

Pre-Referendum Publicity Guidance

Report by Kenneth Lawrie, Chief Executive

1 Purpose of Report

This report invites the Council to approve guidance on publicity in the approach to the Independence Referendum on 18 September 2014.

2 Background

- 2.1 On 5 November 2013, the Council approved updated Pre-Election Period Guidance. This guidance was designed to cover referendums as well as elections.
- 2.2 In February 2014, the Convention of Scottish Local Authorities produced draft generic guidance for Councils to address the issues of publicity, the use of Council facilities and staff involvement specifically in regard to the Referendum process.
- 2.3 The CoSLA guidance is not inconsistent with the Pre-Election Period Guidance previously approved by the Council. It is considered however that it would be useful to update that guidance to reflect the specific issues raised by the Independence Referendum and the terms of the Scottish Independence Referendum Act 2013. This amended guidance has now been prepared and is attached hereto (**Appendix 1**)

3 Scottish Independence Referendum Act 2013.

- 3.1 As stated above, the generic CoSLA guidance is not inconsistent with the Council's existing guidance but there are a number of issues raised specifically by the Scottish Independence Referendum Act 2013 which have been incorporated into **Appendix 1** and which members are invited to note.
- 3.2 The Scottish Independence Referendum Act 2013 only permits donations to be made to participants in the referendum from "permissible donors". The Council is not listed in the Act as a permissible donor and therefore cannot give assistance in cash or in kind to participants. This embargo includes the provision, otherwise than on commercial terms, of any property, services or facilities and applies even if these would have been made available to all campaigners on an equal basis.
- 3.3 The only exception to this rule is that bodies which have been appointed as "designated organisations" by the Electoral Commission may use suitable rooms within schools and other public meeting rooms maintained by the Council for meetings free of charge but subject to expenses for the period from 21 August 2014 to 17 September 2014.

The Council is required to draw up a list of such rooms and they should be made available on a first come first served basis. This requirement is the same as the requirement under the Representation of the People Act 1973 for UK parliamentary elections.

- 3.4** In terms of the Scottish Independence Referendum Act 2013, no Scottish local authority may, in the period from 21 August to 18 September 2014, publish any material which:

- (a) provides general information about the referendum;
- (b) deals with any of the issues raised by the referendum question;
- (c) puts any arguments for or against any outcome, and
- (d) is designed to encourage voting at the referendum.

This prohibition is in addition to the general prohibition against political activity in the Local Government act 1986 which will continue to apply during the pre referendum period.

- 3.5** The Chief Counting Officer has produced a guide entitled “Information for Campaigners on the referendum process”. This guide is also attached hereto (**Appendix 2**) and members are referred to it for information.

4 Report Implications

4.1 Resource

There are no financial or human resource implications in this report.

4.2 Risk

There are no risks arising from this report.

4.3 Single Midlothian Plan and Business Transformation

Themes addressed in this report:

- ☐ Community safety
- ☐ Adult health, care and housing
- ☐ Getting it right for every Midlothian child
- ☐ Improving opportunities in Midlothian
- ☐ Sustainable growth
- ☐ Business transformation and Best Value
- ✓ ☐ None of the above

4.4 Impact on Performance and Outcomes

Approval of the guidance will enhance the Council’s governance arrangements and thereby help to achieve best value.

4.5 Adopting a Preventative Approach

Having approved guidance will provide certainty for Council staff in their actions and prevent dispute thereby ensuring internal resources are used in a more efficient and effective manner.

4.6 Involving Communities and Other Stakeholders

The generic CoSLA guidance has been used to help formulate the proposed Midlothian Council guidance

4.7 Ensuring Equalities

An EqIA is not required

4.8 Supporting Sustainable Development

This report does not contribute to sustainable development

4.9 IT Issues

There are no IT implications arising from the report

5 Recommendations

The Council is invited to:-

- (a) approve the Pre- Referendum Guidance shown at **Appendix 1** ;
and
- (b) Note the terms of the Chief Counting Officer's guidance shown at **Appendix 2.**

Date

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Background Papers: