted staff cannot carry out restricted activities in their private time.**
- **Nothing in this guidance prevents politically restricted staff being active members of political parties provided they do not engage in restricted activities.**
- **Politically restricted staff cannot take unpaid leave or use their own personal leave entitlement to carry out restricted activities.**
- **Other GLA staff (ie those not holding politically restricted posts) can use their leave entitlement, or arrange to take unpaid leave, or otherwise support a candidate or political party in the elections in their own time subject to normal GLA arrangements for agreeing such leave.**

#### Politically restricted and other staff

12. The GLA’s staffing structure comprises those who hold “politically restricted posts” and those who do not. The rules are based on the duties the post holder performs, not whether a person was appointed by the Mayor or Assembly, or for whom staff work for on a day-to-day basis. The 13 GLA staff the Mayor can appoint (under Section 67(1) of the GLA Act as amended) are politically restricted (noting that there are differences in the application of the rules between officers who are appointed by the Mayor (the 11+2) under s67(1)(a) of the GLA Act and those appointed by the Head of Paid Service under s67(1)(b), which can be explained in more detail to the relevant post-holders as necessary). The restrictions apply to those persons who undertake one or both of the following functions:

- (a) Providing advice on a regular basis to the Authority (the Mayor and or the Assembly), to any committee or sub-committee of the Authority / Assembly or to any joint committee on which the Authority is represented; and/or
- (b) Speaking on behalf of the Authority on a regular basis to journalists or broadcasters.

13. The implications are:

- All employees must follow the relevant rules set out in the Code of Ethics and Standards for Staff (“Staff Code”) when performing the official duties of their posts in work-related time. These rules (see below) seek to ensure political impartiality (amongst other things), when staff do GLA related work or use GLA resources – usually in work time.
- Normally, staff are free to do what they like in their own private time, ie after work hours or during leave. Staff who do not hold “politically restricted posts” can do what they like in their own private time without interference from the GLA (although they have to comply with their other employment obligations, eg not doing anything that brings the GLA into disrepute).
- However, the law imposes restrictions on the activities of staff in politically restricted posts. Such staff cannot in their private time do anything that the law regards as a “restricted activity” (see below). These activities are defined by statutory regulations.

14. A member of staff who is unsure of their exact status can clarify their position with Human Resources. It is potentially possible for a person holding a politically restricted post to have their post exempted from the rules. Further information on this subject can be obtained from Human Resources.

15. In summary, the position is:

- *All staff in work related time* – both those who are politically restricted and those who are not – must follow the Staff Code and also must not do anything that is a restricted activity.
- *Politically restricted staff in their private time cannot do anything that is a restricted activity.*
- But other members of staff, acting in their private time, are not affected by the rules on politically restricted activities.

16. If a member of staff is asked to do something that they think may break the rules in this Guidance, then they should first tell the person concerned that they are uncomfortable doing what is requested. If that person persists, then the matter should be reported to a senior manager. Staff should not comply with the request if they know or have good grounds to suspect it to be wrong. The GLA has approved a “whistle-blowing” policy to provide protection (see paragraph 2.16 of the Staff Code).

### **Rules for all staff: the Code of Ethics and Standards for Staff**

17. The Staff Code says that all GLA staff (whoever appointed them and for whomever they work) have a responsibility to do the following (references are given to the relevant paragraphs of the Staff Code):

- (a) To uphold the political impartiality of the GLA’s staff, not to use public resources for political purposes and not to act in any way which would conflict with the Staff Code (see paragraph 2.3(b) of the Staff Code);

- (b) To give the Mayor, the Assembly and the public fair, considered and impartial advice (see paragraph 2.3(c));
- (c) To conduct themselves with integrity, impartiality and honesty, avoiding any kind of impropriety (see paragraph 2.3(e)); and
- (d) To give honest and impartial advice to the Mayor and Assembly without fear or favour, and make all information relevant to a decision available to them, whilst upholding the confidentiality of any advice given in private to the Mayor by any employee of the GLA (see paragraph 2.3(f)).

18. In addition, all staff must disclose and register any interest applicable to

- themselves,
- their spouse or civil partner, or
- person with whom they are living as if they are the employee's spouse or civil partner or
- "connected persons"

which is a "disclosable pecuniary interest" or "significant disclosable interest" as defined in paragraph 2.5 of the GLA Code of Ethics and Standards for Staff.

### **Rules for politically restricted staff**

- 19. There is nothing to prevent politically restricted staff from being a member of a political party and acting privately in support of such a party. There are, however, some restrictions and paragraph 21 below lists the "restricted activities" as set out in the Local Government Officers (Political Restrictions) Regulations 1990 (SI 1990 No 851), as amended. The law implies a term into the contracts of employment of every politically restricted employee that they will not engage in any of the restricted activities. Breaching this is not a criminal offence but could give rise to disciplinary action.
- 20. The "restricted activities" apply to independent politicians and their supporters/ supporting organisations in exactly the same way as they apply to political parties, and their members/candidates. Politically restricted staff who engage in restricted activities for an independent politician will equally be in breach of their contract of employment.

### **The "restricted activities"**

- 21. Politically restricted staff may not do any of the following, in their private time or in work-related time (other staff may not carry them out in their work-related time):

#### *Being a candidate or election agent*

- a) Announce, or cause or permit anyone else to announce, that they are or intend to be a candidate for election as a member of a range of elected public bodies including the House of Commons, the GLA as Mayor of London and/or a member of the London Assembly, a London Borough Council, the Common Council of the City of London, and any other local authority as defined by the relevant legislation. The full list under the Local Government and Housing Act 1989 (and subsequent amendments) also includes the Scottish Parliament, the National Assembly for Wales, a county council, a county borough



council in Wales, a district council, a Scottish council, the Council of the Isles of Scilly, a fire authority other than LFC, a waste disposal authority, the Broads Authority, and a joint board of any of those listed;

b) Act as an election agent or sub-agent for a candidate for any of the above.

*Holding office in a political party*

c) Be an officer of a political party, or of any branch of such a party, or a member of any committee or subcommittee of such a party or branch, if their duties as such an officer or member would be likely to require them to:

- Participate in the general management of the party or the branch; or
- Act on behalf of the party or branch in dealings with persons other than members of the party or members of another political party associated with the party;

*Canvassing for candidates and parties*

d) Canvass on behalf of a political party or on behalf of a person who is, or proposes to be, a candidate for election to any of the bodies listed in (a) above;

*Speaking to the public and giving interviews*

e) Speak to the public, at large or to a section of the public, with the apparent intention of affecting support for a political party.

- This is allowed to the extent that doing so is necessary for the proper performance of the person's official duties.
- "Speaking to the public" includes giving an interview, which to the knowledge of the person giving it, is likely to result in the publication of statements made, or opinions expressed, during the course of the interview;

*Writing and publishing political material*

f) Publish any written or artistic work of which they are the author (or one of the authors), or any written work or collection of artistic works in relation to which they have acted in an editorial capacity, if the work appears to be intended to affect public support for a political party. Again, this is permitted to the extent that doing so is necessary for the proper performance of the person's official duties;

g) Cause, authorise or permit any other person to publish such a work or collection mentioned in (e) or (f) above if the work appears to be intended to affect public support for a political party.

## **Membership of political parties**

22. Nothing in the rules prevents politically restricted staff from being a member of a political party and carrying out activities which are not restricted activities.

## **Election posters and badges etc.**

23. The rules specifically allow politically restricted staff to display campaigning posters in their windows at home, on their own cars or to wear political badges on their clothing without breaking the rules on restricted activities. However, this does not prevent the GLA, as an employer, introducing policies about the acceptability of displaying political posters at desks or its staff wearing badges etc that support candidates, parties or political causes whilst on work premises or in work-related time. No such rules have been made to date.

