

EU referendum, 23 June 2016: Advice on the use of resources

1. The Government has confirmed its intention that there will be a UK referendum on 23 June 2016 on the question of continued membership of the European Union.
2. The referendum is not an election; however, the Political Parties, Elections and Referendums Act 2000 does impose different, and prescriptive, legislative requirements upon all tax-payer funded public bodies (including the GLA and all functional bodies) in relation to material that may be published during the 28 days ending with the day of the referendum. As such, there are particular rules that apply to publicity and communications issued by relevant bodies in the period 27 May – 23 June 2016. These are explained below.

The Mayor, London Assembly, Functional Bodies and relevant partner organisations

3. As is the case for many public policy matters, there are potentially significant issues for London arising from this referendum. It is therefore permissible for the Mayor of London, London Assembly, Functional Bodies and relevant partner organisations (including London & Partners) to commission and undertake work, and to speak publicly, on matters related to the referendum, so long as such activity is directly relevant to their powers and functions is factual, neutral and politically impartial. The Mayor has set out his position publicly, arguing in favour of the UK leaving the EU; the London Assembly has passed a motion in favour of the UK remaining in the EU.
4. The resources of the relevant body can, in the normal way and for the period prior to 27 May 2016, be deployed in support of the adopted position(s), through research, reports, press releases, correspondence, and so on, undertaken by the relevant officers. (The rules for the use of GLA resources can be viewed here: <http://intranet.london.gov.uk/node/10681>.)
5. All material published by relevant bodies in the period prior to 27 May 2016 that has a bearing on the referendum and associated issues must be lawful, cost effective, objective, neutral, appropriate and have regard to any equality implications and diversity. Comments or responses to central government or other public bodies' proposals and policies should be objective, balanced and informative; they must not be a prejudiced, unreasoned or a political attack on the policies or proposals of those putting them forward.
6. Whilst policy positions on this issue can be adopted and communicated, particular care must also be taken, in all such material, not to seek to, or be seen to seek to, persuade the public to answer the referendum question in a particular way or to influence opinion. Relevant bodies, including the Mayor, may, therefore, adopt and explain their positions on the issue of EU membership but must not issue material that then asks people to cast their ballot in a particular way on 23 June. The principles of impartiality and the proper use of public resources continue to apply to all activity, including in relation to activity related to the EU referendum, both in the pre- Mayoral election period as well as in statutory pre-referendum period.
7. All officers are required to act in accordance with, and to uphold, the policy positions adopted by the relevant body. As normal, those GLA officers directly appointed by the Mayor are able, by virtue of their roles, to play a greater role in the external promotion of the Mayor's position than other officers are, for example through interviews and articles, in the period up until 27 May but are nevertheless subject to the same requirements relating to the referendum as explained in this note.

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8. Unlike in election campaigns, where the political restriction rules (which continue to apply at all times) have a particular impact, officers can participate in the referendum campaign in their own time. There must be no use of the relevant organisation's resources for such personal activity and all other rules apply as normal. Care should also be applied in relation to the planned publication of personal views on this issue, including via social media, so as not to harm working relationships or to fall foul of 'trust and confidence' requirements or other relevant terms and conditions of employment.

The period 27 May – 23 June 2016 (the 'pre-referendum period')

9. Under section 125 of the Political Parties Elections and Referendums Act 2000, from 27 May until the 23 June (inclusive) the GLA and functional bodies cannot publish material that: provides general information about a referendum; deals with any of the issues raised by any question on which such a referendum is being held; puts any arguments for or against any particular answer to any such question; or is designed to encourage voting at such a referendum. These restrictions are applied in addition to the normal rules relating to the use of resources (as set out in above). The restrictions do not apply to material made available in response to specific requests for information.
10. As in a pre-election period, the presumption is that internal activities (decision-making processes, routine service delivery, discharge of statutory functions and contractual obligations, research/policy development activity etc) can continue as normal throughout this period; the rules apply restrictions on the publication and communication of information and views on the referendum and associated issues that fall within the categories outlined above.
11. This means that relevant organisations and individual officers must, as from 27 May, cease to issue/promote material that deals with the referendum. Material that has been issued prior to this date can remain published (for example, on official web sites) but the prohibition on new and relevant documents or statements being issued during this time is comprehensive.
12. The Mayor, Assembly Members, board members and officers can then continue to participate in the referendum campaign in their personal capacities – but, again, there must be no use of the relevant organisation's resources for such personal activity and all other rules and guidance (regarding the need for officers to take care not to act in a way that does not accord with their employment status if they are publishing views and publicly campaigning etc) apply as normal.
13. Advice should be sought from your senior manager or from the Monitoring Officer on any of these issues as necessary.

Issued by: GLA statutory officers (Jeff Jacobs, Head of Paid Service; Martin Clarke, Executive Director of Resources; Ed Williams, Monitoring Officer), 4 March 2016