

## Purpose of this Guidance Note

Members' increasing use of social media is welcomed; however there is a wide recognition that there are potential issues which the use of social media raises. To help support and facilitate Members in the use of Social Media this advice and guidance document has been produced. This guidance provides a summary of the main issues for Members to consider, some 'Do's and Don'ts' and further more detailed information about the Legal Framework and examples of how social media activity might fall within and the scope of the Members' Code of Conduct.

## Summary

It is not a requirement for members to have a Facebook or Twitter account or use other forms of social media. However, If you are already 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 to you.

Any form of communication is capable of being misunderstood. While the use of social media should not be any more susceptible to this problem than any other form of communication, the immediacy of social media seems to, on occasions, magnify misunderstandings.

By the nature of such media "misfiring", or being misunderstood (particularly with regard to something that is perceived as being more controversial than it was intended to be), it is likely to lead to rapid and wide broadcasting of that apparently "controversial" or misunderstood matter.

There are no special, additional legal or ethical burdens relating to the use of social media. **The same rules apply that govern the rest of your behaviour as a councillor** – it is though important that you consider your social media activity within this context.

The best use of social media is conversational in tone, however publishing information on social media is still publishing. What you've said in published material web is written down and it is permanent. Most pitfalls will be avoided if your online content is accurate, respectful, informative, balanced and objective. On the two pages that follow some do's and don'ts have been listed to help assist Members avoid some of these.

This doesn't mean that members cannot, in the appropriate context, communicate politically. This is expected of an elected representative, but you should be careful not to say anything that you wouldn't be comfortable repeating or justifying, for example, at a public meeting.

## Conclusion

The Council encourages Members' use of new technology, including social media. This guidance is intended to help Members use social media in a way that avoids legal and reputational risk, both for Members individually and for the Council.

## Avoiding the pitfalls - Some Do's and Don'ts

### Do:

1. Set appropriate privacy settings for your blog or networking site – especially if you have a private, non-political blog. However if you post an inappropriate comments within a 'restricted group' and it is subsequently seen by a third party, you remain responsible for that content irrespective of the privacy settings you have set.
2. 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.
3. 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.
4. Be clear about the capacity in which you are publishing material. Consider keeping your personal and elected member profile on social networking sites separate and maintain appropriate professional boundaries.
5. Ensure you use council facilities appropriately; if you use a council provided blog site, social networking area or Council owned ICT equipment, any posts you make are more likely to be viewed as made in your official capacity.
6. 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.
7. Feel able to 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, whereas general comments about another party or genuine comments on policy are less likely to be viewed as disrespect. An unjustified personal and generic attack on a section of the public is unlikely to be regarded as a political view and be protected by freedom of speech.
8. Minimise security risks by using strong passwords for social media accounts and change them regularly. Protect your devices with a pin to restrict access and prevent misuse. Be mindful that some social media sites are sometimes used to distribute malicious software or code.
9. Show respect and consideration for others. Comments, including those presenting a differing opinion, are a distinct part of social media and it is okay to agree to disagree, it is 'social' media after all. The use of blocking and muting should always be seen as a last resort.
10. Prior to posting consider, as far as possible, the full facts of an issue and any likely impact of a post on an individual's personal wellbeing.
11. In the event it is highlighted to you that a social media post that you have made is in some way inappropriate, immediately remove the post and consider making a subsequent on or off line apology
12. Act in a manner that is conducive to supporting the principles set out in this guidance, and endeavour to do so in your private capacity.
13. And finally, pause before publishing.

## Don't

1. Blog in haste, particularly in circumstances where your judgement might be impaired; for example if you have consumed alcohol or where you are frustrated, cross or upset.
2. Make unguarded statements which could lead to potential liability or post comments that you would not be prepared to make on paper or face to face.
3. Use council facilities for personal or political blogs.
4. Use social media in any way to attack, insult, abuse, defame or otherwise make offensive or discriminatory comments about members of council, members of Parliament (or their family or friends), council staff, service users, members of the public, other professionals, other organisations, or the council.
5. 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 City Council related information. If a service user has used social media to ask you to sort out a problem they are having with a Council service, make sure you respond to them privately unless you are absolutely sure they are happy to communicate about their issue on social media.
6. 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 or publish or share a member of the public's political views without their express consent.
7. Make, or publish links to content which is derogatory, discriminatory or in any way offensive.
8. Browse, download, upload or distribute any material that could be considered inappropriate, offensive, defamatory, illegal or discriminatory.

## Further Information

The Monitoring Officer and officers from the Communications Team, Democratic Services, and Legal Services are happy to help Members by providing additional advice and guidance as appropriate. If Members are contacted via social media by journalists looking for a Leeds City Council position on any issue the enquiry should be referred to the Communications Team who will be able to assist.

Training is also available via Member Development for individual Members or Groups on the use of social media and Social Media training forms part of the Members' induction programme. **Group Whips are able to support their group members to recognise the content of this guidance as well as ensuring that any concerns raised are dealt with urgently and appropriately through group procedures.**

## Other Useful Sources of Information

A Guide for new councillors 2015/16 - Local Government Association

Social Media – A Guide for Councillors – Welsh Local Government Association August 2013

Communications Act 2003

Malicious Communications Act 1988

Public Order Act 1986

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## Further Guidance

### The Legal Framework in Brief

**Libel** – Political speech has a high level of protection under the right to freedom of expression. However, if you publish an untrue statement about a person which has caused or is likely to cause serious harm to their reputation, they may take a libel action against you. The same thing may happen if, for example, someone else publishes something libellous on your website, you know about it and don't take swift action to remove it. A successful libel claim could result in the award of damages against the Council, or possibly against you personally if you were not acting in your capacity as a Member.

