REVIEW OF THE COUNCIL'S APPROACH TO PRE-ELECTION PUBLICITY GUIDANCE

PLYMOUTH CITY COUNCIL

1. EXECUTIVE SUMMARY

This briefing summarises the external legal review of Plymouth City Council's guidance issued in relation to pre-election publicity during the pre-election period (the Guidance). The review was commissioned as part of the Action Plan implementation of Recommendation 5 of the Armada Way Independent Learning Review (AWILR), which identified that the Council's existing guidance was overly cautious and may have contributed to delays in decision-making.

2. BACKGROUND

Recommendation 5 the AWILR was for the Council to review the approach to the Pre-Election period. The Council's action plan which was reported alongside the AWILR report committed to the following:

> *"We will undertake a comprehensive review of the Council's approach to the pre-election period, drawing on experiences from recent years — including the learning from the Armada Way project. This review will assess how guidance has been applied in practice and identify opportunities to improve clarity, consistency, and proportionality.*
>
> *As part of this work, we will benchmark our pre-election guidance against that of other local authorities, with a particular focus on how they manage 'business as usual' decisions during the pre-election period.*
>
> *This will help ensure that our future guidance supports lawful, transparent decision-making while enabling the Council to continue delivering essential services and progressing key projects."*

In order for the review of the Guidance to be reviewed independently, a firm of external lawyers with Local Authority governance expertise were commissioned to undertake the review and report their recommendations to the Monitoring Officer.

A revised Guidance document has been produced based on the advice received and is included at Appendix B.

3. KEY FINDINGS

The review of the Guidance made the following findings:

- The current version of the Guidance is overly long and detailed, encouraging a culture of risk aversion among officers and Members
- The legal test under Section 2 of the Local Government Act 1986 is narrow: councils must not publish material that appears designed to influence public support for a political party. Routine decision-making is not prohibited.
- The statutory Code of Recommended Practice on Local Authority Publicity provides only limited restrictions during periods of heightened sensitivity, focusing on avoiding publicity about controversial issues and avoiding identifying political groups or individual Members in publicity material.
- Case law confirms that decision-making itself is not unlawful during a pre-election period; timing alone does not make a decision improper.
- The Council's current approach reflects a civil service model rather than the more permissive framework intended for local government.
- Publishing decisions required by law (e.g. planning, licensing) is explicitly allowed, even during the heightened sensitivity period as long as publicity remains factual and non-political.
- Certain activities such as webcasting of meetings, public access to agendas and reports, and statutory notices are excluded from the definition of publicity and can continue without restriction.
- The review emphasises that advice on borderline cases should rest with the Monitoring Officer, in consultation with the other statutory officers.

4. SUMMARY OF RECOMMENDATIONS

The report made a number of recommendations which have been reflected in the newly drafted Guidance. A summary of those recommendations are:

- Produce a much shorter, clearer pre-election guidance document that focuses strictly on legal requirements.
- Emphasise 'business as usual' decision-making, limiting only those decisions that are both controversial and unnecessary before the election.
- Adopt examples from the Local Government Association's annual national guide for consistency across the sector.
- Ensure officer quotes rather than Member quotes are used in factual media releases during the period.

- Provide concise communications to Members explaining the limitations on publicity, their freedom to act personally, and the continuing responsibilities of the Council.
- Reframe internal decision-making tests to consider whether publication could reasonably be deferred, rather than questioning whether work programmes should stop entirely.

5. CONCLUSIONS

The review concludes that the Council's existing approach is unnecessarily restrictive and risks delaying important decisions without a legal basis. A more proportionate, legally grounded guidance document will support transparency, enable key projects to continue, and ensure officers and Members are confident in managing the pre-election period appropriately.