

## **Standards Committee – 26th April 2016**

### **Proposed Social Media Policy for Councillors**

#### **Summary of report:**

For the Standards Committee to consider whether or not the Council should adopt a Social Media Protocol for Councillors to assist and guide them in their usage of social media.

#### **Background papers:**

1. Draft Social Media Protocol for Councillors.
- 2.

#### **Recommendation:**

That if the Standards Committee approve the proposed Social Media Protocol for Councillors that a report be submitted to Council for approval in respect of the same, in order that it may form part of the Council's protocol section of the Constitution.

### **1.0 Background**

1.1 Social Media is a collective term used to describe online media which offers easy ways to publish content online and also to facilitate and participate in online conversations, which may invite the posting of comments or contributions, or otherwise invite discussion. Social media can involve social networks (eg. *Facebook*); professional networks (eg. *LinkedIn*); content communities sites (eg. *Flickr* and *Youtube*); blogs (eg. via sites such as *Wordpress* and *Blogger*); micro-blogging sites (eg. *Twitter*). Social media can be accessed by a variety of digital equipment, such as laptops, smart-phones and tablets, which can also be used to capture audio-visual information.

1.2 Social media can play an important part in the operation of a democratic society by offering positive opportunities for the Council and its Elected Members to engage with the citizens of Walsall. For example, social media can be an efficient and cost effective way for the Council to keep in touch with residents and businesses. Councillors can also effectively use social media to interact with constituents and support local democracy. It has been demonstrated that, when used effectively, social media can engage those who would not otherwise participate in local politics or interact with their Councillors Members.

1.3 Conversely the use of social media can also potentially present the Council and Councillors with certain risks and challenges, which could result in complaints under the Code of Conduct against a Councillor, or action against the Council itself. It is

therefore important that Elected Members recognise the risks associated with social media and ensure that they do not use social media in a way that may breach the Code of Conduct. It is intended that the Council's Standards Committee will have regard to the Protocol when determining allegations of breaches of the Code of Conduct involving the use of social media. The Council offered training to Councillors in respect of the use of social media in the current municipal year and are going to repeat the training in the forthcoming municipal year.

1.4 Councillors are bound by the terms and conditions of the individual social media sites. In addition, Members should recognise that their use of social media could be covered by the Code of Conduct, and it is likely that any failure to comply with the law and user agreements of the sites could also constitute a breach of the Code of Conduct. In particular, Councillors should also avoid using social media in a way which suggests bias and predetermination.

1.5 In addition to issues covered by the Code of Conduct, Councillors are reminded that their use of Social Media may have implications in general law, which may have serious consequences. Potential difficulties arising from the use of social media can be avoided if the information published by Councillors is objective, balanced, informative, and accurate. The effects of publishing information online can be long lasting, as access to online published content is pervasive and effectively published in perpetuity.

1.6 Councillors should consider not using social media during meetings. This may give members of the public the impression that they are not fully attending to the proceedings of a meeting. This can be done by ensuring that mobile devices are used sparingly and discreetly during meetings. It may also lead to challenge where the meeting is dealing with regulatory matters such as licensing and planning.

1.7 Councillors should ensure that their use of social media does not breach the Council's principles of equality. Discriminatory statements are also likely to be unlawful.

1.8 The Council can only take action against elected members under the code of conduct for elected members when they are acting in their official capacity as an elected member and not in a private capacity. In determining whether or not a Member was acting in an official capacity, it would be necessary to consider the context of a Member's use of social media, taking into account such factors as:

- a) The public profile of a Councillor, which can result in a reasonable assumption being made that the Councillor was acting in their official capacity as a Councillor;
- b) The privacy settings on the social media site or blog. It is a Councillor's responsibility to ensure that appropriate privacy settings are in place. If constituents can access a Councillor's posts they may make the reasonable assumption that the Councillor is acting in an official capacity;
- c) Councillors should seek to enable other users of social media to avoid any misunderstanding over the capacity in which they are acting.

1.9 Councillors should try to avoid discussing Council business on a personal social media site, or make remarks about others. It is not adequate for Members to

subsequently claim that any disputed posts were made in a private capacity as anyone investigating will have to look at the full circumstances of the case. Placing council issues on personal websites can create blurred lines as to whether or not an elected member is acting in an official capacity as a councillor.

## **2.0 Financial Implications**

2.1 None

## **3.0 Resource and legal considerations:**

3.1 Training in relation to the use of social media will be provided internally to elected member in the forthcoming municipal year. Adoption of a protocol and training on the use of social media may prevent complaints under the Elected Member Code of Conduct.

## **4.0 Performance and Risk Management issues:**

4.1 This should assist in improving and widening communication in the wider community; support councillors leadership roles; assist in keeping a finger on the pulse of local issue and needs. There are risks in communication however if a protocol is adopted and training undertaken it should help to minimise this risk to both the council and elected members.

## **5.0 Equality Implications:**

5.1 In maintaining up to date policies and procedures the council will ensure that services are delivered fairly in an open and transparent manner. There are specific requirements in both codes that elected members and officers observe equalities.

