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**From:** Jones Simon [REDACTED]  
**Sent:** 03 May 2013 15:12  
**To:** [REDACTED]  
**Subject:** Publicity Code Consultation - response from Hammersmith & Fulham Council  
**Attachments:** Response Publicity Code Consultation.doc

Please find attached our response. If you require responses to be submitted in any other way please let me know.

Regards,  
Simon

Simon Jones  
Director of Communications, Policy & Performance  
London Borough of Hammersmith & Fulham  
[REDACTED]

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## DCLG Publicity Code Consultation

### Response from Hammersmith & Fulham Council

**Views on the proposed legislation are invited, and in particular do consultees see the proposals as fully delivering the commitment to give greater force to the Publicity Code by putting compliance on a statutory basis?**

Much of the code is subjective and, in its current form, statutory enforcement would be highly problematic unless the wording is substantially tightened.

H&F agrees behind the principle that all communications should meet a value for money test. Over the past six years the cost of communications in the borough had halved whilst still ensuring that our residents are kept informed about services and opportunities.

We also understand and respect DCLG's desire to limit publications that look or feel like a commercial newspaper to four times a year. H&F ceased publication of our fortnightly newspaper following implementation of the code in April 2010.

However, we are concerned that a wider interpretation of the Code could restrict all types of publications and communications regardless of their merits.

We would like to see inclusion of specific acknowledgement that keeping local taxpayers and the wider public informed of the council's services and its views and policies, is an irreducible essential of local democracy.

We would also like to see specific mention of what is allowed by way of speaking publicly on behalf of local people on local issues – i.e. that the council has a community leadership role and a duty to promote economic and social well-being, which may include promoting the local business community and speaking on contentious issues.

The wider responsibilities and objectives now imparted to local authorities (community budgets, public health, incentives to encourage economic growth through localisation of NNDR) require a gear shift in communications, with much more targeted, intelligent engagement on wide ranging social and economic issues, beyond the direct provision of council services. The fear is that the Code, if interpreted in its purest form, could stifle the ability of local authorities to connect with their communities, breaking down barriers and improving access to services. Could 'imitating a commercial newspaper in style or tone' prevent such innovation through the intention to use methods that stimulate community interest?

An example of this is the Team White City, a flagship neighbourhood budget designed to improve economic chances, health and wellbeing and create new opportunities in a deprived area.. Part of the approach includes the development of a local community fanzine to promote local case studies of residents succeeding in areas we are trying to promote, thus encouraging other residents to follow in their footsteps. The publication has an outcome-focused framework around getting people into work, improving health chances and increasing community responsibility. We may seek to emulate a commercial publication, but only through the intention of effectively promoting services that improve the lives of our residents. Would such a publication count as one of the four we are allowed to produce every year? If this is the case it will severely impact on our ability to improve the life chances of communities in deprived areas.

We are also concerned about the subjective nature of the code which could see DCLG burdened with thousands of complaints about everyday communications issues.

For example, the code also says that publicity on policies should not be designed to influence public opinion on matters of policy. This is such a broad, sweeping statement that any quote from a Cabinet Member explaining a policy could be seen to be influencing opinion. We do not believe this is the intention of the Code, but could be interpreted as such.

We also believe not enough thought has been given to the desire to broaden communications to include the campaigns of individual councillors. Whilst the principle is admirable, the implementation is impractical. Councils like H&F have finite resources for communications and it is quite right that these resources are focused on promoting the services of the administration that has been duly elected. If this is enacted it would likely see communications teams deluged with such requests, making the enforcement highly costly and unwieldy. Requiring local authorities to publicise the work of individual ward members could also conflict with overriding obligations under Section 2 of the Local Government Act 1986.

In conclusion, while we welcome some elements of the code, we are concerned that the broad, subjective nature of the code could serve to unnecessarily restrict local government communications from connecting with communities, improving lives and stimulating our local economies at the very same time as our responsibilities are growing and becoming more complex. We cannot believe that this is the intention of DCLG, but more thought has to be given to narrowing the definition the Code to ensure this does not happen or looking at alternatives to statutory enforcement.

In addition, the proposal runs directly counter to DCLG's professed objective of Localism, defined in the Department's own Structural Reform Plan as being "to free local government from central control, including guidance, rules and funding mechanisms imposed by central departments".

Where an authority completely disregards the Publicity Code, it is already open to judicial review and audit challenge by local residents or local newspapers, which is consistent with the Secretary of State's view that local authorities should be accountable locally. So, a central power of enforcement is unnecessary.

**If there is alternative to the power of direction, how will this meet the aim of improved enforcement of the code?**

It should be noted that there are already ample safeguards already in place:

- (a) Paid-for advertising must comply with the Advertising Standards Authority's Advertising Codes.
- (b) Part 3 of the Communications Act 2003 prohibits political advertising on television or radio. Local authorities must ensure that their publicity does not breach these restrictions.
- (c) Section 125 of the Political Parties, Elections and Referendums Act 2000 places a specific restriction on the publication by a local authority of material relating to a referendum under Part 7 of that Act, during the period of 28 days immediately before the referendum is held.
- (d) Regulation 5 of the Local Authorities (Conduct of Referendums) (England) Regulations 2007 (S.I. 2007/2089) prohibits local authorities from publishing material in the 28 days immediately before a referendum which expresses support for, or opposition to a particular answer to a referendum question relating to the constitutional arrangements of the authority.
- (e) Regulation 15 of the Local Authorities (Referendums, Petitions and Directions) (England) Regulations 2000 (S.I. 2000/2852) prohibits local authorities from incurring expenditure to publish material which appears designed to influence people in deciding whether or not to sign a petition relating to the constitutional arrangements of the authority, or to assist others to publish such material

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**This consultation invites evidence of the circumstances where the code was not met and the implications of this on competition in local media**

It should be noted that only a tiny minority of local authorities are ignoring the substantive elements of the code in continuing to produce weekly or fortnightly magazines or newspapers. This therefore calls into question the need of statutory compliance which may only serve to place unnecessary restrictions on local government.