

Use of School and Community Premises for Election Meetings

Legislation and Guidance

Part 1 - the legislation

1. Election Legislation

Candidates' entitlement to the use of publicly funded accommodation within an area to hold election meetings is enshrined in Part 2, Sections 95 and 96 and Schedule 5 of the Representation of the People Act 1983 (RPA).

Who is eligible?

Candidates at parliamentary or local government elections are entitled to the use of premises in a schools or other community meeting room, at reasonable times. This applies to any community, foundation or voluntary school in the electoral ward for which the candidate is standing (or an adjacent area, if no venues are available).

At a Local Election, meetings must be for the purpose of holding public meetings to promote or procure the giving of votes in the forthcoming election for himself only.

When can the rooms be used?

Candidates may only exercise these entitlements from the day the notice of election is published to the day proceeding the day of the actual election.

This does not mean that candidates are entitled to the use of a room in school premises during the hours it is being used for educational purposes or the use of a meeting room that has already been booked under a prior arrangement.

What are the conditions?

Use is free of charge, but candidates must meet the costs of preparing, heating, lighting and cleaning and restoring it to its usual condition after the meeting.

Candidates must pay for any damage to the room or premises.

Reasonable notice must be given by or on behalf of the candidate.

The meeting must be open to the public.

In European elections, it is expected that regulations will provide that meetings must be for the purpose of furtherance of the candidate's candidature or that of his party. The following advice focuses on local elections, but has significance for arrangements for and management of European election meetings.

2. Equality Act 2010

Local authorities have a duty, under Section 149 of the Equality Act 2010, to have due regard to eliminate unlawful racial discrimination and promote equality of opportunity and good relations between persons of different racial groups.

This duty provides the context in which the authority meets its obligations under election law as described above.

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3. Human Rights Legislation

The Human Rights Act 1998 (HRA) is also a significant part of this wider context. As local authorities have a statutory duty to act compatibly with the rights set out in the European Convention on Human Rights (Section 6, HRA 1998), the Act is relevant to determining the scope and meaning of an authority's powers and obligations.

- Rights protected by the European Convention that are relevant for the purpose of this briefing include: respect for private and family life, (Article 8); freedom of thought, conscience and religion, (Article 9); freedom of expression, (Article 10); freedom of peaceful assembly and association, (Article 11); enjoyment of Convention Rights without discrimination, (Article 14). Other relevant rights concern electoral rights, and rights to education.
- Rights under the Convention are not absolute, and interference may be justified where measures are taken with the intention of preventing disorder and crime, or protecting the rights and freedoms of others. Restrictions on the activities, provided that they are based on evidence and are proportionate, will usually be lawful under the European Convention and other international human rights law.
- Organisations seeking to promote race hate speech and engage in race hate activity are unlikely to have any rights so to do under the Convention or international law more broadly.
- Any relevant statutory powers must as far as possible be interpreted compatibly with the Convention Rights.

4. Public Order and Incitement to Racial Hatred

Questions of public order and incitement to racial hatred are matters for the Police to judge. However, these questions may be taken into account in assessing the suitability of particular premises. Close liaison with the Police is useful, given the scope of their powers, and they will be ready to advise on these issues.

5. Summary of the legal position

Local authorities have a statutory obligation to provide suitable rooms for election meetings to all Candidates, regardless of their policies.

This duty is exercised in the context of the requirements of the Equality Act 2010 Section 149. The Human Rights Act 1998 provides the primary framework for resolving possible conflicts that may arise between the Equality Act and electoral law.

It would be unlawful for the Council to place a blanket ban on any particular political party or candidate, whatever its policies. Each application for use of premises must be considered on its merits.

Legal Advice must be taken before refusing the use of premises where that refusal is based on some objection to the political views of the candidate.

In refusing use of premises, a Council must be able to show that any decision it has reached is based upon careful consideration, is supported by evidence, and is justified under the Convention.

