

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 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 revise those aspects of the Code relating to the use of Council computer equipment and the Council's e-mail address.
6. A new protocol (Draft One) was prepared based on the policy used for employees and other users of the Council's network.

Draft Protocol

7. The latest draft, is appended to this Report. It includes revisions following consideration by the Constitutional Review Working Group on 2 July 2004. Its purpose is 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.
- 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.

The Constitutional Review Working Group

8. The Protocol was considered by the Constitutional Review Working Group at its meeting on 30 June 2004.
9. At that meeting, it was noted that members are currently expected to sign up to the protocol used by employees but there was a recognition that this was a lengthy and complicated document which did not address all the issues likely to be experienced by members. It was also noted that the IT Department have monitoring procedures in place to alert them to potential inappropriate use of computers. Areas discussed in detail included use of Council owned computers by family members and inappropriate use of the herefordshire.gov.uk e-mail address.
10. At that meeting, it was agreed that section 5 of the protocol be revised to include a requirement for the County Secretary and Solicitor to authorise the use of a Council computer by a members family or other persons.
11. The Constitutional Review Working Group also asked that section 7 of the protocol be reviewed to better reflect the requirements of the Local Government Act 1986 relating to what constitutes political purposes. Advice has been taken from the Standards Board for England in relation to this matter. They comment:

Paragraph 5(b)(ii) of the Code complements section 2 of the Local Government Act 1986, which prevents the publication of material "designed to affect public support for a political party". It also supplements the government's Code of Recommended Practice on Local Authority Publicity (issued under section 4 of the Local Government Act 1986). Importantly the Code goes considerably further than either section 2 of the Local Government Act 1986 or the Code of Recommended Practice. The use of resources for political purposes covers not only the publication of campaigning material but also any other activity that is intended to promote purely party political interests. The context in which a member acts will obviously be important in relation to this part of the Code. When elections are pending members will need to be particularly scrupulous about the use of authority resources.

12. The Constitutional Review Working Group also asked that the Protocol be considered by the Members Development Working Group. That Group are meeting on 13 October and the views will be presented to the Standards Committee meeting

Case Law

13. Some members of other authorities have failed to comply with the Code of Conduct by misusing their authority's resources. The Adjudication Panel for England disqualified one member for one year for this breach of the Code of Conduct, and suspended another for three months.
14. One borough councillor used a council computer for private purposes, and allowed his family to do so as well, mainly for e-mail and internet access. The tribunal took the member's attempt to use his public office for private benefit seriously. It stated: "Where a member has used his position as a councillor for some personal gain, the case tribunal would usually be thinking in terms of a disqualification". However, it considered that the personal gain in this instance was not that significant: the council already provided free internet access in its libraries. The tribunal therefore decided that the appropriate punishment was a two-month suspension.
15. By contrast, another borough councillor not only misused a council computer, he refused even to return it when asked to do so by the IT department. In this case, The Adjudication Panel for England's tribunal considered that this conduct brought the former member's office and authority into disrepute. The tribunal took into account the fact that the councillor was no longer a member, and disqualified him for a year.

Conclusion

16. Against this background of cases, it is recommended that members are advised in the protocol that:
 - (a) Other persons can only be authorised to use Council resources on the express written approval of the County Secretary and Solicitor.
 - (b) Use of Council facilities to communicate with political groups needs to be conducted carefully to ensure no inadvertent breach of the prohibition of activity intended to "promote purely party political interests". Members can seek advice from the County Secretary and Solicitor as necessary on an individual basis.

RECOMMENDATION

THAT **the Commttee consider the Revised Protocol at Appendix A and recommend this adoption to the Council**