

LLG Social Media-Toolkit



[This Photo](#) is licensed under [CC BY-SA](#)

The LLG Social Media Toolkit has been prepared by Lawyers in Local Government (LLG) for the benefit of its membership, in order to introduce the subject of social media use and resulting legal considerations which may apply.

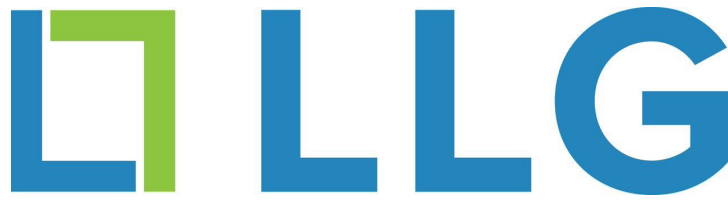


Foreword

Unfortunately, most Councils can now lay claim to having at least one “pressure group” or “blogger” who see it as their life’s calling and personal duty to make persistent and unfounded allegations of corruption, maladministration, and misconduct (and any other allegations involving unlawful or illegal activities) against their local (or sometimes not local) Council, its elected members and officers. They have always been there in one form or another, however the internet and in particular social media have given them a significantly more elevated and wider platform from which to emerge from the shadows (albeit virtually), and from which to launch their attacks, whereas in the days of yore their reach was limited to writing letters and posting newsletters among other more traditional forms of communicating their views and theories.

Some of the more unsavoury instances have seen elected members or prospective candidates threatened with social media exposés should they continue to hold office or stand for election, whether or not there is any credibility or truth to what is proposed to be published. This has resulted in some of those subject to such threats retiring or withdrawing from public life, some before they have even had chance to launch their political careers. Such behaviour also discourages individuals from putting themselves forward for public office in the first place.

It is of course correct that those who do put themselves forward for public office, and who currently hold public office, should be subject to increased scrutiny and challenge, and that they should expect to be faced with sometimes very strong criticism. Enhanced protection therefore applies to what is said in a political arena, not only to politicians, but also to those who comment upon politics and politicians, notably the press. This is because the right protects, more broadly, the public interest in a



democracy of open discussion of matters of public concern, but this does not denote 'open season' and there is a bar (albeit one set relatively high) beyond which such challenge and criticism are unacceptable, particularly where the basis of that challenge is devoid of factual substance.

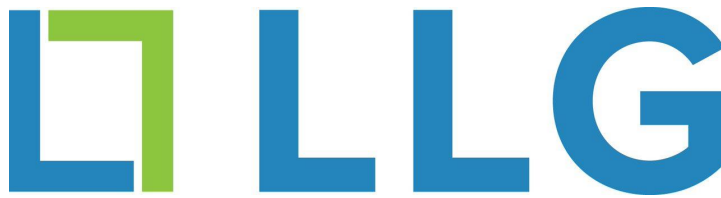
The consequence of these very public threats is to distort the democratic process. Arguably they act as an independent and unofficial pre-selection filter on candidates and a screen upon the longevity of political careers, leaving those standing for or holding office either affiliated with or supported by those making the threats, or of a particularly strong character. This cannot be right, and presently unless a public figure is in league with those making threats, a particularly thick skin is seemingly an essential part of the make-up of the modern Councillor. This is not to mention the effect that social media can have upon the wellbeing of officers and the retention of key members of staff.

The LLG Social Media Toolkit is designed to help you navigate your way around the complex and sometimes all too emotive issue of social media in advising your officers and members on the best way to protect and conduct themselves as well as ensuring your authority complies with its legal obligations.

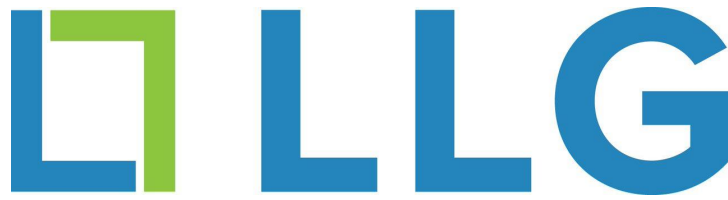
Best wishes

David Kitson

Bevan Brittan



Chapters	Page
Introduction	5
1. <u>Defamation</u>	6
2. <u>Indemnities</u>	8
3. <u>Standards</u>	11
4. <u>Abusive Posts & Declining Ethical Standards</u>	12
5. <u>Breach of Confidentiality</u>	16
6. <u>Data Protection</u>	18
7. <u>Employment Considerations</u>	21
8. <u>Social Media Management</u>	27
9. <u>Problem Individuals & Practical Action</u>	33
10. <u>Guidance for Members</u>	35
11. <u>Do's and Don'ts</u>	42
12. <u>Social Media Suggested Guidelines for Inclusion</u>	44
13. <u>Useful Links</u>	46



Introduction

LLG recognise that the growing use of social media places additional pressure on our members to advise officers, councillors, and their authority on a range of legal implications based on wide-ranging posts, tweets and commentary published in the public domain.

Whilst the world under lockdown becomes increasingly virtual, social media has become centre stage in both personal and private lives leading to often complex and wide-ranging legal advice. How do we best manage social media from a governance and operational perspective? How do we work out what presents risk and how can that risk be mitigated?

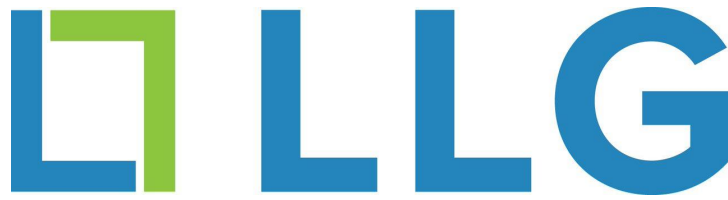
There are all too many examples of social media causing embarrassment or loss of reputation. However, there is also a darker side to social media which has increased over recent years. Malicious abuse, threats of violence and harassment are unfortunately, all too prevalent across virtual platforms. The Committee on Standards in Public Life's review on 'Intimidation in Public Life' (2017) stated "The vitality of our political culture depends upon free and vigorous expression of opinion, and it is crucial that this freedom is preserved. The increasing prevalence of intimidation of Parliamentary candidates, and others in public life, should concern everyone who cares about our democracy. This is not about defending elites from justified criticism or preventing the public from scrutinising those who represent them: it is about defending the fundamental structures of political freedom". This is a position that LLG takes seriously, and one that we should all agree with.

LLG hopes this toolkit will assist you in providing advice to your officers and members in this complex field.

Best Wishes

Quentin Baker

LLG President 2020-2021



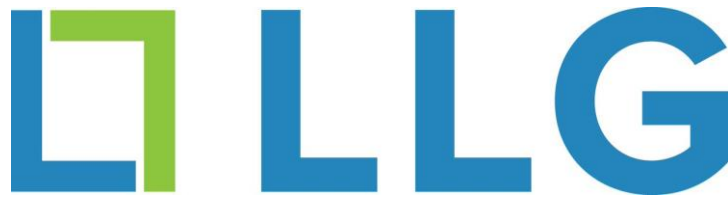
1. Defamation

What is defamation?

- 1.1 Defamation is a complex legal area necessitating specialist legal advice. It is often a lengthy and costly pursuit of action and should be considered carefully.
- 1.2 The Defamation Act 2013 came into force on 1st January 2014. It codified and consolidated large parts of case law and previous statute. It introduced a single publication rule, addressed the 'serious harm' threshold and reversed mode of trial to a judge (as opposed to jury).
- 1.3 Simply put, if someone has posted a false statement which could cause serious harm to an individual's or organisation's reputation and character this could give rise to a claim for defamation. Defamation law both protects from damage to reputation and character and compensates for the loss and damage arising.
- 1.4 There are a number of defences to defamation, including truth, honest opinion, fair comment, publication on matter of public interest, absolute privilege, and innocent dissemination. The defences each set out specific criteria in order to meet the test for reliance upon any one of them.

Can a local authority bring an action?

