

**STANDARDS COMMITTEE
9 JUNE 2009**

MEMBERS' IT PROTOCOL

REPORT OF THE DIRECTOR OF LEGAL & DEMOCRATIC SERVICES

Purpose of the Report

- 1 To request Committee approval to the Members' IT Protocol attached at Appendix 1

Background

- 2 In 1998 the Council agreed that all elected Members should have IT equipment, e-mail facilities and Internet access at their home. Since then, there have always been requirements in place in respect of the use of Council IT equipment. These requirements have, from time to time, been updated in line with IT developments. The current protocol dates back some years, and is contained in the Members' Handbook.
- 3 Since the last revision, IT provision has moved on. The Council now provides laptops in certain circumstances, and connection to Council networks via CITRIX. These developments needed to be recognised in the Protocol.
- 4 In addition to the technical advances and developments, it has become clear that the conditions of use for Council equipment by Members required revision and clarification. In particular, issues relating to "reasonable personal use" and chat rooms, forums and blogs have required updating.
- 5 In the current Protocol personal use of IT equipment is only permitted in the context of a Member's position as a Councillor. In respect of personal use, the current Protocol advises that :
"the following test should be applied: "Is my intended use likely to be perceived by the community at large as reasonable in the context of my position as a Councillor"

This is felt to be too restrictive. The new protocol basically allows the personal/ private use of Council IT equipment so long as that use complies with the law (such as copyright, child protection legislation, Data Protection, etc) and does not result in a breach of the Members' Code of Conduct.

- 6 Similarly, since the current Protocol was agreed, the use of chatrooms, forums and blogs has become widely used by national and local politicians, including Government Ministers. The attached draft Protocol recognises these developments, and permits the use of Council IT equipment for these purposes, so long as Members do so within the law, and within the Code of Conduct.
- 7 The current Protocol says little about the use of IT equipment for political purposes. This has become a recurring issue in respect of what constitutes political use, and whether Members are misusing Council equipment. The attached Protocol outlines the Standards Board guidance on this matter, and gives examples of what might and what might not be 'political use'. The attached protocol has been considered and endorsed by the Constitution Committee.

Consultation

- 8 The draft protocol was sent to all Members for comment, as agreed by the Constitution Committee. A small number of responses received are summarised at Appendix 2.

Conclusions

- 9 The attached draft protocol is intended to replace the version currently contained in the Members' Handbook. The revised protocol considerably extends the use of Council equipment in respect of personal use, but makes it clear that personal use must be within the requirements of any relevant legislation, and the Members' Code of Conduct. It also recognises other developments such as the use of blogs, forums and chatrooms, and attempts to clarify 'political use'.

Recommendation

- 10 That the draft Protocol at Appendix 1 is approved.

Chris Davies
1 June 2009

MEMBERS' PROTOCOL ON THE USE OF COUNCIL IT, E-MAIL AND INTERNET FACILITIES

1. Introduction

- 1.1 This document sets out the basis on which IT resources are provided to Members. It is intended ensure that IT resources are properly used. It is also intended to protect both the Council and elected Members from allegations of misuse, including breaches of the Members' Code of Conduct.
- 1.2 The protocol should be read in conjunction with the Council's other IT related policy and guidance documents, which complement and interact with this document. Copies of the 'Information Security', 'Email' and 'Internet' policies are available via Lotus Notes.

2. IT Resources

- 2.1 The Council will provide its Members with:
 - a computer (a PC or laptop) and appropriate software
 - a mono printer
 - e-mail facilities and access to the Internet
 - secure links to the Council's systems via citrix or webmail
 - supplies of paper/printer cartridges and other consumables;
 - IT training in respect of any systems that Members need to use in order to undertake their duties and responsibilities; and
 - technical advice/support during normal office hours.

3. Ownership

- 3.1 All equipment and software will at all times remain the property of Middlesbrough Council.
- 3.2 The Council reserves the right to inspect the equipment at any time to carry out an audit or repair. Audits of equipment may require that the equipment is brought to Council premises for verification purposes.
- 3.3 All equipment must be returned to the Council at the end of a Councillors 'term of office'.

4. Security of the hardware

- 4.1 Members are required to take all reasonable care in respect of the security of the equipment. The equipment is particularly vulnerable to theft and the following recommendations should be observed:
- When at home IT equipment should be stored safely and out of the public view.
 - Equipment should be kept secure at all times. Laptops should not be left in an unattended vehicle (including a locked boot).
 - Equipment should never be left logged on to Council systems and unattended, even for short periods of time.

5. Security of the network and its systems

- 5.1 Members will be given a user name and password, which must be kept confidential. The following guidelines **must** be observed.

