

Social Media Guidance for Councillors

Section 1 – Introduction

1. The Council welcomes and wishes to encourage Councillors' use of new technology, including social media. It is not a requirement for Councillors to have a Facebook or Twitter account or use other forms of social media. If Councillors are already using or planning to use social media in connection with their work as a councillor, they should ensure that they are familiar with the guidance set out below and that their use of social media does not put the organisation's information and security systems at risk.
2. Most people are familiar with doing things online and residents will increasingly expect the Council to provide its services online, with the same level of interactivity that they find everywhere else. However, there are challenges that may discourage Councillors and the Council from using social media. For example, inappropriate use (which may occur inadvertently) can cause significant damage to a Councillor's (or the Council's) reputation and can lead to legal claims. In addition, technology is changing fast. This can mean that it is hard to keep up and maintain useful interaction with residents.
3. There are also some pitfalls to be aware of, and this Guidance is produced to help Councillors avoid these. This Guidance does not tell Councillors what social media is, or which blogs or networks might be used effectively. It assumes that Councillors are aware of those. It deals with the pitfalls that specifically apply to the role of local Councillors.

Section 2 – Legal Considerations

4. Three of the important Nolan Principles applying to those in public life are "Openness", "Accountability" and "Leadership". That means Councillors should be as open as possible about the actions and decisions they take, submit to an appropriate level of public scrutiny, and lead by example. Social media can be a vital tool for public debate and its use by Councillors is encouraged.
5. In the same way as anyone else publishing material, Councillors will need to be aware of the laws that apply to published material. Some of the main ones are these:

- a. **Defamation:** if you publish an untrue statement about a person that is damaging to their reputation you may be liable to pay damages;
 - b. **Copyright:** publishing information that is not yours, without permission, may also result in an award of damages against you;
 - c. **Harassment:** it is an offence to repeatedly pursue a campaign against a person that is likely to cause alarm, harassment or distress;
 - d. **Data protection:** do not publish personal data of other people, including photographs, without their express permission to do so;
 - e. **Incitement:** it is an offence to incite any criminal act;
 - f. **Discrimination and 'protected characteristics':** it is unlawful to discriminate against anyone based on protected characteristics (as defined in the Equality Act 2010);
 - g. **Malicious and obscene communications:** it is an offence to send malicious or obscene communications
6. Social media posts should not include confidential or commercially sensitive information belonging to the Council, or personal or confidential information about an individual. Nor should anything be published which could reasonably be considered abusive or threatening, as promoting g illegal activity or which is intended to deceive.
7. Additional considerations apply to Councillors.

Bias and pre-determination

8. Members sitting on regulatory committees such as planning or licensing should be aware that they are allowed to have a view but must not have gone so far as to have predetermined their position on a matter. Any views aired on social media could be used as evidence of making a decision in advance of hearing all relevant information. The Council's decision is then open to challenge and could be invalidated, and the 'disrepute' provisions of the Code of Conduct for Members could be engaged.

Equality and discrimination

9. The Council is a public authority required to comply with the Equalities Act 2010. As noted above it is unlawful to discriminate against anyone based on their protected

characteristics. The Council must also have 'due regard' to the Public Sector Equality Duty (which consists of eliminating unlawful discrimination, advancing equality of opportunity and fostering good relations); Councillors should exercise caution to ensure they do not place the Council in breach of that duty by publishing content when appearing to act in their official capacity.

Electioneering

10. Council resources, including Council mobile devices or IT equipment, should not be used for party political/campaign purposes. Particular care should also be taken when using social media during the pre-election period. The Electoral Commission has further guidance including on the requirements to provide a return of expenditure on election advertising which includes web advertising.

Human Rights

11. Article 8 of the European Convention on Human Rights (ECHR) provides that public authorities should not interfere with the right of individuals to a private and family life without lawful authority to do so, and where it is necessary, proportionate, and in pursuit of one of the aims set out in Article 8(2). (These are national security, public safety, economic well-being, health or morals, prevention of crime or disorder, or protecting others' rights).
12. Article 10 of the ECHR also protects councillors' freedom of expression although this a qualified right which may be limited in order to protect the rights and interests of others. Case law has established the principle that in a political context, more robust exchanges might be acceptable than would otherwise be the case. This does not extend to gratuitous personal comment.

Code of Conduct

13. Councillors may use social media in both an official and personal capacity but they must be aware that the public may perceive them as acting in either capacity when that is not their intention. Any social media account which could be potentially linked to a councillor would need to meet the standards of the code of conduct.