- 1.5 It is important to note that local authorities cannot themselves sue in defamation, which was a principle laid down by *Derbyshire County Council v Times Newspapers Limited* ([1993] 1 All ER 101). In that case the court held that local authorities are distinguished from corporations as democratically elected government bodies and as such, it was highly important that they



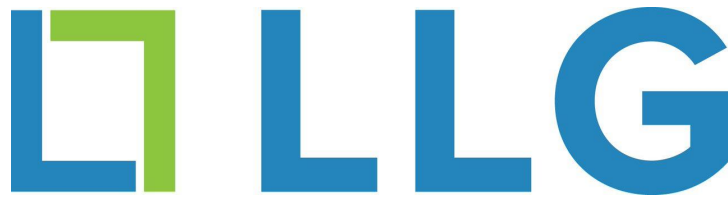
were open to criticism. The threat of defamation would therefore inhibit freedom of speech and be contrary to the public interest.

General Power of Competence

- 1.6 Whilst there has been some suggestion that local authorities can use section 1 of the Localism Act 2011 (the general power of competence) to bring a defamation claim this is untested. It is worthwhile noting that this point was specifically discussed in parliamentary debates on what was then the Defamation Bill. It was highlighted within the debate that the Bill was not intended to undermine the Derbyshire principle. Given this fact it would be very risky to rely upon the Localism Act to bring a defamation claim. In the alternative, it is open to individual officers and members to bring an action in their own name. However, due to cost and complexity it is often not an option open to many. It might be possible for local authorities to provide an indemnity in exceptional circumstances, (see *Thompson v James* [2013] EWHC 515 (QB), but extreme caution must be exercised (see section on Indemnities).

Can officers and members bring an action?

- 1.7 Officers (or members) of a local authority can sue for defamation in connection with statements made about them which relate to the exercise or discharge of their duties or as an employee of the authority and where it personally relates to them (*McLaughlin v Lambeth LBC* [2010] EWHC 2726 (QB)).
- 1.8 In *Thompson v James* [2013] EWHC 515, the judge acknowledged that there would be “a serious gap in the law if members and officers of a local authority (and others who work in or for other public authorities) could not sue for libel”



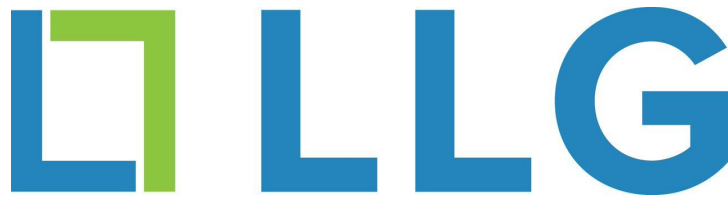
and “if those who work in or for public authorities could not defend themselves against the dissemination of falsehoods, the public would be the losers”.

- 1.9 However, the judge noted that civil servants acting in their official capacity must show a greater degree of tolerance to public scrutiny and criticism. This is not a surprise, and it reconfirms the conclusion reached by the House of Lords in the *Derbyshire* case some 20 years ago. But the judge also recognised that where a person maliciously spreads false and defamatory allegations about individuals holding public offices, a libel action may be the best means of establishing the truth and preventing repetition.
- 1.10 Where an officer or member raises defamation, it is important that they record all the relevant posts and consider whether the person in question will publicly apologise and retract the comment in the first instance. Defamation proceedings are costly and lengthy. In some cases, ignoring the communication may stop any further communication. However, if a member or officer feels the nature of the post is such that it cannot be ignored, lawyers may, after providing initial advice, seek specialist external legal advice about the options available and merits of any claim.

2. Indemnities

General

- 2.1 An authority can provide an indemnity for a claim brought by an individual officer or member, or to assist in defending a claim under The Local



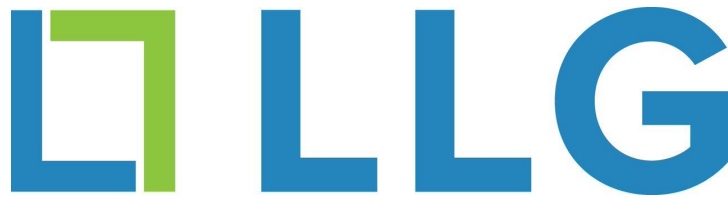
Authorities (Indemnities for Members and Officers) Order 2004 (“the 2004 Order”) where the public expenditure is justified. Under the 2004 Order, an indemnity can be granted to cover “any act or omission by a councillor or officer which is authorised by the council, or forms part of, or arises from any powers conferred or duties placed, as a consequence of a function being exercised by the member or officer at the request of, or with the approval of, or for the purposes of the council”.

- 2.2 An authority cannot provide an indemnity for a defamation claim brought by a councillor but can fund a defence.
- 2.3 For both councillors and officers, the 2004 Order restricts the provision of indemnities so that they cannot cover any finding of criminal liability or liability arising from fraud, deliberate wrongdoing, recklessness, or the cost of pursuing a defamation claim. In such cases, if an indemnity had been provided, any costs incurred under an indemnity would have to be repaid to the Council or insurer.
- 2.4 Section 111(1) of the Local Government Act 1972 provides ancillary powers to local authorities that may permit them to indemnify members and officers in relation to particular decisions or acts, if to do so would facilitate or is incidental, or conducive, to the discharge of a function of the authority.
- 2.5 Authorities should be careful when providing indemnities that no officer/councillor is involved in the decision-making process to do so, whilst having a disqualifying personal and pecuniary interest in the matter.



Defamation and indemnities

- 2.6 Indemnities for defamation claims other than in relation to the defence of a member or officer of any allegation of defamation made against them are expressly excluded under Article 6 of the Local Authorities (Indemnities for Members and Officers) Order 2004. However, prior to the 2004 Order it had been established under the 2003 case of *Comninos, R* (on the application of) and Bedford Borough Council that local authorities could provide indemnities to Officers in order to bring defamation proceedings under s111 or s112 of the Local Government Act 1972. It is not settled law however whether the 2004 Order was meant to be a comprehensive code, but it might be possible to use the powers in exceptional circumstances (but not without substantial risk).
- 2.7 In *Thompson v James* [2013] EWHC 515 (QB), Mrs Thompson (who was a prolific blogger) brought a defamation claim against the Chief Executive Officer (CEO) of Carmarthenshire County Council who counter-claimed for defamation in return. The council agreed to indemnify the CEO following two senior QC's opinions and on the basis that there were exceptional circumstances under section 111 Local Government Act 1972. During the hearing, the court did not consider this particular point, but the Welsh Audit office took the view that the expenditure had been unlawful and issued a report in the public interest. They did not however subsequently follow up with legal challenge.



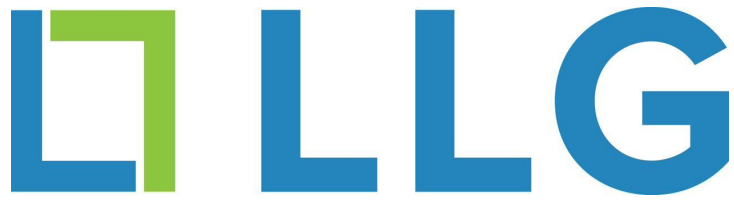
- 2.8 It is important to remember that any decision to indemnify must be Wednesbury reasonable, legitimate, proportionate, and a proper use of public resources.

3. Standards

- 3.1 An increase in complaints about members' use of social media has been acknowledged by the Committee on Standards in Public Life to be a catalyst behind declining standards in conduct. One of the key issues is the capacity in which posts are being made by councillors. There is no clear definition and much depends on the facts in each case. Even where members do not disclose that they are councillors, it can still be perceived that they are posting in that capacity. It is important therefore that councillors state in what capacity they are posting or tweeting/retweeting. It does not prevent issues arising, but it should help to provide clarity.
- 3.2 The case of *R (on the application of Mullaney) v Adjudication Panel for England* [2009] EWHC 72 (Admin) acknowledged the sensitive nature of the exercise of whether or not a member was acting in their capacity as a member; "...These are ordinary descriptive English words. Their application is inevitably fact sensitive and so whether or not a person is so acting inevitably calls for informed judgment by reference to the facts of a given case. This also means that there is the potential for two decision makers, both taking the correct approach, to reach different decisions..."