Members must NOT:

- divulge passwords for Council networks or systems to any other person, including family members
- use obvious passwords e.g. a middle name, children's names
- leave confidential information on an unattended screen
- turn off or bypass the virus scanning software
- allow any person, other than immediate family, to use Council equipment
- use any disk, CD, memory stick or other storage media unless this has been checked for viruses by using the anti-virus software provided
- download or install any software without prior agreement from Members' Services
- download any personal/ confidential information to an unencrypted memory stick or other portable storage device

Members MUST:

- keep passwords secure
 - change their passwords if they know, or suspect, that these have become known to any other person(s)
 - report any possible security breaches, mis-use of equipment by others, viruses or loss of equipment immediately and without delay to the IT Helpdesk
- 5.2 If Members discover or suspect a virus, they must immediately stop using the equipment / systems. All portable storage devices (eg disks, CDs, memory stick disks etc) that have been used on the machine must be retained for analysis and recovery. Viruses must be reported to the IT helpdesk immediately.

6. Access to Information/Confidentiality

- 6.1 Councillors will be able to access confidential Council and constituent information.

The data stored on Council equipment is the responsibility of the Member. Members must ensure that the information they record and store is not in contravention of the Data Protection Act 1998.

Disclosure of information concerning personal information relating to individuals will also be subject to the Data Protection Act. Members are responsible for ensuring that there is no such unauthorised disclosure of such personal information held on the equipment.

If unsure Members must check compliance with the Data Protection Officer.

7. Freedom of Information

- 7.1 The Freedom of Information Act came into effect in 2005 and covers all information held (excluding information held under the Data Protection Act 1998) on any Council resource including Members' computers and e-mails. Members should be aware that copies of any such information can be requested by anyone at any time.

Members should also be aware that it is an offence to delete or destroy information after a request for that information has been received by the Council.

8. e-Mail facilities

- 8.1 Members must observe the Council's e-mail Policy. The following guidelines must be observed.
- 8.2 Members must not:
- send messages in anger
 - send messages that could be perceived as aggressive, abusive, sexually offensive, racially biased or discriminatory
 - open an attachment from an unknown source without consulting IT Services

8.3 Members should:

- include a meaningful 'subject' line
- try and ensure the message is clear and not open to interpretation
- remember that both the civil and criminal law recognises e-mail as evidence of libel, copyright infringement, software theft, discrimination and harassment
- remember that an e-mail can be forwarded, copied printed or otherwise disclosed by the recipient(s). Careful judgement should always be applied before sending confidential information
- always obtain permission from the originator before forwarding information received from a third party
- make it clear to the recipient(s) whenever an e-mail contains information that is confidential/ sensitive, and advise that it should not be shared
- consider the size of any file attachment being sent – especially if sending large files to a number of people.

9. **Internet**

9.1 The internet contains a significant volume of information from numerous sources. It is entirely unregulated, insecure and open to exploitation. You are advised to exercise extreme caution, particularly in terms of the type of information accessed.

9.2 The following guidelines must be observed: -

Members must not:

- download software from the Internet without first seeking approval from IT Services
- access web sites which contain material which is pornographic, obscene or otherwise offensive
- use the internet for their own commercial activities
- download unlicensed/ pirated media files (sound or video), or similar material

Members must:

- be aware of copyright infringement and act accordingly
- exercise caution when using search engines such as Google in order to avoid accessing inappropriate sites
- remember that possession of certain material is a criminal offence – think before you download or print
- remember that the Council reserves the right to check any Council provided computer to monitor sites that have been accessed

9.3 The above is not an exhaustive list. If in any doubt contact Members' Services.

10 Conditions of Use of IT equipment, services and Systems: reasonable Personal Use

10.1 A member's failure to comply with any part of this Protocol may be regarded as a breach of the Code of Conduct for Members and may be reported to the Standards Committee.

10.2 Provided that the use of any Council IT equipment is not in connection with political purposes and there is no cost to the Council nor any liability for the Council arising from its use for secondary purposes, it is a matter for each individual Member as to whether or not they use it for reasonable private and family purposes.

10.3 Examples of reasonable and unreasonable use include:

Reasonable use

- to communicate with Council staff, constituents and other Members
- access to information on the internet in accordance with the Councils internet policy, and with the requirements of this protocol
- personal use that does not conflict with the requirements set out elsewhere within this protocol

Unreasonable use

- accessing, storing, transmitting or downloading material which is illegal, insulting, offensive, abusive, discriminatory or otherwise inappropriate
- private business use, or use in connection with a Member's employment
- using the equipment in any manner which will prevent or interfere with its use for Council business
- excessive use of consumable materials (eg paper, printer cartridges, etc)
- using, or permitting the use of, the Councils equipment or systems in a manner that would breach the Code of Conduct: and, in particular would
 - ❖ fail to treat others with respect
 - ❖ bring your post of Councillor, or the Council, into disrepute
 - ❖ breach confidentiality
 - ❖ bully or harass others
 - ❖ secure an advantage or disadvantage for yourself or any other person

10.4 For further advice on e-mail and Internet use, Members should read the Internet and Email Policy documents. Members are reminded that Internet access and e-mail can be monitored, under strict guidelines, and users must abide by the policy guidance.

