



**THE CONTROLLER AND
AUDITOR-GENERAL**
Tumuaki o te Mana Arotake

**SUGGESTED GUIDELINES
FOR
ADVERTISING AND
PUBLICITY
BY
LOCAL AUTHORITIES**

July 1999

FOREWORD

On several occasions over the recent past the Audit Office has been called upon to express an opinion on the propriety of different kinds of advertising and publicity material paid for by local authorities. We assume that we were asked to do so as the auditor of all local authorities and, therefore, the source of an independent point of view. However, the Office's past involvement in matters of Government advertising and publicity paid for at public expense may also have been a contributing factor.

The cost of advertising and publicity has become an increasing expense for local authorities as the result of more extensive requirements for public information, consultation and other forms of accountability. Since some of the material produced at public expense is likely to be a continuing cause for dispute as to its propriety, local authorities may find helpful a statement of our views on the subject.

This statement may be helpful for two reasons:

- it provides independent guidance where none otherwise exists; and
- local authorities that follow the guidance can demonstrate that they are not operating entirely by their own, and arguably self-interested, rules.

The views set out in these *Suggested Guidelines* represent what we believe is a code of good practice. They are no more authoritative than that. Further, they are a guide rather than an operating manual. Local authorities will have to determine the practical application of the guidelines to particular situations.

This publication is a revised version of our suggested guidelines first published in May 1996.

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1 INTRODUCTION

101 The communication of information at public expense – with the probable exception of “public notices” and other advertisements in similar form – always has the potential to attract comment and criticism. This may in part be because, in the absence of unlimited space, choices have to be made about what information is to be communicated and how it is to be presented. The dilemma of the communicator is between:

- making the presentation attractive so that the audience will want to give their attention to the information, absorb it, understand it, and (if that is what is expected) act on it; and
- presenting accurate, complete, and fairly expressed information.

102 Choice, however, introduces judgment and subjectivity – both on the part of the communicator and in the assessment of the audience. As with any comparable situation, someone is always likely to disagree with the choices made. The skill required of the local authority communicator is to observe the relevant principles and apply the highest possible standards, and, importantly, to learn from experience.

Information or Propaganda?

103 The commonest complaint about an item of advertising or publicity to which someone takes exception is that its content is just “propaganda”. While such a view is inevitably subjective, and may be held genuinely, it is usually directed at material that conveys information about a policy (either proposed or adopted) and aims to explain what the policy means, or what it is intended to achieve, or the reasons for its adoption.

104 The defence to such a complaint, although the complainant may well not accept it, is to be able to demonstrate that the material meets acceptable standards. Guidance on standards for subject matter and content is given in paragraphs 401-403 and 501-516 respectively.

An Unequal Contest

105 Generally, private individuals and organisations can say what they like about a subject and publicise their position in any manner of their choosing. However, a local authority may regard some such publicity as unfair to it – especially if the material is considered to be factually incorrect or unbalanced or emotive – and want to respond in kind.

106 Such a feeling, although understandable, does not justify departing from appropriate principles and standards. Nevertheless, some response can be justified to put the record straight, including a measure of rebuttal. A balance ought to be maintained, however, and money should not be spent merely to

engage in a public argument. Making use of the news media through publication of a written statement is a practical means of response in such a situation.

Adopting a Formal Policy

107 We recommend that every local authority considers adopting a formal policy – framed to suit its particular needs – that:

- embraces these guidelines;
- provides clear direction on how the policy is to be applied in particular circumstances – such as those dealt with in paragraphs 205 and 705-706;
- includes direction on the circumstances in which the Council’s logo and any slogans can be used (especially by persons or groups outside the Council); and
- requires all parties involved in the authority’s advertising and publicity, both internal and external, to comply with the policy (see also paragraph 303).

2 PRINCIPLES

201 A local authority can be regarded as having a general obligation to ensure that those whom it represents and acts for are kept informed about what it is doing in their name. Further, because a local authority exercises power over individuals and groups in its community, it can be said to have an obligation to ensure that those people know how they are being affected by its actions, and what their rights and responsibilities are in relation to them.