Local Initiatives and Pre-determination

- 3.3 There has been a significant increase in the use of social media by Members during lockdown due to COVID-19. Many members are supporting



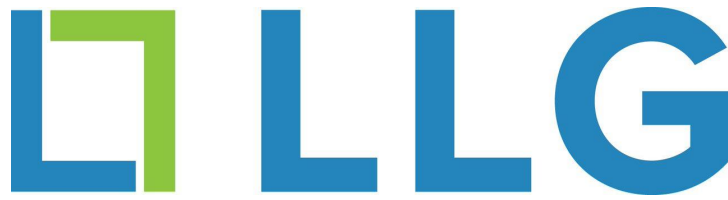
and re-posting local initiatives such as the production of protective equipment and financial assistance to those in need. But it is important that as much clarity is given as possible as to the capacity in which the member is posting these types of content. Reference to initiatives whilst using title 'Cllr' may infer to the reader that those initiatives are council initiatives or are officially supported. If there are then consequential issues arising with those initiatives (for example breaches concerning the processing of personal data), there might be an assumption that the council is liable or responsible.

- 3.4 Once a post is made it is a permanent record, and social media posts on views and voting intentions can be perceived as predetermination and result in allegations of bias increasing the risk of legal challenge and judicial review claims.

4. Abusive Posts & Declining Ethical Standards

Ethical Standards

- 4.1 It is becoming increasingly common for standards complaints to be made on the basis of comments Councillors have made on social media. As section 27(1) of the Localism Act 2011 places a positive duty on Councils to promote and maintain high standards of conduct amongst members, Councils must seek to do so where their members use social media. If a Council can reduce the incidence of complaints being made regarding the use of social media by Councillors, this not only saves resources but also goes towards the section 27(1) duty.
- 4.2 The issue of social media and the declining standards of behaviour both towards public figures and by elected members has been commented upon by

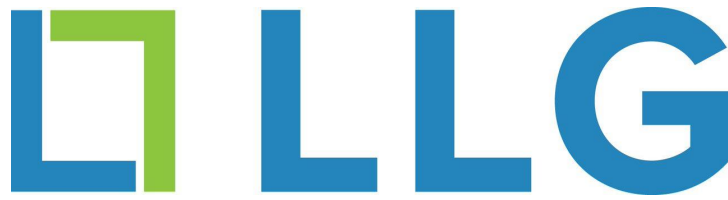


the Committee on Standards in Public Life (CSPL). The CSPL report 'Intimidation in Public Life – A Review by the Committee on Standards in Public Life' which was published in December 2017 is well worth a read. In the covering letter to the Prime Minister Lord Bew stated the following:

“...The increasing prevalence of intimidation of Parliamentary candidates, and others in public life, should concern everyone who cares about our democracy. This is not about defending elites from justified criticism or preventing the public from scrutinising those who represent them: it is about defending the fundamental structures of political freedom. A significant proportion of candidates at the 2017 general election experienced harassment, abuse, and intimidation. There has been persistent, vile, and shocking abuse, threatened violence including sexual violence, and damage to property. It is clear that much of this behaviour is targeted at certain groups. The widespread use of social media platforms is the most significant factor driving the behaviour we are seeing...”

4.3 In the foreword to the Government’s response to the report, the Prime Minister stated:

“...the ideal of a truly plural and open public sphere where everyone can take part is in danger. A tone of bitterness and aggression has entered into our public debate. Participants in local and national public life – from candidates and elected representatives to campaigners, journalists, and commentators – have to contend with regular and sustained abuse. Often this takes the form of overt intimidation...”

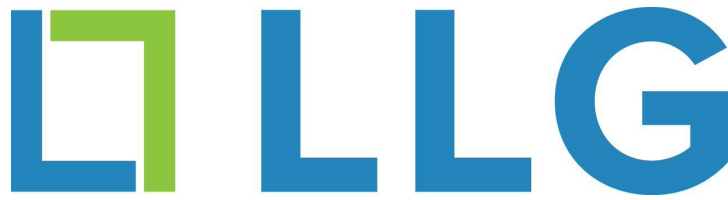


- 4.4 In January 2019, the CSPL published their report 'Local Government Ethical Standards – A Review by the Committee on Standards in Public Life'. The report acknowledges that ethical standards are in decline and that changes are required to the standards regime to address this. The report also highlights the frequency of attacks against and the harassment of Councillors, quoting a highly topical paragraph from the written evidence submitted by the Local Government Association at page 35 as follows:

“Instances of councillors being attacked and harassed, notably on social media, is an increasing trend and a very serious issue. There is anecdotal evidence from across the country that female leaders and councillors are subject to more abuse than their male counterparts.”

Harassment

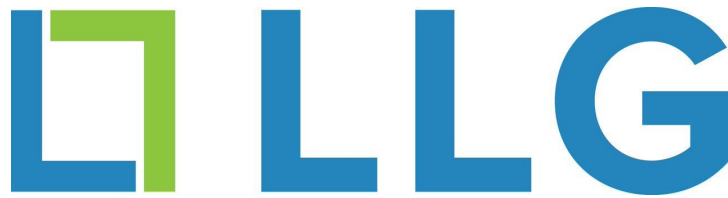
- 4.5 The Protection from Harassment Act 1997 covers both civil actions and criminal offences. There is a requirement to prove that there was a course of conduct (i.e. at least two instances) which was directed at a single person, or in the case of conduct against two or more persons, on at least one occasion in relation to each of those persons. The course of conduct must involve harassment. Harassment includes alarming the person or causing the person distress.
- 4.6 Unlike with defamation claims by officers or members, a council can indemnify officers and members to bring an action under the Act. The council can also start an action in its own name (section 1(1A) and 3A of the Protection from Harassment Act 1997) where there is harassment of two or more of its members or officers which the perpetrator knows or ought to know involves harassment of those persons; or by which they intend to persuade any person to do something which they are not obliged to do or not to do something which they are entitled or required to do.



- 4.7 Bringing a civil claim from harassment is often less expensive than a claim in defamation, not least because of the possibility at interim stage of an interim injunction.
- 4.8 The ongoing publication of defamatory allegations online can constitute a course of conduct (see *Cheshire West and Chester Council & Others v Robert Pickthall* [2015] EWHC 2141 (QB) and *Coulson v Wilby* [2014] EWHC 3404).
- 4.9 The conduct complained of must be considered to “cross the boundary from the regrettable to the unacceptable,..... and be sufficiently serious to be regarded as criminal” (see *Conn v Sunderland City Council* [2007] EWCA Civ 1492). Given the Court of Appeal judgement, there is now an expectation that the conduct must be such as to attract the sanction of the criminal law. The higher threshold makes a claim quite difficult. It is important to remember that where action is sought by or in relation to members in particular, it will be difficult, and only in exceptional circumstances successful.

Other forms of Action

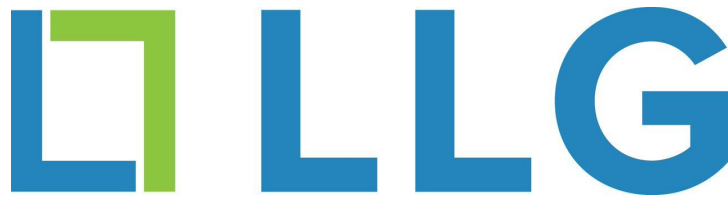
- 4.10 Other forms of action might be applicable and include the common law claim for malicious falsehood, criminal offences under the Communications Act 2003 and the Malicious Communications Act 1988, and anti-social behaviour injunctions under the Anti-Social Behaviour Crime and Policing Act 2014.
- 4.11 Crown Prosecution Service guidance in relation to both the Communications Act 2003 and the Malicious Communications Act 1988 makes it clear that a prosecution should only proceed where it involves offensive, shocking, and disturbing communications.



- 4.12 Injunctions under the Anti-Social Behaviour Crime and Policing Act would be quite novel in the context of social media postings about members and/or officer, but technically speaking it might be possible. It also has the benefit of being dealt with on the civil balance of probabilities and there is presently no case law to suggest that the conduct must be such as to attract the sanction of the criminal law as there is with injunctions under the Protection from Harassment Act 1997 (see above). Use of this legislation in this context is untested and so how a court might deal with such a case is unknown at present.
- 4.13 If officers or members receive an abusive, intimidatory or threatening communication they should keep a record of it and report it to the social media platform concerned. They should also make the council aware so that the council can keep a record and provide any appropriate advice.
- 4.14 Any posts which threaten the personal safety or security of a member or officer should be discussed with the police.
- 4.15 Engaging with an abusive communication can often encourage further, unwanted communications and may provide a platform and audience which further incites the behaviour.

