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## Standards Committee

26 January 2007

Report of the Head of Civic, Democratic & Legal Services

### **ADVICE TO ELECTED MEMBERS REGARDING ACTIVITIES DURING THE PRE-ELECTION PERIOD**

#### **Summary**

1. This report proposes a draft letter for circulation to all Elected Members and senior officers for consideration by the Standards Committee.

#### **Background**

2. Article 8 of the Council's Constitution sets out the general role of the Standards Committee and includes the following :
  - Seek to promote and maintain a high standard of conduct in the transaction of all Council and local Council business.
  - Assist in the observation of the Members' Code of Conduct
  - Take a general overview on all ethical issues and issues of probity.
3. The Scheme of Delegation in the Council's Constitution includes the general role detailed above and in addition includes the function of advising, training or arranging to train Members and Co-opted Members of the Council on matters relating to the Council's Code of Conduct, and to provide advice to the Council and local Councils in respect of any issues relating to Member conduct under the current legislation, regulations and the National Code of Conduct for Members.
4. In the pre-election period the Council needs to have particular regard to the provisions of Section 2 of the Local Government Act 1986 ("the Act"), which states that "a local authority shall not publish any material which, in whole or in part, appears to be designed to effect public support for a political party."
5. Publicity is defined very widely in Section 6 of the Act as "any communication, in whatever form, addressed to the public at large or to a section of the public". This not only includes documents published but can also include Council meetings and Council organised events.
6. Under Section 4 of the same Act a Code of Recommended Practice on Local Authority Publicity ("the Code") has been published. Section 4 of the Act

requires Local Authorities to have regard to the Code at any time when they come to a decision on publicity. The Code gives specific guidance on publicity produced in the run-up to an election, but the general provisions must also be borne in mind at all times and states:

“The period between the notice of an election and the election itself should preclude proactive publicity in all its forms of candidates and other politicians involved directly in the election. Publicity should not deal with controversial issues or report views, proposals or recommendations in such a way that identifies them with individual Members or groups of Members. However, it is acceptable for the Authority to respond in appropriate circumstances to events and legitimate service enquiries provided that their answers are factual and not party political. Members holding key political or civic positions should be able to comment in an emergency or where there is a genuine need for a Member-level response to an important event outside the Authority’s control. Proactive events arranged in this period should not involve Members likely to be standing for election.”

7. On 3 May 2007 all existing City of York Council Members’ are subject to re-election. Effectively that means that, subject to a small number of Members who may choose not to stand for re-election, most Members will be candidates. In addition, a number of Members will also be acting as Election Agents, therefore most existing elected Members will be actively participating in the election. It is, therefore, important that Members understand the statutory position regarding Council publicity.
8. Attached at Annex 1 to this report is a draft letter to be sent to all Members and the Corporate Leadership Group setting out the advice in the Code as a reminder of the Council’s obligations. The Standards Committee are asked to consider the draft.

## **Consultation**

9. The Head of Civic, Democratic and Legal Services has been in consultation with a West Yorkshire Authority regarding their election arrangements and has had sight of similar correspondence sent to their Members.

## **Options**

10. The options available to the Standards Committee are :
  - (i) to approve the letter as drafted;
  - (ii) to amend the letter prior to approval;
  - (iii) to resolve not to send the letter.

## **Analysis**

11. The Head of Civic, Democratic and Legal Services is of the opinion that all Members and senior officers should be made aware of the legal position. Failure to do so could leave individual Members vulnerable to inadvertently

acting inappropriately, which in turn could leave the Council vulnerable to a risk of breaching the Act and Code as detailed above.

## **Corporate Priorities**

12. The Council has identified the need to improve leadership at all levels to provide clear, consistent direction to the organisation. Proper advice on issues of conduct will promote leadership and assist in meeting this corporate priority.

## **Implications**

13. There are no Financial, Human Resources, Equalities, Crime and Disorder, Information Technology, Property or Other implications.

### Legal Implications

As detailed in paragraph 11 above, inappropriate activities by Members during the pre-election period could leave the Council vulnerable to a claim for failure to comply with statutory provisions and appropriate guidance.

## **Risk Management**

14. Providing Members and senior officers with appropriate advice about the legal requirements will reduce the risk of the Council inadvertently breaching the statutory requirements.

## **Recommendations**

15. The Standards Committee are asked to consider the attached draft letter and approve it as written or agree appropriate amendments.

Reason: To ensure all Members and senior officers are provided with appropriate information to assist in their activities during the pre-election period.

## **Contact Details**

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### **Chief Officer Responsible for the report:**

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Head of Civic, Democratic & Legal Services

**Report Approved**



**Date** 15 January 2007

## **Specialist Implications Officer(s)**

Legal

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**Wards Affected:**

All

**For further information please contact the author of the report**

**Background Papers:**

None

**Annexes**

Annex 1 - A draft letter to be sent to all Members and the Corporate Leadership Group setting out the advice in the Code of Recommended Practice on Local Authority Publicity as a reminder of the Council's obligations