### **Staff wanting to canvass or stand for election**

24. The rules for politically restricted staff are legal requirements automatically implied by law into their employment contracts; the employment contracts cannot circumvent these rules. As a result, Directors and managers may not agree any arrangement, such as a secondment or unpaid leave, which allows them to remain in GLA employment and at the same time to engage in any of the restricted activities in their private time. If the holder of a politically restricted post wants to do anything that is a restricted activity, they must resign. The holder of a post which is not politically restricted may canvass or stand as a candidate for election (they may not stand for election as Mayor or Assembly Member). No GLA resources must be used in connection with any election campaign and nothing must be done to bring the Authority into disrepute at any point during the election campaign. If a member of staff stands for election as Mayor or Assembly Member, it is necessary for them to have resigned from the GLA and for their contractual notice period to have expired prior to their nomination for election. Section 21(1) of the GLA Act provides: "A person is disqualified from being elected or being the Mayor or an Assembly member if he is a member of staff of the Authority".

### **Filling vacancies**

25. Where a politically restricted post becomes vacant before the election (eg by expiry of a fixed term contract or by specific resignation as above), the GLA's normal recruitment practices will apply to fill the vacancy (including open advertisement). The law requires that the appointment of GLA staff (including 11 of the 13 staff that the Mayor can appoint) must be made 'on merit'. The only staff not required to be appointed on merit are the 2 political advisors the Mayor can appoint (under s67(1)(a) of the GLA Act).

## IV Use of GLA Resources and Facilities

These rules apply at all times, including during the Pre-Election Period.

### 26. Summary

- **GLA resources must not be used for political purposes in the election: ie anything that could reasonably be regarded as giving a political candidate or their supporters/party an advantage.**
- **By ‘GLA resources’ we mean communications using GLA equipment, GLA employee time during working hours and other GLA funded resources and facilities.**
- **This applies to the Mayor, Assembly Members and all GLA staff.<sup>1</sup>**

27. GLA funds and facilities must only be used by the Mayor and Assembly Members in connection with, or in support of GLA business and the functions of those positions. Party political activity and electoral campaigning are not part of their GLA duties. GLA funds and facilities must never be used for such purposes.

### Use of stationery

28. GLA headed stationery (letterheads, compliment slips and headed or plain envelopes) and photocopying facilities are provided at public expense and may only be used in connection with, or in support of, GLA business or the functions of Assembly Members and the Mayor.

### Use of GLA logos and designs

29. The GLA corporate logos and designs (GLA, Mayor of London, London Assembly etc) must not be used or replicated, and headed stationery and its photocopying facilities must not be used for any non-GLA business/matter including the following:

- Communications of a business or commercial nature;
- Personal correspondence;
- The correspondence of political groups which include persons other than members of the Assembly or the Mayor; or
- For party political purposes, eg in connection with fund raising for the benefit of a political party, advocating membership of a political party, or supporting the return of any person to public office.

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<sup>1</sup> See Appendix 1

### **Pre-paid postage**

30. Postage paid for by the GLA (franked mail posted from City Hall and the GLA's office in Brussels, pre-paid envelopes and freepost facilities, if any) must not be used for non-GLA business/matters including the following:

- Communications of a business, commercial or personal nature;
- Correspondence of political groups which include persons other than members of the Assembly, or the Mayor and Deputy Mayor; or
- Correspondence or circulars of any description for party political purposes, eg in connection with fund raising for the benefit of a political party, advocating membership of a political party, or supporting the return of any person to public office.

## V GLA Publicity and Communications

*These rules apply at all times, including during the Pre-Election Period.*

### 31. Summary

- **Following advice from QC, the GLA is deemed to be subject to the same legal rules that control local government publicity, including a statutory Code on Local Government Publicity.**
- **GLA funded publicity must therefore be objective, informative and politically impartial.**
- **Care should be taken that publicity campaigns are justified.**
- **Publicity about individuals (including the Mayor and Assembly Members) must relate to their positions and responsibilities in the GLA.<sup>2</sup>**
- **Staff should be mindful of the guidance issued by the Monitoring Officer in relation to their use of social media (attached below at Appendix 4)**

### Law relating to publicity

32. The following rules apply to GLA “publicity”, which refers to any communication, in whatever form, addressed to the public at large or to a section of the public. “Publish” and “publication” should be interpreted in the same way.
33. The GLA may not publish any material which, in whole or in part, appears to be designed to affect support for a political party. For the purposes of this guidance, “political party” includes an independent politician. A publication designed to affect political support is also impermissible.
34. Part II of the Local Government Act 1986 contains controls on local authorities’ publicity, which does not apply to the GLA. However, the 1986 Act is a statutory formulation of common law principles that apply to public bodies generally, including the GLA, which therefore observes the 1986 Act in full as if it were a local authority to which Part II applies.

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<sup>2</sup> See Appendices 1 and 3

35. As a result, the GLA will not give financial assistance or any other assistance to any organisation or person to publish material that the GLA could not itself publish under the 1986 Act. The GLA keeps a separate account of expenditure on publicity as required by s 5 of the Act.
36. The Secretary of State published a Code on Local Government Publicity (The Code of Recommended Practice on Local Authority Publicity), under the 1986 Act, on 31 March 2011. The GLA will also have regard to this Code in coming to any decision on publicity. This Publicity Code applies:
- To all GLA publicity including publicity on behalf of the Mayor, Deputy Mayor, the Assembly and individual Assembly Members; and
  - Whether or not the publicity is undertaken using internal or external staff/resources.

A copy of the Publicity Code is included with this guidance as Appendix 3. The GLA will also have regard to the formal advice received from Timothy Straker QC, in his 2006 Opinion on publicity and communications matters, as set out at Appendix 2.

### **General rules for GLA publicity and communications**

37. All GLA publicity should:
- be lawful;
  - be cost effective;
  - be objective;
  - be even-handed;
  - be appropriate;
  - have regard to equality and diversity;
  - be issued with care during periods of heightened sensitivity.
38. The GLA's comments or responses to central government or other public bodies' proposals and policies should be objective, balanced, informative and objective. They must not be a prejudiced, unreasoned or political attack on the policies, proposals or those putting them forward.

### **Publicity campaigns**

39. Care should be taken before embarking on publicity campaigns to avoid the dangers of the inappropriate use of publicity. Publicity about the GLA's policies and aims should be as objective as possible, concentrating on both facts and explanation.

40. Public authorities should never use public funds to mount publicity campaigns whose primary purpose is to persuade the public to hold a particular view on a question of policy.

### **Publicity of individuals**

41. Publicity about the Mayor, Chair and Deputy Chair of the Assembly, individual Assembly Members may quite properly include:
- Information about their contact details, the positions they hold and their responsibilities;
  - Information about that person's proposals, decisions, and recommendations only where this is relevant to their position and responsibilities in the GLA; and
  - Information about work done by individual Assembly Members which may be publicised, and also their views on issues relevant to London presented where they have been the "face" of a particular campaign.

Any such publicity must be objective and explanatory, and whilst it may acknowledge the part played by those individuals as holders of particular positions, the personalisation of issues or personal image making should be avoided.

