

Appendix 2

Social Media Guidance for Councillors

1. 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.
2. There are however some pitfalls to be aware of, and this local 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.

A LEGAL CONSIDERATIONS

3. Like 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:

Defamation: if you publish an untrue statement about a person or an organisation that is damaging to their reputation you may be liable to pay damages;

Copyright: publishing information that is not yours, without permission, may also result in an award of damages against you;

Harassment: it is an offence to repeatedly pursue a campaign against a person that is likely to cause alarm, harassment or distress;

Data protection: do not publish personal data of other people, including photographs, without their express permission to do so;

Incitement: it is an offence to incite any criminal act;

Discrimination and ‘protected characteristics’: it is an offence to discriminate against anyone based on protected characteristics (as defined in the Equality Act 2010);

Malicious and obscene communications: it is an offence to send malicious or obscene communications

4. Additional considerations apply to Councillors.

Bias and pre-determination

5. Members sitting on regulatory committees such as planning or licensing should be aware that they are allowed to have a view but 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 could be engaged.

Equality and discrimination

6. The Council is a public authority required to comply with the Equalities Act 2010. As noted above it is an offence 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) and that applies to Councillors when appearing to act in their official capacity.

Electioneering

7. Council resources, including any the use of social media on Council mobile devices or IT equipment, should not be used for 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

8. Article 8 of the European Convention 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). Observing the use of social media by other people (even on 'open' profiles) can engage Article 8.

B CODE OF CONDUCT

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.

9. The particular sections of the (County Council's) Code most likely to give rise to complaints are the requirements to treat others with respect; not to bring the office of Councillor or the Council into disrepute; and prohibiting the disclosure of confidential information.
10. You should also consider your position carefully as to whether your online 'followers' or 'friends' are "close associates", for the purpose of declaring interests and participation in meetings where their well-being or financial position would be affected.

C 'NETIQUETTE'

11. 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. The council has a clear approach to the moderation of social media on its website at www.durham.gov.uk/socialmedia and it is recommended that councillors apply the same to moderating their accounts. If you let people post comments then you should have clear and prominent guidelines about when you will moderate comments or block people from posting to the site. You should regularly monitor your site, and not be afraid to follow these guidelines.

12. 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.

13. Beyond that it is generally best to allow disagreement rather than to seek to censor it, although this should not dissuade you from your objective of seeking to persuade or to foster consensus. 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.

14. Promptly admit to mistakes of fact.

15. Avoid using social media when you are tired, angry, upset or your judgment may be impaired. Be aware that 'trolling' posts can be intended to bounce you into an unwise response to be used against you, and always consider whether anything you write might be interpreted in a way you do not intend. If 'trolling' becomes unacceptably harassing then report it to the Police and seek advice from, as appropriate, Member Support or your parish clerk.

16. Think carefully about who to 'follow' or 'befriend' online, and be cautious about accepting 'friend' requests from anyone under the age of 18. 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.

D USE OF SOCIAL MEDIA DURING COMMITTEE MEETINGS

17. Use mobile devices (other than official equipment for the meeting) 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.

18. 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.

FURTHER READING

1. "Connected Councillors: A guide to using social media to support local leadership", IDeA, March 2010 and other guidance available on the Local Government Association website (www.local.gov.uk).
2. LGA's Knowledge Hub may contain useful information (<https://knowledgehub.local.gov.uk/>)
3. Sign on to Twitter at <https://twitter.com/> and Facebook at <https://en-gb.facebook.com>
4. Terms and conditions for both sites are available at <https://www.facebook.com/terms> and <https://twitter.com/en/tos>