202 Parliament has legislated for those obligations in a number of ways:

- In general terms, by stating that the purposes of local government are, among other things, to provide –
 - scope for communities to make choices between different kinds of local public facilities and services; and
 - for the effective participation of local persons in local government.¹
- In operational terms, by requiring every local authority to conduct its affairs so that –
 - its business is conducted in a manner that is comprehensible and open to the public; and
 - its local communities are adequately informed about the activities of the authority.²
- By making mandatory, in specified circumstances, such things as –
 - giving public notice;
 - following the special consultative procedure;
 - making a decision by special order;
 - allowing the public to attend meetings and be given meeting papers; and
 - acting on requests for official information.
- By giving local authorities the powers to disseminate material of the kinds specified in section 602(a) of the Local Government Act.³

¹ Local Government Act 1974, section 37K(d) and (i).

² Local Government Act 1974, section 223C(a) and (f).

³ "...handbooks, abstracts, or other publications containing information and matters of interest relative to the history, administration, and affairs of the district...and...information that is designed to educate, instruct, or inform the public concerning local government activities in the district or that has for its object the advancement or development of the district".

- 203 Consistent with its status as a creature of statute, a local authority must always act reasonably and responsibly and within the scope of its functions, duties and powers. It should also act at all times in the collective interests of its own ratepayers and other citizens of its district.
- 204 A local authority is a corporate entity that should be seen to be ‘speaking with one voice’. That is to say, most communications of information at public expense should represent the corporate or collective position. (The guidance in paragraphs 401-403 and 501-516 has been framed for application to such communications.) In some circumstances, however, a local authority may consider the communication of the personal position of its members to be warranted at authority expense. (The guidance in paragraphs 701-707 has been framed to apply to such communications.)
- 205 When the authority considers that information need not be presented as representing the corporate or collective position, the manner of its presentation should not create the appearance that what is being said represents the personal views of the people to whom the information is being attributed. Special care with presentation is required when attribution is to a spokesperson – commonly the mayor or authority chairperson or chairperson of the associated committee – particularly during the pre-election period⁴ (see paragraphs 705-706).
- 206 Local authority advertising and publicity – especially that of a “non-public-notice” type – should be for the purpose of providing objective, impartial, factual, and explanatory information. The material should not be presented in a way that promotes, or could be perceived as promoting, personal or party political interests. No material should include the logo or slogan of a political party or other sectional grouping.

⁴ What constitutes the ‘pre-election period’ is itself a matter of judgement. Generally speaking, the period could be regarded as having started when the first declarations of candidacy have been made.

3 APPLICATION

301 These guidelines represent a code of good practice to apply to the multilateral communication of information by a local authority; whether the method of communication might be called ‘advertising’ or ‘publicity’ or some other name.

302 The communication may take the form of:

- printed matter – such as pamphlets, booklets, press statements, newsletters, newspapers and posters;
- audio-visual matter – such as films and video tapes;
- press, radio, cinema and television advertisements/commercials/sponsored features; and
- material in electronic form – such as on an Internet web site or distributed by e-mail.

303 We make no distinction between advertising or publicity material produced using only internal resources of the local authority, and material produced with the aid of external resources. In the latter case, the people employed should be informed of the authority’s policy on appropriate principles and standards, and be required to comply with the policy.

304 For the purpose of these guidelines, advertising and publicity material does not generally include statutory documents such as the annual plan or the annual report – the form and content of which is largely determined by statutory requirements. Nevertheless, we would expect:

- the narrative parts of such documents to meet the qualitative standards described in paragraphs 501-516; and
- the guidelines in Section 7 on members’ personal views to be observed.

4 SUBJECT MATTER

401 The over-riding criterion is that the subject matter of any advertising or publicity should relate to an activity which the local authority may lawfully pursue or a matter in which it may lawfully involve itself. In practical terms, this means that any proposal for advertising or publicity should observe the same limitations that apply to the authority's choice of activities – recognising, among other things:

- What are authorised functions and what are unauthorised functions?
- What activities the authority can conduct only within its own boundaries, and what activities it can conduct within and beyond its own boundaries.