### **Use of Hyperlinks**

42. The Code of Recommended Practice on Local Authority Publicity provides that:

*It is generally acceptable for local authorities to host publicity, such as a blog, which itself contains links to external sites over which the local authority has no control where the content of those sites would not itself comply with this code. This does not amount to giving assistance to any person for the publication of material which local authorities are not permitted to publish.*

43. It is therefore permissible in principle for the GLA web pages of Assembly Members and the Mayor, ie those pages that are hosted on the GLA's website and which contain publicity about the Member(s) in accordance with paragraph 42 above, to contain hyperlinks that allow the reader to connect directly to other web sites, including sites containing party political material. Government officials have confirmed that the inclusion of a web link in this way does not amount to giving assistance to publish material that local authorities are not permitted to publish (although such links will need to be removed during periods of heightened sensitivity – see paragraph 46 below). The inclusion of hyperlinks that lead people from the GLA's web site to party political material would not constitute an automatic breach of the Authority's Code of Conduct for elected members; complaints regarding such linked material would, however, still have to be considered in accordance with the Authority's procedures. Therefore, any such hyperlink (ie one that would take the user directly to a page or site containing party political material or material of a potentially contentious nature) will be provided following review and approval by the Authority's Monitoring Officer.

44. GLA officers must not, as part of their normal duties and when using the Authority's resources, establish, maintain or contribute to party political web sites that may be linked to the Authority's web site as this would likely be a misuse of GLA resources. Assembly Members are also likely to be subject to the GLA's Code of Conduct in respect of any comments or posts made on any website/blog linked to the GLA website.
45. Hyperlinks may therefore also be included on other types of publicity produced by the GLA (which must also otherwise be within the terms of this Use of Resources policy). These types of publicity may include correspondence, business cards and newsletters, but it should be noted they are subject to the same restrictions as in paragraph 43 above.
46. During a relevant pre-election period and in accordance with GLA pre-election guidance, any proactive publicity by the Authority (including its Members and officers) in all its forms, for candidates, any other politicians involved in the elections or for political parties or campaigns is precluded. Therefore, during the time that the GLA is formally in pre-election period and the restrictions apply to candidates all these links will be taken down or removed from both web pages and other types of publicity.
47. The use of personal/private social media (and not GLA social media) by officers on their own time and equipment, is dealt with in a separate guidance document issued by the Monitoring Officer (attached at Appendix 4). Officers are subject to the appropriate sections of the Staff Code of Conduct and Ethics which apply to activities outside work. In particular, officers are referred to paragraph 2.12- *Behaviour outside the workplace*, which provides: "Staff's off duty hours are their personal concern but they must not subordinate their duty to their private interests or put themselves in a position where duty and private interests conflict". Officers are also referred to:
- the duty of confidence and trust in paragraph 2.4;
  - the requirements to maintain good working relationships between managers and employees in paragraph 2.8;
  - the requirements to maintain good working relations with the Mayor and Assembly Members in paragraph 2.9;
  - the whistleblowing policy in paragraph 2.16;
  - the policy on discrimination and victimisation in paragraph 3.8;
  - the Equal Opportunities Standard in section 3.
48. When using social media as an individual rather than as a GLA employee in the circumstances described in paragraph 47 above officers should not:
- use social media to post critical comments about either the Mayor and/or Assembly Members. Caution must be exercised therefore if officers are posting political comment. Officers should consider whether any such comment would damage working relationships with the Mayor or Assembly Members, put themselves in a position of conflict of interest or would otherwise make it impossible to perform their duties as a GLA officer;



- use social media to post critical comments about fellow officers or the GLA as a whole that would either damage the reputation of the GLA, or of any individual officer;
  - use social media in a way that violates the GLA's policies and public duties on harassment and Equalities or that could result in any GLA officer perceiving themselves to be a victim of harassment or discrimination;
  - use information obtained in the course of GLA employment, which is subject to a duty of trust and confidence, as the basis for any post;
  - use social media in a way that breaks the law either relating to politically restricted posts, election law or the general criminal law and officers should note that Criminal acts committed other than in the course of employment may also warrant disciplinary action where the offence affects the interest of the Authority and/or the continued performance of the employee's contract of employment.
49. Officers are subject to the Data Protection Act 2018 and the GDPR Regulations and the laws of defamation at all times and, should bear this in mind when publishing any posts.
50. Officers are reminded that they should observe the requirements of the Staff Code of Conduct and Ethics in relation to any matters in connection with whistleblowing.
51. The Mayor and Assembly Members are reminded that even posts in their own time on personal social media may still be subject to a conduct complaint to the Monitoring Officer.

## **VI      Publicity and Communications Material Published by the Greater London Authority Group's bodies in the period prior to GLA elections**

### **Introduction**

52. This guidance sets out advice in relation to the activity required of the GLA, TfL, MOPAC, LFC, the LLDC and OPDC ("the GLA Group") in the pre-election period for any Mayoral and Assembly elections (ie those elections where the Mayor and/or Assembly Members are candidates – the Code of Recommended Practice on Local Authority Publicity sets down the general principles which are to apply for all other elections and at other times).
53. Particular rules apply to the preparation and dissemination of publicity and communications material by public bodies in the Pre-Election Period. The purpose of the guidance is to ensure basic consistency in terms of the approach taken and advice given in respect of publicity and communications material issued by the GLA Group bodies during the pre-election period relating to GLA elections. This period is the time from the date the notice of the election is published to polling day, which must be the 25th day before polling day, disregarding weekends and bank holidays.
54. The Code of Recommended Practice on Local Authority Publicity states, in relation to periods before elections and referendums:
- “33. Local authorities should pay particular regard to the legislation governing publicity during the period of heightened sensitivity before elections and referendums – see paragraphs 7 to 9 of this code. It may be necessary to suspend the hosting of material produced by third parties, or to close public forums during this period to avoid breaching any legal restrictions.
34. 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 members or groups 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.
35. 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.”

## **Normal business**

55. The presumption is that normal business must continue uninterrupted during the pre-election period and all GLA Group bodies must continue to discharge their statutory duties, functions and responsibilities. The only exception is where a particular initiative, proposal, consultation or publication in the period could, particularly when communicated, reasonably be regarded as being likely to affect political support for a particular candidate or political party involved in the elections. In that case, decisions will be taken by the relevant organisation's chief officers, as to (a) whether the initiative / event / announcement / other matter should be deferred until after the election and, if not, (b) whether there should be any publicity at all to support the initiative / event / announcement / other matter. Any such publicity must comply, as normal, with the provisions of the Code of Recommended Practice on Local Authority Publicity. Only in order to ensure effective coordination across the GLA Group during this period, and forward planning in respect of potentially sensitive matters, the relevant organisation should ensure that the GLA's Head of Paid Service and/or Monitoring Officer are notified, in advance, of any such decision to undertake initiatives / events and/or to issue announcements and publicity material on matters that could be regarded as significant or politically sensitive or controversial.
56. The Mayor, Assembly Members and GLA Group Bodies' Authority or Board Members' duties continue during the pre-election period in relation to their role at the GLA or functional bodies and they are required to devote sufficient time and attention to their duties during this period to ensure that normal business continues and statutory duties are discharged, even if they are standing as a candidate for election or re-election.
57. The application of these guidelines will depend on the nature of the publicity and the type of activity. Activity deemed as permissible during other times or during the period leading up to other elections, in which (for example) none of the GLA Members were standing as a candidate, might be viewed differently in the context of the Mayor of London and London Assembly elections. Decisions will, therefore and necessarily, have to be taken on a case-by-case basis.

## **Publicity and events**

58. All publicity and communications material issued by any of the relevant bodies during the pre-election period must be, and must be *seen* to be, politically neutral. Anything that could reasonably be regarded as giving a political candidate or their supporters/party an advantage in the election is not politically neutral. This applies no matter what the justifications for the publicity may be. "*Publicity*" refers to any communication, in whatever form, addressed to the public at large or to a section of the public and includes press releases, newsletters, consultation exercises and unsolicited letters to constituents.