**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. Copyright material does not have to be marked ©, so for example just because a photo appears on a website without the photo or the website being marked © this does not mean the photo can be freely used. Therefore, don't publish anything you are unsure about, or obtain prior permission in writing from the copyright owner. Again, a successful claim for breach of copyright would be likely to lead to an award of damages against the Council or possibly against you personally if you were not acting in your capacity as a Member.

**Data Protection/Confidentiality** – All the usual data protection rules apply, and please remember that you are registered as a "data controller" in your own right for your constituency matters, so you could be personally liable if you break these rules when you are communicating about local matters with your constituents. More detailed guidance for Members about data protection is available, but please remember that nearly every communication, message, blog etc. will be the author's "personal data", and the expression of a political opinion will be the author's "sensitive personal data". Therefore, you need to be very careful that you've got the author's express consent before you publish or disseminate this data, and you must not use this data for another purpose, or keep this data in your accounts for longer than necessary for the original purpose. Please remember as well, that individuals can make a subject access request to you for copies of their personal data which you hold in your social media accounts. Information which is an individual's personal data may also be confidential information, and again if you used this information in a way which was detrimental to the individual, they may be able to sue you or the Council for damages.

### What if you find yourself the target of the use of social media by others?

On occasions you may find that others post inappropriate comments about you or communicate inappropriately with you through the use of social media.

If as a result of such communications you are fearful for your safety or the safety of others then you should immediately contact the Police as you would in any other circumstance where you feel you or others might be in danger.

If the communications are not necessarily threatening but are unwelcome and for example could potentially amount to harassment then there are practical steps you can take:

- ICT can be contacted to advise on and where appropriate take practical steps to assist you to block certain communications.

- Legal Services can be contacted to provide advice on whether there is sufficient evidence to take civil proceedings – for example for an injunction under the Protection from Harassment Act 1997. Evidence of the impact of the communications would need to be given in such circumstances.

Sometimes communications are potentially defamatory. Defamation includes false statements made by an individual which injure reputation – either through the spoken word (slander) or written word (libel). It should be noted that the council is prohibited from funding legal proceedings which an officer or Member might want to take against someone for defamation although, depending on the circumstances, the Council may be able to support the obtaining of initial limited advice.

### **Social Media and the Members' Code of Conduct**

Aspects of the Members' Code of Conduct will apply to your online activity in the same way as they do to any other written or verbal communication you may engage in.

Whilst the code of conduct strictly only applies when you are performing the duties of your elected position or where you are representing the council, 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 or in your purely political capacity (e.g. in relation to election activities where the code does not apply).

There are obvious tensions and potential consequences of this in that 'Councillor' in these circumstances may have "blurred identities". 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. 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.

Where a Member's activities on social media are outside the parameters of their elected duties, any issues of concern may be a matter for a Political Party/Political Group to consider and resolve or might be dealt with through separate legal processes.

One way of avoiding blurring of the lines between your personal and councillor life, 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.

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 remaining basic position though is that the same standards of behaviour and conduct should apply online as would be expected offline.

The Council's Communications Team can help you with more specific advice if needed.

## **Examples of how social media activity might fall within and the scope of the Members' Code of Conduct**

### Honesty and Integrity

Be aware that publishing information that you could only have accessed through your role as a councillor is likely to indicate that you are acting in your official capacity. One of the council's most important values is to conduct its business with openness. The inseparable, complementary "other side of the coin" to the council being open in its dealings is for councillors and employees to be clear about what is confidential and make sure it stays confidential.

### Objectivity

When you act as a member of a decision making committee (particularly planning or licensing decisions) whilst you are permitted to have a predisposed view, you should not give the impression that you have a closed mind. So do not say anything through social media (or indeed anywhere) that suggests you have completely and irrevocably made your mind up on an issue that is due to be formally decided upon. While your 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 arguments, and were genuinely persuadable to a different view. If you weren't, 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.

### Accountability

You should not undertake any action which would bring the Council, your position, or the position of Members generally, into disrepute. This includes any social media post that may reveal confidential or exempt information which you only have access to as a result of your role as a councillor, or the sharing of information about an individual or an organisation without their express permission.

### Leadership

You must promote and maintain high standards of conduct by supporting these principles by leadership and by example, and should act in a way that secures or preserves the confidence of others by not making offensive or derogatory comments about an individual including other Members of Council or by posting comments or images that are discriminatory or offensive or links to such content.

These examples are given for illustrative purposes.

## **The use of social media and mobile devices at meetings**

At meetings use mobile devices sparingly, discreetly and with common sense and consider the impression the use may give to others. There may be occasions when use of social media and mobile devices is entirely appropriate however this should not be excessive and continuous so as to give the impression of not being respectful or engaged in the proceedings or being fully engaged with the matters under discussion.