

**REPORT TO THE MEETING OF THE EXECUTIVE 4 DECEMBER 2013**

**PORTFOLIO: SERVICE DEVELOPMENT, IMPROVEMENT AND PERFORMANCE MANAGEMENT**

**REPORT FROM THE CHIEF EXECUTIVE**

**SUBJECT: SOCIAL MEDIA POLICY**

**1 DECISION BEING RECOMMENDED**

- 1.1 That, subject to any comments by the Executive, the Social Media Policy be recommended to Full Council for approval, along with the Member Guidance Note.

**2 REASON/S FOR RECOMMENDATION**

- 2.1 Social media can be an effective way to communicate with residents and it offers considerable potential for elected Members in terms of engaging with the people they represent. However, as well as offering tremendous opportunities, usage can have its pitfalls.
- 2.2 Whenever you post something on social media it becomes a publication. It is in the public domain and, as such, is subject to both the Member Code of Conduct and various legislation. The attached Policy, at Appendix 1, and the Guidance note providing responses to Frequently Asked Questions at Appendix 2, aim to provide a framework for the Council as a whole and Members in respect of issues such as standards, libel, data protection, bias and pre-determination.
- 2.3 By following the policy and using the guidance outlined, Members will ensure that they stay compliant with the Code and are mindful of legislative parameters.
- 2.4 The Portfolio Holder for Service Development, Improvement and Performance Management issued the draft Policy and Guidance Note to all Members for comment by 1 November 2013. Two Members responded, Cllr J R F Mason and Cllr S P Smith, and amendments have been made as appropriate.

**3 ALTERNATIVE OPTIONS CONSIDERED**

- 3.1 The Council could decide not to approve a Social Media Policy and Guidance Note for Members. However, that could expose Members to increased risks under both the Member Code and various legislation.

**4 RISK IMPLICATIONS**

- 4.1 Having a Social Media Policy and Guidance Note should assist in minimising the likelihood of reputational risks to both the Council and individual Members.

**5 RESOURCE IMPLICATIONS**

- 5.1 The approval of the Policy and Guidance Note have no resource implications as such, other than officer and Member time in terms of its drafting and review.

I confirm that the above recommendation does not depart from Council policy and that appropriate consideration has been given to any budgetary and legal implications.

SMT Lead Officer Signature: \_\_\_\_\_

**Chief Executive (Retiring)**

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**Background Papers:-**

None.

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If you would like this report in large print, Braille or another language please contact 01702 318111.



## Social Media Policy

### 1. Definitions

- a. "Social Media" – for the purposes of this Policy, Social Media includes websites such as Facebook, Twitter, LinkedIn, Youtube, GooglePlus, Yammer and Pintrest as well as all online public blogs.
- b. "Personal Blog" – for the purposes of this Policy, a Personal Blog includes any blog that is the sole or joint responsibility of a Councillor i.e. it is owned, managed or maintained by a Councillor. This includes a Councillor's blog hosted by a third party website e.g. a blog on Wordpress or Blogger.
- c. "Media Devices" – includes mobile phones, tablets, cameras and any other device capable of recording sound and image. For the purposes of this Policy, this definition will extend to both personally owned Media Devices as well as any Media Devices provided to a Councillor by the Council.
- d. "Members of the Public" – any person who is not a Member of the Council or officer taking part in the Council meeting. This includes journalists.

### 2. Purpose

Social Media and Personal Blogs are effective methods for Councillors to interact with residents and support local democracy. Used effectively, they can engage those who would not normally have access to local politics. However, it is not always clear whether such activities are covered by the Member Code of Conduct. The main purpose of this Policy is to protect the Council and Councillors with particular regard to issues such as standards, libel, copyright, data protection, bias and pre-determination as well as encouraging good manners online and in Council meetings.

Please note that Information Technology security implications are not covered by this Policy, however, they can be found in the Council's Information Technology Security Policy.

Please note that issues relating to filming, videoing, photography and audio recording are not covered by this Policy, the Council is currently developing separate guidance on this.

### 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.

- 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.
- 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 on-going matter/hearing yet to be determined (e.g. a licensing or planning matter). Any indication of bias or pre-determination could result in the decision becoming void.
  - (x) Be aware that sharing someone else's post, e.g. 'retweeting' on Twitter or sharing on Facebook, may be interpreted as the Councillor agreeing or supporting its content.
  - (xi) 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.

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- (xii) 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.
  - 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.
  - 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. The guidance in Section 3 of this Policy will also apply to Personal Blogs.
5. Councillor's use of Media Devices during Council meetings held in public
- a. For the purpose of this Policy Council meetings held in public include meetings of the following – Audit Committee, Full Council, Local Development Sub-Committee, Licensing Committee, Review Committee, Standards Committee, The Executive, Development Committee and Licensing Sub-Committee.

