
SOCIAL MEDIA POLICY FOR MEMBERS

1 PURPOSE OF REPORT

- 1.1 That amendments to the Social Media Policy for Members be agreed by Full Council.

2 INTRODUCTION

- 2.1 The social media policy was introduced and approved by Full Council on 25 February 2014 to provide guidance to Members when using social media as a way of communicating with their residents.
- 2.2 The policy underpins the Members' Code of Conduct and is intended as guidance for Members to support them in complying with the Code and to help mitigate any potential legal and reputational risks.

3 AMENDMENTS

- 3.1 The recommended amendments are shown on the appended policy.
- 3.2 Since the adoption of the policy in 2014, the use of social media has significantly increased and is now commonly used by Councillors as a tool to communicate with their residents as part of their role as a Ward, District and, where relevant, as a Parish Councillor.
- 3.3 The policy makes clear that aspects of the Code will apply to a Councillor's online activity. Members are advised, when using social media, to consider carefully whether they are acting in an official capacity as a Councillor. It provides Members with the advice that they can be presumed to be speaking as a Councillor rather than acting in a private capacity and gives guidance on how to avoid this happening. The presumption can arise simply because Members are commenting on Council business, because they are known to be a Councillor or make reference to this, use party political symbols or references in the text.
- 3.4 The policy provides refers to the relevant sections of the Code of Conduct to assist Members.
- 3.5 The policy will now be reviewed annually by the Monitoring Officer and the Senior Corporate Communications Officer, in consultation with the Managing Director.

4 RISK IMPLICATIONS

- 4.1 This social media policy will assist in minimising legal and reputational risks for the Council and individual Members.

5 RESOURCE IMPLICATIONS

5.1 None.

6 LEGAL IMPLICATIONS

6.1 None.

7 PARISH IMPLICATIONS

7.1 None, but the Parish Councils may wish to consider adopting the same.

8 EQUALITY AND DIVERSITY IMPLICATIONS

8.1 None.

9 RECOMMENDATION

9.1 It is proposed that Council **RESOLVES** that the proposed amendments to the Social Media Policy for Members be approved.



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Background Papers:-

None.

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where you have a social media account where you comment both as a councillor and as an individual. Although you may be clear in your mind that you are acting in a private capacity it may be less clear to others. This can also mean that your views can be taken as being those of your organisation or party (rather than you personally) when this may not be the case. The presumption can arise simply because you are commenting on council business, because you are known to be a councillor or make reference to this, use party political symbols or references in the text.

One way of avoiding this, and avoiding some of the potential problems related to the Code of Conduct, may be to consider keeping your online accounts as a councillor separate from those where you communicate in a personal capacity. Another is to spell it out in the text (e.g. “speaking entirely personally...”). This is a decision for each member and some Members may find the convenience of having one account outweighs the advantages of separate accounts. The council’s Communications Team can help you with more specific advice if needed.

Things to bear in mind

- Any communication is capable of being misinterpreted. While the use of social media should not in be more susceptible to this problem than any other form of communication, something about the immediacy of social media seems to magnify the problem.
- By the nature of such media, misinterpretation or misrepresentation, particularly with regard to something that is perceived as being more controversial than it was expected to be, is likely to lead to rapid and wide broadcasting of that apparently “controversial” item.
- There are no special, additional legal or ethical burdens relating to the use of social media. The same rules apply here that govern the rest of your behaviour as a councillor – you just need to think about them in this new context – their immediacy and ease of dissemination.
- Although the best use of social media is conversational in tone, publishing to the web is still publishing. What you’ve said on the web is recorded and it is permanent. Most pitfalls will be avoided if your online content is accurate, informative and thought through. Think of it as speaking in public. Think before you commit each word.
This doesn’t mean that members cannot, in the appropriate context, communicate politically. This is expected of a councillor, but you should be careful not to say anything that you wouldn’t be comfortable repeating or justifying, for example, at a public meeting.

