

Birmingham City Council

Council Business Management Committee

18 January 2021



Subject: Meetings in the Pre-Election Period
Report of: Suzanne Dodd, City Solicitor
Report author: Emma Williamson, Head of Scrutiny Services

Does the report contain confidential or exempt information? Yes No

1 Executive Summary

1.1 For members to consider how to proceed with Council meetings that will take place in the pre-election period in 2021.

2 Recommendations

2.1 The Committee is asked to agree that

- During the pre-election period in 2021, those regulatory committee meetings which are quasi-judicial in nature (Planning, Licensing) continue to be held to ensure the timely consideration of applications;
- Other meetings shall only take place in accordance with a decision by the Monitoring Officer, in consultation with the Chair of the Committee in question, taking account of the Code of Recommended Practice on Local Authority Publicity and the nature of the business involved;
- That advice is circulated to all Councillors to remind Councillors about the guidelines and restrictions on publicity during the pre-election period.

3 Background

3.1 Elections for the Elected Mayor of the West Midlands, the West Midlands and Police and Crime Commissioner, plus byelections for the City Council, are scheduled to take place on 6th May 2021.

3.2 The pre-election period is the time between the notice of an election and the election itself. It typically begins six weeks before the scheduled election. For these elections it has been agreed across the local authorities that make up the West Midlands area, that it will be from 22nd March to the close of poll on 6 May 2021.

- 3.3 Activities during the pre-election period are governed by the Recommended Code Practice on Local Authority Publicity. The Code is attached at Appendix 1 to this report.
- 3.4 The Local Government Association publication entitled 'A Short Guide to Publicity During the Pre-Election Period', is attached at Appendix 2, which reflects the Code as at November 2019. An updated version will be produced ahead of the 2021 elections.

4 Key Principles

- 4.1 These documents define publicity and what authorities should not do. They also confirm that Councils are allowed to continue discharging normal council business (including budget consultations or determining planning applications even if they are controversial) during the pre-election period. However, the Council must also balance that in the run-up to any election it is likely that even "business as usual" will become increasingly politicised. There may be factors which could limit the decisions to be taken or meetings to be held.
- 4.2 The key principles are:
- The Council retains its responsibilities during the pre-election period, therefore essential business must continue. However, during this period, the Council cannot publish material that appears to be designed to affect public support for a political party.
 - The Council cannot publish on controversial issues or report views or proposals in such a way that identifies it with any individual members or groups of members.
 - The Council cannot issue any publicity that seeks to influence voters.
 - Publicity is defined very widely as "any communication, in whatever form, addressed to the public at large or to a section of the public". This includes speeches, leaflets and newspaper articles issued by or on behalf of the Council.
- 4.3 Member must not use Council resources or issue any publicity that could be construed as an attempt to influence the outcome of any elections in anyway.

5 Options and Recommendations

- 5.1 The meetings scheduled for the pre-election period are set out in Appendix 3. In broad terms, there are three options:
- a) Continue with all meetings as scheduled;
 - b) Consider each meeting and decision based on their remit and purpose, determining whether it is appropriate
 - c) Cancel all meetings to avoid any impression of political support.
- 5.2 Neither the first nor the last of these options would fully accord with the Code. Option a) would not allow the consideration of the impact on the Council's reputation during what is a period of heightened sensitivity. Option c) would potentially lead to a delay

in decision making or the invoking of the relevant urgency procedures to ensure that decisions were made.

- 5.3 The recommended approach is therefore option b): the council meetings should continue in order to discharge normal council business as far as possible. However for practical reasons, and so that meetings are not used as a political platform, each meeting and agenda item should be assessed by the Chair and Monitoring Officer. They will determine whether meetings should be convened, taking account of the guidance and the nature of the business involved.
- 5.4 The consideration will include whether matters / decisions proposed may potentially be seen as supporting a particular political party or candidate) and whether it may be appropriate to defer a decision if that might reasonably be the case. Other relevant factors may be:
- Legal/financial/risk implications of delay;
 - Statutory requirements;
 - Reputational implications;
 - Implications for care of residents including vulnerable people;
 - Economic Impact.
- 5.5 In general terms, this would mean:
- All Planning and Licensing application meetings would proceed, as these are quasi-judicial in nature and should continue to be held to ensure the timely consideration of applications;
 - Cabinet would continue as business as usual except where there are items that could give rise to the perception that council resources are being used to influence voters, and so decisions would be subject to the test set out above;
 - O&S meetings are generally considered business as usual except where there are items that could give rise to the perception that council resources are being used to influence voters, and therefore each agenda item would be subject to the test set out above;
 - Audit Committee would be considered on the same basis;
 - Local Covid Outbreak Engagement Board would continue as business as usual;
 - Ward forums would proceed only following advice from the Monitoring Officer.
- 5.6 The final decision whether a meeting should continue will lie with the Monitoring Officer.

Full Council

- 5.7 There is one Full Council meeting scheduled to take place in the pre-election period (PEP). The December 2019 Full Council meeting was cancelled as it fell in the PEP for the General Election. In 2018, prior to the “all-out” local elections, Full Council was moved to March to avoid the PEP. Prior to both the last Police and Crime Commissioner elections (2016) and the Elected Mayor elections (2017) the Full

Council meeting went ahead in the PEP. In previous years, Full Council has gone ahead in the PEP.

5.8 The forward plan for the April Full Council meeting currently includes:

- Scrutiny Business Report (focusing on the Scrutiny Framework);
- Scrutiny Inquiry: Infant Mortality (Health and Social Care);
- Scrutiny Inquiry: Property Assets (Economy & Skills) – may be deferred;
- Annual Report of the Independent Remuneration Panel.

5.9 If the meeting were to be moved from April to March 2021, then the options would be:

- Monday 21st March – the day before the start of the PEP;
- Tuesday 16th March – Cabinet is scheduled in the morning, and a Health & Wellbeing Board meeting in the afternoon would need to be rescheduled;
- Tuesday 9th March – there are no clashes but bringing forward by over a month could cause difficulties in completing the Scrutiny reports.

5.10 Given that there is nothing that seems politically contentious on the agenda, and the difficulties in finding a new date, it is therefore proposed that Full Council remain on 13th April, with groups and members given clear guidance on the requirements.