

Pre-election Period (Purdah) Guidance – 2017 General Election

1. Background

This document is a revision of previous purdah guidance to contextualise it to the 2017 General Election. Purdah guidance was originally developed through the then Transparency and Integrity Standing Group, and approved at APCC General Meetings – notably the meeting in March 2016. It is intended to provide guidance for Police and Crime Commissioners and their offices about the handling of the sensitive period prior to the general election due to take place in England and Wales on 8 June 2017. This pre-election period is commonly referred to as ‘purdah’, and this period will begin for Central Government at midnight on 21 April 2017.

Set out below are some key principles which Police and Crime Commissioners and their Offices should consider.

2. What is Purdah?

Whilst ‘purdah’ is not defined in an Act of Parliament, restrictions are placed on local authorities (applicable to PCCs too) by the Code of Recommended Practice on Local Authority Publicity, which refers to periods of heightened sensitivity during elections. Much of this sensitivity is about exercising greater care to observe laws and rules which apply in any event, but recognising that public bodies are likely to come under greater scrutiny at election times.

These conventions generally apply even where elections do not directly involve those bodies, although the specific restrictions and the length of the period accompanying purdah can vary according to the organisation and whether it is directly involved in the election. For instance, an organisation which is subject to imminent elections will generally restrict continuing business to a bare minimum, but an organisation which is not directly involved in elections will generally continue business as usual, albeit while applying extra care about public actions or other matters which might have an effect on elections.

Strictly speaking there is no specific legal remedy for breaching ‘purdah’. However, as many of the requirements are about exercising additional care under existing rules, there are often specific remedies for breaching those rules. In addition, it should be borne in mind that there is an increased reputational risk if complaints are made to police and crime panels, or if there is criticism from the media or organisations like the Committee on Standards in Public Life about the way that a Police and Crime Commissioner behaves during these sensitive periods.

3. Police and Crime Commissioners

It is recognised that Police and Crime Commissioners have a key political role to play in their local communities, and it is for Commissioners to decide whether they wish to play an active role in supporting political colleagues in the forthcoming elections. Deputy Police and Crime Commissioners are in much the same position, since they are politically unrestricted, and it would be more appropriate for them to follow the advice for Police and Crime Commissioners set out below, than the advice relevant to the other staff of the OPCC, which is more restrictive. However, Police and Crime

Commissioners may feel that some pointers would be useful to clarify what they (and their Deputies) are able to do, in order to minimise possible reputational and legal risks to their position during the pre-election period.

It is also recognised, particularly in relation to elections which do not apply directly to Police and Crime Commissioners, that business as usual will continue, although PCCs may wish to consider whether they should exercise additional care in the conduct of some matters. See Section 6 below for more detail.

There are three key points which Police and Crime Commissioners may wish to bear in mind (although it is worth remembering that these apply to Police and Crime Commissioners at all times, but it is generally accepted that particular care should be taken in the purdah period):

- ▶ The restrictions placed on Police and Crime Commissioners by virtue of the Code of Practice on Local Authority Publicity (**Annex A**) – (*S6 Local Government Act 1986, as amended by Schedule 16, paragraph 173 of the Police Reform and Local Responsibility Act*)
- ▶ The impact of the Seven Principles of Public Life (Nolan Principles), by which Police and Crime Commissioners are bound as holders of a public office
- ▶ The impact of the PCCs Oath of Office (*the Police and Crime Commissioner Elections (Declaration of Acceptance of Office) Order 2012*)

Nothing in either the Oath of Office or within Nolan Principles prevents Police and Crime Commissioners from acting in a party political capacity as a private individual, but they should not use their **public office** as a Police and Crime Commissioner to support party political candidates, or seek to influence the outcome of the election in a party political way. For instance, the Nolan obligation to act with integrity and objectivity means that PCCs would want to avoid placing themselves in difficult positions that might lead to perceptions of conflict of interest or lack of impartiality in the performance of their official duties.

It is therefore of fundamental importance that Police and Crime Commissioners should distinguish between their public office as Police and Crime Commissioner (which is ‘political’ but attracts certain restrictions or expectations) and their personal role as a local party politician.

There are two overarching key principles which Police and Crime Commissioners should bear in mind (noting, as mentioned above, that they apply at all times and not just in periods of purdah):

- A The Code of Practice on Local Authority Resources prevents the use of public resources for party political purposes, which includes both the staff of the PCC and force, and the facilities and equipment of the OPCC/force (the Cabinet Office Guidance at **Annex B** also contains some helpful pointers to what might be considered inappropriate use of public resources);
- B PCCs should also be careful not give the impression that the local police support a particular party, or use information about the police force in supporting local candidates which is not publicly available.

4. Use of Public Resources

General points about the use of public resources include:

- i. Even where staff are not politically restricted the Police and Crime Commissioner cannot use their services for party political purposes while in they are in the office;
- ii. Facilities which cannot be used for party political purposes include the use of rooms, buildings, IT equipment, telephones, etc., which belong to the OPCC or force;
- iii. Police and Crime Commissioners will want to be particularly careful in their use of social media, such as Facebook and Twitter accounts which are held in the name of the OPCC or force, to avoid inappropriate use, such as tweeting, retweeting or 'liking/favouriting' party political material.
- iv. The Police and Crime Commissioner should not invite politicians to use events or other forums, which the PCC has organised in their official capacity, for election campaigning or other party political purposes. It is acknowledged that, if a local politician decides to turn up at official PCC event and act in a party political way, this might be beyond the control of the Police and Crime Commissioner, but where this is the case, the PCC should try to mitigate the problem to prevent the use of public resources for party political gain;
- v. Police and Crime Commissioners cannot claim travel or other expenses for party political business;
- vi. All public information about policing should be available equally to all candidates. However, if the Police and Crime Commissioner wishes to provide advice to candidates they personally support, they may only use their staff for factual checking of material (not production, reproduction or distribution), provided the information is already in the public domain.