Some legal issues:

- **Libel** – If you publish an untrue statement about a person which is damaging to their reputation, they may consider it as defamatory and consider legal action. The same thing may happen if, for example, someone else publishes something defamatory on your website; you know about it and don’t take swift action to remove it. A successful legal claim could result in the award of damages against you.
- **Copyright** – Placing images or text on your site from a copyrighted source (for example extracts from publications or photos), without obtaining permission, is likely to breach copyright laws. Therefore don’t publish anything you are unsure about, or obtain prior

permission. Again, a successful claim for breach of copyright would be likely to lead to an award of damages against you.

• **Data Protection** – Do not publish the personal data of individuals unless you have their express permission. Personal information in an email or personal exchange should not be presumed to imply any consent to pass it on to others. If you place personal information on a public forum you should expect it to be published by others.

• **Bias and Predetermination** – if you are involved in making planning, licensing or other quasi-judicial decisions, **do not** say anything through social media (or indeed anywhere) that suggests you have made your mind up on an issue that is due to be formally decided. While your likely view on a particular application may be well known, you need to be able to show that you attended the committee or hearing prepared to take on board and weigh all the evidence, and were genuinely persuadable to a different view, otherwise, the decision may be later challenged as invalid. If a person has suffered some sort of detriment as a result of such an invalid decision, they may have a claim against the council for damages.

Care should be taken if you are commenting on a social media pages where they were set up for a specific purpose so that you do not say anything which can be perceived as bias or you may have predetermine yourself or result in a breach of the Members Code of Conduct as stated above.

Some Don'ts

• Blog in haste, particularly in circumstances where your judgement might be impaired; for example if you are tired or have consumed alcohol.

• post comments that you would not be prepared to make on paper or face to face

• use council facilities for personal or political blogs

• request or accept a Council employee or contractor providing services to the council as a “friend” on a social networking site where this suggests close personal association. For the avoidance of doubt, this does not apply to sites which are intended as a neutral, professional connections registry (such as LinkedIn.)

• use social media in any way to attack, insult, abuse, defame or otherwise make negative, offensive or discriminatory comments about council staff, service users, their family or friends, colleagues, other professionals, other organisations, or the council

• publish confidential information that you may have learned or had access to as part of your role as an elected member. This includes personal information about service users, their families or friends or others e.g. contractors, council staff as well as council related information

• represent your personal views, or those of any political party or interest group you belong to, as being those of the council, on any social medium

• browse, download, upload or distribute any material that could be considered inappropriate, offensive, defamatory, illegal or discriminatory

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- make conspicuous or excessive use of social media technology during the course of a Council or committee meeting so that you give the impression to the public of not being respectful of the proceedings and, more seriously, taking decisions that are not based on full engagement with the facts and arguments

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3 Use of Social Media by Councillors outside of Council Meetings

- (a) Councillors are required to act in accordance with the Member Code of Conduct whilst conducting the business of the Council or acting, claiming to act or giving the impression they are acting as a representative of the Council.

Relevant Elements of the Members' Code of Conduct:

- **You must treat others with respect** - do not use social media to make personal attacks or indulge in rude, disrespectful or offensive comments.

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- **You must comply with equality laws** – do not publish anything that might be seen as racist, sexist, ageist, homophobic or anti-faith.

- **You must not bully or harass anyone** – do not say anything, particularly if it is part of a series of similar comments about a person or on a theme that might be construed as bullying or intimidation.

- **You must not bring the council into disrepute** – you should not publish anything that could reasonably be perceived as reflecting badly upon or lowering the reputation of you or the Council.

- **You must not disclose confidential information** - you must not, in your use of social media, just as in any other circumstances, disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature. Inadvertent leaks of the council's confidential information are more likely to take place when a councillor is using social media, rather than, say, when they are carefully drafting a letter for publication in the local paper. This may be because of the more immediate, conversational, off- the cuff nature of much social media communication. Members must be careful to apply exactly the same standards to their social media communications as they would to statements made in a more formal context.

~~(a)~~(b) Councillors should be aware that anything they publish on a Social Media website can be accessed by anybody with an internet connection and, once it has been posted, it will be a permanent online record.