59. The following conventions will be applied in the pre-election period:

- (a) Publicity will not deal with controversial issues or report views, proposals or recommendations in such a way that identifies them with individual politicians or their party groups. It is acceptable for the bodies / individual members to respond in appropriate circumstances to events and to legitimate service enquiries, provided that the replies are factual and not party political in tone or content (they should not seek to affect support, in any way, for parties or candidates).

The Mayor, Assembly Members and GLA Group members hold key political or civic positions and as such can comment in an emergency or where there is genuine need for such a response to an important event;

- (b) Events and/or initiatives arranged proactively and deliberately by any of the relevant bodies in this period should not involve any person standing for election unless, following legal and/or Monitoring Officer advice (from the relevant organisation in the GLA Group), it is deemed that the event is properly part of routine business and/or is necessary in order to discharge statutory requirements where there is no reasonable alternative but to proceed at that point in time;

- (c) No publicity (in any form) for those persons who are members of the relevant bodies and who are candidates or otherwise involved directly in the election shall be prepared or issued unless it is deemed that the publicity is properly part of routine business and/or is necessary in order to discharge statutory requirements that are required to be undertaken at that point in time;

- (d) There is a general presumption *against* undertaking new campaigns or policy initiatives during the pre-election period, particularly on matters that might reasonably be considered controversial in relation to the elections – a decision to proceed with a publicity campaign during this period should only be taken following the provision of formal advice relating to the issue of publicity and communications in the pre-election period;

- (e) Special care should be taken in relation to current or on-going publicity campaigns during the pre-election period. These can continue provided they are not open to reasonable criticism that they are being undertaken for party political purposes or that the impact will be to affect political support. Campaigns that are liable to be misrepresented as not being politically neutral (as discussed above) will be deferred until after the elections but proper and legitimate campaigns (those that relate to routine business and/or to the necessary discharge of statutory functions during that period) can continue, whilst still taking full account of, and acting in accordance with – in any related publicity or communications material – the principles outlined above.

- (f) Guidance for external partner organisations in relation to the GLA's pre-election period rules is attached below (at Appendix 5).

## **Use of premises and facilities for elections-related events and publicity**

60. Requests to use premises and facilities for non-campaigning events will be managed in the usual way, taking account of the principles underpinning this guidance.

### *GLA facilities*

61. City Hall will not be permitted to be used in support of any candidate or party in the elections and where an elections-related photograph is to be taken with the Mayor or an Assembly Member, this should only be outside City Hall.

### *TfL facilities*

62. A candidate's request to visit or use TfL Group property or premises during the pre-election period will normally be declined. However, there may be instances where it is appropriate that a candidate visits or uses TfL Group property or premises during the pre-election period. In these circumstances, particular care will be taken to ensure that a candidate's visit or use of TfL Group property or premises is not liable to be misinterpreted as TfL itself providing party political or elections-related support for a candidate or party, and that there are internal procedures to ensure that decisions on requests from all candidates are treated in an even-handed manner. Decisions on requests for visits or to use TfL property or premises will be made by the relevant Chief Officer following legal advice.

63. If a request to interview candidates on TfL Group property or premises is received from a recognised medium (for example a television news programme), TfL will require that the interview will be conducted in a manner consistent with the principles set out in this Protocol.

### *MOPAC and MPS facilities*

64. Candidates' requests to visit or use MOPAC or MPS owned or occupied buildings or facilities, during the pre-election period will normally be declined. The MPS has protocols relating to photo opportunities at police stations and the MPS should be contacted direct regarding these. However, there may be instances where it is appropriate that a candidate visits or uses MOPAC/MPS property during a pre-election period. In these circumstances, particular care will be taken to ensure that a candidate's visit or use of MOPAC/MPS property or premises is not liable to be misinterpreted as the MOPAC/MPS itself providing party political or elections-related support for a candidate or party.

### *LLDC facilities*

65. Candidates' requests to visit or use LLDC owned or occupied buildings or facilities, during the pre-election period will normally be declined. The LLDC has protocols relating to photo opportunities and should be contacted direct regarding these. However, there may be instances where it is appropriate that a candidate visits or uses LLDC property during a pre-election period. In these circumstances, particular care will be taken to ensure that a candidate's visit or use of LLDC property or premises is not liable to be misinterpreted as the LLDC itself providing party political or elections-related support for a candidate or party.

### *LFC facilities*

66. LFC has formal and approved policies in respect of visits to its premises by politicians and candidates. The policies make clear that it is at the Commissioner's discretion as to how it wishes to treat requests to visit fire stations/the Commissioner's premises by candidates. The Commissioner will be even-handed in the treatment of such persons and so has a procedure that is applied to all proposed visits by candidates (with the relevant Head of Service / Assistant Commissioner being responsible in the first instance for reviewing the proposal and taking a decision on advice).

### **Requests for briefings and information / consultations**

67. Requests to any of the GLA Group bodies for information from candidates and their parties will be dealt with in an even-handed, neutral and professional manner. Officers may provide factual information but must not (at any time) involve themselves or the authority's resources directly in the preparation of elections-related material or communications issues. Officers will not offer opinions on candidates' policies or proposals or be, as employees (noting that the rules on political restriction for relevant staff apply at all times), in any way involved in the development of those policies. Factual briefings for candidates on the role, function and operations of the relevant bodies will be available upon request. Where any candidate or party has made a statement that portrays any of the relevant bodies in a negative light and/or has made factually inaccurate statements regarding the operations or policies of that body, public responses may be issued (following a decision by the relevant senior officer) – but any such responses will be factual, balanced and informative and will not seek to affect political support.
68. The obligations of the constituent bodies of the GLA Group under the Freedom of Information Act 2000 are unaffected by the elections. The organisations must continue to comply with the requirements to release requested information within the time period specified in the Freedom of Information Act 2000 unless an exemption applies. The relevant policies of each body in respect of responding to requests for information and/or assistance from external sources will continue to apply.
69. TfL and the MOPAC frequently consult the public and stakeholders on significant policies and proposals. Consultations which have commenced can continue during the pre-election period, although care should be taken to ensure that the consultation material is not construed as likely to elicit support for a particular political party. New consultations should not – unless deemed properly urgent and necessary – be commenced during the pre-election period.

### **Use of resources (general)**

70. The use of the GLA Group's resources and facilities (staff time, property, premises, printing facilities, telephones including mobile phones, email and internet facilities, consumables and stationery etc) for the political activities of a registered political party or for the purposes of a candidate's elections (whether an independent or party candidate) is an "impermissible" donation and therefore unlawful. These rules apply at all times although they have greater

significance in the run-up to an election and special care must be taken.

71. The following activities are likely to involve the making of an impermissible donation to the candidate or political party concerned:

- (a) Publishing party political or campaigning material using GLA Group resources;
  - (b) Using GLA Group postal facilities to distribute such material;
  - (c) Working on campaign activities within the building or while on GLA Group work-related time; and
  - (d) Using accommodation within GLA Group headquarters for fundraising or campaign events, including policy launches (whether by the Mayor, Assembly members or Political Groups on the Assembly or other political parties) where they might reasonably be identified with or be seen to support the policies of a particular political party or candidate.
72. Impermissible donations must be repaid by the party or person that received them at the market value of the GLA Group resources used. Their happening and value must also be declared to the Electoral Commission and may count against campaign expenditure limits. Detailed rules are set out in the Political Parties, Elections and Referendums Act 2000, which contains civil and criminal penalties for non-compliance.
73. Section 75 of the Representation of the People Act 1983 specifically prohibits the bodies within the GLA Group and anyone else (other than candidates or their agents) incurring *expenditure with a view to promoting or procuring a candidate at an election* by doing any of the following things: holding public meetings or organising any public display, issuing advertisements, circulars or publications, or otherwise presenting to the electors the candidate or his/her views or the extent or nature of his/her backing, or disparaging of another candidate. It is a corrupt practice to breach section 75 and a successful candidate who does so runs the risk of his/ her election being declared void and the candidate being barred from public elected office for up to five years.

