



## Pre-election period 2019

What is 'Purdah'?

'Purdah' or 'the pre-election period' refers to the weeks preceding a general election when specific restrictions apply principally around the activity of those working in central and local government. Its purpose is to prevent announcements and activities by public bodies which could influence or be seen to influence the election.

Who does it apply to it?

Whilst in recent years NHS England has sought to influence general practice and apply purdah restrictions, general practice and general practitioners are not covered by the restrictions.

Primarily, it applies to civil servants, ministers and MPs (note that in this context, executive agencies like Public Health England, NHS England and NHS Improvement are treated as part of central government). Whilst it does not apply directly to non-departmental public bodies (like CCGs and STPs) there has in previous elections been a strong steer that such bodies should apply the principles of the Cabinet Office guidance. It is anticipated that NHS England, will issue such a steer to NHS bodies.

Essentially, during these periods, advice to NHS organisations is that communications either in the form of announcements or activities should be avoided if they could influence, or be regarded as influencing, the outcome of the General Election. STPs will need to carefully consider activities they undertake in line with the plans they have in place, especially relating to any changes in how services are delivered.

When does it start and finish?

The recently called General Election is not following the process put in place by the coalition Government for fixed term Parliaments. Instead, a vote in the House of Commons has disapplied those statutory provisions and enabled the current Government to call an election on Thursday 12 December 2019. Purdah will apply from midnight on Wednesday 6 November, and it will continue until a new Government is formed. If a new Government is not formed (ie there is a hung Parliament), it is likely that purdah rules would continue to apply in a slightly more restricted form until such time as a Government can be formed. The Cabinet Office guidance, when issued, may well include information about such an eventuality.

What can and cannot happen during purdah?

Unfortunately, what is and is not permitted within purdah is not exhaustively defined. In essence, for Central Government, ministers and civil servants will continue to take decisions on a 'business as usual' basis. However, decisions will not be taken, or new policies announced, if they are, or may be, politically contentious or involve the announcement of new spending plans.

Cabinet Office guidance for the 2019 election has not yet been published, but previous guidance said:

'During the election period, the Government retains its responsibility to govern, and Ministers remain in charge of their departments. Essential business must be carried on. However, it is customary for Ministers to observe discretion in initiating any new action of a continuing or long-term character. Decisions on matters of policy and other issues such as large and/or contentious procurement contracts on which a new Government might be expected to want the opportunity to take a different view from the present Government should be postponed until after the Election, provided that postponement would not be detrimental to the national interest or wasteful of public money.'

Where there is any doubt about whether purdah applies, it will generally be resolved in favour of delaying that action until after the election.

For Non-Departmental Public Bodies (NDPBs), the previous Cabinet Office guidance said:

'NDPBs and other arm's length public sector bodies do spend public money and make policy announcements, use Government property and a small number can employ civil servants. Accordingly, the general principles and conventions set out in this guidance apply to NDPBs and similar public bodies.'

'As always, it is important that NDPBs and other public sector bodies avoid becoming involved in party political controversy. Decisions on individual matters are for the bodies concerned in consultation with their sponsor Department who will wish to consider whether proposed activities could reflect adversely on the work or reputation of the NDPB or public body in question.'

What does it mean for the NHS?

During the last two elections, the Department of Health [and Social Care] issued guidance to public authorities, which includes CCG's, trusts and other NHS organisations, following the publication of the Cabinet Office guidance. It is anticipated this will be done again and that the main key points will be:

No activity should be undertaken which could be considered politically controversial or influential, which could compete for public attention or which could be identified with a party/candidate/designated campaign group.

Would you do the same for everyone? Affected bodies must be able to demonstrate the same approach for every political party, official candidate and designated campaign groups in order to avoid allegations of bias or pre-judging the electorate and ensure providers are able to form a constructive relationship with whoever wins the seat

The NHS may be under the media spotlight, locally and nationally. It is advisable to have a plan in place for how the organisation will manage the purdah periods (with both its risks and its opportunities) and the potential for the organisation or its partners to be singled out in the media.

Additionally, the NHS and related health bodies (such as CCGs and now STPs) may be affected by:

The cancellation of any activity that could be considered politically controversial or influential, or could give rise to criticism that public resources are being used for party political/campaigning purposes.

Announcements of significant NHS expenditure, which should be deferred unless such postponement would be detrimental to the public interest or wasteful of public money.

Possible visits from local prospective candidates/local political parties/campaign groups and what format they will take.

Letters from MPs, which should be answered in the normal way, but be aware that letters are more likely to be published / politicised. Keep responses as factual as possible.

Media questions about political statements and developments, which should be responded to in a factual way, and where possible with reference to already published information.

Avoiding discussing politically contentious issues at regular planned meetings (i.e. Board Meetings).

Cancelling or deferring planned public consultations – which should not be launched unless to defer would be detrimental to the public interest or a waste of public money. If a consultation has already begun, bodies should consider extending the period for responses until after polling day, and avoid publicising it in the meantime.

Public talks by NHS employees can continue, but will avoid covering politically contentious issues and avoid Q&A sessions for that reason.

As a general rule, nationally developed promotional toolkits should not be used during purdah unless to do so would cause public health issues, or impede normal NHS business.

News tickers, blogs and similar should be discontinued for the duration of the election period.

#### Useful resources

BMA guidance from 2017 election

House of Commons Library briefing “Pre-election period of sensitivity”

NHS Improvement briefing on pre-election guidance for NHS organisations

Local Government Association briefing “Purdah: A short guide to publicity during the pre-election period”

NHS Providers briefing on rules and regulations for NHS foundation trusts and trusts during purdah

Cabinet Office guidance on General Election conduct (from 2017)