402 A local authority can have a legitimate need to advertise or publicise one or more of the following aspects of an activity:

- the policy for the activity
- the service being provided
- the rights of those affected
- the entitlements accruing to those affected
- the responsibilities of those affected.

403 Accordingly, the objective of advertising or publicity may be to inform the target audience of a proposed, or new, or revised, or existing:

- policy for an activity; or
- service available to them; or
- right, entitlement, or responsibility.

5 CONTENT

Nature

501 The content of any advertising or publicity material will consist of one or more of:

- facts
- analysis
- opinion or comment.

Quality

502 In general terms, we suggest that the content of any item of advertising or publicity should meet the Fair Trading Act 1986 benchmark of not being *misleading* or *deceptive*.

503 Advertising and publicity material should always be prepared using the highest standards of communication know-how and techniques. When material is intended to be developed on the basis of information gathered by survey, opinion poll, etc, the information-gathering process should itself be subject to the highest standards for such processes. To assist in meeting those standards, we have set out in a supplement to these *Suggested Guidelines* the criteria used by Statistics New Zealand to assess survey planning proposals and questionnaires.⁵

504 More specifically, the information presented should be:

- accurate;
- complete;
- fairly expressed; and
- when necessary, in a form that is lawful.

505 For material to be *accurate* it should conform to the ordinary meaning of the word. That which is held out to be the truth should be founded upon ascertainable facts, and carefully and precisely expressed in conformity with those facts. No claim or statement should be made which cannot be substantiated.

⁵ Statistics New Zealand has also published a *Guide to Good Survey Design*. Copies are available from its offices in Auckland, Wellington and Christchurch at \$24.95.

- 506 Material will be *complete* when it contains all the information necessary for a reader to make a proper assessment of the subject matter being addressed.
- 507 Information will be *fairly expressed* when it is written and presented in an unbiased and equitable manner. More particularly:
- The reader should always be able to distinguish clearly and easily between facts on the one hand, and analysis and opinion or comment on the other.
 - When making a comparison, the information should not mislead the reader about the situations between which comparison is being made, and it should state explicitly the nature of the comparison being made.
- 508 Material will be *lawful* when, for example, it complies with any specific legal requirements as to form and content, or it is not defamatory.

Scope

- 509 The extensive obligations on a local authority to keep the public informed about proposed activities or other courses of action, and about the nature and consequences of decisions taken, result in decision-making having distinct ‘before’ and ‘after’ phases. Each phase can be reflected in the content of advertising or publicity material.
- 510 In the ‘before phase’, all relevant facts and other considerations should be taken into account and all points of view should be allowed to be aired. The aim of this phase is to achieve the widest possible objective and subjective contributions to the debate which leads to the decision.
- 511 In the ‘after phase’, all that matters are the particulars of what has been decided, and what they mean for the local authority, for the other parties directly affected, and for the district in general.
- 512 The advertising or publicity material should reflect the characteristics and limitations of the applicable phase, subject also to meeting any specific legal requirements.
- 513 Material relating to the ‘before phase’ should be comprehensive and neutral in presenting the differing facts and arguments being advanced. Specifically:
- Great care should be taken to avoid bias, especially when facts or arguments have to be summarised.
 - Opinion or comment amounting to subjective judgment of the relative merits of differing facts or arguments should be avoided.
 - Both advantages and disadvantages should be mentioned.

- 514 Material relating to the ‘after phase’ should be confined to a dispassionate statement of the matters decided and their implications. The latter could still be a point of debate, even though alternative views were aired and discarded during the ‘before phase’. The decision having been taken, however, the council’s corporate view must prevail.

