

Guidance for Councillors and Officers

East Midlands Combined County Authority

Pre-Election Period Guidance Document 2024

This document provides guidance to both Members and Officers on the application of the principle of political impartiality in relation to the East Midlands Combined County Mayoral Election.

The first ever East Midlands Combined County Mayoral Election will take place on the 2 May 2024 and the pre-election period will commence on Tuesday 26 March 2024 and ceases at the close of poll at 10pm on Thursday 2 May 2024.

In the period leading up to an election known as the 'pre-election period' authorities are required by law to be aware of increased sensitivity relating to publicity and potentially controversial issues. (The Code of recommended Practice on Local Authority Publicity is issued under Section 4 of the Local Government Act 1986).

Combined County Authority Councillors and Officers need to be mindful of the election that will be taking place for the Mayor and should observe the pre-election rules.

Legislation governing the pre-election period defines 'Publicity' as **“any communication, in whatever form, addressed to the public at large or to a section of the public.”** This includes (but is not limited to) media releases, hosting public events and social media postings.

In the period immediately before an election or referendum there are restrictions on the use of public resources and activities.

What is the pre-election period?

During the pre-election period in relation to the Combined County Authority Councillors and Officers should refrain from taking decisions or making policy announcements which are **significant and may be politically contentious**.

This facilitates democratic due process in seeking to ensure potentially unfair electoral advantage is not gained by those that have control of public resources.

When does the pre-election period start?

The pre-election period for the Combined County Authority Mayor election to be held on 2 May 2024 will commence from Tuesday 26 March 2024 with the publication of the Notice of Election. During the pre-election period, there are restrictions on the Combined County Authority's and Councils use of publicity.

Publicity means:

“any communication, in whatever form, addressed to the public at large or to a section of the public.”

Publicity will include press releases, other published material including on the Combined Authority's website, media events, blogs, the hosting of visits by politicians, materials supporting local campaigns and the launching of new consultations. The legal restriction is that the Combined County Authority and Councils will **“not publish any material which, in whole, or in part, appears to be designed to affect public support for a political party.”**

Generally, the Combined County Authority and Councils should not issue any publicity which seeks to influence voters, and that publicity relating to individuals involved directly in the election should not be published unless expressly authorised by statute.

The Members of the Combined County Authority are free to campaign on behalf of candidates and parties in the election provided they do not use the resources of the Combined County Authority or Councils in doing so. Those resources would include officer time, the Combined County Authority's and Councils email system and its website.

The duties and powers of the Combined County Authority and Councils are defined by legislation. Its resources may not be used for any other purpose and, in particular not for political purposes or to promote the electoral advantage of any candidate, group of candidates or political party. This applies to all of the Authority's resources including information, staff time, ICT resources, buildings, equipment and supplies, publicity and events.

Deciding whether an activity is permitted during the pre-election period

The first question to ask when considering whether an activity is permitted during the pre-election period is: **'could a reasonable person conclude that you were spending public money to influence the outcome of the election?'**

You should not:

- produce publicity on matters which are politically controversial
- make references to individual politicians or groups in press releases
- arrange proactive media or events involving candidates
- issue photographs which include candidates
- supply Authority photographs or other materials to councillors or political group staff unless you have verified that they will not be used for campaigning purposes
- continue hosting third party blogs or e-communications
- help with national political visits (as this would involve using public money to support a particular candidate or party). These should be organised by political parties with no cost or resource implications for the Authority.

You should also think carefully before you:

- Continue to run campaign material to support your own local campaigns. If the campaign is already running and is non-controversial (for example, on issues like bus transportation) and would be a waste of public money to cancel or postpone them, then continue. However, you should always think carefully if a campaign could be deemed likely to influence the outcome of the election and you should not use councillors in press releases and events in pre-election periods. In such cases you should stop or defer them. An example might be a campaign on an issue which has been subject of local political debate and/or disagreement.
- Launch any new consultations. Unless it is a statutory duty, don't start any new consultations or publish report findings from consultation exercises, which could be politically sensitive.
- Particular care should be taken over the use of Combined County Authority and Constituent Council social media accounts during the pre-election period.