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6. Responsibilities of governors of foundation and voluntary aided schools

Local education authorities are responsible for use of rooms in maintained schools, other than foundation and voluntary aided schools. In those instances, the governing body of the school is responsible. Schools are subject to the same statutory duty under Section 149 of the Equality Act 2010, and appear to be subject to the same Human Rights obligations. Local authorities should be prepared to advise schools on their position.

Part 2 - the practicalities

1. Applications for use of premises

Candidates wishing to use rooms in schools or other community buildings will usually make applications directly to the Electoral Registration Officer of the relevant District or Borough Council. In the case of foundation and voluntary aided schools, such applications will be referred to the school.

Candidates must show that the meeting will be at a reasonable time, agree to meet the cost of restoring the premises to their usual condition after the meeting, and can be required to show insurance to cover the cost of any damage to the room or premises. At Local Elections, meetings must be for the purpose of promoting or procuring the giving of votes in the forthcoming election.

2. Grounds for refusal of requests

It would be unlawful for the Council to place a blanket ban on any particular political party or candidate, whatever its policies. Each application must be judged on its merits and in so doing the Council is entitled to take account of election literature, police representations and previous conduct.

School or community space

Is the meeting genuinely 'to promote or procure the giving of votes'?

- A meeting to be held in a multi-ethnic area for the purpose of causing public disorder or inciting racial hatred can properly be refused on the grounds that the Convention rights of those residents in an area might be undermined by the holding of the meeting. Public order and incitement to racial hatred are matters for the police and police views on the proposed meeting should be sought before any conclusion is drawn.
- The expression of unpopular political statements will not in itself be a ground for refusing a request.

Is the meeting genuinely 'public'?

- Although 'public meeting' is not defined in the Act, if it is known that a meeting would only be attended by party members and known sympathizers, that the meeting would not be openly advertised and members of the public would be refused admission - it clearly would not be a public meeting.
- A meeting restricted to ticket holders only would not be a public meeting.

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- An application to hold a meeting in a multi-ethnic area, at which statements will be made that are likely to incite racial hatred, are untrue and will severely undermine good relationships between people of different racial groups may not be truly public as such a meeting would be inaccessible to the wider community. Again public order and incitement to racial hatred are matters for the police and police views on the proposed meeting should be sought before any conclusion is drawn.

How 'suitable' is an available school room?

- The room should be suitable for its purpose. Only suitable rooms should be included on the lists.
- If a suitable room is not available in the constituency of a candidate then the candidate should be offered an alternative suitable room outside the constituency that is still reasonably accessible to his/her constituency.

Where the Council has reason to believe that the meeting is not public, it may lawfully refuse the candidate a meeting room on the grounds that the candidate has not satisfied the requirements of the Representation of the People Act 1983.

3. Maintaining a list of venues

The County Council is required to prepare and revise lists of the rooms in school premises that candidates may use. The Council should consult the Boards of Governors of voluntary aided and foundation schools in drawing up the list.

District/Borough Councils are required to prepare and revise lists of other meeting rooms which candidates are entitled to use (RPA Schedule 5). The list must not include a room if the person maintaining it disputes the right of the candidates in the constituency to use it. Race Equality Councils with community rooms can be expected to refuse.

The Electoral Registration Officers will hold a copy of the lists for the inspection of candidates.

In deciding on which premises to include in the list, Councils should be aware that a blanket policy as to the use of premises is not likely to be lawful, as the law plainly requires that each application to use premises must be considered on its merits, taking account of what is known about the political party concerned and the nature of the activity proposed.

4. Conditions of room hire

Any terms as to use of rooms in school and community premises can include conditions prohibiting racist expression. Election materials can properly be scrutinised in advance if there is concern about this issue. Racist material and expression is unlikely to be protected at all on human rights grounds and a refusal to let a room for the purpose of propagating racist materials and views will comply with the Convention, be consistent with the Section 149 duty and consistent with Section 96 of the RPA, which only applies for limited use (public meetings for the purpose of procuring the giving of votes).

Other reasonable conditions can be included in the agreement; for example, Councils ask that a suitable Public Indemnity Insurance policy be arranged, relying on the requirement in the RPA that candidates are responsible for returning the premises to their usual condition and must pay for any damage.