5. Breach of Confidentiality

- 5.1 Breaches of duties of confidentiality (whether implied or express) can happen in all contexts, by members and officers or by third parties. An exempt report, confidential contracts with sensitive commercial information, confidential details about regulatory functions or investigations, or information about



complaints or individuals who have made complaints might be disclosed. This can result in claims being brought against the council or against individuals to recover any loss or damage suffered.

Loss of general indemnity

- 5.2 A general indemnity applies to officers and members under section 265 Public Health Act 1875, which is applied to all council functions by section 39 Local Government (Miscellaneous Provisions) Act 1976. The indemnity only applies when members or officers are acting bona fide in the council's interests. A breach of confidentiality is unlikely to be considered to be in the interests of the council, meaning that the member or officer involved might end up being individually liable for what could be quite large sums of money. Breaches of confidentiality are also likely to significantly undermine a council's ability to obtain best value in future due to reputational damage. In the context of contracts, third parties might not engage, hold back on sharing information with the council, or use the situation to their advantage to seek more stringent contractual terms to the detriment of the council. Breaches might also impact upon and/or effect regulatory functions in that those who are subject to regulation, or have information about breaches, might be reluctant to engage for fear of that information being disclosed.
- 5.3 There is a public interest defence to a breach of confidentiality, however it is for the person who has caused the breach to make this out.



6. Data Protection and the Information Commissioners Office (ICO)

6.1 Disclosure of personal data on social media is a “processing” activity and requires a lawful basis if no exemptions to that processing apply.

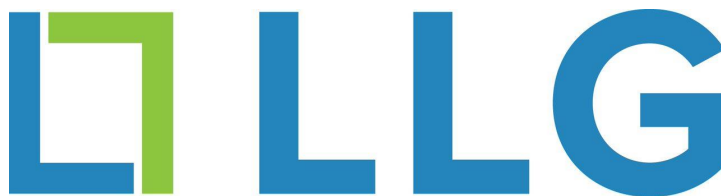
6.2 Where neither a lawful basis or an exemption apply to that processing it may be unlawful and constitute a breach of GDPR.

Who is the controller?

6.3 Most social media postings by individuals are considered by the ICO to be made in a personal capacity and therefore exempt from the GDPR. However, when members post personal data on social media they could be doing so in one of four different capacities. The first of these is where the member is posting purely in their personal capacity. The ICO have however expressed a view that when processing personal data not in their own personal capacity, members could be acting in one of three further capacities: -

- a. Processing in relation to council business (where the council is the controller).
- b. Processing in relation to constituency work (where the councillor is the controller); and
- c. Processing in relation to party political matters (where the political party is the controller).

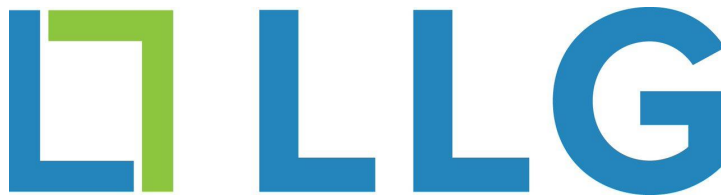
6.4 Although elected representatives are exempt from paying a data protection fee under the Data Protection (Charges and Information) Regulations 2018, they must still ensure that they adhere to the principles of the GDPR and understand best practice for managing information. Where members seek to



process the personal data for matters other than exercising members' functions then the fee exemption will not apply to that processing.

Personal or Household Activities Exemption

- 6.5 The ICO considers most social media postings made by individuals are exempt under the personal or household activities exemption.. It should be noted however that in [Sergejs Buivids \(Case C–345/17\)](#) the Court of Justice European Union (CJEU) recently gave an interesting view on the application of this exemption regarding the posting of a video on YouTube by an individual, having been asked to do so by a Latvian Court (ECLI:EU:C:2019:122). This was a case concerning the pre GDPR data protection directive however the exemption under the GDPR is very much the same.
- 6.6 In that case, an individual had been taken to a police station to give a statement, and whilst there he filmed police officers going about their normal day to day business. He subsequently posted the footage on YouTube stating that he had done so to draw attention to the police acting unlawfully. When the individual was told to take the clip down by the Latvian National Data Protection Agency, he challenged them, claiming that the personal or household activity exemption or the journalism exemption applied (being one of the “special purposes” exemptions). The CJEU said that the personal or household purposes exemption did not apply as the material was published on *“a video website on which users could send and share videos without restricting access to that video, thereby permitting access to an indefinite number of people”*. The processing of personal data here, did not come within the personal or household activities. The CJEU also stated that the journalism exemption could apply but did not give a definitive view on this.



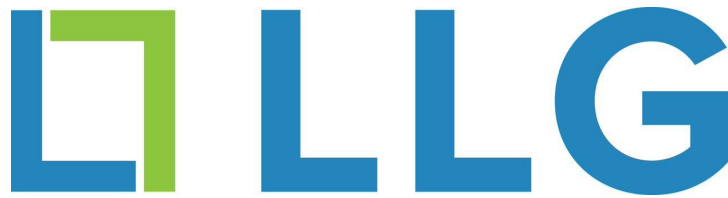
- 6.7 Although this raises interesting points, the case was very nuanced, and it remains to be seen whether this view will be more widely adopted.

Journalism Exemption

- 6.8 As referred to above, the GDPR and the Data Protection Act 2018 contain an exemption applicable to processing for the “special purposes”. One of those special purposes is processing for the purpose of journalism, which could apply to the processing of personal data by ‘citizen journalists’ on their social media pages, blogs and websites. The exemption (when applicable) acts to

exempt the controller from the vast majority of obligations under the GDPR (but not the security and accountability principles). The exemption only applies where the controller considers that compliance with the GDPR provisions would be incompatible with the special purposes (this must be more than inconvenience); that the processing is being carried out with a view to publication of journalistic material; and that the publication is in the public interest, taking into account the special importance of the general public interest in freedom of expression, any specific public interest in the subject matter, and the potential to harm individuals. When deciding whether publication would be in the public interest, the controller must have regard to BBC Editorial Guidance lines, the OFCOM Broadcasting Guide, and the Editors’ Code of Practice..

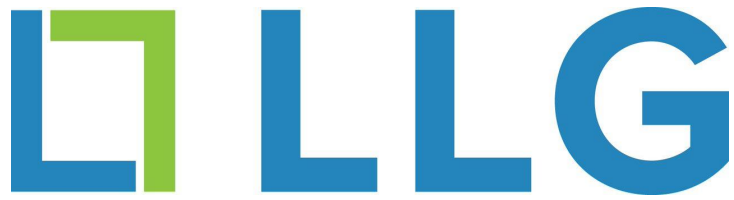
- 6.9 If those making derogatory posts on social media cannot rely on the personal or household activities exemption or the journalism exemption, they will be considered to be controllers under the GDPR meaning that there may be means of redress under the GDPR (such as the right to object). Complaints could also be made to the ICO, as well as potential proceedings being



brought under the GDPR and Article 8 for material and non-material damage against the controller for any breach.

7. Employment Considerations

- 7.1 Employee misconduct involving use of social media is becoming an increasing problem and one that can be difficult for employers to deal with properly. Firstly, characterisation of misconduct may be problematic e.g. does the misconduct consist of damaging the employer's reputation or does it breach a duty of confidentiality?
- 7.2 Reported cases tend to fall within the following three categories – inappropriate employee actions (for example an employee posted pictures of themselves DJing in Ibiza whilst “off sick”); using social media to make derogatory comments about colleagues, the employer, customers/clients/patients; or excessive use of social media during work hours. Different considerations will also apply to dealing with conduct which is in work or on the other hand outside work.
- 7.3 There is an implied term in all employment contracts that the working environment will be reasonable, tolerable, and congenial. The case of *Moore v Bude-Stratton Town Council* UKEAT/313/99; [2000] IRLR 676 also makes it clear that councils can also be held responsible for conduct of members towards officer. This case involved a councillor's persistent hostility and abuse against an officer. The council tried to claim that as the councillor was not employed by the authority, it was not responsible. However, the tribunal found that those circumstances did not absolve the authority from its obligations and employees could in fact resign and claim unfair dismissal. The council was therefore vicariously liable for the breach and damages flowed from that.



