

COUNCIL

26 JANUARY 2017

SOCIAL MEDIA AND THE CODE OF CONDUCT FOR COUNCILLORS

Report from: Perry Holmes, Monitoring Officer

Summary

This report provides a suggested draft paragraph to be added to the Members Code of Conduct, making an explicit reference to the use of social media, as recommended by the Councillor Conduct Committee on 12 October 2016.

1. Budget and Policy Framework

- 1.1 The Council has a statutory duty to promote and maintain high standards of conduct by Members and Co-opted Members and to adopt a code dealing with the conduct that is expected of Members and co-opted Members of the Council, when acting in that capacity.

2. Background

- 2.1 Medway Council adopted the current Member Code of Conduct at its meeting on 26 July 2012.
- 2.2 The Member Code of Conduct does not currently make any explicit mention of social media use by Councillors. There is a commentary on such usage provided to Members in the "Use of Council Resources" guide, which was issued by the Councillor Conduct Committee on 23 February 2015 and can be viewed using the following link:
<http://www.medway.gov.uk/pdf/Guidance%20for%20Cllrs%20on%20use%20of%20Council%20resources.pdf>.
- 2.3 At the January 2016 full Council meeting a Member raised concerns regarding the use of social media by Councillors and asked the Monitoring Officer to raise the issue with the Councillor Conduct Committee and specifically whether it should be directly referred to in the Code of Conduct.
- 2.4 This issue was considered at the Councillor Conduct Committee on 11 May 2016. It was agreed that it would be helpful to add an explicit reference to the use of social media in the Councillor Code of Conduct, and that the Monitoring Officer would assist in preparing some

suggested wording, which has since been done and was considered by the Councillor Conduct Committee on 12 October 2016. The Committee agreed with the content of the wording suggested by the Monitoring Officer but requested that the wording be slightly amended to improve its clarity.

3. Advice and Analysis

- 3.1 The Monitoring Officer therefore suggests the following two paragraphs be added to the end of the first section of Part 1- Members Code of Conduct immediately before the title “Disclosable Pecuniary Interests”:

“You must not publish on social media material that a reasonable person would consider offensive or abusive.

You should be aware that members of the public may perceive you to be acting as a councillor even when you are acting in your personal capacity. This includes everything you publish on social media. It is your responsibility to make it clear in any posts/tweets, etc whether you are acting in your personal capacity or as a councillor”.

- 3.2 This amendment is demonstrated as tracked changes to the Members Code of Conduct at Appendix 1

4. Legislation

- 4.1 The Localism Act 2011 provides the framework for Councillor conduct matters. What is contained in the 2011 Act is a legal requirement to have a Code of Conduct and a process for investigating breaches of it.

5. Risk management

Risk	Description	Action to avoid or mitigate risk
Reputation	No direct reference to the use of social media in their role as Members in the Code of Conduct could increase the risk of inappropriate use of social media which could lead to adverse publicity.	Guidance be added to the Councillors Code of Conduct to supplement the advise that is already available elsewhere.

6. Financial and Legal Implications

- 6.1 This report contains no specific financial implications.
- 6.2 The legal implications are contained in the body of the report.

7. Recommendation

- 7.1 Full Council is recommended to approve the suggested wording, drafted by the Monitoring Officer, be added to the Code of Conduct, as set out at Appendix 1.

Background Papers:

None

Appendices

Appendix 1 – Members Code of Conduct with suggested amendment added as tracked change.

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Appendix 1

Medway Council Code of Conduct

You are a member or co-opted member of Medway Council and hence you shall have regard to the following principles – selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

Accordingly, when acting in your capacity as a member or co-opted member: –

You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.

You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties. You should comply with the notification requirements for gifts and hospitality set out below.

When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts, or recommending individuals for rewards or benefits, on merit.

You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.

You must be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions.

You must declare any Disclosable Pecuniary Interests as required by law. You must also take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring Disclosable Pecuniary Interests in a manner conforming with the procedures set out below.

You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not use improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.

You must not publish on social media material that a reasonable person would consider offensive or abusive.

You should be aware that members of the public may perceive you to be acting as a councillor even when you are acting in your personal capacity. This includes everything you publish on social media. It is your responsibility to make it clear in any posts/tweets, etc whether you are acting in your personal capacity or as a councillor.

Disclosable Pecuniary Interests

“**DPI**” means those disclosable pecuniary interests of a description specified in regulations made by the Secretary of State (as amended from time to time) as set out in Schedule One to this Code and where either it is:

- (a) your interest or
- (b) an interest of your spouse or civil partner, a person with whom you are living as husband and wife, or a person with whom you are living as if you were civil partners and provided you are aware that the other person has the interest

1. Registering and declaring Disclosable Pecuniary Interests

You must

- (a) within 28 days of taking office as a member or co-opted member, notify Medway Council’s Monitoring Officer of any DPI
- (b) where a DPI has not been entered onto Medway Council’s register, disclose the DPI to any meeting of Medway Council or its committees or sub-committees joint committees or joint sub-committee (including a meeting of the executive or a committee of the executive) at which you are present where you have a DPI in any matter being considered and where the DPI is not a ‘sensitive interest’.¹
- (c) following any disclosure of a DPI which is not on Medway Council’s register nor the subject of pending notification, notify the Monitoring Officer of the DPI within 28 days beginning with the date of disclosure.
- (d) where you are discharging a function of Medway Council (acting alone) and a DPI has not been entered onto Medway Council’s register and is not the subject of a pending notification, notify the Monitoring Officer of the DPI within 28 days of becoming aware that you have a DPI in any matter to be dealt with, or being dealt with, in discharging that function.

2. Participation in Meetings or Decision Making

- (a) Unless dispensation has been granted, you may not participate in any discussion of or vote onto any matter in which you have a DPI.
- (b) Where you are discharging a function of the authority (acting alone) and you have a DPI in any matter to be dealt with or being dealt with by you in the course of discharging that function you must not take any steps or further steps, in relation to the matter (except for the purpose of enabling the matter to be dealt with by someone else).

¹ A ‘sensitive interest’ is described in the Localism Act 2011 as a member or co-opted member of an authority having an interest, and the nature of the interest being such that the member or co-opted member, and the authority’s monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

Failure, without reasonable excuse, to comply with the above provisions as to notification and disclosure of DPIs and participation in a matter in which you have a DPI is a criminal offence in accordance with section 34 of the Localism Act 2011.

3. Further notification and participation requirements

In addition, Medway Council requires the following notification and participation procedures to be followed by Members. Failure to comply with these procedures will not be a criminal offence but will be a breach of this Code:

- (a) You shall within 28 days of adoption of this Code notify Medway Council's Monitoring Officer of any DPI
- (b) Unless dispensation has been granted, you must leave the room during any discussion of or vote on any matter in which you have a DPI.

Gifts and Hospitality

- (1) You must, before the end of 28 days beginning with the day of receipt/acceptance, notify the Monitoring Officer of any gift, benefit or hospitality with an estimated value of £100 or more, or a series of gifts, benefits and hospitality from the same or an associated source, with an estimated cumulative value of £100 or more, which are received and accepted by you (in any one calendar year). You must also register the source of the gift, benefit or hospitality.
- (2) The Monitoring Officer will keep a Register of Gifts and Hospitality, which shall be available for inspection on request by members of the public.

MEDWAY COUNCIL'S CODE OF CONDUCT
SCHEDULE ONE

Interest	Description
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority: (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge): (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where: (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.