

**Committee: STANDARDS**

**Agenda Item**

**Date: 21 March 2011**

**4**

**Title: SOCIAL NETWORKING**

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## Summary

1. This report is prepared at the request of Cllr Eden who previously expressed concern at the lack of clarity concerning members use of social networking.

## Recommendations

2. Members determine what recommendations (if any) they wish to make to members of the council.

## Financial Implications

3. None.

## Background Papers

4. The following papers were referred to by the author in the preparation of this report.
  - Standards for England website Guidance on Blogging available at [www.standardsforengland.gov.uk](http://www.standardsforengland.gov.uk)
  - IDEA's 'Connected Councillors' available at [www.idea.gov.uk](http://www.idea.gov.uk) (prepared jointly with Standards for England)

## Impact

- 5.

|                                 |  |
|---------------------------------|--|
| Communication/Consultation      | None.                                      |
| Community Safety                | None.                                      |
| Equalities                      | None.                                      |
| Health and Safety               | None.                                      |
| Human Rights/Legal Implications | As referred to in the body of this report. |
| Sustainability                  | None.                                      |

|                       |       |
|-----------------------|-------|
| Ward-specific impacts | None. |
| Workforce/Workplace   | None. |

## Situation

6. Some council members use weblogs and social networks such as Facebook, Twitter and Myspace personally and also for political purposes. The use of council IT equipment for political social networking may be inconsistent with the council's protocol on IT use recommended by this committee and adopted by Full Council. However, even when using their own computer equipment and resources members may be subject to the Code of Conduct if using social networks for political purposes.
7. If a member uses the council website or uses their own online media to promote their work as a member, it is likely that the member would be regarded as conducting the business of the council and therefore acting in an official capacity. Such communication is therefore likely to engage the Code of Conduct.
8. Private non-political postings are less likely to engage the Code. However, whether or not the Code is engaged is a fact sensitive matter in each case. The content of the posting and the circumstances surrounding its creation will determine whether or not its content is governed by the Code. A disclaimer to the effect that comments are not made in an official capacity will not necessarily prevent a member from being in breach of the Code.
9. Where a member acts in an official capacity the Code of Conduct will apply. A member is deemed to be acting in an official capacity when conducting the business of the authority or when acting, claiming to act or giving the impression that the member is acting as a councillor. Use of the title 'councillor' in a posting is a strong indication that the member is acting in official capacity.
10. Standards for England in its guidance specifies a number of factors which will be taken into account in assessing whether or not the Code applies. The higher the profile a member has the more likely it is that they would be seen to be acting in an official capacity. Strict privacy settings may indicate that the contents of a blog or network site are private and that the member is not acting in an official capacity. However, political blogs etc open to all readers would suggest that the member is acting in an official capacity as a representative of the electorate. The member's profile on the site should indicate whether it is personal or political. However, the label put upon a site by a member is not conclusive. If the content of the blog gives the impression that the member is acting as a councillor the Code would apply even though the profile states it is a personal blog only. Discussing council business on such a site or making remarks about others who are linked to the council would not be consistent with a claim by a member to be acting in a private capacity.

11. In using social network sites members should bear in mind that the Code applies to electronic communications in the same way as any other form of communication. The paragraphs of the Code of Conduct which may be engaged are the requirement to treat others with respect, the prohibition on disclosing confidential information, the possibility of bringing the council or the office of councillor into disrepute and the use of local authority resources to improperly confer on or secure for the member of any other person an advantage or disadvantage. The Code also prohibits the improper use of council resources for political purposes including party political purposes.
12. There will be occasions when members respond to postings on third parties' forums. If in doing so they identify themselves as a councillor then it is likely that the Code will apply to those postings. Similarly if a member posts content which could only have been obtained as a member this may give the impression that the member was acting in an official capacity even if they did not identify themselves as such when making the posting.
13. Standards for England recommend that members who use social networks should regularly check their own sites to ensure there are not defamatory or obscene comments posted by others. Any such postings should be removed as soon as the member becomes aware of them and members should take steps to discourage third parties from posting such comments.
14. Standards for England also caution that anyone designated as a 'friend' on a social networking site could be regarded as being a person with whom the member has a close association within the meaning of the Code such that matters which affect that person or persons could be personal interests.
15. The First Tier Tribunal – Local Government Standards in England have in a number of cases shown that it has high regard to article 10 of the European Convention on Human Rights (the right to freedom of expression). With that in mind Standards for England advise that genuine political statements are unlikely to breach the Code of Conduct. Such statements would include comments about another member's political position or genuine expressions of political differences with another person. However, expressions of personal anger or abuse against a member or an officer of the authority are likely to be a breach of the Code of Conduct.
16. Other issues which members would need to consider in using social networks do not arise from the Code of Conduct but from the general law. Thus publishing an untrue statement about a person which damages their reputation may lead to a claim being made against the member for damages for libel. Allowing a third party to publish something libellous on a member's site may also attract such proceedings if the member did not take prompt action to remove the posting once he or she knew about it.
17. Members who are engaged in determining planning or licensing applications are cautioned to avoid publishing anything online which might suggest that they have pre-determined the application or that they are biased in favour of or against a proposed planning application or licensing application. Where bias

or pre-determination is shown to exist there is a risk of the decision being quashed with the council penalised in costs.

18. The legislation relating to copyright applies to online postings and members should not therefore publish anything which may come from a copyrighted source.

19. Members who publish personal data relating to individuals without their express permission risk facing proceedings under the Data Protection Act 1998.

20. Publication of obscene material may also constitute a criminal offence.

21. Standards for England and the government recognise that online networks are a valuable political tool but in using such resources members do need to be aware of the potential to infringe the Code of Conduct as well as other legislation.

## Risk Analysis

22.

| Risk  | Likelihood   | Impact  | Mitigating actions   |
|---|--|---|--|
| Members breach the Code of Conduct by inappropriate use of online networking. | 1, members are aware of the Code of Conduct and are unlikely to consider that it would not apply to activities on social networks. | 3, a breach of the Code of the Conduct by a member could cause reputational damage. | Members may decide it wishes to offer guidance to members with regard to the use of social networking sites. |

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.