- 7.4 It is important to remember that where someone is subjected to a course of conduct that causes them distress or alarm this may give rise to cause of

action for harassment.. Online activities such as cyber bullying are also caught.

- 7.5 If any harassment is on the grounds of a protected characteristic (e.g. sex, race, disability, age etc.) then this might form the basis of a discrimination claim against the employer in the Employment Tribunal. A concern here is that discriminatory damages are not capped and can also include injury to

feelings. The amount of damages could therefore be very high depending on the conduct.

Health and Safety

- 7.6 The Health and Safety etc. Act 1974 places a general legal duty on employers to ensure (so far as is reasonably practicable) the health, safety and welfare at work of all their employees. This includes protection from bullying and harassment, and other things that can affect psychological wellbeing. Councils should have safeguards and effective monitoring in place in order to protect against risks and effectively deal with abuse as the duty may be breached by exposure to the risk without the need for actual injury or ill health.

Reputational Risk

- 7.7 Employee conduct may damage the council's reputation even if it takes place outside of work, particularly so in the case of social media (which is where it



often happens). Cases determined in the Employment Tribunal (ET) suggest that the following factors are relevant when considering employees' use of social media: -

- a. Is it sufficiently work related? Depending on the facts there has to be some link between work and activity.
- b. Employers should not take a disproportionate view merely because the material is not putting them in the best light when it comes into the public arena.
- c. Information given to employees about the council's image and reputation as well as guidance on the use of social media are particularly relevant.

General Indemnity

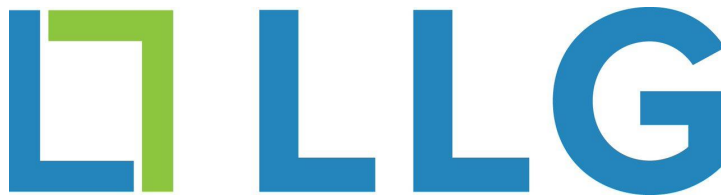
- 7.8 As set out in paragraph 5.2 above, a general indemnity applies to officers under section 265 Public Health Act 1875, which is applied to all council functions by section 39 Local Government (Miscellaneous Provisions) Act 1976. The indemnity only applies when officers are acting bona fide in the council's interests. A failure to act bona fide in the Council's interests can result in the indemnity being lost, meaning that Officers may therefore be personally liable for claims and damages, including claims by the Council against the Officer.

Human Rights

- 7.9 The Human Rights Act 1998 is potentially applicable to employment cases resulting from the alleged misuse of social media. Human rights will not be affected by Brexit.

The three relevant rights in this context are: -

- a. Right to respect for private and family life (Article 8)

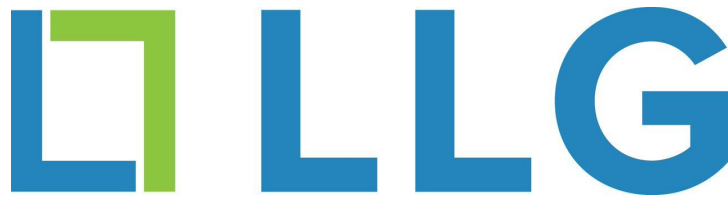


- b. Freedom of thought conscious and religion (Article 9)
- c. Freedom of expression (Article 10)

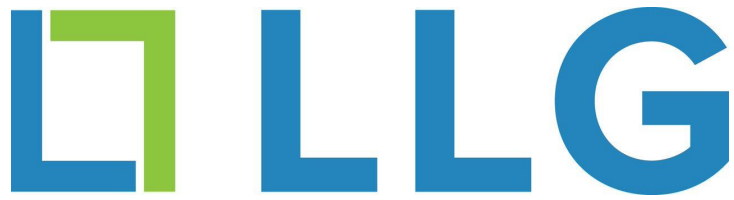
7.10 It is important to note that these are qualified rather than absolute rights and should therefore be approached in two stages. First, has the human rights article been engaged? Second, if there is an infringement, is that justified? When considering justification, proportionality must be considered which requires balancing an employees' rights against the employers' legitimate interests in protecting its reputation and other employees.

Case Law Examples

- 7.11 The case of *Crisp v Apple Retail (UK) Ltd* [2011] ET/1500258/11 concerned an employee of Apple posting expletives and derogatory comments on Facebook about Apple software and working at Apple in general. The Tribunal found that Mr Crisp had no reasonable expectation of privacy even though Facebook was restricted to friends, as it was noted that Mr Crisp's comments could be forwarded without control and indeed it was a friend who had forwarded it to Apple.
- 7.12 The Tribunal found that the right to freedom of expression had been engaged, but the infringement of that right had been justified. Apple had the right to protect its reputation and had taken definite steps to do so in its training, with clear policies that stated the protection of its image was of core value and that social media comments on Apple products was likely to be seen as gross misconduct.
- 7.13 The case demonstrates that the way in which you address social media use in policies is important in being able to handle misconduct through social media by staff.

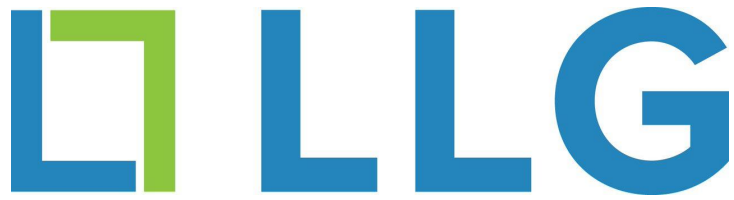


- 7.14 The case of *Teggart v TeleTech UK Limited* 00704/11 concerned a customer service representative in a call centre who posted obscene comments about the alleged promiscuity of a female colleague within which he also mentioned his employer, TeleTech. On becoming aware of the posts the female colleague asked Mr Teggart's girlfriend to ask him to remove the posts, however instead he chose to post more derogatory and abusive comments and was subsequently dismissed for gross misconduct for bringing TeleTech into disrepute and for harassing a fellow employee.
- 7.15 Mr Teggart claimed unfair dismissal and breach of Articles 8, 9, and 10. The Tribunal found that his privacy was not engaged as he had abandoned this by putting his comments on Facebook. Further that freedom of thought and belief did not extend to a belief about colleague's promiscuity, and that freedom of expression, although a right, must be exercised responsibly so as not to damage a colleague and her reputation. The Tribunal found that the dismissal was fair but was critical of the finding by the employer of serious disrepute as there was no evidence of that. They had made the assumption but could not prove it actually had in reality.
- 7.16 The case of *Game Retail Ltd v Laws* UKEAT/0188/14/DA concerned a risk and loss prevention investigator who had a personal twitter account and was followed by 65 stores in the business. Game Retail identified 25 expletive tweets by Mr Laws who had taken offence to dentists, golfers, police, his dad, and disabled people and summarily dismissed Mr Laws. The EAT found that the dismissal was fair. The tweets were not private, and he knew that he was being followed by the 65 stores. The tweets could be seen by staff and potential customers. There was more than just a theoretical risk of



reputational damage due to the number of tweets, the level of offensiveness of the comments, and due to being followed by the 65 stores.

- 7.17 In the case of *Walters v Asda Stores Ltd* an ASDA manager posted a comment on her Facebook page which stated "*even though I'm supposed to love our customers hitting them in the back of the head with a pick axe [sic] would make me feel far more happier heheh*". She denied posting the comments and argued that her account had been hacked. The Tribunal found that the subsequent dismissal was unfair because the misconduct did not amount to gross misconduct and the employer's internet policy did not specifically state that this type of conduct by managers would be viewed more seriously. Further, the employee had an exemplary disciplinary record over 10 years' service with no previous warnings.
- 7.18 This can be contrasted with the case of *Dixon v GB Eye Ltd*, ET (Case. 2803642/10), in which Ms Dixon who had raised a grievance about changes to her role following her return from maternity leave, was subsequently suspended pending investigation for accessing her manager's email account., During suspension she posted offensive comments about her employer and colleagues on Facebook. She was dismissed and the Tribunal found that the dismissal was fair on the basis that she had breached a clear employer IT policy and the severity of the comments alone would have been sufficiently serious to dismiss.
- 7.19 Of key importance is having clear policies in place on the use of social media in all aspects of Council business and operations, as well as regular training for both Councillors and officers to consolidate understanding. It is better to be proactive in dealing with potential issues, as doing so on a reactive basis will



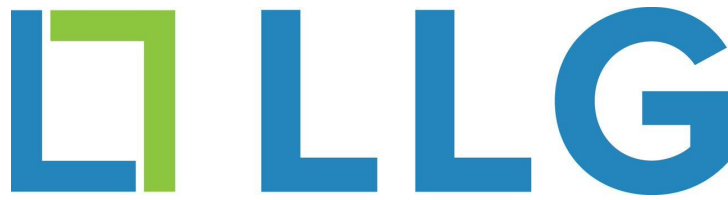
often be too late to avoid serious breaches of legislation and duties of confidence with potential for significant damage to reputation.

