

STANDARDS COMMITTEE

2 FEBRUARY 2011

GUIDANCE FOR COUNCILLORS ON USE OF COUNCIL RESOURCES

Report from: Deborah Upton, Monitoring Officer

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Summary

This report sets out draft guidance for Councillors on use of Council resources. The Committee is asked to consider the draft guidance and agree it should be issued to Councillors after the local elections in May 2011.

1. Budget and Policy Framework

1.1 The Standards Committee is responsible for promoting and maintaining high standards of conduct by Councillors and voting co-optees serving on Council Committees. The Committee has power to advise, train or arrange training for Councillors and co-optees on matters relating to the Members' Code of Conduct.

2. Background

2.1 Following discussion with members serving on a Referrals Sub Committee some time ago the Monitoring Officer has produced the draft guidance attached at Appendix A for consideration by the Committee at this stage so that it can be issued to Councillors after the local elections in May 2011.

2.2 Standards for England strongly recommend local authorities to have protocols dealing with use of Council resources.

2.3 The draft guidance has been sent to Group Leaders inviting their comments. Any comments received will be reported to the Committee verbally.

3. Risk Management

3.1 Risk management is an integral part of good governance. The Council has a responsibility to identify and manage threats and risks to achieve its strategic objectives and enhance the value of services it provides to the community.

3.2 The provision of guidance to Councillors on use of Council resources will minimise the risk to them of breaching the requirements in the Members' Code of Conduct and The Code of Recommended Practice on Publicity.

4. Financial and legal implications

4.1 There are no financial implications arising from this report.

4.2 The draft guidance is consistent with the provisions of the Members' Code of Conduct adopted by the Council.

5 Recommendations

5.1 The Standards Committee is asked to consider and comment on the draft guidance for Councillors on use of resources attached at Appendix A; and

5.2 To authorise the Monitoring Officer to issue the guidance to all Councillors in May 2011 after consultation with Group Leaders and incorporation of their comments as appropriate.

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Background papers

Members' Code of Conduct

Guidance for Members of Medway Council on use of Council resources

As an elected member of Medway Council you have given a written undertaking to observe a Code of Conduct.

This briefing note provides guidance to assist you in understanding the provisions in the Code relating to use of the Council's resources. It also covers the implications of separate rules on local authority publicity insofar as they relate to the activities of Councillors.

The key principle is that public office and public resources should never be used to further purely private interests or purely political interests.

Use of Council resources – what does the Code of Conduct say?

This is what the Code of Conduct says:

Paragraph 6(b)

You must, when using or authorising the use by others of the resources of your authority –

- (i) act in accordance with your authority's reasonable requirements;
- (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and

Paragraph 6(c)

You must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

Paragraph 6(b) and 6 (c) apply whenever you act in your official capacity, including whenever you conduct Council business or act, claim to act, or give the impression you are acting, in your official capacity or as a representative of the Council.

What are the resources of the Council?

Standards for England has published associated guidance, which states that the resources of the Council include services and facilities as well as financial resources. Resources could include any land or premises, equipment, computers and materials. The time, skills and assistance of any body employed by the authority, or working on its behalf, are also resources, as is information held by the authority , which it has not published.

If the Council provides you with resources (for example access to telephone, computer and other IT facilities, transport or support from Council employees), you must only use these resources for carrying out Council business and any other activity which the Council has authorised you to use them for. Individual Councillors have no authority to commit expenditure on behalf of the Council or to instruct an officer to commit expenditure which would breach Council policies or procedures or in any way vary agreed budget allocations.

You must be familiar with the Council's rules applying to the use of resources. Any failure to comply with the Council's rules is likely to amount to a breach of the Code of Conduct.

Before you authorise someone (for example a member of your family) to use Council resources you must check this is allowed by the Council's rules.

How can you find out what the Council's reasonable requirements are for the use of resources?

Standards for England strongly recommends that local authorities have protocols dealing with the use of Council resources.

Medway Council has a constitution setting out how the council operates, how decisions are made and the procedures which are followed to ensure these are efficient, transparent and accountable to local people. Every member of the Council has been issued with a copy of the constitution and the most up to date version is available on the Council's website. There are a number of procedures, codes of practice and protocols incorporated in the constitution which set out clear rules on use of Council resources. These include financial rules, contract rules, schemes of delegation, a protocol on member/employee relations and the anti fraud and corruption policy.

Annex 1 to this briefing note summarises the position in relation to the following in Medway; Council premises, member-officer relations, information technology, telephone and fax, photocopying, use of stationery and headed notepaper, postage, use of Council transport, allowances and expenses. Contact details are provided for further advice.

What constitutes using resources improperly for political purposes?

Standards for England says that paragraph 6(b) ii of the Code of Conduct acknowledges that party politics has a proper role to play, both in the conduct of Council business and in the way that members carry out their duties.

It is acceptable for party political groups represented on the Council to use the resources of the Council in connection with Council business. For example, to hold party group meetings at Gun Wharf.

It is accepted it is sometimes impractical to separate your political campaigning from carrying out your duties as an elected ward member, such as when you hold surgeries or deal with correspondence from constituents.

However Standards for England advises Councillors and Monitoring Officers to exercise vigilance to ensure there is always a sufficient connection between the use of resources and the Council's business.