## **Contacts**

The GLA Monitoring Officer should be contacted in the first instance on the contents of this guidance, Emma Strain ([emma.strain@london.gov.uk](mailto:emma.strain@london.gov.uk);) for the GLA.

MOPAC's Chief Executive and Monitoring Officer, Diana Luchford, should be contacted on matters relating to the MOPAC ([enquiries@mopac.london.gov.uk](mailto:enquiries@mopac.london.gov.uk));).

LFC's General Counsel and Monitoring Officer, Kathryn Robinson, should be contacted on matters relating to the LFC ([governance@london-fire.gov.uk](mailto:governance@london-fire.gov.uk));.

For matters relating to TfL, please contact Shamus Kenny, TfL Head of Secretariat ([shamuskenny@tfl.gov.uk](mailto:shamuskenny@tfl.gov.uk))

For matters relating to the LLDC, please contact Rachel Massey, Company Secretary ([RachelMassey@legacycompany.co.uk](mailto:RachelMassey@legacycompany.co.uk)).

For matters relating to the OPDC, please contact James Varley, Board Secretary ([james.varley@opdc.london.gov.uk](mailto:james.varley@opdc.london.gov.uk))



## **Appendix 1 Legal Advice on the Use of GLA Resources**

**1. Set out below are the responses given by a leading QC in 2006 to questions posed by the Assembly's party Groups in relation to publicity and communications matters.**

**2. Can a press release for a political party be put on the GLA website?**

It is not possible to put a press release detailing a political party group's position on a Mayoral policy on the website, as the GLA is concerned with the GLA's position and not that of a particular political party. If the Assembly, as a whole, has a view on a matter such a view can be put on the website because the collective view can be distinguished from that of a political group. If minority views are mentioned during a debate, they can be recorded in the minutes. A political group could then use its own resources to release that minority view in a press release. An Assembly Member can ask staff members to clarify statements made at Assembly Meetings and assist the Assembly Member to express views to an audience. The GLA is not a press agency for a political party and should not put out press releases detailing a party's group position.

A political group cannot issue its own material using the Authority's resources. If a GLA researcher records quotes of what an Assembly Member said at a meeting or summarises the minutes which supports a political position this is allowed. If however, a Member said to the researcher that they wanted a document to be prepared to set out a political statement, then there would be a cross over into politics and not allowed.

If a researcher provides support for an Assembly Member's particular position so as to enable the Assembly Member to get across this message to members of the public then this was acceptable so long as the press release was not party political. It is allowed to issue a press release, shortly before a meeting, to the effect that an Assembly Member proposes to say.

**3. Is it possible to use resources of the GLA to respond to a member of the public?**

An example was given whereby a member of the public requested an Assembly Member to tell him what he had done over the last 6 months, and to identify whether this is consistent with the policies or manifesto of a Political Party. Could a researcher be asked to prepare this information?

An Assembly Member can respond (using the work of the researcher) by saying what he has been doing, but not (using the Authority's resources) how it is consistent with a political party's manifesto.

**4. Can an Assembly Member use GLA resources to respond to a letter which includes a remark critical of the Mayor?**

It is possible to ask a researcher to find out about the particular issue, and research facts in order to respond, including an identification of the political party of the Mayor and the term to be served before election. It is not possible to ask the researcher to research for political purposes as that would be a political exercise rather than a factual response.

**5. Can the Assembly respond to the Mayor's comments on international issues?**

If the Mayor speaks about an issue which is not a London issue and not something that bears on a London matter then the Authority cannot provide resources to deal with a non-London matter. However, London is a very important, multicultural, world city and if matters are discussed which would have a bearing on how London operates or is perceived internationally to tourists or business then the London Assembly can consider the issues and use GLA resources to respond. However, the GLA cannot use resources to consider or comment on an internal political issue in another country. If the London Assembly thought that the Mayor was misusing resources it could also respond on that. There should be a level playing field.

**6. Is it possible to send out newsletters for the various Assembly political groups using GLA resources to compile?**

Purely informative material may be permissible but not newsletters with political tones or overtones. If they were designed to affect public support for a political party then they are not within the scope of what a local authority and the GLA can do. Anything which has a political tone and would appear likely to be designed to affect support for a political party, crosses the line and is not allowed.

**7. Is it possible to send a newsletter from an individual Assembly Member updating those on a mailing list of the work of the Assembly Member?**

The principle of a newsletter to constituents is to tell the constituents what their Assembly Member has been doing and provide contact details to enable the constituents to get in touch and report to the Member on any issues of concern. GLA resources and facilities could be used for this. It is possible to record the fact that an Assembly Member is a member of a political party. A combination of newsletters from members of a political party would usually cross from the purely informative to the provision of political support.

**8. Is it possible for a number of Assembly Members to group together and send out a newsletter?**

It is legitimate for Assembly Members to use GLA resources if the exercise is purely factual. A simple letter format stating 'dear X' would be possible. It makes no difference that people have asked to receive the newsletter because the content still needs to comply with the legal position. Political tones are not allowed. A newsletter which states that the Assembly Members all members of a political party have been doing something over the past six months would appear to have an illegitimate tone. The scope for such newsletters must be regarded as exceptionally narrow and, possibly, not worthwhile.

**9. Is it possible, to use GLA resources to compile and send out press releases from a political group?**

Press releases need to comply with the general position stated above. Strap lines which appear to be promoting a particular political party should not be used.

**10. Is it possible to include on correspondence and letter heads the name of the political group?**

It is possible to use the political group name appropriately. It depends on the size of the font, colour, style, etc. and it is a matter of judgement – is the letter designed to affect support for a

political party? So a large font might be designed to affect support for a political party but a small one is only for identification purposes.

**11. Is it possible to send out a petition? Would it be different if the petition said which party it was from?**

There is a difference between canvassing opinion and seeking support. There is a distinction between the Assembly seeking information in an open way to secure scrutiny and Assembly Members seeking to promote or reaffirm a particular point of view. It was important to consider what Assembly function was being performed. It was possible to say that the Assembly position is X and the Assembly Member could canvass views, but not for support on a particular position. It would be possible to give various options and ask for constituents' views.

Requesting signatures to a petition or campaign is not appropriate as this does not constitute research with a view to assisting the Assembly Member in his scrutiny role.

**12. Can the London list Members write to all of the London constituents?**

London list members do not have a constituency, apart from the whole of London. Other London Assembly Members are able to write to constituents so can London list Members write to all of their constituents, or can members write to people who are not their constituents? This is a question of content to which the normal rules apply. It is also a question of value for money. In many situations direct correspondence with large number of individuals would not be cost effective and that the Authority's normal decision-making procedures will need to be followed where costs are high.

**13. Is it possible to fund a webpage not on the GLA website which discussed the work done by a particular party group?**

GLA resources cannot be used to pay when the effect of the website is to provide information intended to affect the support of a political party. It is possible to put a newsletter on the website so long as it is not inappropriately political. It would be possible to put the name of the Assembly Member and in small font that they were a member of a particular party group and, in effect, telling London what the Assembly Member has done i.e. it has to be a factual website. [Note the more recent advice given in the main document above regarding hyperlinks.]

