

SOCIAL MEDIA GUIDANCE FOR MEMBERS

1. Purpose of this Guidance

Councillors should be encouraged to use new technology including social media and this guidance is to provide you with greater clarity as to what is and is not acceptable usage of social media. It is intended to help you use social media in a way that avoids legal and reputational risk and compliments the general rules under the Code of Conduct.

The Monitoring Officer and the Democratic Services team are happy to help you by providing addition advice and guidance as appropriate.

The Code of Conduct applies to all forms of member communication which includes the use of social media. If comments on social media refer to your official role in any way, or any comments made are clearly related to that official role then it is likely that the Code will apply to those comments.

It is not a requirement for you to have a Facebook or Twitter account or to use other forms of social media to fulfil your job as a councillor. However, if you are using or planning to use social media in connection with your work as a councillor or are already using such media in your private capacity, these guidelines will be relevant.

2. What is Social Media?

Social media is the term to describe websites and online tools which allow people to interact with each other. This could, for example, be blogs, and postings on a wide range of social media platforms including (but not limited to) Facebook, Twitter, LinkedIn, Snap-chat, Instagram etc.

On many social media sites users share information, give opinions, and may create interest groups or pages leading to longer exchanges. Ultimately people use these sites and tools to build online communities and networks which encourage participation and engagement.

Social Media can be used:

- To support councillors in performing their community leadership role.
- To keep in touch with or obtain local views and opinions.
- For political campaigning.
- For campaigning on local issues.

Types of Social Media:

- Blogging and micro blogging – online journals – Twitter is an example of micro blogging, where entries are limited to 280 characters.
- Online Forums – people with similar interests sharing information and opinions
- Social networking sites – these facilitate connections between those who already know each other, often in a social context, but are increasingly used by businesses to promote their products or services- Facebook is an example.
- Video and photo publishing and sharing videos and photographs worldwide – Flickr is an example.

3. Things to Bear in Mind

- Any communication is capable of being misinterpreted. While the use of social media should not be more susceptible to this than any other form of communication, something about the immediacy and widespread distribution of social media seems to magnify the problem.
- By the nature of social 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 dissemination 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 internet is still publishing. What you’ve said online is recorded, instant and it is permanent – even if you later delete it, most people now take a screenshot
- 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.
- Be especially careful when you ‘like’, re-tweet or forward something, because in doing so, it may be suggested that you are supportive, associate yourself with, or agree with what is being said.
- As a public figure, users of social media will see you as ‘fair game’ and may make controversial or abusive comments to or about you. Try not to respond to this type of content unless it is to correct an inaccuracy which you would not like to prevail
- If you are receiving online abuse – also referred to as “trolling”, please speak to the Monitoring Officer who will be able to provide you with guidance.
- This doesn’t mean that members cannot, in the appropriate context, communicate politically and you are given enhanced protection in terms of freedom of expression. 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 or indeed seeing repeated on the front page of the local newspaper!

4. Legal Issues

Defamation - is a civil wrong that includes libel – the written word, and slander – the spoken word. Regarding defamation and social media, a complainant would need to prove that comments actually caused damage to a Member's reputation. This may be very difficult to quantify, and generally, the Council is unable to commit resources to an action for defamation by an individual or group of members but would provide supporting evidence to those wishing to take such action.

The Communications Team monitor local social media channels but they cannot police every single comment that is made about the Council or councillors. The Communications Team can directly remove postings on social media channels which the Council owns but not those on third party sites. Some sites are private or closed for which the team has no access to comment or report offending postings. Comments can be reported to some sites, for example to Facebook, if they are distasteful, illustrate use of drugs, guns or products of harm or if it is a comment based on race, gender, sexual orientation or disability. It is then in the hands of the social media channel to decide on the removal of the comment.

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 social media or webpages; you know about it and don't take swift action to remove it. A successful legal claim could result in the award of damages and costs against you.

Copyright – Placing images or text on your site / channel from a copyrighted source (for example extracts from publications or photos), without obtaining permission, is likely to breach copyright laws. Don't publish anything you are unsure about, or make sure you obtain prior permission. Again, a successful claim for breach of copyright would be likely to lead to an award of damages and costs against you.

