

## **Neighbourhood plan referendums – publicity (campaigning) and expenses**

### **1. Introduction**

- 1.1. This guidance note outlines the key issues that apply in relation to publicity during the period leading up to any neighbourhood plan referendum. This period runs from the publication date of the information statement (a minimum of 28 days before the date of the referendum) to the declaration of result, following the referendum.
- 1.2. The guidance also deals with restrictions on how much may be spent by campaigners by way of expenses incurred in the conduct of any campaign either in support of or in opposition to the referendum question.
- 1.3. This guidance is applicable to any individual's roles as an elected, co-opted ward or local parish/town councillor, particularly councillors representing an area for which a referendum is being held.
- 1.4. The parish/town council may wish to take its own advice regarding these matters to satisfy itself that its actions are consistent with relevant guidance and regulations.
- 1.5. The term "councillor(s)" refers to any West Berkshire District Council Councillor and the term "Council" means West Berkshire District Council (WBDC).
- 1.6. Town and Parish Councils are not the "relevant council" (as defined in paragraph 14 (3) of Schedule 4B to the 1990 Act) and are therefore not directly restricted by the 2012 Neighbourhood Planning (Referendum) Regulations 2012.
- 1.7. WBDC is not directly responsible for the actions of an individual town or parish Council. However town and parish Councils are required by Section 4(1) of the Local Government Act 1986 to have regard to The Code of Recommended Practice on Local Authority Publicity from 2011. The code pre-dated the introduction of Neighbourhood Plans however Section 35 of the code is considered to be relevant and thus should be taken into account; it says:  
  
*"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."*
- 1.8. This applies to all local authorities in England as specified in Section 6 of the Local Government Act 1986 (which includes parish councils).

### **2. Restrictions during the referendum period**

- 2.1. Section 1 of the Code of Recommended Practice on Local Authority sets restrictions that apply to all local authorities in England specified in Section 6 of the Local Government Act 1986 of which a parish or community council is specified.
- 2.2. Section 5 of the Neighbourhood Planning (Referendums) Regulations 2012 (as amended) places restrictions on publication of promotional material in relation to a Neighbourhood Planning Referendum.

- 2.3. This restricts WBDC from producing any material that provides general information about the referendum; that deals with any of the issues raised by the question to be asked at referendum; or puts any arguments for or against a particular answer to that question during the referendum period.
- 2.4. A parish/town council, even when acting as the qualifying body, cannot put any arguments for the plan, provide general information or deal with any issues raised by the referendum following the publication of the Information Statement.
- 2.5. However this does not apply to material that is required to be made available as set out in section 4 of the Neighbourhood Planning (Referendums) Regulations 2012 (as amended) which includes;
  - An Information Statement
  - The draft neighbourhood plan
  - The Examiner's Report
  - A summary of representations received at submission stage
  - A statement setting out that the local planning authority are satisfied the plan meets the Basic Conditions
  - A statement setting out general information as to town and country planning and neighbourhood planning. Nor does it apply to the publication of press notices containing factual information where the sole purpose is to refute or correct any inaccuracy in material published by any other person.
- 2.6. For clarification, publicity can take the form of speeches, interviews, items on council's websites or notice boards, press releases, newsletters, leaflets, newspaper articles issued by or behalf of a council and publicity issued by organisations on Council funds.
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### **3. Key points around publicity**

- 3.1. Views on the referendum question, which could be seen as in favour of or against the proposal, must not be published by WBDC or a parish/town council therefore all councillors must comply with the provisions of the adopted Code of Conduct.
- 3.2. Press releases issued by WBDC or a parish/town council should not be used to support or oppose the referendum question.
- 3.3. No posters or leaflets must be displayed on WBDC premises (including street furniture) or vehicles.
- 3.4. Councillors representing the referendum area should not be quoted in any press releases issued (if any) relating to the referendum.
- 3.5. Councillors can create their own publicity, provided WBDC resources are not used.
- 3.6. Further to the above, WBDC can publish press notices containing factual information where the sole purpose of their publication is to refute or correct any inaccuracy in material by a person other than the relevant council.

- 3.7. WBDC business will continue during a referendum period. This includes publicity around normal WBDC business and events. However this must be carefully thought through to ensure WBDC “machinery” is not used or allowed to be used or manipulated by anyone in relation to the referendum.
- 3.8. Councillors in the designated Neighbourhood Area need to maintain a clear distinction between their official duties as a serving Councillor and their involvement with any campaign relating to the referendum. For example, they should guard against giving any impression of use of WBDC resources for referendum or private purposes. During the referendum period Councillors may continue to deal with ward work and represent their constituents.
- 3.9. Particular care must be taken by Councillors who hold positions of responsibility within a council where, by virtue of their role, they could be seen to be supporting or opposing a referendum question.
- 3.10. Members of the Neighbourhood Plan Steering Group who are not members of the parish / town Council are not bound by these “rules” and therefore can engage in active promotion of a ‘yes’ vote in support of the referendum.

#### **4. Referendum Expenses**

- 4.1. A campaign organiser, either an individual or group wishing to conduct a campaign with a view to promoting or procuring a particular outcome in relation to the question to be asked in the referendum, is subject to an expenses limit.
- 4.2. Sections 6 and 7 of the Neighbourhood Planning (Referendum) Regulations 2012 (as amended) set out the limit that may be spent on referendum expenses and the penalty for non-compliance.
- 4.3. A maximum of £2,362 plus £0.059 for each entry in the relevant register of electors may be spent by campaign organisers in connection with a referendum campaign. This figure would be the same for a group saying “Vote Yes” and an equal amount for a group saying “Vote No”.
- 4.4. The exact amount allowed for each referendum area will be published in the Information Statement or may be obtained from WBDC’s Council’s Elections team ([vote@westberks.gov.uk](mailto:vote@westberks.gov.uk)).
- 4.5. Schedule 2 of the Neighbourhood Planning (Referendum) Regulations 2012 (as amended) states the meaning of expenses and what they relate to.
- 4.6. Expenses mean the expenses incurred by or on behalf of any individual or body during the referendum period in relation to:
  - Advertising of any nature
  - Unsolicited material addressed to voters
  - Campaign organisers should ensure that any material they produce contains an imprint which specifies the name and addresses of the printer of the document, the promotor of the material, and any person on whose behalf the material is being published (where it is not the promotor)

- Information about the referendum, information about the question, arguments for and against
  - Market research or canvassing
  - Provision of any property, services or facilities in connection with press conferences or dealings with the media
  - Transport (by any means) of persons to anywhere with a view to obtaining publicity in connection with a referendum campaign
  - Rallies and other events, including public meetings.
  - Expenses also include any notional expenses, where property, services or facilities are provided free of charge or at a discount.
- 4.7. The referendum period starts on the date which the Information Statement is published. This is not fewer than 28 days before the date on which the referendum will be held. The referendum period ends on the date on which the referendum is held.
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- 4.9. Campaigning groups are encouraged to register with and submit a statement of expenses to the Counting Officer ([vote@westberks.gov.uk](mailto:vote@westberks.gov.uk)) however there is no requirement for Campaigners to submit referendum expenses to the Counting Officer.
- 4.10. It is an offence for a campaign organiser to exceed the referendum expenses limits and if found guilty would be liable to a fine of up to £5000 and/or imprisonment of up to 12 months.