**14. Can a political group send a newsletter out from the whole group?**

If there were, for example, two constituency members of the same party who had their constituencies next to or near each other then for convenience it might conceivably be permissible to send out a newsletter together. However, if a group had three members all over London, it was going to be very difficult to compose a document as something other than a party political newsletter rather than an Assembly Member newsletter. It is not allowed to say that the group had gone down a certain line and had done lots of work on this and had achieved the following, as this is designed to effect support for a political party.

It is not possible to send out a newsletter collectively using Authority resources as this would be seen to be designed to affect support for a political party. Assembly Members can, subject to the points mentioned, send out their own newsletter, and if there are two neighbouring

members then it is possible for these members to send out a newsletter together. This is subject to the same restrictions as before; there must not appear to be a hint of political support. It would be difficult to compose a newsletter from neighbouring members of the same political party which did not appear designed to affect support for a political party.

**15. Where minority views are expressed, can they be reported?**

There is limited scope as to do so would move away from the Assembly view to the view of political group view. It is possible to say that a minority view was expressed where it was reported in the minutes that in the debate the minority view was X.

**16. Can GLA resources be used to put out press work relating to the functional body roles of Assembly Members.**

Because of the distinction between the GLA and the various functional bodies; such a course would not appear to be an appropriate use of GLA resources.

**17. Can certain forms of research can be published.**

If the aim is to stimulate discussion so as to enable the GLA, in due course, in the exercise of its functions, to consider a matter fully the publication can occur. If on the other hand the purpose is merely or largely to publicise the Assembly Member or Members in question then the publication cannot occur. If it is legitimate to publish the report then, subject to the way in which it is done (i.e. not overtly political) recommendations could also be stated.

In certain instances there is, apparently, no collective Assembly position. If the GLA performs a role, albeit one on which there is no collective Assembly position, then publicity can be given to the GLA's role and the activity of Assembly Members, provided always it is neither designed for nor carrying the effect of affecting support for a political party or process.

**18. Can a Party Group can prepare a joint newsletter and use the Authority's resources?**

The answer is no because it would be the newsletter of a political group or party and therefore objectionable either as affecting political support or as outside the remit of the GLA.

**19. Conclusion**

- The Authority, bearing in mind the character of the restriction and the use of public funds, should err on the side of caution.
- It is always necessary to contemplate what GLA purpose is being served and, additionally, to secure that what is being done is not an attempt to affect political support.

## **Appendix 2- Advice on the GLA's Use of Resources Policy**

**1. This is a précis of Counsel's advice on the application of the GLA Use of Resources Policy with specific reference to the Mayor, Assembly Members and Staff, and is for assistance in the interpretation of this guidance.**

### **The GLA Act**

2. The GLA is a creation of statute, and has no powers other than those that are conferred on it by Acts of Parliament or supplemental legislation. Statute has not granted to the GLA the function or power to promote political parties, and/or to disseminate information on their behalf. The function of promoting a political party is not essential to the role of a member, and not a permitted function of the GLA. Members are in political parties, but their own sites and party sites and offices are the outlet for political comment, in the same way as a dual-hatted member would not be permitted to conduct the business of a London Borough using GLA resources.

### **Case Law**

3. The leading case is *R v Inner London Education Authority ex parte Westminster City Council* [1986] 1 WLR 28. The Court gave a wide definition of the lawful provision of information, including information selected to show the majority group in a favourable light. However the judge in the case, Glidewell J, was of the view that the power did not extend to a power to carry on an advertising campaign of the object of which was to persuade and not to inform. The judge in that case found that the information in dispute was given partly to inform the public as to the consequences of the Rates Act for the ILEA, which was lawful, and also for the purpose of persuading people to support a political campaign against the Rates Act, which was contrary to the statute. The judge then considered whether therefore the ILEA had been motivated by an irrelevant consideration, namely the unlawful purpose, when disseminating the information. He so found and therefore the provision of the information was unlawful and outside the powers of the Act. Party political behaviour is defined as: *indulging in political promotion, point scoring or polemic*.

### **The Mayor**

4. The Mayor is required by statute to give publicity to his/her strategies and engage in various communications with the public.

5. For example section 43 provides a broad power to the Mayor to give adequate publicity of the current versions of his strategies adopted under the Act. The Mayor is required to publish an annual report by section 46 and is required to hold People's Question Time meetings. The GLA (normally meaning the Mayor) is also invested with a general power to do anything which it considers will further any one or more of its principal purposes. Such a power would extend to consultation with or the publication of information to the public where the same is done to further the purposes of the GLA.

6. Therefore, mayoral communications are to be expected to contain informative and positive messages regarding any current Mayor's successes and policies, in the same way that reports by, and press releases from, the Assembly can be expected to take a similar tone in relation to its activities. That is to say the Mayor can issue publicity and communications documents informing people of his activities, decisions and policies, and it can be expected that such communications can, quite properly, be designed to give a positive message. Given the high profile nature of the office of Mayor of London, this may lead to the assumption that a Mayor is promoting not just his/her policies, but the political party of which he is a member - the text of such documents should not, however, be able to bear such interpretation.

7. The other key factor to bear in mind is that the Mayor of London is a *single person* executive office-holder. One of the key issues dealt with in the Straker Opinion is in relation to the restrictions upon party *groups or members of the same political party acting jointly*. A party group is, by definition, a party political entity – and, as such, it cannot publicise itself or its shared positions on various policies or issues using the authority's resources. The party group only exists, insofar as the law is concerned, order to recognise political proportionality in the allocation of seats within the authority's decision-making structures. The Authority does take some steps – for example, by allowing party Groups to have managers (Heads of Office) for the staff who directly to Members within the Groups – to recognise and support party groups, but the point is that these are in relation to the internal arrangements of the Authority only, and do not relate to publicising or supporting the party group outside of those narrow parameters.

8. The restrictions in relation to the use of resources which apply to party political collections of elected members do not apply to individual elected members – so the Mayor is free, as is any Assembly Member, to discuss and inform people in relation to his/her policies and activities; it is simply a matter of fact that, in light of the relative range of powers afforded to the two offices, the Mayor has much greater scope than an Assembly Member properly to engage in publicity and communications activities whilst using the Authority's resources.

### **Assembly Members**

9. Individual Assembly Members are not granted any specific authority under the terms of the GLA Act; such authority is only granted to the London Assembly and, by delegation, to its committees and/or single Members. Under the common law, elected members have rights to attend meetings and have access to information, but no other specific rights devolve to individual members. It can be said, of course, that elected members have a general duty to represent those who elect them – the, in this case, the GLA Act then makes provision in relation to how that representational role is to be discharged. This is defined by section 59 of the Act, which provides:

*(1) The Assembly shall keep under review the exercise by the Mayor of the statutory functions exercisable by him.*

*(2) For the purposes of subsection (1) above, the powers of the Assembly include in particular power to investigate, and prepare reports about, —*

*(a) any actions and decisions of the Mayor,*

- (b) any actions and decisions of any member of staff of the Authority,*
- (c) matters relating to the principal purposes of the Authority,*
- (d) matters in relation to which statutory functions are exercisable by the Mayor, or*
- (e) any other matters which the Assembly considers to be of importance to Greater London.*

10. The views of Assembly members may only be expressed, therefore, either through formal reports and/or motions of the Assembly and its committees, publicity and communications documents issued by individual members in relation to their Assembly roles (only), or statements made by Members in public meetings or otherwise to the public and press - and these latter categories, where they involve no use of the Authority's resources, are of course free from the rules regarding the need for political neutrality and objectivity.