~~(b)~~(c) A common sense approach should be adopted by all Councillors. When using Social Media, Councillors should:

- (i) Have particular regard to Section 3 of the Member Code of Conduct and ensure that, even when online, they treat others with respect and conduct themselves in a manner that will not bring the Council into disrepute.
- (ii) Think before they publish – even if a post is deleted hastily it will probably have been read several times and may have been indexed and duplicated online beyond reach.
- (iii) Be aware of their blurred personality online. Even if posting online in a personal capacity it is likely that they will be seen as acting as a representative of the Council.
- (iv) Consider whether there are appropriate privacy settings in place for their Social Media accounts.
- (v) When setting up a Social Media account, consider posting a short statement disclosing their identity as a Councillor and the political party they represent.
- (vi) Be aware that, by publishing information obtained from their position as Councillor, they will be seen as acting as a representative of the Council.
- (vii) Be aware of irony – few writers are able to communicate sarcasm or irony through short online messages. Even if the intention was clear, the message may be misconstrued.
- (viii) Not be drawn into an online argument with someone clearly trying to provoke them. Simply do not respond. If the content may be considered defamatory or illegal, a Councillor should consider reporting the post to the Social Media site administrators.
- (ix) Be careful if publishing information regarding a forthcoming or ongoing matter/hearing yet to be determined (e.g. a licensing or
- (x) planning matter). Any indication of bias or pre-determination could result in the decision becoming void.
- (xi) Be aware that sharing someone else's post, e.g. 're-tweeting' on Twitter or sharing on Facebook, may be interpreted as the Councillor agreeing or supporting its content.
- (xii) Be aware that stating that the views posted or shared on a Social Media website are not their own, will not necessarily exonerate them from potential disciplinary action or legal implications.

- (xiii) Be particularly aware of their online presence during election periods. Councillors should note that legislation relating to electoral periods (e.g. the Representation of the People Act 1983) will also apply to the online publication of electoral material/statements relating to the election.

~~(e)~~(d) A failure to comply with Section 3 of this Policy may void any on-going decision and/or be subject to an Ombudsman complaint and an offending Councillor may be subject to a standards complaint or personal liability.

4 Councillor's use of Personal Blogs

- (a) Councillors will be personally responsible for their Personal Blogs. The Council has no responsibility for the Councillor's Personal Blog content or maintenance.
- (b) If Councillors are using a third party website to host their Personal Blog they should familiarise themselves with the website's terms of service. Most blogging websites will make the content the responsibility of its owner. Additionally, most will also have a reporting and takedown procedure to flag up any potential issues with site administrators.
- (c) If a Councillor is exclusively in charge of a Personal Blog (i.e. it is not hosted by a third party blogging site) they should consider producing their own terms of use in order to reduce liability and establish procedures to deal with potential breaches.
- (d) Councillors need to be aware that they may be held personally liable for copyright and trade mark breaches, defamation, contempt of court and privacy infringements on their Personal Blogs. This may be the case even if a Councillor does not produce the offending content. A Councillor with a Personal Blog will have a legal duty to take reasonable care when dealing with the Personal Blog content. Therefore, keep an eye out for defamatory or obscene posts from others on your blog or page and remove them as soon as possible to avoid the perception that you condone such views · be aware that the higher your profile as an elected member, the more likely it is you will be seen as acting in your official capacity when you blog or network.
- (e) Councillors should actively try to monitor their Personal Blogs to ensure that any breach or infringement is dealt with quickly and expediently. In addition, it may be worth directing blog readers/contributors to an email or contact in order for users to flag up potential legal risks quickly to the Councillor or to the site administrators.
- (f) Where a Councillor is responsible for a Personal Blog which stores or holds personal information (e.g. email addresses), they should be aware that they may need to register with the Information Commissioner's Office under Data Protection legislation.
- (g) Eensure you use council facilities appropriately; if you use a council provided blog site or social networking area, any posts you make will be viewed as made in your official capacity.
- (f)(h) Be aware that you will be seen as acting in your official capacity if you publish information that you could only have accessed by being an elected member.

~~(g)~~(i) The guidance in Section 3 of this Policy will also apply to Personal Blogs.