Decision making and business as usual

The position remains that it is 'business as usual' unless there are very good reasons why this should not be the case. In the vast majority of cases, the pre-election period will have no impact on normal Combined County Authority and Constituent Council business.

However, it may not be appropriate to take reports to meetings of committees or the Combined County Authority Board and Constituent Councils during the pre- election period which deal with matters of political controversy.

The guidance on political sensitivity also recognises that the business of the Authority must continue wherever it does not infringe on the principles set out in this document. Where media comment is required in relation to externally generated media enquiries, it will be given in the name of an Officer of the Authority or a Spokesperson. Responses should be factual and confined to correcting errors or answering specific questions.

Existing programmes and consultations already in progress and internal officer work will continue as normal. In the main, boards and committees will not be arranged for this period, although those that do need to meet to enable the discharge of functions will be carefully organised to ensure contentious agenda items, wherever possible, will not be considered.

Significant new decisions or announcements should be postponed except where there is an overriding need to make progress to adhere to externally set deadlines.

What can I do?

- Continue to discharge normal Combined County Authority and Constituent Council business
- Publish factual information to counteract misleading, controversial or extreme (for example, racist/sexist information). An example might be a media story which is critical of the Authority, such as a media enquiry claiming that the salaries of all the Authority's senior managers have increased by five per cent. If this is not true, a response such as 'none of the Authority's senior management team have received any increase in salary in the last 12 months' is acceptable. It is perfectly right and proper that the Authority responds, as long as it is factual.
- Use relevant lead officers rather than a member for reactive media releases.
- Only use a politician who is involved in an election when the Authority is required to respond in particular circumstances, such as in an emergency situation or where there is a genuine need for a member-level response to an important event beyond the Authority's control.

Where Communication and Publicity is considered to be necessary

Where outward facing communications are considered to be necessary and justified, they must always follow the following principles:

- It should be the minimum required to convey the message.
- It should be wholly factual and informative.
- It should concentrate on the event or subject matter of the communication and should not promote or enhance or raise the profile of any political party or any Mayoral candidate
- It should not be promotional in words or tone so as to enhance the profile or image of any political party or any Mayoral candidate
- It should not quote any Mayoral candidates name unless there are extenuating circumstances which make this appropriate.

This principle also applies to:

Press queries:

All responses to events by the Authority should be factual and non-political.

Political Impartiality:

No communication or publicity activity should occur that could call into question the Authority's political impartiality.

Political activity by members that could call into question the Authority's political impartiality shouldn't occur.

For the avoidance of doubt, Authority photographs already in the public domain can be used.

Requests for advice by parties/candidates:

Requests for advice or information by candidates or political parties should be treated even handedly, with any response being purely factual.

Public resources should not be used for political purposes this includes the Authority's mobile phones. This also includes the Authority's facilities with the exception of limited meetings between authorised officers and candidates.

If you are in doubt, seek advice from Jodie Townsend, Interim Monitoring Officer, East Midlands Combined County Authority via Jodie.Townsend@eastmidsdevo.org.uk

Guidance for Officers

Officers must not carry out any activity which could call into question their political impartiality, or which could give the impression that public resources are being used for party political purposes.

Officers whose posts are designated as "politically restricted" are forbidden by law from engaging in certain political activity including holding office in political parties and speaking in public or being interviewed or publishing work in support of a political party. If you are in a politically restricted post and are contemplating engaging in any political activity during the election campaign you should seek advice from your Monitoring Officer immediately.

Officers whose posts are not politically restricted can engage freely in the political process of the election but can only do so outside working hours, and must not use Combined County Authority/ Constituent Council resources, including the email system in doing so.

Authority premises must not be used to display election posters or other political material, similarly vehicles in Authority car parks should not display election posters.

The period of heightened restriction places certain restrictions on Local Government regarding publicity, use of facilities and resources, developing new policy and holding events and meetings which feature elected politicians.

There are clear restrictions on the use of public money for political purposes at any time during an election period, and a public authority must be particularly careful not to appear to be using public funds or resources to influence the outcome of an election.

A period of heightened restriction, however, does not prevent the ordinary functions of Councils and the Combined County Authority, continuing to operate.