Data Protection – Do not publish the personal data of individuals unless you have their express permission to do so for that purpose. Personal information in an email or personal exchange cannot 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 any decisions, but particularly 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.

Your likely view on a particular application (predisposition) 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.

Electoral periods – be mindful that when you are using social media for campaigning during election periods you will need to provide a return of expenditure on any advertising or campaign literature, including web advertising and the design and website costs of downloadable material. You should never use Council resources (such as email) to promote a political party.

5. Social Media and the Code of Conduct for Members Generally:

Aspects of the Code of Conduct for Members will apply to your online activity in the same way as they do to any other communication you may use. The key to whether your online activity is subject to the Code is whether you are, or appear to be, acting in your capacity as a Councillor rather than as a private individual. If you have a Facebook or Twitter account which includes your role as a Councillor, you should keep this separate from your personal accounts or you risk being subject to the Code of Conduct.

There is a perception amongst the public that you are constantly 'on duty' and that you are therefore presumed by others to be speaking as a Councillor. This can happen 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, particularly when you refer to information which you can only have accessed in your role as a councillor. This can also mean that your views can be taken as representing 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 use party political symbols or references in the text. To avoid this, and perhaps avoiding some of the potential problems related to the Code of Conduct, you should keep your online official account 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 Monitoring Officer can help you with more specific advice if needed.

6. Code of Conduct Considerations Relevant to Social Media

You must treat others with respect:

- Do not use social media to make personal attacks or indulge in rude, disrespectful, or offensive comments, whilst politicians have enhanced protection under freedom of expression this would not apply if you are acting unlawfully
- Comply with equality laws and the public sector equality duty, so do not publish anything that might be seen as racist, sexist, ageist, homophobic or anti-faith or which may give the impression that you are treating anyone with a protected characteristic less favourably. This applies to jokes, cartoons and photographs for example.
- 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 conduct yourself in a manner which is contrary to the Authority's duty to promote and maintain high standards of conduct of members – you should not publish anything that could reasonably be perceived as reflecting badly upon or lowering the reputation of your office as a councillor.

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.

In short, you must be careful to apply exactly the same standards to your social media communications as you would to statements made in a more formal context.

7. Staying out of Trouble - Some Do's and Don'ts

Do

- set appropriate privacy and security settings for your blog or networking site – especially if you have a private, non-political blog.

- keep an eye out for defamatory or obscene posts from others on your social media 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.
- consider keeping your personal and elected member profile on social networking sites separate and maintain appropriate professional boundaries.
- ensure 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.
- be aware that you will be seen as acting in your official capacity if you publish information that you could only have accessed by your being an elected member.
- make political points - but be careful about being too specific or personal if referring to individuals. An attack on individuals may be seen as disrespectful or unlawful and not within the protection of freedom of expression, whereas general comments about another party or comments on policy are less likely to be viewed as disrespect on the basis that politicians are expected to have 'thicker skins'.

Don't

- blog in haste, particularly in circumstances where your judgement might be impaired, for example if you are tired, upset or have consumed alcohol.
- post comments that you would not be prepared to make on paper or face to face.
- request or accept a Council employee or contractor providing services to the Council as a "friend" on a social networking site as this suggests close personal association. For the avoidance of doubt, this does not apply to sites which are intended as a neutral, professional connections platform (such as LinkedIn).
- use social media in any way to attack, insult, abuse, defame or otherwise make negative, offensive, or discriminatory comments about the Council, its staff, service users, their family or friends, colleagues, other professionals, other organisations.
- 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.
- browse, download, upload or distribute any material that could be considered inappropriate, offensive, defamatory, illegal, or discriminatory.

- 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, not paying attention and listening to the debate and, more seriously, taking decisions that are not based on full engagement and understanding with the facts and arguments.

8. Further Information

Local Government Association – <https://www.local.gov.uk/our-support/guidance-and-resources/communications-support/digital-councils/social-media/get-started/dos-and-donts>