

GUIDANCE ON CORRESPONDENCE AND THE USE OF SOCIAL MEDIA FOR MEMBERS

Introduction:

The increasing prevalence of email and social media, with its potential for communications to be received instantaneously, has increased pressures on elected Members. This guidance aims to clarify what may reasonably be expected of Members in relation both to correspondence received by email and also – where Members choose to use it – in relation to Social Media.

This Guidance does not impose additional rules or requirements on Members over and above those outlined in the practice note on [Publicity and the Use of Council Facilities](#) in Part 8.2 of the Council's Constitution and the general rules imposed by the [Code of Conduct for Members](#) in Part 8.1 of the Council's Constitution. This Guidance aims instead to offer some guidelines which may assist Members in staying within the rules which govern Member conduct.

Key principles:

The fundamental principle is that the same standards of behaviour and conduct are expected of Members online as are required offline. In other words, members are expected to comply with the Code of Conduct in all areas when acting in their capacity as Members, whether they are doing so by email or online, via social media or in person. Members are referred to the Code of Conduct and the Practice Note on Publicity for the detail of the expectations made of them, and are welcome to contact the Executive Lead – Strategy, Governance and Law if they have any queries regarding any aspect of the regulatory framework which binds them.

A: Member correspondence – both hard copy and email

It is for each Member to judge the particular circumstances of any communication and to act in a way which is proportionate and respectful. Members are normally expected to answer (or to make arrangements for someone else - such as a fellow ward member - to answer) all correspondence which is directed to them on a matter of relevance to their duties as a councillor. They are normally expected to respond promptly as a matter of courtesy. Where this is not practicable because of other commitments, members are normally expected to send an acknowledgment of receipt indicating when a more substantive response will be forthcoming.

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Where members are away for 3 days or more or otherwise unavailable, they are encouraged to make use of the out of office assistant available on Outlook

to put people on notice that there may be a delay in responding and the likely timeframes of any response.

It is recognised that on occasion Members may find themselves overwhelmed by a sheer volume of correspondence, particularly when a controversial decision arises. A delay in replying caused by unmanageable volume of correspondence or an occasional failure to respond would not normally constitute a breach of the Member's Code of Conduct. However Members should be aware that repeated failure to respond to correspondence promptly or at all could amount to failure to treat people with respect and/or be deemed to be conduct which brings their office or the Council into disrepute.

It is recognised that some correspondents – whether because they do not receive the reply they are seeking, or for some other reason - repeat the same request in a series of emails or letters. The Council's procedure for dealing with corporate complaints makes provision for a decision not to enter into further communication with a complainant on a particular issue where on a careful review of the case and having taken appropriate advice a topic has been exhaustively covered. It is strongly recommended however that members apply appropriate standards of courtesy by despatching a clear final response which indicates that they regard the correspondence to be at a close, ideally explaining the reasons why.

Similarly, while members are not expected to engage in exchanges which they consider to have become aggressive or abusive, they are expected to communicate clearly their reasons for bringing any exchange of communications to a close.

B: Social media

Members are not required to set up any kind of social media account, and are free to communicate and engage however they wish to. However these guidelines will be relevant to any Members using or planning to use social media in connection with their work as a Councillor, or are already using such media in their private capacity.

Social Media may be used:

- As a means of performing a community leadership role
- To keep in touch with local views and opinions
- For political campaigning
- For campaigning on local issues

Potential issues:

- While any form of communication is capable of being misunderstood, the rapidity of social media exchanges can lend itself to problems.
- "Misfiring", or being misunderstood, particularly where comments are perceived as being controversial, may lead to rapid circulation and therefore escalation

- Although social media lends itself to a conversational tone, posting comments is still publishing as it creates a written record. It is therefore important that online content is accurate, informative, balanced and objective.
- While councillors are free to communicate politically in appropriate contexts, it is recommended that they do not post anything that they would not be comfortable justifying at a public meeting.
- Where councillors use social media to make comment (whether political or otherwise) about an individual or organisation, it is recommended that they alert that person to their comment by ‘tagging’ them (or otherwise alerting them) so that they are aware of the post. This ensures that they are identified correctly as well as giving them the opportunity to respond.

