

## EXPLANATORY NOTE FOR LOCAL AUTHORITIES

### Code of Recommended Practice on Local Authority Publicity

A *Code of Recommended Practice on Local Authority Publicity* was issued by the Department for Communities and Local Government on 31 March 2011 and is available at

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/5670/1878324.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/5670/1878324.pdf)

with an *Explanatory Memorandum* at

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/5671/1840982.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/5671/1840982.pdf).

The relevant paragraphs of the *Code* state:

**16:** 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.

**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.

**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.

**Does the code permit local authorities to publish factual material by way of correction or rebuttal of inaccurate statements that promote discrimination or harassment, or promote or constitute other unlawful acts during an election period?**

Following a debate in the House of Lords on the Local Audit and Accountability Bill, Baroness Hanham made it clear in a Ministerial Statement on 15 July 2014 that local authorities may correct false information:

‘...[T]he publicity code explicitly provides for a local authority to correct or rebut misinformation, making explicit provision in the sections about objectivity and care during periods of heightened sensitivity. Moreover, it contains provisions about equality and diversity, specifically allowing local authority publicity to seek to influence the attitudes of local people or public behaviour in relation to matters including equality, diversity and community issues.

*During an election period, for example, local authorities may publish factual material. A local authority should take care when issuing publicity and should not be issuing publicity that seeks to influence voters. However, this does not prevent an authority from fulfilling its role in seeking positively to influence people in terms of equality and diversity. Hence if there is disinformation in circulation promoting harassment, a local authority may take action to correct it at election time or indeed any other time...[Emphasis added]. Nothing in the publicity code prevents local authorities addressing issues of discrimination or harassment and tackling them head on.’*

HL Deb 15 July 2013 col. 602 [Lords Chambers]

The Local Government Information Unit provides practical guidance for local authorities on the Publicity Code which is available at [www.lgiu.org.uk](http://www.lgiu.org.uk) .

## The Public Sector Equality Duty

Guidance on the public sector equality duty (PSED) can be obtained from the Equality and Human Rights Commission at:

<http://www.equalityhumanrights.com/advice-and-guidance/>

**Section 149 of the Equality Act 2010** imposes a duty on public authorities when exercising public functions to have due regard to the need to:

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act
- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

This duty applies to the protected characteristic of race (which includes colour, ethnic or national origins and nationality) as well as to sex, disability, sexual orientation, religion or belief, gender reassignment, age and pregnancy and maternity.

**Section 149(3)** explains that having due regard to the need to advance equality of opportunity involves having due regard, in particular, to the need to –

- a) remove or minimise disadvantages suffered by people who share a relevant protected characteristic that are connected to that characteristic,
- b) take steps to meet the needs of people who share a relevant protected characteristic that are different from the needs of people who do not share it,
  
- c) encourage people who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such people is disproportionately low.

**Section 149(5)** explains that having due regard to the need to foster good relations between persons who share a protected characteristic and persons who do not share it, involves having due regard, in particular, to the need to

a) tackle prejudice, and

b) promote understanding

Certain listed public authorities are also subject to additional specific duties relating to the publication of equality information and the setting of equality objectives, which are intended to enable the better performance of the s.149 duty.

Guidance in support of the PSED refers to participation in elections as included in the definition of "public life and other activities" in section 149(3)(c).

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