

DRAFT PROTOCOL ON THE USE OF COUNCIL RESOURCES BY MEMBERS

Report By: County Secretary and Solicitor

Wards Affected

County Wide

Purpose

1. To consider and approve a draft consultative protocol on the use of Council resources by members.

Background

2. The National Statutory Code of Conduct for Councillors provides that a councillor when using council resources must act in accordance with the Council's requirements and ensure such resources are not used for political purposes (except in certain specified circumstances).
3. The Standards Board for England have strongly recommended that local authorities should adopt protocols to guide members in this area but to date have not issued any model text or detailed guidance.
4. The two key concerns and constraints relate to:
 - the prohibition on using council resources for political purposes; and
 - the use of ICT facilities and in particular access to the World Wide Web and the use of the Council's e-mail address.
5. The Committee suggested a draft protocol which the Council considered on 25 April 2003. At that meeting the Committee were asked to reconsider those aspects of the Code relating to the use of Council computer equipment and the Council's e-mail address. It was agreed that this would be reviewed by the Council as part of the forthcoming review of the Constitution.
6. A revised protocol was prepared based on the policy used for employees and other users of the Council's network for consideration by the Constitutional Review Working Group and Member Development Working Group. Its purpose was to deal with the following:
 - To inform councillors of the Council's policy on internet and e-mail usage to minimise the Council's exposure to technical and legal risk.
 - Explain to councillors what can and cannot be done in simple clear terms. It is considered that a short direct document will be more valuable than a lengthier technical document.

Further information on the subject of this report is available from
Marie Rosenthal, County Secretary and Solicitor on (01432) 260200

- Set out the legal risks taken whilst using the Council's Internet facilities.
 - Ensure compliance with the Code of Conduct and section 2 of the Local Government Act 1986 which prohibits local authorities from publishing political material (designed in whole or in part to promote support for a political party or policy associated with a political party).
 - Provide for councillors to confine their use of the Council's Internet Service Provider (ISP) and e-mail address to council business only.
 - Allow personal use of council provided equipment as long as councillors use separate ISP and e-mail facilities.
7. The draft Protocol was considered at the Member Development Working Group on 13 October 2004 when the following recommendations were made:
- The Standards Committee write to the Standards Board stating that national model guidelines are necessary.
 - The draft protocol is trying to cover too much, and in so doing, has led to confusion not clarity. There should be a separate ICT protocol and the mandatory aspects need to be separated from guidelines.
 - "Political Purposes" must be clearly defined so that Members know exactly what restrictions exist.
 - If family members are allowed access to Council computers then the individual Councillor must agree to take personal responsibility for this usage.
 - It is essential that all Councillors are consulted on the protocol before it is adopted.

Standards Board for England (SBE)

8. The SBE has considered the Council's request for advice on this matter. On 15 November 2004, the Chief Executive of the SBE wrote to the Council as follows:

".. if the council has no problem with personal use of computers and this is clearly set out in a protocol, then it is unlikely that an ESO would consider there was a breach of the code, if a councillor had made personal use of a council computer in line with the requirements set out in the protocol. The further point you make about the use of council computers for party purposes is more complicated. It is our view that the uses you have described, namely e-mailing political groups, setting up meetings and conducting discussions about strategy and political tactics are covered by the provisos in subparagraph b) ii of paragraph 5 that: members should "ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the authority or of the office to which the member has been elected or appointed". It could quite reasonably be argued that such use is facilitating their role as councillors. What would be more doubtful would be purely party political use, particularly around the time of an election, for example, producing the text for campaigning leaflets or something of that nature."

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Revised Protocol

9. Members will find a revised protocol at Appendix A which takes on the Members' Development Working Group recommendations. This, subject to the Committee's views, is recommend as a consultation draft.

RECOMMENDATION

THAT the Committee consider the Revised Protocol at Appendix A as a consultative document for individual councillors and thence for its adoption by the Council.

BACKGROUND PAPERS

- None identified.