8. Social Media Management

- 8.1 When analysing the majority of case law in this area, the strength or otherwise of an employer's policies are exceptionally important and do correlate to the outcome in any given employment tribunal case.
- 8.2 Policies need to set limits or set appropriately defined acceptable usage of council resources, intellectual property use and third-party data together with setting out expectations in respect of confidentiality, prohibitions on bullying, harassment and discrimination, and on negative comments about the council, its employees, elected members, service users, business contacts or partner organisations.

Social media management - controls

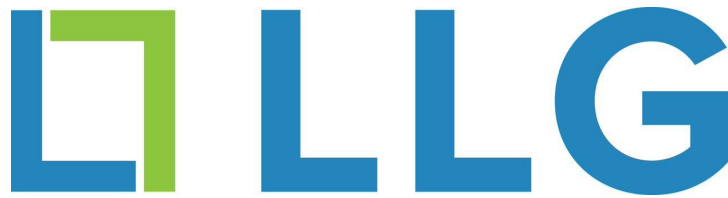




- 8.3 Whilst a disciplinary policy should state clearly the sanctions for misconduct and set expectations around maintaining the reputation of the council and not bringing it into disrepute; there will inevitably be the need to assess misconduct on a case by case basis and an acceptance that harm to the council's reputation might not always be sufficiently evidenced to rely upon.
- 8.4 Communications should be utilised to remind employees at every opportunity about the correct use of social media including at induction, within policies, through continuous training and even log on messages.
- 8.5 Where it can be demonstrated that an employee has been told that use of council resources are restricted to work matters and that social media content which is malicious, discriminatory, bullying or otherwise goes against the ethos of the council and/or harms its reputation this will help protect the council in disciplinary matters from a defence that the employee 'did not know' or 'was not told'. Failure to evidence these matters will provide the employee with a stronger defence in any external proceedings.

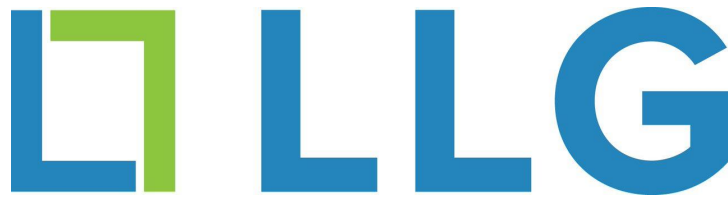
Monitoring of employees

- 8.6 Monitoring of employees can take the form of routine IT monitoring or even targeted monitoring during the course of an investigation. Emails, even if deleted, are retained on a hard drive and may be retrievable using specialist software. Indeed, many cloud-based systems back up such data.
- 8.7 Monitoring online activity can be useful because it could relate to performance issues but can also mitigate against reputational damage and legal liabilities.



Regulation

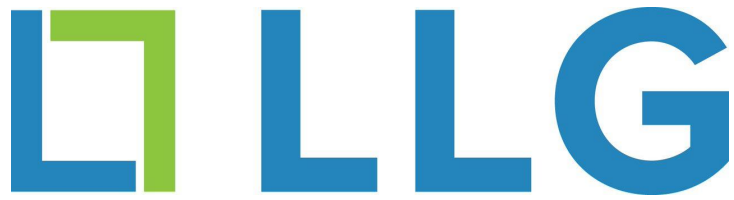
- 8.8 Monitoring is tightly regulated through a wide range of legislation. In terms of monitoring involving the processing of personal data, this is of course regulated under the GDPR and the Data Protection Act 2018. The Information Commissioners Office (ICO) has produced the [Employment Practices Code](#) which was issued under the Data Protection Act 1998 and intended to assist employers to “comply with the Data Protection Act and to encourage them to adopt good practice. The code aims to strike a balance between the legitimate expectations of workers that personal information about them will be handled properly and the legitimate interests of employers in deciding how best, within the law, to run their own businesses”. Whilst the Code is yet to be reviewed in light of the GDPR and the Data Protection Act 2018, it is understood to remain indicative of the ICO’s approach to be taken and in particular Part 3 of the Code contains guidance on monitoring at work and covers systematic monitoring which is understood to mean where an employer monitors all workers or particular groups of workers as a matter of routine; and occasional monitoring which is understood to mean where an employer introduces monitoring as a short term measure in response to a particular problem or need.
- 8.9 The Code recommends that employers set out the circumstances in which monitoring can be used, the nature of it, how the information obtained will be used, and the safeguards in place for those employees subject to monitoring. Employees should be left with a clear understanding of when information about them is likely to be obtained, why the information is being obtained, how it will be used, and who if anyone will the information be disclosed to. The Council’s IT policy needs to ensure it is GDPR compliant as this is a useful tool in controlling abuse.



- 8.10 There are specific pieces of legislation that deal with monitoring including the Investigatory Powers Act 2016, which makes it unlawful in certain circumstances to intercept a communication in the course of transmission. It is also important to consider the Human Rights Act 1998 (in particular Article 8 in that private life might be infringed) and employee protection rights including the duty of mutual trust and confidence.
- 8.11 Monitoring must be proportionate with less intrusive methods considered at first instance. Employees should be provided with details about the purpose of monitoring including when and how it will be carried out, and employers may need to undertake an impact assessment, balancing the rights and privacy needs of the employee against the legitimate aim and needs of the employer.
- 8.12 It is good practice to reserve the right to monitor and review communications within existing policy which should reference both Council communication systems and social media. This should explain what the Council considers to be a legitimate business purpose whilst also incorporating the standards expected.

Policy Content

- 8.13 A social media policy should look to include the following: -
- Coverage (the types of media and categories of people)
 - Who is responsible for implementing the policy
 - Interrelationship with other policies (e.g. IT, Disciplinary, Data Protection etc.)



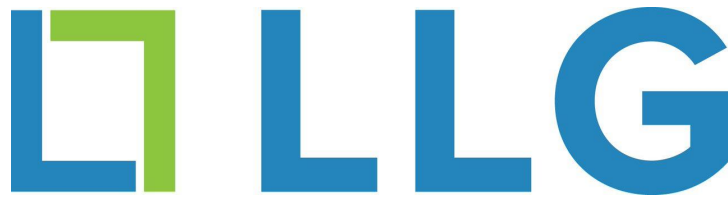
- Prohibited use
- Business use parameters
- Guidelines for responsible use
- Monitoring
- Consequence of breach and sanctions

8.14 Proactively defining what is and what is not acceptable within a social media policy minimises the risk of challenge. This can include not just discrimination and bullying but other more specific examples such as impersonating colleagues.

8.15 The policy should be clear about applying outside of office hours and regardless of whether council equipment or own devices are utilised. Disciplinary action relating to misconduct outside of office hours can be justified if the misconduct presents a real risk of damage to the reputation of the Council and or concerns a breach of confidentiality or amounts to defamation, harassment, discrimination or bullying.

8.16 Be clear about whether the Council accepts the personal use of social media within work time. Tolerable limits should be explicit to avoid confusion or any suggestion that an employee was not clear as to the restrictions.