Attribution

- 515 Every item of advertising or publicity paid for at public expense should be clearly identified with the local authority’s name.
- 516 Consistent with the normal requirements of accountability for the expenditure of public money, the material should also bear the name and position of the person who has authorised its issue. Who that person is will be determined in accordance with the local authority’s regime of delegations.

6 VALUE FOR MONEY

601 No advertising or publicity should be undertaken without some justification, or without regard for the cost.

602 The principal prerequisite of justification is to establish an identifiable need for information on the part of the intended target audience. The need may in some circumstances be obvious, such as from a statutory obligation to give public notice. Sometimes a need is perceived from random or informal indicators – such as the number of telephone enquiries received – which should be properly confirmed and their nature and extent reliably determined. Confirmation can be achieved in a number of ways, including surveys, analysis of reports by counter staff, and analysis of correspondence.

603 The next matter to be justified is the form in which the advertising or publicity is to be undertaken. The method of communication used should be effective in reaching the people who have the need for the information. Again, regard will need to be had for statutory requirements, but communication by another method as well could be warranted.

604 Thirdly, the scale of the communication effort will be a significant factor in the total cost. Taken together with the method of communication, which will also be a major cost factor, the objective should be to meet the identified need for information to the extent practicable and reasonable at the least expense. Any information need that has little prospect of being met, other than at disproportionate cost, should not be pursued without good reason.

605 The key questions to be addressed are:

- Who is the communication aimed at?
- What information do those people need?
- In what way is that information best presented?
- What is the most cost-effective means of conveying the information to those who need it?

7 MEMBERS' PERSONAL VIEWS

701 The circumstances in which a local authority may decide to communicate its members' personal views at its expense are for the authority to determine. In making the decision, however, the authority should be:

- careful to treat all members equally, and avoid the appearance of selective opportunity for the promotion of any particular member's views; and
- bear in mind its obligation always to act reasonably and responsibly and within the scope of its functions, duties and powers (paragraph 203).

702 How members' personal views are communicated is also for the local authority to determine. An appropriate method could be to allot space in a periodic newsletter which otherwise conveys information about the authority's activities.

703 While a "members' column" will of necessity be an avenue for personal expression, the fact that it is being published at public expense means that it should be subject to some prescription. Thus:

- The subjects dealt with should relate only to activities which the authority may lawfully pursue, or matters in which it may lawfully involve itself (refer paragraphs 401-403).
- The content may have the same coverage as listed in paragraph 501.
- The only applicable quality guideline is that what a member says should not be defamatory.
- The material a member submits for publication may for practical reasons need to be edited. Whether or not the material is edited, the member must formally subscribe to what will be published.
- A statement of a member's personal views should be identified with the member's name and position held (such as mayor, chairperson, member for [name] ward, member of [name] community board).
- The material should not incorporate the logo or slogan of a political party or other sectional grouping.

704 Sometimes, the mayor or chairperson is given a regular 'column' in a local authority newsletter for the purpose of giving voice to the authority's corporate position on its activities. While that purpose may be quite acceptable, care should be taken to preclude from what is published any personal views, especially when other members of the authority are given no opportunity to express their personal view.

Elections and Other Sensitive Events

- 705 Sometimes a decision to communicate members' personal views at authority expense should be taken with the added consideration of how the material might be viewed in the context of other events. A clear example is the triennial election of members and the period preceding it (see footnote 4 on page 7).
- 706 Promoting the re-election prospects of sitting members, directly or indirectly, wittingly or unwittingly, is not among the recognised functions of a local authority. Sometimes, the perception that ratepayers' money is being used to promote some people's re-election prospects is created by the newspaper style of presentation in local authority newsletters and other community oriented publications – including (in some cases) the statutory annual report.
- 707 Curtailing all such forms of communication during 'sensitive' periods would not normally be warranted (and would be illegal in the case of the annual report). Nevertheless, what is warranted is adoption of a manner of presentation of information that avoids potential for the perception referred to in the previous paragraph. This need not result in communications that are anodyne and uninteresting. Indeed, it should be seen as a challenge to the professionalism and creativity of the local authority communicator.