## **6.0 Consultation:**

6.1 Consultation has been undertaken with the council's Communications team. Further consultation will be undertaken with Group Leaders, Elected Members and the Communications and IT team prior to a report going to council.

### **Author:**

Tony Cox  
Head of Legal and Democratic Services  
☎ 01922 654822  
✉ coxt@walsall.gov.uk

## **Draft Social Media Protocol for Councillors**

### **Purpose of this protocol**

Social media is an important and growing communications tool for individuals and businesses. The Council welcomes and recognises Councillor increasing use of social media and would like to facilitate this by giving support and advice in relation to appropriate usage. This protocol is intended to provide such guidance and complements the general rules under the Code of Conduct for Councillors. Improper use of social media and mobile devices could be used as grounds for challenging a contentious decision of the Council, or result in complaints for breaching the Council's Code of Conduct for Councillors, especially in the areas such as failing to show respect to others and bringing the Council or their office into disrepute. Councillors are asked to follow these guidelines to assist them in complying with proper standards of behaviour.

### **What is Social Media?**

Social Media is the term to describe websites and online tools which allow people to interact with each other by creating their own content. The content could, for example, be blogs, videos or short messages, known as Tweets, via Twitter. Popular social media platforms include Facebook, Twitter, LinkedIn, YouTube, Instagram and blogs (web logs). Types of mobile devices include smart-phones, tablets and laptops. On social media sites site users share information, discuss opinions and may create interest groups or pages. Ultimately people use these sites and tools to build communities and networks which encourage participation and engagement. It is not a requirement for members to have a Facebook or Twitter account or use other forms of social media. Councillors may use these and other platforms in their official capacity, but should remember that the public may still perceive them as acting in that capacity even when that is not their intention.

### **Blurred Identities**

Councillors can have "blurred identities". This can happen where you have a social media account both as a councillor and as an individual. Although you may clear in your own 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.

One way of avoiding blurring the lines between your personal and councillor life, and avoiding some of the potential problems related to engaging the Code of Conduct, maybe 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 Councillor.

### **Good practice on the use of social media and mobile devices**

#### **Councillors should:**

- consider whether they need to set appropriate privacy settings for any blog or networking site-especially if it is a private, non-political blog;
- keep an eye out for defamatory, untrue or obscene posts from others and remove them as soon as possible to avoid any perception that they condone such views;

- be careful about any connection with service users who are vulnerable adults or children, as this could be regarded as potentially engaging safeguarding issues;
- ensure they use Council facilities appropriately and comply with the Use of Resources by Councillors Protocol (5. 16 of the Council Constitution);
- be aware that by publishing information that they could not have accessed without being a Councillor, they will be seen as acting in their official capacity;
- be careful about being too specific or personal if referring to individuals; and
- be aware that the libel laws cover blogs, social media and other forms of digital content publication.

**Councillors should not:**

- place images or text on their site from a copyrighted source (for example extracts from publications or photos) without permission;
- post comments that they would not be prepared to make face-to-face;
- refer in a blog to any information identified by the Council as confidential or exempt;
- disclose information given to them in confidence by anyone, or information acquired by them which they believe or are aware is of a confidential nature;
- publish personal data of individuals except where they have express permission to do so;
- give the impression that they are expressing the views of the Council where it is not appropriate to do so; and
- if they are involved in determining planning or licensing applications or other quasi judicial decisions, publish anything on their blog that might suggest that they do not have an open mind about a matter they are involved in determining.

**Using social media and devices at Council meetings**

Use mobile devices sparingly, discreetly and with common sense at meetings, considering the impression they are giving to others. There may be occasions when texting or e-mailing between Councillors during meetings on matters relevant the debate in hand may be valuable (on the same basis as circulating paper notes to other Councillors). Mobile devices also enable Councillors to manage their busy lives when time is at a premium. However, frequent use of these devices during meetings may give the public the impression that a Councillor is not paying full attention to an item that is being discussed in a debate on a decision that is yet to be made.

Examples of acceptable use:

- reading and annotating meeting papers and background information relevant to that meeting;
- communicating with others at the meeting on matters relevant to the debate at hand; and
- sending and receiving communications to/from home relating to domestic circumstances (e.g. childcare arrangements), within reason and with common sense.

Avoid the following:

- using social media during quasi judicial meetings or during the consideration of confidential or exempt items of business meetings; and
- frequently checking e-mails and messages that are not related to the meeting;
- taking and sending electronic images of proceedings; and
- extended periods of use that suggests that insufficient attention is being paid to the meeting.

### General legal issues

- **Libel**-if you publish an untrue statement about a person which is damaging to their reputation, they may take libel action against you. The same thing may happen if, for example, someone else publishes something libellous on your website, which you know about, and don't take swift action to remove. A successful libel claim could result in the award of damages against you.
- **Copyright**-placing images or texts on your site from a copyrighted source (for example extracts from publications and 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 personal data of individuals unless you have their express permission.
- **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 completely and irrevocably made your mind up on an issue that is due to be formally decided upon. While you're 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 up all the evidence and arguments, and were genuinely persuadable to a different view. If you weren't the decision may later be challenged as invalid. If a person has suffered some sort detriment as a result of such invalid decision, they may have a claim against the Council for damages.