8.17 Ensure the policy covers not just employees but consultants, contractors and councillors.

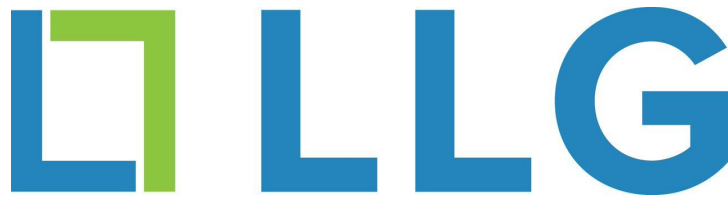


Guidelines

- 8.18 Ensure staff are clear on their personal social media profile that they are speaking on their own behalf, write in the first person and use a personal email address, not a work address.
- 8.19 Where there is a possibility of identifying the individual as a council employee a disclaimer can be used to ensure the reader understands that the views expressed do not represent those of the council, (unless of course the employee has explicit authority to speak on its behalf). Employees should also be given the contact details of a named person at the Council they can report any misconduct to, should they see it on social media.

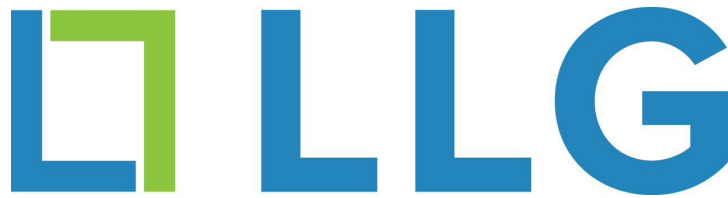
Key Messages to Employees

- 8.20 Posts can go viral quickly resulting in a loss of control. Employees should be reminded that posts on social media are often permanent in nature.
- 8.21 Off the cuff or unguarded remarks should be avoided. Even the most well-intentioned posts without due consideration can have unintended consequences.
- 8.22 Employees should be reminded to maintain personal/professional boundaries and should try to imagine that they are speaking face to face to an audience, as well as understanding that there is no automatic expectation of privacy.

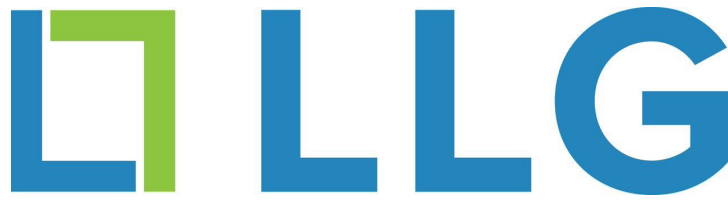


9. Problem Individuals and Practical Action

- 9.1 There is no easy remedy to the issue of problem individuals and their use of social media to attack and criticise councils, members and officers, and to make allegations of corruption. As discussed, there is a much higher threshold of tolerance expected of those in public life. Successful action is not commonplace. It is costly and risks increasing or compounding the issue (particularly if such action is not successful), and in some cases these individuals will see such action as vindication that their allegations are correct, or even hold themselves out as a martyr. This is not to say that legal action should not be taken in cases where such action is demonstratively necessary, reasonable and proportionate. Legal options available in those cases are discussed in Chapter 4 above.
- 9.2 Sometimes, the individuals behind such posts do not realise the impact their behaviour has had on the employees and/or members concerned. Reporting the matter to the police who may visit the perpetrator can have an immediate and lasting effect on their behaviour.
- 9.3 There are however practical measures which can be taken to reduce the impact. These include measures such as blocking users, removing content (if able to do so but remembering to take a screen shot for evidence), and reporting content to the social media platform itself. It is important to complain to the particular social media platform and keep a record in order to build evidence that steps have been taken should legal action become necessary.



- 9.4 Whilst unpleasant content if acknowledged or addressed might reach a further audience and perpetuate the content, where the issue is already known about, a press statement on the council's own platform can help to redress misinformation. This can include a statement that any malicious allegations are without merit and could impact on council functions and the public purse. What course of action may be appropriate very much depends upon the nature of the behaviour and the context within which it sits.
- 9.5 The council's unreasonable complaints policy should include behaviour on social media and set out the measures that might be taken to address inappropriate behaviour. This might include restricting access to members and/or officers, blocking emails, banning access to council land, or initiating a single point of contact. It is important to be overt about what action may be taken and in what circumstances, as well as making sure that any measure applied is demonstratively proportionate and necessary to mitigate against potential challenges brought. Any measures applied should be reviewed intermittently and lifted when appropriate.
- 9.6 It is worth noting that section 14 of the Freedom of Information Act 2000 provides that public authorities do not have to comply with vexatious or repeated requests. The ICO have produced guidance on [Dealing with Vexatious Requests](#) which is comprehensive and expects authorities to consider whether the request has a genuine purpose in light of the objective public interest test. Regulation 12(4)(b) of the EIR contains a similar exception allowing public authorities to refuse to comply with a request for environmental information where the request is manifestly unreasonable.

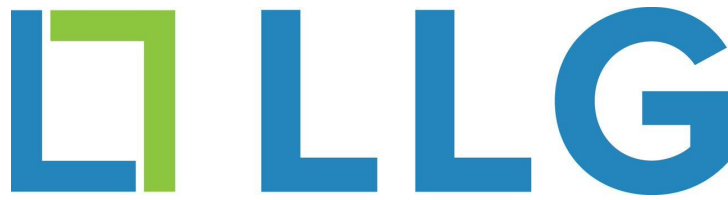


10. Guidance for Members

- 10.1 Social Media can be an effective tool to promote political views and activities/projects with which members are engaged. It can also however present a minefield of delicate situations which can, if not managed correctly, place members at risk of abuse or at risk of breaching the code of conduct.
- 10.2 The best way to ensure that members protect both themselves and the council's interests is to encourage them to treat posting on social media in exactly the same way as they would a public speech or an article for publication either professionally or in their personal capacity. The relatively permanent nature of a social media post means that it can follow an individual around their entire lifetime and even when deleted, another person may have captured a screen shot which could be reposted.
- 10.3 Remembering to adhere to the code of conduct when using social media and ensuring the accuracy of content will go a long way to reaping the benefits of on-line engagement without facing potential repercussions.

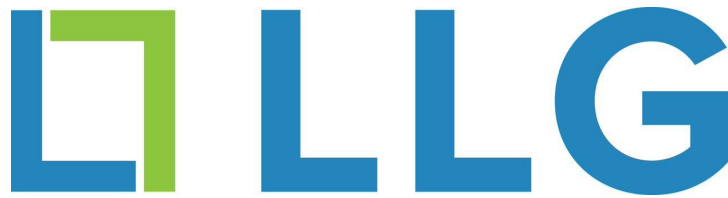
Setting the Scene

- 10.4 The following are examples of social media use by members which have given rise to complaints and/or reputational damage.
- 10.5 In January 2020, a councillor retweeted an article which said that Countdown star Rachel Riley was a "fascist" and an "Israeli state terrorist sympathiser". An investigation commissioned by the council found that the councillor's



Twitter account biography listed them as a councillor but that they were acting in a personal capacity at the time and therefore had not breached the council's code of conduct. The findings were accepted by the council's standards committee, but it said councillors should be given more training on social media use.

- 10.6 In April 2020, a councillor who was taking part in a day of fasting during Ramadan, shared a photograph of bacon and boiled eggs and tagged the Muslim Council of Britain with the caption: 'Up early to start my fast for #LibDemIftar! Really not sure I'll get through to the evening, but we'll see!' Following complaints, the councillor said that "This is a learning experience, and I'd prefer to be honest about it than not. Sorry if it caused offence". He also explained "it was 4am and I was half asleep."
- 10.7 In April 2020, a councillor shared a picture of Greta Thunberg on Facebook in response to her statement that "my generation will start a revolution" and added the caption: "Your generation can't work 40 hours in a week, can't decide whether you're a boy, or a girl or 'other' or can't eat meat without crying". A number of complaints were made about his post, in particular that it was transphobic. The councillor later apologised however the Scottish Conservatives received calls for the councillor to resign from the party or be suspended, with constituents threatening to file complaints with the Commissioner for Ethical Standards in Public Life (who investigate complaints about councillors in Scotland).
- 10.8 In May 2020, a councillor faced calls to resign after sharing a tweet headed "Things I trust more than Boris" which set out a list including: an injection from Dr Harold Shipman; a taxi ride from John Worboys, and the Covid-19 virus.

