



Department for
Communities and
Local Government

Stephen Halsey
Head of Paid Service
London Borough of Tower Hamlets
Town Hall
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Via email
Stephen.Halsey@towerhamlets.gov.uk

25 September 2014

Dear Mr Halsey,

**THE LOCAL GOVERNMENT ACT 1986
NOTICE UNDER SECTION 4A(5)**

I wrote to you on 16 April enclosing a written notice of a proposed direction which the Secretary of State for Communities and Local Government was then minded to give to your authority under section 4A of the Local Government Act 1986. In response your authority made written representations which the Secretary of State has carefully considered and I now enclose a further notice of a proposed direction which the Secretary of State is now minded to give to your authority under section 4A of the Local Government Act 1986.

Yours sincerely

Paul Rowsell

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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 Tower Hamlets 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 Tower Hamlets 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 Tower Hamlets to comply as soon as practicable and in any event by no later than 1 January 2015 with the following specified provisions 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 provisions are:

“Part 3 of the Communications Act 2003 prohibits advertising on television or radio. Local authorities must ensure that their publicity does not breach these restrictions.”¹

“Where local authorities do commission or publish newsletters, newsheets or similar communications, they should not issue them more frequently than quarterly.”²

The Secretary of State also proposes to direct the London Borough of Tower Hamlets 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

Information available to the Secretary of State indicates that the London Borough of Tower Hamlets does not attach sufficient importance to ensuring the lawfulness of its publicity. In January 2013 Ofcom concluded that an advertisement, showing the Mayor associated with the house building programme in the borough, was a political advertisement rather than a public service announcement and so breached section 321(3)(g) of the Communications Act 2003 and the UK Code of Broadcast Advertising. The Secretary of State is not aware of any subsequent acceptance by the London Borough of Tower Hamlets of the unlawfulness of this publicity or any firm public commitment of the Council to ensure the lawfulness of all its future publicity and accordingly is proposing the Direction above in relation to the specified provision on lawfulness.

In making this proposal the Secretary of State is also 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

¹ A provision in paragraph 5 (lawfulness) of the Publicity Code

² A provision in paragraph 28 (appropriate use of publicity) of the Publicity Code

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 newsheets 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 newsheets 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 newsheets 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 Tower Hamlets is publishing a local authority newsheet, 'East End Life', every week; 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, newsheets or similar communications, they should not issue them more frequently than quarterly.

Officials from the London Borough of Tower Hamlets wrote to the Secretary of State arguing that following a review of 'East End Life' in 2011, the publication was redesigned, TV listings were removed and the publication was made shorter. They also argue that 'East End Life' is the most cost effective solution as the weekly publication aims to run on a net-nil budget. The Council notes that cost effectiveness is one of the seven principles in the Publicity Code, and that advice taken by the Council in 2011 and a finding by the then District Auditor indicated that the decision to proceed with weekly publication was lawful and justified having regard to the provisions of the Publicity Code. 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 Tower Hamlets 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 the London Borough of Tower Hamlets' public sector equality duty, the Secretary of State has noted that the Council consider that a printed weekly newsletter is "particularly important amongst those seeking work, older white residents and BME residents". The Council also state that there is reliance upon 'East End Life' by "key demographic subgroups in the Council's area which, if there was no weekly publication, would otherwise have limited access to relevant information". The Secretary of State also notes that the Council state that broadband access in Tower Hamlets has increased to 85 per cent

and that the Council “would willingly negotiate a manageable timescale for transition to digital delivery”.

The Secretary of State recognises it may be the case, as the London Borough of Tower Hamlets 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 ‘East End Life’ 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 Tower Hamlets 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