

THE LOCAL GOVERNMENT ACT 1986

NOTICE UNDER SECTION 4A(5)

On 16 April 2014 the Secretary of State gave the local authority known as the London Borough of Waltham Forest notice of a direction that he proposes to give to the authority under section 4A of the Local Government Act 1986 ("the 1986 Act").

Having carefully considered the representations received from the authority, and having regard to that and other information available to him about the local authority's publicity, the Secretary of State hereby gives further notice to the local authority known as the London Borough of Waltham Forest of a direction that he proposes to give to the authority under section 4A of the 1986 Act.

The Secretary of State proposes to direct the London Borough of Waltham Forest to comply as soon as practicable and in any event by no later than 1 January 2015 with the following specified provision of the Recommended Code of Local Authority Publicity ("the Publicity Code") issued under section 4 of the 1986 Act on 31 March 2011 having been approved by a resolution of each House of Parliament.

The specified provision is:

"Where local authorities do commission or publish newsletters, newssheets or similar communications, they should not issue them more frequently than quarterly."¹

The Secretary of State also proposes to direct the London Borough of Waltham Forest to consider the direction within 14 days and provide written confirmation to the Department for Communities and Local Government of that consideration.

The basis of the Secretary of State's proposal

In making this proposal the Secretary of State is clear that the Government's purpose is as far as is practicable to create an environment which is as conducive as possible to the flourishing of independent and politically free local media, which is an essential element of any effectively operating local democracy. It is to further this priority that the Government has adopted measures to limit the scale of local authority newssheets etc., recognising that on the one hand such material can be damaging to the continuation of local independent media and on the other hand can fulfil a legitimate and beneficial purpose for local communities of communicating to them information about local services. The balance which, with the approval of Parliament, the Publicity Code strikes is that the newssheets etc. of principal local authorities should be published no more frequently than quarterly. Moreover the Secretary of State recognises that the great majority of councils already publish their newssheets no more frequently than quarterly, notwithstanding the wide range of groups that display protected characteristics in the areas of many councils.

Information available to the Secretary of State indicates that the London Borough of Waltham Forest is publishing a local authority newssheet, 'Waltham Forest News', every fortnight; copies of the publication appear to be delivered to every household in the Borough. Such a publication would not comply with the provision in the Publicity Code that where local authorities do commission or publish newsletters,

¹ A provision in paragraph 28 (appropriate use of publicity) of the Publicity Code

newssheets or similar communications, they should not issue them more frequently than quarterly.

Officials at the London Borough of Waltham Forest wrote to the Secretary of State arguing that they published 'Waltham Forest News' 23 times a year as it was the most cost effective way for the Council to meet its duties in publishing statutory notices and other publicity. The Council argue that they are unaware of any credible evidence to support the assertion of unfair competition with local newspapers. They point to a steady decline in readership of the 'Waltham Forest Guardian' from December 2002 to December 2013 and argue that the trend of the newspaper losing readers each year was unaffected by the decision by the Council to increase the frequency of publication to 23 times a year from mid-2007. The Secretary of State's provisional view is that these arguments do not sufficiently outweigh the case for as far as practicable maintaining an environment as conducive as possible to the flourishing of an independent and politically free local media, which is an essential element of any effectively operating local democracy.

The London Borough of Waltham Forest has not drawn to the Secretary of State's attention any other special circumstances that could justify a departure from the frequency recommendations of the Publicity Code nor is the Secretary of State aware of such circumstances. Moreover, in any event, the Secretary of State considers it likely that were there to be any such circumstances, these would only justify one or two extra 'special' editions each year.

Public sector equality duty

In considering the impact of any direction on London Borough of Waltham Forest's public sector equality duty, the Secretary of State has noted that the Council consider that a proposed direction "would have a significant adverse effect on the Council's ability to communicate with all groups and, inter alia, promote good race relations, equality and diversity. It would thus make it harder for the Council to comply with its duties under section 149 Equality Act 2010, to when carrying out its functions have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations".

The Secretary of State recognises it may be the case, as the London Borough of Waltham Forest have commented, that some groups in the community that display particular protected characteristics, such as age, disability or religion/belief will less readily be able to obtain the information currently circulated in 'Waltham Forest News' and hence all other things being equal could be adversely impacted. However, the Secretary of State believes that it is open to a council having such protected groups to effectively communicate as necessary with them about the services and other matters which are the responsibility of the council without publishing newssheets more frequently than quarterly. The Secretary of State recognises that the great majority of councils already publish their newssheets no more frequently than quarterly, notwithstanding the wide range of groups that display protected characteristics in the areas of many councils. Moreover, even if there is an adverse impact the Secretary of State's provisional view is that the proposed Direction would be justified because of the Government's overriding policy of maintaining across the whole country an environment that is conducive as possible to the flourishing of the independent and politically free local media. Such media is

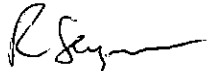
an essential element of any effectively operating local democracy and hence the pursuit of this policy is a high priority.

Representations on the Secretary of State's proposals

The London Borough of Waltham Forest may make written representations to the Secretary of State about the proposed direction within the period of 14 days beginning with the day on which this notice is given to it. The Council is invited to expressly consider their public sector equality duty. Representations received by the Department may be subject to a request under the Freedom of Information Act 2000. Under the Freedom of Information Act, there is a statutory Code of Practice with which public authorities must comply and we cannot give an assurance of confidentiality in all circumstances.

Any representations should be sent to the Department for Communities and Local Government at ConductCode@communities.gsi.gov.uk.

Signed by authority of the Secretary of State



R SEYMOUR

A senior civil servant in the Department for
Communities and Local Government

25 September 2014