Legal issues:

- **Libel** – If Members publish an untrue statement about a person which is damaging to their reputation, they may take a libel action. The same thing may happen if, for example, someone else publishes something libellous on a Member’s SM page and they don’t take swift action to remove it. A successful libel claim could result in the award of damages
- **Copyright** – Placing images or text on any site from a copyrighted source (for example extracts from publications or photos), without obtaining permission, is likely to breach copyright laws. Again, a successful claim for breach of copyright would be likely to lead to an award of damages.
- **Data Protection** – Members are data controllers in the eyes of the ICO insofar as the personal data which they hold on ward business is concerned. Members must have regard to the requirements of the GDPR in all respects, and must not publish the personal data of individuals without their express permission.
- **Bias and Predetermination** – if Members are involved in making planning, licensing or other quasi-judicial decisions, it is important that they do not indicate via any media that they have made their mind up on an issue that is due to be formally decided upon. While a Member’s likely view on a particular application may be well known, only those Members who are able to show that they have attended the committee or hearing prepared to take on board and weigh all the evidence and arguments, and are genuinely persuadable to a different view, should be taking part in council decision-making. If not, then the decision may be challenged. Where a person has suffered some sort of detriment as a result of an invalid decision, they may have a claim against the council for damages.

‘Acting as a councillor’ and the issue of blurred identities:

- The key to whether an individual Member’s online activity is subject to the Code of Conduct is whether they are, or even just appear to be, acting in their capacity as a councillor rather than as a private individual.
- Councillors may have “blurred identities” in a situation where they maintain a social profile which sees them comment both as a councillor and as an individual (which may or may not involve making political statements). Although Members may be clear that they are acting in a private capacity, it may be less clear to others.
- One way of avoiding blurring the lines between a Member’s personal (or political) communications and those they make as a councillor is to consider maintaining an online account as a councillor which is entirely separate from those where the Member communicates 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 council’s Communications team will assist if specific advice is needed.

Recommendations for Social Media use by Members

- Members will need to consider setting appropriate privacy settings—especially if they have a private, non-political blog
- Members need to monitor their social media accounts for defamatory or obscene posts from others and remove them as soon as possible to avoid the perception that they condone such views
- The potential for misunderstanding and miscommunication via social media is increased, and Members may wish to bear this in mind.
- Where Members feel it to be necessary to ‘block’ an individual from communicating with them, whether because the communication has crossed the line and is considered to be abusive or for some other reason, then members are expected to be mindful of the need to be clear and transparent in their actions. This will normally involve communicating directly with the individual and informing them of the decision and of the reasons for it
- Members are asked to consider keeping their personal and elected member profile on social networking sites separate as a means of maintaining appropriate professional boundaries
- Members are expected to ensure they use council facilities appropriately and to bear in mind the likelihood that posts about the council/ which use information accessed by being a councillor are likely to be viewed as made in their official capacity
- While members may wish to make political points, it is recommended that they take care not to be 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.

- Where Members do make a personal or a political comment about an individual or organisation on social media, it is recommended that they 'tag' them in their post. As well as identifying the correct person, this practice alerts the other party to the comment and gives them the opportunity to reply to it.
- Members are advised not to request or accept a Brighton & Hove City Council employee or contractor providing services to the council as a "friend" on a social networking site where this suggests close personal association. For the avoidance of doubt, this does not apply to sites which are intended as a neutral, professional connections registry (such as LinkedIn.)

Conclusion:

This Guidance aims to assist Members in avoiding the various risks associated with the types of communication in scope. The Monitoring Officer and the Communications Team are happy to help Members by providing additional advice and guidance as appropriate.

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