

POLICE AND CRIME COMMISSIONER (PCC) ELECTION – 5 MAY 2016

ELECTION GUIDANCE

To: Police Officers and Police Staff of Suffolk Constabulary and the Office of the Police and Crime Commissioner

1. INTRODUCTION

- 1.1 On 5 May 2016 elections will take place in 41 police areas (including Suffolk) in England and Wales to elect Police and Crime Commissioners (PCCs) – one for each police area. A Police Area Returning Officer (PARO) has been appointed for each police area. They will have the responsibility for the conduct of the PCC elections.
- 1.2 This guidance, prepared by the Temporary Chief Constable and Chief Executive of the Office of the Police and Crime Commissioner, offers advice to a range of individuals concerning engagement with PCC candidates. It seeks to set out how engagement with candidates can be conducted with a view to working in partnership with candidates to give them what they need to know about the policing area of Suffolk.
- 1.3 The general convention within central government is that particular care should be taken over engagement with candidates in the pre-election period, which is likely to be 21-28 days before the elections. However, care needs to be taken from now onwards as candidates begin to be officially announced.
- 1.4 In general terms there are two essential principles that need to be the test for guiding contact with candidates:
- does any activity involved in contact with candidates appear to (or actually) favour one candidate against another, whether in terms of information or public profile or;
 - particularly during the pre-election period, is any activity by The Temporary Chief Constable, Constabulary or Office of the Police and Crime Commissioner likely to affect or influence the outcome of the election.
- 1.5 Further general principles that are applicable are as follows:
- particular care should be taken by the Constabulary, Office of the Police and Crime Commissioner, police officers and police staff, over the perception of official support, and the use of public resources, including publicity, for official announcements which could have a bearing on matters relevant to the elections;
 - care should be taken in relation to visits by candidates to Constabulary or Office of the Police and Crime Commissioner premises especially those who are accompanied by police officers and police staff;

- special care should be taken in respect of Constabulary or Office of the Police and Crime Commissioner publicity campaigns to ensure that publicity is not open to the criticism that it is being undertaken for party political purposes, or to support the position or manifesto of a particular candidate;
- there should be even-handedness in meeting information requests from candidates; each candidate should receive the same level of detail and right of access to police officers and police staff of both the Constabulary and the Office of the Police and Crime Commissioner;
- action should not be taken to do something for one candidate that you would not, or could not, undertake to do for another.

In short it is essential that the actions of police officers and staff should not only be completely impartial towards candidates but be seen to be completely impartial.

2. **GUIDANCE TO POLICE OFFICERS AND POLICE STAFF**

2.1 Interaction with candidates:

Candidates may ask to meet with officers and police staff. There is no duty on officers and staff to treat candidates as elected representatives, such as actively keeping them updated on matters of interest. However all officers and staff should use their discretion and be responsive to reasonable requests from candidates. In doing this officers and staff should remember that:

- a candidate is not an elected representative and there is no duty to treat them as such;
- officers and staff cannot assume that a particular candidate is likely to win the election;
- agreeing to regular meetings with one candidate would necessitate meeting with all candidates in the same way.

Officers and police staff should maintain a record of any meetings that are held with candidates.

It is possible that a candidate may be a former colleague. If this is the case then caution must be exercised to ensure that no candidate appears to be given preferential treatment.

2.2 Correspondence from candidates and handling requests for information:

Where it is apparent that an information request is from someone who wishes to be elected as the PCC (or in furtherance of a candidacy) the response will be provided by the Temporary Chief Constable or the Chief Executive of the Office of the Police and Crime Commissioner (as determined by them), regardless of where the question is directed. This is to ensure consistency and minimise the risk of it being suggested that officers, staff and members have become involved in the election process in some way.

The procedure will be as follows:

- if the request is made to the Constabulary it will be passed to the nominated single point of contact (SPOC) for the Constabulary. This is the Temporary Deputy Chief Constable;
- the Temporary Deputy Chief Constable will notify the Chief Executive and pass him a copy of the request;
- if the request is made to the members or staff of the Office of the Police and Crime Commissioner it will be passed to the Chief Executive and Temporary Deputy Chief Constable;
- the Chief Executive will maintain a log of all requests;
- the Temporary Chief Constable and Chief Executive will determine the nature of the responses to requests;
- responses, together with the associated requests, will be posted on the Office of the Police and Crime Commissioner's website;
- the publication of the request and the response will not be attributable to the person making the request.