Section 3 – Responsibilities of Councillors

14. Councillors will need to monitor and, where appropriate, censor or remove the contributions made by others to their sites. Allowing defamatory or offensive statements to remain on a site can become the Councillor's own legal problem as the 'publisher' of the material and could also give rise to Code issues where allowing comments to remain could be seen as condoning or endorsing them.
15. Similarly, 'liking', 'sharing' or 're-tweeting' posts could be seen as an endorsement of them and legally this can be a separate instance of publication, by the Councillor, to which all the legal and Code considerations would apply.
16. Beyond that it is generally best to allow disagreement rather than to seek to censor it. However, there is no need to respond to everything and unhelpful online arguments should be avoided. Be professional, respectful and polite, even (or especially) when corresponding with those who do not return the courtesy.
17. Careful use of language is required. Inappropriate and offensive material should not be published and sarcasm, irony and ambiguous comments should be avoided.
18. Promptly admit to mistakes.
19. Avoid using social media when you are tired, angry, upset or your judgment may be impaired as something permanently published can't be easily taken back
20. Think carefully about who to 'follow' or 'befriend' online. Online 'friendships' with council officers should be avoided as they may compromise the appearance of impartial advice. It is inadvisable to 'follow' anyone without a good reason – some constituents may find it uncomfortable (and see the Human Rights comments above). Many Councillors wait to be 'followed' before returning the compliment.
21. Always ensure the security of your devices to prevent unauthorised access by third parties who may make inappropriate use of the device. You will have signed up to the Acceptable use of IT Policy, so refer to its contents for guidance.

Section 4 – Principles for using Social Media

You should follow these five guiding principles for any social media activities:

22. **Be respectful** – set the tone for online conversations by being polite, open and respectful. Use familiar language, be cordial, honest and professional at all times.

Make sure that you respect people's confidentiality – do not disclose non-public information or the personal information of others.

23. **Be credible and consistent** – be accurate, fair, thorough and transparent. Encourage constructive criticism and deliberation. Make sure that what you say online is consistent with your other communications.
24. **Be honest about who you are** – it is important that any accounts or profiles that you set up are clearly and easily identifiable. Be clear about your own personal role, in particular a clear distinction should be drawn between use of an account in your personal capacity and use in your capacity as a councillor. Note that merely stating you are acting in your private capacity may not be sufficient.
25. **Be responsive** – make an effort to share what you know. Offer insights where appropriate and put people in touch with someone who can help if you cannot. Respond to questions and comments in a timely manner.
26. **Think twice** – think carefully about all your social media posts. Once published it will be too late to change your mind. Following these rules and seek further guidance if you need it.

Section 5 – Use of Social Media during Committee Meetings

27. Use mobile devices sparingly, discreetly and with common sense at meetings, considering the impression they are giving to others. Councillors should be mindful that regulatory committees such as planning or licensing require the Councillor to alert officers to any lobbying material they have received. This would be difficult if it arrives on Twitter and is read by the Councillor during the course of a meeting.
28. Mobile devices enable councillors to manage their busy lives when time is at a premium. There may be occasions when texting or e-mailing between Councillors during meetings on matters relevant to the debate at hand may be valuable (on the same basis as circulating paper notes) However it is important for Councillors not to give the impression that insufficient attention is being given to the discussion at the meeting. That could lead to the relevant decision coming under challenge if Councillors are perceived to have made a decision without having properly listened to the debate. It could also result in Code complaints of a failure to treat others with respect or of bringing the Council into disrepute.

Section 6- Inappropriate use of Social Media by Others

29. Anyone receiving threats, abuse or harassment via their use of social media should report it to the police.
30. Other inappropriate content can be reported to the social media site directly to ask for it to be removed. You may wish to save a screenshot in the circumstances.

Section 7 - Further Reading Materials

- Connected Councillors – A guide to using social media to support local leadership. Local Government Association.
- The Local Government Association's webpage on social media

Section 8 – Complaints

30. These guidelines do not form part of the Code of Conduct for Members but there may be instances where councillors' use of social media amounts to a breach of that Code and the Monitoring Officer may take these guidelines into account when considering whether such a breach has taken place. The procedure for making complaints against councillors is set out in part four of the Council's constitution:

<https://democracy.merton.gov.uk/ecSDDisplay.aspx?ID=212&RPID=0>

Contact details

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