- 10.5 The Chief Executive may, at his or her discretion, instruct the return of IT equipment where there has been a breach of this Protocol, and require the reimbursement of any costs incurred by the Council in respect of inappropriate use.
- 10.6 Where any criminal activity is suspected the Council will usually refer the matter for police investigation.

11 Political use

- 11.1 Members must not use Council resources for political purposes: this includes IT equipment and systems. However it is not always clear what constitutes “political purposes”.
- 11.2 The most common definition of ‘political use’ is use of Council resources in a way that appears, in whole or in part, to affect public support for a political party.
- 11.3 The Standards Board for England advises Members that:
“You should never use council resources for purely political purposes, including designing and distributing party political material (* see note below) produced for publicity purposes. However, your authority may authorise you to use its resources and facilities for political purposes in connection with your authority’s business. For example, holding surgeries in your ward and dealing with correspondence from your constituents. In this case, you must be aware of the limitations placed upon such use for these purposes. Using your authority’s resources outside of these limitations is likely to amount to a breach of the Code of Conduct.”

(Note: in this context “party political material” would include such material produced by independent candidates / Members)

- 11.4 The Council will allow use of IT resources for political purposes that could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the Council or of the office to which the Member has been elected or appointed.
- 11.5 There is a distinction between “political groups” and “political parties” that must be recognized in this context.

A “political group” is legally recognised in the Local Government & Housing Act 1989 and associated regulations. A Political Group is a collection of councillors who have declared their membership of the group to the Council’s Proper Officer. The Council has a duty to give effect to the wishes of the Group in, for example, allocating seats on committees. A Political Group meets regularly to consider forthcoming Council business and decide the Group’s position on policy matters. At least part of the work of Political Groups can therefore be regarded as facilitating, or being conducive to, the discharge of the functions of the authority.

Political parties are separate from, although may be allied to, Political Groups. Their main purpose is to campaign and fight local and national elections and their membership is much wider than local Councillors. Councillors are normally members of a political party. Political parties are not directly concerned with facilitating, or being conducive to, the discharge of the functions of the authority.

Examples of acceptable political use would be:

- Corresponding with constituents
- Matters relating to ward surgeries;
- Communicating group activities;
- Correspondence and other matters relating to meetings between group members or individual Members.

Examples of unacceptable political use would be:

- Promoting yourself or others to the electorate as candidates
- Correspondence, postings or any other material produced for party publicity purposes, including support of any candidate or political party
- Elections and campaigning purposes
- Correspondence, postings or any other material that could adversely effect the support for any candidate, political group or party
- Production of campaigning or elections material
- Mass mailings,

11.6 During the election period (which runs from the publication of the notice of election to the close of the polls), Members must not use their Council e-mail address in any ward newsletters which contain election or campaigning material. Individual Members' websites (Councillor.info) will also be taken down during this period.

12 Chat Rooms, Forums, Blogs

12.1 Chat Rooms, Forums, Blogs and similar resources are becoming increasingly common, and popular. They can be a source of information, and can be useful in networking, sharing experiences and good practice. Most are, by their nature, very public.

12.2 Whenever a Member registers with, signs on to or otherwise participates in any of these facilities and identifies themselves as a Councillor, then the Code of Practice will probably apply.

12.3 This means that the general rules concerning what is acceptable and unacceptable use of IT facilities apply, and in particular when using these forums (etc). For example, Members should never

- Post any comments or material that could be seen to be
 - ❖ failing to treat others with respect
 - ❖ bringing your post of Councillor, or the Council, into disrepute
 - ❖ breaching confidentiality
 - ❖ bullying or harassing behaviour
 - ❖ securing an advantage or disadvantage for yourself or any other person
- Promote themselves or others to the electorate as candidates
- Post any material produced for party publicity purposes, including support of any candidate or political party
- Use in connection with elections or campaigning purposes
- Post any other material that could adversely affect the support for any candidate, political group or party

Chris Davies
14 April 2009

RESPONSES TO CONSULTATION

Cllr Joe Michna

Whilst I still consider that there are unnecessary restrictions contained in this policy which rather treat councillors as 'council employees', the bit which causes me most concern is at the fourth bullet point at 8.2 which states that :

" members must not use their Council e-mail address to express a personal opinion"

If I receive an e-mail from a resident of the Park Ward complaining about a particular Council service and I actually agree with that resident's complaint and say so in a -email reply to them, that is expressing a 'personal opinion' but is also using the Council's e-mail facility to do so. Is this policy therefore saying that I would have to use a separate e-mail address to reply to the resident simply because I agree with whatever their views and opinions are ?

As with most Councillors, I receive a steady trickle of complaints, requests for services and expressions of dissatisfaction with Council services. If this policy is saying that I cannot agree with the complainant or indicate in any way my support for their complaint or service request by giving them my 'personal opinion' via my Council e-mail facility, then I have to say that the policy is no more and no less than a tool designed to silence any criticism of Middlesbrough Council by councillors.

[Edited]

Cllrs Walker, Hubbard and Cox supported the above comments