This procedure is not intended to prevent a police officer or members of police staff from responding in public to a question posed to them by a candidate.

Where it is clear that a candidate's request for information is a Freedom of Information Act request it must be handled in accordance with the Freedom of Information Act 2000. The Act requires public authorities to respond to requests promptly and in any event not later than 20 working days after the date of receipt. Where it is clear that it will not be possible to provide a quick response, the candidate should be given the opportunity to refine the request if they wish so that it can be responded to more quickly. The content of any response provided to a candidate under the Freedom of Information Act will be posted on the Office of the Police and Crime Commissioner's website together with the request. Again the request and response will not be attributable to the person making the request. Accordingly all such responses must be provided to the Chief Executive for posting on the Office of the Police and Crime Commissioner's website.

2.3 Requests for fact finding/media visits:

Candidates may wish to make official visits to police stations and Safer Neighbourhood Teams. Requests for such visits that are for the purpose of fact finding and receiving briefings will be regarded as reasonable requests. However visits purely intended to generate publicity for the candidate will not be regarded as reasonable. Constabulary and Office of the Police and Crime Commissioner support must not be given to visits and events with a party political or campaigning purpose, nor should potential candidates who hold positions within either the Constabulary or Office of the Police and Crime Commissioner be afforded privileged information or access to information which they would not normally have access to. In cases of doubt guidance should be sought from the Chief Executive and Temporary Chief Constable. In any event all requests from candidates to visit police premises should be notified to the Chief Executive and Temporary Deputy Chief Constable for information purposes.

2.4 Use of police images and livery:

Elected representatives and candidates for public office have, in the past, wished to be photographed or filmed with police officers on visits or at events. The imagery and livery of the Constabulary or Office of the Police and Crime Commissioner must not be used in any political material. If such imagery and livery is used by a candidate in such a way, the Temporary Chief Constable and Chief Executive will determine the course to be taken to address removal or withdrawal of the material. It will be made clear to candidates that they do not have permission to use any pre-existing photographs or publicity involving officers or staff in their campaign publicity.

2.5 Communication and media:

When dealing with statements, press releases and other information in the public domain from parties or candidates the following approach will be taken. Where claims are made based on factually incorrect information or misunderstanding that would seriously undermine confidence in policing the Temporary Chief Constable and Chief Executive will determine on a case by case basis whether, and if so how, any factual inaccuracies or misunderstandings will be corrected.

It is acceptable (even during an election campaign) for candidates to be filmed or photographed with police officers by the news media. However any police officer or member of police staff must be asked if they are content to be photographed or filmed and they have the right to refuse. In most circumstances it would not be acceptable to agree to be photographed or filmed with candidates, or candidate supporters who are displaying campaign rosettes, posters etc.

2.6 Commenting publicly before and during the pre-election period:

Police officers and police staff should not offer political opinions, nor make any statements that do not reflect the organisation's policy or could cause controversy for the organisation.

Police Officers –

Police officers must comply with organisational principles and expected standards of behaviour that are set out in the Police Regulations 2003, the Standards of Professional Behaviour and the Police and Crime Commissioner Elections Order 2012.

Paragraph 1 of Schedule 1 to the Police Regulations 2003 provides:

- (1) *“A member of a police force shall at all times abstain from any activity which is likely to interfere with the impartial discharge of his duties or which is likely to give rise to the impression amongst members of the public that it may so interfere.*
- (2) *A member of a Police Force shall in particular – (a) not take any active part in politics;”*

The Standards of Professional Behaviour at Schedule 2 to the Police (Conduct) Regulations 2012, which set out the standards expected of police officers, includes a number of provisions which are relevant to pre-election matters, for example, honesty and integrity, authority, respect and courtesy and equality and diversity.

Article 60 (1) of the Police and Crime Commissioner Elections Order 2012 makes it a criminal offence for a police officer to *“by word, message, writing or in any other*

manner, endeavour to persuade any person to give, or dissuade any person from giving, his or her vote, whether as an elector or as proxy at a PCC election”.