5 Councillor's use of Media Devices during Council Meetings

- (a) This Policy applies to all the meetings of the Council, The Executive, all Committee and Sub-Committee meetings and hearings held under the auspices of the Council, at which Members are present.
- (b) Media Devices can be used during meetings to access meeting papers and relevant background material associated with the meeting and for no other purposes. It is important to convey to others, particularly Members of the Public, where present, that Councillors are fully engaged in the debate and the decision making process and the use of media devices is to facilitate that purpose.
- (c) The use of Social Media is not permitted during meetings, as it may distract from proceedings or demonstrate pre-determination or bias or give the impression of doing so. Similar Members should not film, photograph or audio record during the meeting.
- (d) If a Councillor does need to take or make an urgent phone call, text or email during a meeting they must leave the room quietly, returning to their seat at an appropriate juncture of the meeting. They must not distract proceedings and need to remember that any phone call made or text or email sent must not show any indication of bias or pre-determination. This is particularly important relating to planning, licensing and regulatory matters.
- (e) The Chairman of a meeting may ask a Councillor who disregards any part of Section 5 of this Policy to refrain from using the Media Device and, where appropriate, to leave the meeting.
- (f) Councillors are reminded that publishing information regarding a forthcoming or on-going decision (e.g. a licensing or planning matter) may void that decision and/or be subject to an Ombudsman complaint. Similarly, there may be matters of a private or confidential nature which should not be published. A failure to comply with any of Section 5 of this Policy may result in the Councillor being made subject to a standards complaint or personal liability or the decision being subject to challenge.

6 Members of the Public's use of Media Devices during Council Meetings

- (a) Members of the Public should conduct themselves in a way that does not disrupt or distract the course of the meeting.
- (b) Members of the Public are permitted to text, email or use Social Media discreetly during Council meetings provided this does not disturb the meeting. In certain regulatory hearings the use of media devices will be restricted as this could prejudice a fair process.
- (c) Filming, photography and audio recording is only permitted where this can be carried out without disturbing, distracting or disrupting a meeting. The following will apply to persons wishing to film, photograph or audio record at meetings:

- (i) The showing of appropriate respect for the wishes of members of the public who do not want to be filmed, photographed or audio recorded.
 - (ii) Being ready to leave the meeting with equipment should there be items where the public and press are excluded by virtue of exempt information as defined by the Local Government Act 1972 being likely to be disclosed.
 - (iii) That, without the express consent of their parents/guardians, the filming of any children who might be in attendance is strictly prohibited.
 - (iv) That the use of flash photography or additional lighting will not be allowed unless this is discussed in advance of the meeting with Member Services and agreement reached on how it can be done without proceedings being disrupted.
 - (v) That there should be no oral commentary or excessive noise in the setting up/re-siting of equipment during the meeting.
 - (vi) That there should be no requests for statements to be repeated during the meeting.
 - (vii) Remaining in the area designated for the public.
- Note:** Whilst not a requirement, it would be helpful for anyone intending to film or wishing to discuss any special requirements to contact Member Services in advance of a meeting to seek advice, guidance and help.
- (d) If a Member of the Public needs to take or make an urgent phone call during the meeting they should leave the room quietly and return to their seat at an appropriate juncture of the meeting.
 - (e) The Chairman of a Council meeting may ask a Member of the Public who disregards Section 6 of this Policy to refrain from using the Media Device and where appropriate to leave the meeting.

Social Media Policy - Real-life application for Councillors

During meetings

Are there different rules for different types of Council meetings?

No

The policy applies to all meetings held under the auspices of the Council involving members either in public or private session or a mixture of both.

Can I take/make phone calls, texts or emails during a Council meeting?

Only as a matter of urgency. If you have to take or make an urgent phone call, text or email during a Council meeting, out of politeness and common courtesy, you need to leave the room quietly and return only at an appropriate juncture in the meeting, such as when someone has finished speaking (see 5(d)). In any phone conversation, text message or email sent, please remember the rules around bias and pre-determination

I want to access background information/meeting notes on my Media Device during a Council meeting. Can I do this?

Yes. Media Devices may be used in meetings for the purposes of accessing meeting notes or relevant background information (see 5(b)). However, Councillors should remain fully engaged with proceedings and must not distract other members of the committee in doing so (see 5(c)).

Can members of the public/journalists use Social Media during a Council meeting?