11. The legislation and interpretive policies adopted by the Authority do not have the effect of 'muzzling' elected members, as they only designed to ensure that the *resources* of the GLA are not used for party political purposes.

## **Staff**

12. GLA staff have no power to provide their services in the support of party political campaigns or objectives. This results from the fact that local authorities are only empowered to employ staff to assist in the carrying out of their functions by section 112 of the Local Government Act 1972. A similar power with respect to the engagement of staff is provided to the GLA by section 67 of the Greater London Authority Act 1999. The functions either of local authorities generally or the GLA in particular do not extend to party political activities.

## **Guidance on document preparation**

13. In practice, a staff member may record what an Assembly Member has said in the course of a communication between either that member or the GLA with another person. In such a case the staff member is acting on the authority of the GLA and is merely a conduit to pass on that which has already been said or written by the Member in the course of his or her office. A staff member cannot work on a document with political content even if the bulk of the document is not political, as, if the document was published, it would (in part) be to pursue an illegitimate purpose (in relation to the GLA's lawful activities).

14. A document that expresses criticism of the Mayor, even in strong terms (although it must still be fair and reasonable), is acceptable - so long as it does not pose the arguments in party political terms or seek in other ways to affect political support (either way). The key test is that the document can contain or describe robust democratic debate (reflecting the debate / related points properly), but not have the character of the promotion of a party political campaign or political party (for example by seeking to persuade the public of a particular, party political, point of view).

15. The Mayor can be criticised or blamed and/or compared favourably or unfavourably to former Mayors, so long as the purpose of such commentary is focused at the target of the

praise or criticism (for example, particular Mayoral policies or activities), and not or the wisdom or 'unwisdom' of competing political parties, or has the overall effect of affecting support (one way or another) for political parties or individual candidates.

16. To the extent that a document strays over the line into the pursuit of a campaign of support for a political party, it will be ultra vires and cannot be published by the GLA or prepared by its staff members.

17. A staff member can prepare a document on behalf of an Assembly member, so long as the document is in compliance with the GLA's use of resources policy. An Assembly Member can then add to the document so is it is much more political in tone, although still within the provisions of the code on local government publicity. The political in-put to such documents must only come from elected members – it should not, for example, be prepared by GLA staff members for the Member's approval. However, a staff member can undertake tasks that involve in the onward transmission of that document.

**If Secretariat staff members have any doubts about whether they can work on a document they should seek advice from the Assistant Director of Committee and Member Services. It should be noted that an Assembly Member cannot authorise a staff member to work on a document that is in breach of these policies and guidelines.**



### **Appendix 3- Code on Local Authority Publicity**

*Communities and Local Government Circular 01/2011*

**Department for Communities and Local Government**

**Eland House, Bressenden Place, London SW1E 5DU**

31 March 2011

## **THE CODE OF RECOMMENDED PRACTICE ON LOCAL AUTHORITY PUBLICITY**

### **Introduction**

1. This code applies to all local authorities in England specified in section 6 of the Local Government Act 1986 and to other authorities in England which have that provision applied to them by other legislation. Where the term “local authorities” is used in this code it should be taken as referring to both those categories of authority. References to “the Act” are to the Local Government Act 1986.
2. Local authorities are required by section 4(1) of the Act to have regard to the contents of this code in coming to any decision on publicity. Section 6 of the Act defines publicity as “any communication in whatever form, addressed to the public at large or a section of the public”. The code therefore applies in relation to all decisions by local authorities relating to paid advertising and leaflet campaigns, publication of free newspapers and newssheets and maintenance of websites – including the hosting of material which is created by third parties.
3. Nothing in this code overrides the prohibition by section 2 of the Act on the publication by local authorities of material which in whole or in part appears to be designed to affect public support for a political party. Paragraphs 21 to 24 offer some guidance for local authorities on the management of publicity which may contain or have links to party political material.

### **Principles**

4. Publicity by local authorities should:
  - be lawful
  - be cost effective
  - be objective
  - be even-handed
  - be appropriate
  - have regard to equality and diversity
  - be issued with care during periods of heightened sensitivity

## **Lawfulness**

5. Local authorities should ensure that publicity complies with all applicable statutory provisions. Paid-for advertising must comply with the Advertising Standards Authority's Advertising Codes.
6. Part 3 of the Communications Act 2003 prohibits political advertising on television or radio. Local authorities must ensure that their publicity does not breach these restrictions.
7. Section 125 of the Political Parties, Elections and Referendums Act 2000 places a specific restriction on the publication by a local authority of material relating to a referendum under Part 7 of that Act, during the period of 28 days immediately before the referendum is held.
8. Regulation 5 of the Local Authorities (Conduct of Referendums) (England) Regulations 2007 (S.I. 2007/2089) prohibits local authorities from publishing material in the 28 days immediately before a referendum which expresses support for, or opposition to a particular answer to a referendum question relating to the constitutional arrangements of the authority.
9. Regulation 15 of the Local Authorities (Referendums, Petitions and Directions) (England) Regulations 2000 (S.I. 2000/2852) prohibits local authorities from incurring expenditure to publish material which appears designed to influence people in deciding whether or not to sign a petition relating to the constitutional arrangements of the authority, or to assist others to publish such material.

## **Cost effectiveness**

10. In relation to all publicity, local authorities should be able to confirm that consideration has been given to the value for money that is being achieved, including taking into account any loss of potential revenue arising from the use of local authority-owned facilities to host authority publicity.
11. In some circumstances it will be difficult to quantify value for money, for example where the publicity promotes a local amenity which is free to use. In such a case, authorities should be able to show that they have given thought to alternative means of promoting the amenity and satisfied themselves that the means of publicity chosen is the most appropriate.
12. If another public authority, such as central government, has issued publicity on a particular topic, local authorities should incur expenditure on issuing publicity on the same matter only if they consider that additional value is achieved by the duplication of that publicity. Additional value might be achieved if locally produced publicity gives a local context to national issues.
13. The purchase of advertising space should not be used as a method of subsidising voluntary, public or commercial organisations.

14. Local authorities should consider whether it is appropriate to seek advice from economic analysts, public relations experts or other sources of expert advice before embarking on a publicity campaign involving very large expenditure.

### **Objectivity**

15. Local authorities should ensure that publicity relating to policies and proposals from central government is balanced and factually accurate. Such publicity may set out the local authority's views and reasons for holding those views, but should avoid anything likely to be perceived by readers as constituting a political statement, or being a commentary on contentious areas of public policy.
16. 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 funds to mount publicity campaigns whose primary purpose is to persuade the public to hold a particular view on a question of policy. It is acceptable for local authority publicity to correct erroneous material which has been published by other parties, despite the fact that the material being corrected may have been published with the intention of influencing the public's opinions about the policies of the authority. Such publicity should seek to explain the facts in an objective manner.
17. Where paid-for advertising is used by local authorities, it should be clearly identified as being advertising. Paid-for advertising, including advertisements for the recruitment of staff, should not be used in any publication owned or controlled by a political party.
18. Advertisements for the recruitment of staff should reflect the tradition of political impartiality of local authority employees and should not (except in the case of advertisements relating to the appointment of staff pursuant to section 9 of the Local Government and Housing Act 1989 (assistants for political groups)) refer to any political activities or affiliations of candidates.