5. Police Information and Force Neutrality

In relation to general points about use of police information and avoiding an impression that the force supports a particular party:

- i. Police and Crime Commissioners can communicate on a political and partial basis with local politicians in a personal capacity, but should not use information which is restricted, privileged or has come to them only by virtue of their office and is not publically available, in briefing and supporting candidates.
- ii. Police and Crime Commissioners should ensure that the views expressed in supporting political candidates are clearly expressed as their own, and not presented as the view of either their public office or their force.
- iii. Police and Crime Commissioners will wish to be particularly cautious around publicity photos which might risk involving the force in campaign and political material. In as far as possible, PCCs should ensure this is in a private capacity, and not in an official capacity. This will assist in avoiding any impression that the PCC is using public resources (such as OPCC or force insignia or branding) to support a party political position, or that the force supports a particular party. It is acknowledged that this can be difficult as Police and Crime Commissioners will not always know in advance who is going to be present at events they are attending, or if the media is going to be present/taking photographs, but they should consider with care the messages a photo might give in a particular context.

6. Business as Usual

As mentioned above, it is expected that the business of the Police and Crime Commissioner will continue as usual, although PCCs may wish to exercise extra care in how they act during purdah, in addition to ensuring that the force and public office of the PCC do not support a particular party or seek to influence the outcome of the elections in going about normal business. It is also good practice not to announce significant **new** policies or plans (provided that deferring a decision is not detrimental to the public interest or wasteful of public money). This does **not** mean that Police and Crime Commissioners cannot pursue existing policies and plans, including engagement events to take these forward, or publicising services and plans which have been previously announced, provided it is clear that the Police and Crime Commissioner is taking this forward in an official capacity, and not using these events or publicity for party political purposes. As a result, Police and Crime Commissioners will wish to consider if they should defer **new announcements** to avoid the purdah period.

7. Offices of Police and Crime Commissioners

The Cabinet Office regularly produces guidance for civil servants ahead of national elections and referenda, which can help provide guidance for the staff of Police and Crime Commissioners where there is no specific local guidance about pre-election periods. However, many offices will have their own and, as noted earlier, APACE regularly prepares guidance for Monitoring Officers. Although OPCC and equivalent staff are not generally subject to the Civil Service Code (with some exceptions), the key principles for handling a pre-election period will be much the same as those set out in the Cabinet Office guidance.

The majority of OPCC staff are politically restricted. The exceptions to this are the Deputy PCC and those staff that transferred from the police authority, if their role was not politically restricted at the time of transfer and their role/terms and conditions of employment have not been subsequently changed (*see S20(2), Schedule 15, Police Reform and Social Responsibility Act 2011*).

For the avoidance of doubt, holders of politically restricted posts are prevented from:

- Standing as a member of—
 - (a) the House of Commons; or
 - (b) the European Parliament; or
 - (c) a local authority¹.
- Acting as an election agent or sub-agent for a candidate for Parliament, European Parliament or a local authority.
- Being an officer of a political party, or of any branch of such a party, or a member of any committee or sub-committee of such a party or branch if his/her duties as such an officer or member would be likely to require him/her—
 - (a) to participate in the general management of the party or the branch; or
 - (b) to act on behalf of the party or branch in dealings with persons other than members of the party or members of another political party associated with the party.
- Canvassing on behalf of a political party or on behalf of a person who is, or proposes to be, a candidate for election to Parliament, European Parliament or a local authority.
(*see the Local Government Officers (Political Restrictions) Regulations 1990 (SI 1990 No 851)*)

¹ Local Authority (defined in s 21 of the Local Government & Housing Act 1989) does not include a Parish Council

Members of the OPCC who are not politically restricted, can undertake the above activities in a **personal capacity** – but would be unable to use public resources (including the resources of the OPCC/force), or use their status as an employee of the OPCC to seek to influence the outcome of an election.

8. Timing

The rules on the start date for purdah can differ, with local elections generally following different rules to national elections – however the purdah period for government organisations in relation to the general election will start at midnight on 21 April 2017, although many areas will already be observing a purdah period in relation to the local elections taking place on 4 May 2017. It is worth noting that during years in which a general election is being held there will likely be heightened sensitivity surrounding all elections, meaning Police and Crime Commissioners may wish to err on the side of caution. The purdah period ends when the election is completed, although the exact meaning of this can vary with different elections; in the case of general elections, the purdah period ends when a new Government is formed.

9. Further Guidance

The Chief Executives of the OPCC should be able to provide further detailed guidance in their capacity of Monitoring Officer, and if in doubt, it is suggested that Police and Crime Commissioners may wish to consult them. As noted earlier APACE regularly produces further detailed guidance for Monitoring Officers.

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