Improper use of resources for purely party political purposes will be a breach of the Code of Conduct. An example of this would be use of the Council's IT system and post room facilities for the design and distribution of party political material produced for publicity purposes.

How do the provisions in the Code relate to the rules on local authority publicity?

The Local Government Act 1986 imposes a prohibition on local authorities from publishing any material which, in whole or part, appears to be designed to affect public support for a political party.

“Publicity “ is defined by the 1986 Act as being “any communication, in whatever form addressed to the public at large or to a section of the public”. It will cover meetings and websites as well as printed and other material.

This means that stationery and business cards provided to Councillors at the expense of the Council must not include any party political identifier. It is accepted that Councillors may identify the ward they represent and any position of special responsibility they hold but any reference to a political party would constitute a breach of Section 2 of the Local Government Act 1986.

Are the rules different in the run-up to an election?

The Code of Recommended Practice on Publicity issued under the 1986 Act deals specifically with publicity during the period between publication of a notice of election and an election itself and precludes proactive publicity by the Council in all its forms of candidates and other politicians involved directly in the election. It specifically states Council publicity should not deal with controversial issues or report views, proposals or recommendations in such a way that identifies them with individual members or groups of members.

However the Code does recognise it is acceptable for the Council to respond in appropriate circumstances to events and legitimate service enquiries provided that their answers are factual and not party political. It also states Members holding key political or civic positions should be able to comment in an emergency or where there is a genuine need for member level response to an important event outside the authority’s control.

If you are standing for re-election as a Councillor or as a candidate in another type of election you need to maintain a clear distinction between a private wish to stand for re-election and your official duties as a serving Councillor. For example, you should guard against any impression of use of Council resources to influence public opinion in your favour, or in favour of your political colleagues or your party.

You are likely to be in breach of the Member Code of Conduct if you seek to secure electoral or political advantage in the course of undertaking your Council business.

It is recognised that all Councillors will continue to deal with ward work and to represent their constituents in the run-up to an election. Council Officers will deal with such enquiries from Councillors in a methodical and systematic way with clear and transparent records of prioritisation. This will ensure that those who are seeking re-election are not exposed to claims of improper use of Council resources with a view to securing electoral advantage.

Medway Council's requirements for use of resources

Standards for England strongly recommends local authorities to have protocols dealing with the use of Council resources.

The overriding principle is that the Council has a responsibility to ensure that all its resources are used in the service of the public and the local community and not the personal use of employees or Councillors. We all have a duty to ensure that care is taken in using Council resources and that public funds are spent efficiently.

The following guidance has been produced to sign post Councillors to the relevant rules and guidelines in Medway.

Council premises: Each party group represented on the Council and individual Councillors may book rooms at Gun Wharf for meetings associated with Council business but not for party political purposes.

You should seek initial advice from the Head of Member Services and Elections if you wish to use other Council owned premises or rooms in schools for ward surgeries or meetings with constituents relating to your role as a Councillor.

The Council has set fees and charges for hire of certain premises and officers do not have authority to waive charges for bookings by Councillors.

If you wish to hire a venue such as the Corn Exchange for a private or family function you will be required to complete the relevant application forms and pay the going rate for the hire.

There are separate rules relating to the use of Council-owned premises by candidates for meetings in the run-up to an election and these can also be obtained from the Head of Members Services and Elections.

Member-officer relations: The Council has adopted a protocol on member/employee relations which can be found in part 5 of the Council's Constitution. This should be read in conjunction with the Council's workplace relationship protocol.

Information technology: There are clear guidelines on the Council's intranet on use of the Internet and Medway's intranet and email system. Use of the Council's IT should primarily be for purposes associated with Council business although occasional and reasonable personal use is permitted.

A key point is that the contents of emails can be legally binding and may be produced in court as evidence. You must make sure that any emails you send do not personally commit yourself or the Council to any action that has not been authorised.

Telephone, fax and photocopier/multi-functional device (MFD) machines: The same principles apply for use of Council telephones, fax machines, MFDs and photocopiers. For example a short local telephone call for a private purpose is

acceptable on an occasional basis. These facilities must not be used for personal business or party political purposes.

Use of stationery and headed notepaper: Stationery and business cards provided to Councillors at the expense of the Council must not include any party political identifier. It is accepted that Councillors may identify the ward they represent and any position of special responsibility they hold but any reference to a political party would constitute a breach of Section 2 of the Local Government Act 1986.

Postage: You may send post via the post room at Gun Wharf at the Council's expense as long it relates to your duties as a Councillor and is not party political or personal in nature. You should check with the Head of Member's Services and Elections if you wish to send more than 100 letters on one particular issue as there is a budget for post sent by Councillors each year and this needs to be managed.

Use of Council transport: The Council leases two vehicles principally for use by the Mayor and Deputy Mayor for civic and ceremonial duties. There is a clear service level agreement covering the use of these vehicles and this is discussed with the incoming Mayor and Deputy at the beginning of each Municipal Year.

Allowances and expenses: The Members Allowances Scheme is set out in Chapter 6 of the Constitution and sets out in detail the rules relating to allowances and the expenses claims procedure.

For further guidance or information please contact:

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