### **Even-handedness**

19. Where local authority publicity addresses matters of political controversy it should seek to present the different positions in relation to the issue in question in a fair manner.
20. Other than in the circumstances described in paragraph 34 of this code, it is acceptable for local authorities to publicise the work done by individual members of the authority, and to present the views of those individuals on local issues. This might be appropriate, for example, when one councillor has been the "face" of a particular campaign. If views expressed by or attributed to individual councillors do not reflect the views of the local authority itself, such publicity should make this fact clear.
21. It is acceptable for local authorities to host publicity prepared by third parties – for example an authority may host a blog authored by members of the authority or a public forum on which members of the public may leave comments. Maintenance by a local authority of a website permitting the posting of material by third parties constitutes a

continuing act of publication by that local authority which must accordingly have a system for moderating and removing any unacceptable material.

22. It is generally acceptable for local authorities to host publicity, such as a blog, which itself contains links to external sites over which the local authority has no control where the content of those sites would not itself comply with this code. This does not amount to giving assistance to any person for the publication of material which local authorities are not permitted to publish. However, particular care must be taken by local authorities during the period before elections and referendums to ensure that no breach of any legal restriction takes place. It may be necessary to suspend the hosting of material produced by third parties or public forums which contain links to impermissible material during such periods.
23. It is acceptable for publicity containing material prepared by third parties and hosted by local authorities to include logos of political parties or other organisations with which the third parties are associated.
24. It is acceptable for publicity produced or hosted by local authorities to include a logo associated with a particular member of the authority, such as a directly elected mayor, or leader of the authority. Publicity material produced by local authorities relating to a particular member must not seek to affect public support for that individual.
25. Where local authorities provide assistance to third parties to issue publicity they should ensure that the principles in this code are adhered to by the recipients of that assistance.

### **Appropriate use of publicity**

26. Local authorities should not incur any expenditure in retaining the services of lobbyists for the purpose of the publication of any material designed to influence public officials, Members of Parliament, political parties or the Government to take a particular view on any issue.
27. Local authorities should not incur expenditure on providing stands or displays at conferences of political parties for the purpose of publicity designed to influence members of political parties to take a particular view on any issue.
28. Local authorities should not publish or incur expenditure in commissioning in hard copy or on any website, newsletters, newssheets or similar communications which seek to emulate commercial newspapers in style or content. Where local authorities do commission or publish newsletters, newssheets or similar communications, they should not issue them more frequently than quarterly, apart from parish councils which should not issue them more frequently than monthly. Such communications should not include material other than information for the public about the business, services and amenities of the council or other local service providers.
29. Publicity about local authorities and the services they provide should be freely available to anyone who wishes to receive such information in a format readily accessible and

understandable by the person making the request or by any particular group for which services are provided.

30. All local authority publicity should clearly and unambiguously identify itself as a product of the local authority. Printed material, including any newsletters, newsheets or similar publications published by the local authority, should do this on the front page of the publication.

### **Equality and diversity etc**

31. Publicity by local authorities may seek to influence (in accordance with the relevant law and in a way which they consider positive) the attitudes of local people or public behaviour in relation to matters of health, safety, crime prevention, race relations, equality, diversity and community issues.
32. Local authorities should consider how any publicity they issue can contribute to the promotion of any duties applicable to them in relation to the elimination of discrimination, the advancement of equality and the fostering of good relations.

### **Care during periods of heightened sensitivity**

33. Local authorities should pay particular regard to the legislation governing publicity during the period of heightened sensitivity before elections and referendums – see paragraphs 7 to 9 of this code. It may be necessary to suspend the hosting of material produced by third parties, or to close public forums during this period to avoid breaching any legal restrictions.
34. 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 members or groups 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.
35. 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.

### **Advice on use of social media for staff (including during pre-elections periods)**

#### *Outside of the workplace*

Your use of personal/private social media in your own time and using your own equipment is not generally a matter for the GLA and you are, as normal, responsible for your own activities and statements.

However, you should remember that, as a GLA employee, you are always subject to the appropriate sections of the Code of Ethics and Standards for Staff which apply to activities outside work. In particular, there is a provision relating to Behaviour outside the workplace, which provides: "Staff's off duty hours are their personal concern but they must not subordinate their duty or their private interests or put themselves in a position where duty and private interests conflict."

You should also be aware that the Code of Ethics and Standards also places other general duties as regards your conduct, which could (on a case-by-case basis) be taken to include any statements you publish openly via social media - including the duty of confidence and trust (to exist between you and the Authority); the requirement to maintain good working relationships between employees, the Mayor, Assembly members and managers; and the duties as regards whistleblowing, harassment and equal opportunities.

This means that, when using social media in your personal life, rather than when at work, you should:

- Not use social media to post critical comments about either the Mayor and/or Assembly Members
- Use caution if posting any comment regarding public policy or party political matters; you should consider (a) whether you are a politically restricted officer (and, if you are, you should seek advice in advance of making any public statement of your political views as that could well contravene the terms of your employment in that regard), and (b) even if you are not politically restricted, you should consider whether any such comment would make it difficult for you to be seen by others to be a professional officer, capable of fulfilling your normal work duties in a tax-payer funded role, and (c) you should be aware that these matters become particularly sensitive during a pre-election period and so you are advised to be particularly careful at these times;
- Not use social media to post critical comments about fellow officers or the GLA as a whole that would either damage the reputation of the GLA, or of any individual officer;
- Not use social media in a way that violates the GLA's policies and public duties on harassment and equalities or that could result in any GLA officer perceiving themselves to be a victim of harassment or discrimination;
- Not use information obtained in the course of GLA employment, which is subject to a duty of trust and confidence, as the basis for any post;

- Not use social media in a way that breaks the law either relating to politically restricted posts, election law or the general criminal law and officers should note that Criminal acts committed other than in the course of employment may also warrant disciplinary action where the offence affects the interest of the Authority and/or the continued performance of the employee's contract of employment.

You are subject to the Data Protection Act and the laws of defamation at all times.

Elected Members are reminded that even posts in their own time on personal social media may still trigger a complaint which will be dealt with under the GLA standards regime.

### ***At work***

The GLA's ICT Protocol provides that you may use GLA equipment to undertake a reasonable level of personal ICT use during work time (such as reviewing non-work related web sites during a lunch break at your desk etc). You should not otherwise be engaging in personal social media activity during working hours.

The GLA encourages its officers to use, with the approval of managers, social media as is deemed necessary to further the work of the Authority. Any social media activity undertaken on behalf of the Authority must, however, comply with the standard rules regarding the formal publication of material. These rules are set out in detail within the Use of Resources guidance document.

## Pre-election period: advice for external partner organisations

The GLA doesn't provide formal guidance for external organisations, because they are responsible for setting their own rules and policies.

However, we can point them to the following general principles:

- Public bodies / publicly-funded bodies must discharge their core / statutory / primary functions at all times, regardless of whether an election is coming up
- Public bodies / publicly-funded bodies should not generally be publishing politically-sensitive/controversial material during pre-elections periods, or taking contentious decisions (particularly those that may be affected by a change in the mayoralty in London)
- Public bodies / publicly-funded bodies are absolutely entitled to promote and explain their activities to all stakeholders (including the public and candidates in elections) at all times, which includes pointing out the potential implications of policies, proposals and manifesto commitments and raising concerns/issues as necessary (eg by writing letters). Any statements or campaigns should, however, be done in a factual/politically-neutral way and only in the interests of the organisation itself (so people who hold leading positions in those organisations would need to make it absolutely clear if they were entering into a political debate that they were doing so only in a personal capacity and that they were not representing the views of the organisation concerned).
- As a further example, the GLA would not expect bodies to which it provides significant funding to announce a preference for any particular candidate in the elections or to undertake a campaign against any candidate
- The organisations concerned are welcome to contact us if there is any particular concern / issue on which they would like a view.