As members of the public and journalists are not directly involved in the decision making, they may use Social Media providing they are not distracting anyone else in doing so (see 6(b)).

Out of hours incidents/ Emergency Situations

Can I inform my residents of the current situation and provide advice?

The Council has a procedure to follow for any incidents, no matter how serious, and therefore, Councillors should refrain from using social media to avoid any misinformation and communications.

The communications to the public will be provided in a managed and informed way. Members will be provided with a point of contact if they wish to be kept up to date on the situation.

Outside of meetings

Can I comment/respond to questions posted on my Social Media page regarding a general local issue?

By all means. The purpose of the Social Media Policy is not to restrict the use of Social Media; it is a guidance tool to make Councillors aware of the potential risks. Social Media is an excellent method for Councillors to interact with members of the public and should be encouraged (see 2).

Can I comment/respond to questions posted on my Social Media page regarding an upcoming licensing hearing or homelessness appeal?

Councillors can take a view and express concerns, however, Councillors must not be seen to show bias or pre-determination. In this type of hearing/appeal Councillors are required to remain impartial and listen to all the facts before coming to a decision. Evidence (even online) of bias or pre-determination could void the decision or leave it open to review (see 3(c)(ix)).

Somebody comments on my Social Media page with comments that I find insulting and/or confrontational. How should I respond?

If at all possible, don't respond at all (see 3(c)(viii)). Internet 'trolls' are people who often try to 'wind-up' public figures on purpose. A 'don't feed the trolls' policy should almost always be adopted.

If it is clear that the person is a serious and concerned member of the public then a reply may be appropriate (use common sense). However, be aware that you remain a representative of the Council online and you should not do or say anything that you wouldn't do face-to-face or in a letter (see 3(c)(i) and (ii)).

If the post is potentially defamatory or illegal then it should be reported to the site administrators.

I discover information that is incidental to my role as Councillor (e.g. I am approached by a developer regarding a potential local development). Can I disclose this information on my Social Media page?

Technically yes, however, extreme care should be taken in doing so. Firstly, you should be aware that by posting information gleaned by way of your position as Councillor, you will be seen as acting in as representative of the Council (even on a personal account) (see 3(c)(iii) and (vi)). In addition, you should be aware that publishing anything regarding a forthcoming or on-going decision could be seen as pre-determination or bias and so great care should be taken (see 3(c)(ix)).

I notice that somebody has posted a racially aggravated comment on my Personal Blog what can I do? Can I be held liable?

As soon as you become aware of the comment you should inform the site administrator. If you are exclusively in charge of the site you should consider reporting the comment to the police, maintain evidence and then ensure that the post is taken down (see 4(c)). Providing a Councillor takes reasonable

care i.e. reporting the offence quickly and expeditiously, then they are highly unlikely to be held liable for others breaches (see 4d).

I publish a post on my Personal Blog regarding an upcoming licensing hearing that I will be making a decision on. As this is my Personal Blog do the rules for pre-determination and bias still apply to me?

Yes they will. The guidance provided in Section 3 of the Policy also extends to Personal Blogs (see 4g). Therefore, Councillors should not publish information regarding an on-going or forthcoming licensing hearing as it may void the decision or leave it open to review (see 3(c)(ix)).

Do any special rules apply to Social Media and Personal Blogs during a local election?

During election period Councillors should be particularly aware that legislation relating to electoral matters will apply to the online publication of electoral material/statements relating to the election (see 3(c)(xii)). For example, if you were to publish a statement on your Personal Blog regarding an opposition candidate's conduct, the Representation of the People Act 1983 may apply. Under this act it is a criminal offence to make or publish a false statement of fact about the personal character or conduct of an election candidate.

General

What happens if I breach the Social Media Policy?

It really depends on the nature of the breach. However, the punishment for a serious breach could be a standards complaint or perhaps even personal liability (see 3(d), 4(d), 5(g)).

7 Monitoring and Review of this Policy

- (a) This Policy is to be reviewed every year by the Council's People and Policy Unit Monitoring Officer and the Senior Corporate Communications Officer in consultation with the Head of Legal, Estates & Member Services Managing Director.
- (b) Date of next review December 2018