

Further information regarding Publicity Expenditure

As an explanation of why the Publicity Return is required by schools please find detailed below the guidance to Local Authorities on the application of Section 5 on the Local Government 1986 regarding disclosure of publicity

Introduction

The Secretary of State, in exercise of the powers conferred on him, has made the Local Authorities (Publicity Account) (Exemption) Order 1987 and the Local Government Act 1986 (Commencement) Order 1987. The Commencement Order brings into force on 1 April 1988 section 5 of the Local Government Act 1986 ("the Act") which requires a local authority to keep a separate account of expenditure on publicity, which is to be available for public inspection.

Form of the Account

It is recommended that the Publicity Account should be operated as a memorandum account. This means that all relevant publicity costs would be charged direct to services as happens now - and any income credited - but they would also be separately identified at the input stage to allow them to be recorded in the memorandum account. Thus publicity costs would remain under the control of service managers and reflected as part of their service provision. The Publicity Account itself would not form a separate charge to the General Fund.

The institute encourages local authorities to segregate expenditure on staff recruitment within the Account because of its size in relation to all other publicity.

Publicity is defined in section 6(4) of the Act:

"Publicity", "publish" and "publication" refer to any communication, in whatever form, addressed to the public at large or to a section of the public.

Interpretation of the Exemptions

The exemptions are set out in Articles 3, 4, 5 and 6 of the Exemption Order and in the Schedule to the Order as applied by Article 7. The following interpretations are given for guidance.

Article 3 exempts certain expenditure on staff, equipment and supplies. Its effect is to avoid the need to record expenditure on items which are not easily divided between what is publicity expenditure, to be recorded in the Account, and what is not. It exempts any expenditure (even if it is publicity expenditure) which arises from the following four cases:

- a) if someone is employed partly (but not wholly or mainly) on work relating to publicity
- b) if someone is employed wholly or mainly on work relating to publicity which is itself exempt under Article 7
- c) if an item of account covers office equipment or supplies which is partly (but not wholly or mainly) for use for publicity purposes

- d) if an item of account covers office equipment or supplies which is wholly or mainly for use on publicity which is itself exempt under Article 7.

Article 4 exempts from the requirement to account assistance to be given to, for example, a voluntary organisation to use, among other things, on publicity provided that publicity is not the sole or main purpose of the grant.

Article 5 **has** the following effects:

- a) where a local authority (as principal) engages another local authority (as agent), to carry out on its behalf works or services which do not consist wholly or mainly of publicity, then any payment made by the principal authority under that agency does not have to be recorded in the Publicity Account of the principal authority. The agent authority must apply the provisions of the Order to enable it to determine whether any payments in relation to those works or services should be included in its Publicity Account. Payments for publicity which is incidental to works or services not wholly or mainly concerned with publicity would be exempt.
- b) where a "principal" authority engages an "agent" authority, or another person, to carry out works or services which consist wholly or mainly of publicity, then it is for the "principal" authority to record in its Publicity Account any payment that it makes for the publicity element of those works and services. It is also for an "agent" local authority to record in its **Publicity Account the expenditure which it incurs in undertaking the publicity** element of those works or services.

Article 6 is not applicable to Kent County Council.

Article 7 gives effect to a wide range of exemptions set out in **the Schedule to the Order** but it specifically excludes from those exemptions any publicity which:

- a) forms part of a campaign
- b) is a newspaper or periodical issued by or for the authority c)
is a press notice
- d) entails expenditure by way of assistance to enable another person to undertake an activity which consists wholly or mainly of publicity (for example a grant to conduct a publicity campaign)
- e) is concerned with the recruitment of staff

unless that publicity is exempt under Articles 3 to 6 of the order.

Descriptions of Exempt Publicity

1. Any notice, advertisement, plan or other document where a specific obligation to publish it is imposed on the local authority by or under any enactment.
2. Invitations to tender, or publicity connected with the manner in which tenders are to be invited.

3. Publicity promoting the use, or informing the public about the availability for use, of any building, amenity or facility which is wholly or partly provided or maintained by the local authority.
4. A guidebook, programme, or admission ticket to any such building, amenity or facility.
5. Publicity which has been approved by or on behalf of a chief officer of police for the area of the local authority, and which is issued for one or more of the following purposes -
 - a) to further human safety
 - b) to protect property
 - c) to assist in the prevention or detection of crime
 - d) to assist in the maintenance of law and order
 - e) to discourage the commission of offences.
6. Publicity which is issued for one or more of the following purposes -
 - a) to increase public awareness of the dangers of fire (either generally or in relation to specific fire hazards) or
 - b) to give practical information or advice on fire prevention, or on action to be taken in the event of fire.
7. A traffic sign required or permitted by or under Part V or VI of the Road Traffic Regulation Act 1984 or a signpost erected, placed or maintained along a footpath or bridleway pursuant to section 27 of the Countryside Act 1968.
8. Practical information or advice about road traffic conditions.
9. A name or number given or assigned to a building or buildings, street, way or place, and where a record of names and numbers is maintained, any information supplied as to the content of that record.
10. Publicity which is addressed to tenants of a dwelling owned or managed by the local authority, and which relates exclusively to one or more of the following matters -
 - a) the rent payable for a dwelling
 - b) the terms of a tenancy
 - c) consultation of tenants on a matter of housing management pursuant to section 105 of the Housing Act 1985
 - d) the exercise by the tenants of rights conferred by Part IV or V of that Act
 - e) repairing obligations under section 11 to 16 of the Landlord and Tenant Act 1985

11. Publicity which is issued in the course of the normal management and running of an educational establishment and which consists of -
 - a) information about courses or advisory services offered by that establishment
 - b) publicity produced by its pupils
 - c) a communication from any employee of an education authority, an administrator employed at the establishment, a member of its teaching staff, or its board of governors to -
 - i) any of its pupils
 - ii) any of its former pupils
 - iii) prospective pupils or any description of prospective pupils
 - iv) parents, guardians or persons having custody of persons described in i), ii) or iii).
12. Publicity designed to assist users or potential users to locate, make use of, or otherwise benefit from social services provided by the local authority.
13. Information about arrangements or the collection of waste.
14. Communications to current or former employees of the local authority about any matter arising out of their employment.
15. Communications to a beneficiaries or potential beneficiaries of a superannuation fund administered by the local authority about any matter arising out of entitlement to benefits.