Previous advice received from the Home Office has stated:

“Essentially these provisions mean... that no police officer (including of course Chief Constables) should make any statement or take any action that could:

1. ***Be seen as encouraging anyone to vote*** or not to vote. This could include saying things such as “it is important you have your say on [the date of the election] or giving information as to how to, or where to, vote.
2. ***Be seen as supporting one candidate*** over another. This could include refusing to brief a specific candidate where others have been, or being seen to be giving one candidate preferential treatment. So, for example, if a Chief Constable is offering briefing to one candidate, they need to ensure that the same offer is made to all candidates, so none of them are disadvantaged.
3. ***Be seen as supporting or attacking any point of view that may form the basis of a candidate’s campaign.*** Whilst the police are, of course, entitled to set out their achievements, opinions as to controversial matters are best avoided. For example, a statement that policing can only be done in a certain way, or under certain circumstances could be seen as encouraging people to vote for candidates that support that view, or discouraging a vote for candidates that do not.
4. ***Be seen as attacking a candidate.*** Candidates may make statements with which the force does not agree, or that may actually be factually inaccurate. I would strongly urge against becoming embroiled in debates between candidates, and would suggest that factual inaccuracies are only corrected when the mistake could be damaging to confidence in policing.....Specific candidates should never be referred to by name or otherwise, in any communications from police.

An important point to make, however, is that this should not affect the usual business of policing. Chief Constables must continue to lead the police service to protect the public. In the course of formal business arrests will be made, investigations will be started and concluded and there will be engagement with the media. I cannot stress too much that you should not feel that your operational decisions should in anyway be affected by the impending election.”

Police Staff -

With regard to police staff some staff hold “politically restricted posts” under the Local Government and Housing Act 1989. Staff are referred to the Constabulary policy on Politically Restricted Posts. The posts that are affected are explained in the Policy. Further, politically restricted posts are listed by the Joint Director of Human Resources for Constabulary police staff and by the Chief Executive for staff in Office of the Police and Crime Commissioner. Inquiries as to which posts are politically restricted should be made direct to the Joint Director of Human Resources and the Chief Executive. The restrictions place limitations upon the ability of the postholders to stand for elected office and undertake political activities. This includes holding

office in a political party, acting as an election agent and giving interviews, canvassing at elections, speaking in public or publishing written material in a manner that appears to be aimed at affecting public support for a political party. These restrictions do not apply to the employee's family and do not prevent members of staff from, for example, displaying an election poster in the window of their home (unless it is a police property) or attending a fundraising event.

A member of police staff cannot be a PCC so that should a member of police staff wish to stand for election they will need to resign their employment by the date they need to formally declare their candidature.

2.7 Records in the Pre-election Period

Police officers and police staff must maintain a clear record of all their dealings with candidates.

3. CODE OF RECOMMENDED PRACTICE ON LOCAL AUTHORITY PUBLICITY

- 3.1 There is statutory guidance for local authorities about publicity during the Pre-election period. The Code of Recommended Practice on Local Authority Publicity is issued under Section 4 of the Local Government Act 1986 – the Constabulary and Office of the Police and Crime Commissioner must have regard to it.

Paragraphs 34 and 35 of the Code are of particular relevance:

“During the period between the notice of an election and the election itself, local authorities should not publish any publicity on controversial issues or report views or proposals in such a way that identifies them with any individual members or groups of members. Publicity relating to individuals involved directly in the election should not be published by local authorities during this period unless expressly authorised by or under statute. It is permissible for local authorities to publish factual information which identifies the names, wards and parties of candidates at elections.

In general, local authorities should not issue any publicity which seeks to influence voters”.

- 3.2 Once the formal pre-election period commences the following precautions will apply:

- the Constabulary and Office of the Police and Crime Commissioner websites will only contain factual information;
- publicity and documents which appear to promote the Office of the Police and Crime Commissioner and Constabulary should not be published unless they are operationally or legally necessary.

4. **CLARIFICATION**

- 4.1 The guidance will be reviewed as developments take place in the lead up to the elections in May 2016.
- 4.2 Should there be any queries about the application of this guidance then the matter should be referred to the Chief Executive and Temporary Chief Constable.

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