- b. Councillors should avoid appearing to spend the meeting engaged in using Media Devices and must not distract others. It is important to convey to others, particularly Members of the Public, that they are fully engaged in the debate and the decision making process.
  - c. Media Devices may be used during meetings to access meeting papers and relevant background material.
  - d. Media Devices may be used discreetly to send urgent text messages or emails, providing the Councillor does not distract proceedings in doing so. Any text or email sent must not show any indication of bias or pre-determination.
  - e. If a Councillor 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.
  - f. The use of Social Media should be kept to an absolute minimum during meetings. Any use of Social Media must not risk distraction to proceedings or demonstrate pre-determination or bias.
  - g. 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
  - h. 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. 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. Councillor's use of Media Devices during Council meetings held in private
- a. For the purpose of this Policy, Council meetings held in private include the following – Appeals Committee, Standards Sub-Committee/Hearings, disciplinary meetings/hearings and any other meeting held in private or partially in private. Members of the Public are not invited to these types of meeting as they are more formal in nature and often relate to sensitive or confidential issues. For meetings that are partially held in public and partially held in private, Section 5 will apply to the part that is held in public, Section 6 will apply for the part that is held in private.
  - b. Generally, Media Devices are not encouraged during these types of meetings.
  - c. Generally Councillors will not be permitted or take calls using Media Devices during Council meetings held in private. If a Councillor has an emergency where they must use their Media Device during a Council meeting held in private, they should leave the room quietly and return to their seat at an appropriate juncture in the meeting.

- d. The Chairman of the Council meeting held in private may ask a Councillor who disregards any part of Section 6 of this Policy to refrain from using the Media Device and, where appropriate, to leave the meeting.
- e. Councillors are reminded that publishing information regarding a forthcoming or on-going decision (e.g. a licensing appeal or disciplinary matter) may void that decision and/or be subject to an Ombudsman complaint. A failure to comply with any of Section 6 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.

7. 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.
- c. 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.
- d. The Chairman of the a Council meeting may ask a Member of the Public who disregards Section 7 of this Policy to refrain from using the Media Device and where appropriate to leave the meeting

8. Monitoring and Review of this Policy

- a. This Policy is to be reviewed every year by the Council's People and Policy Unit and the Senior Corporate Communications Officer in consultation with the Head of Legal, Estates & Member Services.
- b. Date of next review [            ]
- c. Last reviewed [            ]

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**Social Media Policy - Real-life application for Councillors****During meetings****Are there different rules for different types of Council meetings?**

Yes.

Section 5 applies to Council meetings held in public and Councillors will be less restricted in their use of Media Devices. Council meetings held in public include the following – Audit Committee, Full Council, Local Development Sub-Committee, Licensing Committee, Review Committee, Standards Committee, The Executive, Development Committee and Licensing Sub-Committee (see 5(a) of the Social Media Policy).

Section 6 applies to Council meetings held in private and a more formal approach is required for these types of meetings. Council meetings held in private include the following – Appeals Committee, Standards Sub-Committee/Hearings, disciplinary meetings/hearings and any other meeting held in private or partially in private (see 6(a)).

**Can I take/make phone calls during a Council meeting?**

If you have to take or make an urgent phone call during a Council meeting held in public you may do so. However, out of politeness and common courtesy, you will be required to leave the room quietly and return only at an appropriate juncture in the meeting, such as when someone has finished speaking (see 5(e)). Generally, you will not be permitted to take or make calls in a Council meeting held in private; however, in an absolute emergency a Councillor may leave and return to the room in the manner stated above. If you do make or take a call in a meeting you will be asked to refrain from doing so and, if you persist, you will be asked to leave the meeting (see 5(g) and 6(d)).

**Can I text or email during a Council meeting held in public?**

A Councillor may discreetly text or send an urgent email (see 5(c)) providing:

- The subject matter does not relate to the decision in question (as this may void the decision or leave it open to review).
- In doing so they do not distract others (see 5(b)).

Some examples of permissible texts or emails during meetings are as follows:

- A quick email to another Councillor requesting background information or meeting papers.
- A text to a family member informing them that the meeting will be overrunning.



**Can I text or email during a Council meeting held in private?**

Texting and emailing are not encouraged in this type of meeting (see 6(b)).

**Can I use Social Media during a Council meeting held in public?**

The same rules as texting and emailing apply (see 5(f)):

A Councillor may use Social Media providing:

- The subject matter does not relate to the decision in question (as this may void the decision or leave it open to review).
- In doing so they do not distract others (see 5(b)).

Some examples of permissible use of Social Media are as follows:

- A post stating that you are attending the meeting.
- A response to a member of the public regarding the meeting (as long as it doesn't relate to the decision).

**I want to access background information/meeting notes on my Media Device during a Council meeting held in public. 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(c)). However, Councillors should remain fully engaged with proceedings and must not distract other members of the committee in doing so (see 5(b)).

**Can I access background information/meeting notes on my Media Device during a Council meeting held in private?**

Generally Media Devices are not encouraged in these types of meetings. All notes should be prepared in advance so that a Councillor's full attention is on the hearing (see 6(b)).

**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 7(b)).

**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 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 expediently, 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(h), 6(e)).