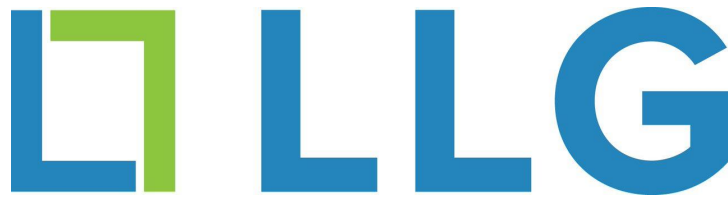


The councillor retweeted that they ‘trusted criminals and the covid virus more than the prime minister’ on their personal twitter account. The councillor did delete the retweet following criticism from the local MP who said it was repulsive and shocking. In response, the councillor said that they had learnt their lesson and would be more careful in the future adding that their poor eyesight had caused them to retweet without looking at it.

Legal Areas

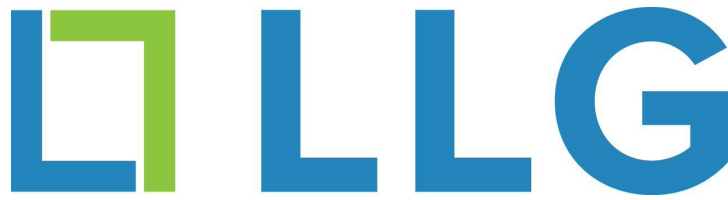
10.9 The following is a list of legal areas which should be taken into account when using social media: -

- a. Defamation: if you publish an untrue statement about a person that is damaging to their reputation you may be liable to pay damages.
- b. Copyright: publishing information that is not yours, without permission, may also result in an award of damages against you.
- c. Harassment: it is an offence to pursue a course of conduct against a person that is likely to cause alarm, harassment, or distress.
- d. Data protection: do not publish personal data of other people, including photographs, without their express permission to do so.
- e. Incitement: it is an offence to incite any criminal act.
- f. Discrimination and ‘protected characteristics’: it can be unlawful to discriminate against anyone based on protected characteristics (as defined in the Equality Act 2010).
- g. Malicious and obscene communications: it is an offence to send malicious or obscene communications.
- h. Judicial review of decisions on the basis of bias and/or predetermination.



Professional or Personal Capacity?

- 10.10 Section 27(2) of the Localism Act states that the Code of Conduct applies when members are acting in their official capacity. This can present significant grey areas in the context of social media, where the line between acting in an official or in a private capacity can be a difficult one to draw. Often Councillors will state that they were posting in a private capacity, whereas complainants will state the opposite.
- 10.11 Councillors should be mindful that the public may view them as acting as a councillor whatever their intention at the time. Utilising a council mobile phone or technology for the purposes of electioneering and political campaigns is not allowed. Indeed, Councillors should only access their personal social media accounts through personally held technology and not that provided by the council, with appropriate restrictions enabled to ensure that posts are not publicly accessible to all. Any reference to an individual holding office as a councillor on a social media site runs the risk that any content added by that individual is attributable to them as an elected member.
- 10.12 When using social media councillors are able to share strong views on matters of political interest. In *Heesom v Public Services Ombudsman for Wales* [2014] EWHC 1504 (Admin) Mr Justice Hickinbottom stated at paragraph 38 that “Article 10 protects not only the substance of what is said, but also the form in which it is conveyed. Therefore, in the political context, a degree of the immoderate, offensive, shocking, disturbing, exaggerated, provocative, polemical, colourful, emotive, non-rational and aggressive, that would not be acceptable outside that context, is tolerated...”.



Bias and pre-determination

10.13 Members sitting in particular on regulatory committees such as planning or licensing should be aware that they are allowed to have a view, but not go so far as to have predetermined their position on a matter. Any views aired on social media could be used as evidence of making a decision in advance of hearing all relevant information. The Council's decision is then open to challenge and could be invalidated, and the 'disrepute' provisions of the Code of Conduct could be engaged.

Property and Data Protection

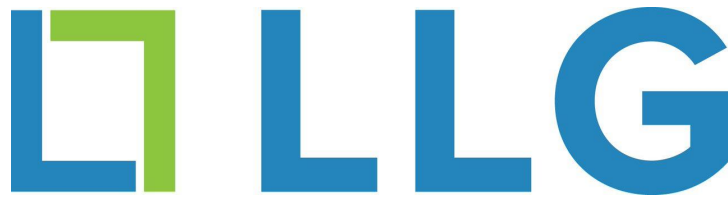
10.14 It is important at all times to respect confidentiality, financial, legal and personal information. Policy that has yet to be announced should not be disclosed.

10.15 Personal information about other councillors should not be disclosed. An informal tone of voice is often desirable within agreed boundaries, but remember that when using official accounts, members are the voice of the council.

The Employment Context

10.16 It should be remembered that officers within the council are employees of the council. Members have responsibilities toward them in relation to ensuring and maintaining the mutual relationship of trust and confidence owed to them.

10.17 In the Heesom Case (which was an appeal by a Welsh Councillor against findings that he had been in breach of the Code of Conduct in his behaviour

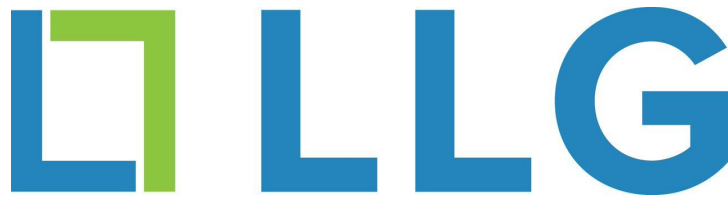


towards officers), Mr Justice Hickinbottom (referring to the case of Janowski v Poland (1999) 29 EHRR 705) stated the following at paragraph 42 of the judgment:

“...Civil servants are, of course, open to criticism, including public criticism; but they are involved in assisting with and implementing policies, not (like politicians) making them. As well as in their own private interests in terms of honour, dignity and reputation, it is in the public interest that they are not subject to unwarranted comments that disenable them from performing their public duties and undermine public confidence in the administration. Therefore, in the public interest, it is a legitimate aim of the State to protect public servants from unwarranted comments that have, or may have, that adverse effect on good administration...”

10.18 Where Councillors themselves make allegations against officers via social media (or otherwise), it can impact upon the mutual duty of trust and confidence between the officer and the Council. Indeed, at paragraph 82 of the Heesom case Mr Justice Hickinbottom stated:

“In *Moores v Bude-Stratton Town Council* [2001] ICR 271, a council employee resigned because of abuse and allegations of dishonesty at the hands of a backbench member of the council for whom he worked. The councillor was censured by the council at its next meeting, and the employee asked to reconsider; but he refused and pursued a claim for unfair dismissal. It was argued on his behalf that there was a duty on every local councillor arising out of his or her position as councillor not to do anything calculated and likely to destroy or damage the relationship of confidence and trust between the council and the council's employees (page 277D-E) ...the majority accepted that argument, and held that



councillors were under a duty of trust and confidence for breach of which the council would be liable...”

10.19 Councillors also need to be alive to inappropriate comments and content posted by third parties in response to their own posts. Whether by failing to respond at all or by actively engaging with third parties without addressing the offending content, this could be seen to undermine trust and confidence and at worst, be taken to condone such activity.

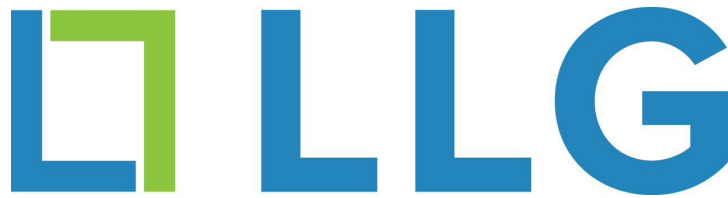
10.20 Finally, section 2(1) of the Health and Safety at Work etc Act 1974 states that: “It shall be the duty of every employer to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all his employees”

10.21 Councillors should therefore be very careful when referring to officers on social media, raising concerns or complaints through the appropriate council policies and procedures only.

Note

It should be noted that at the time of writing this, the LGA are currently consulting on a new model member code of conduct which includes a presumption that councillors are acting in an official capacity. This does require legislative change which the LGA acknowledges and which may or may not happen within the foreseeable future.

The CSPL recommended that “Councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly-accessible social media. Section 27(2) of the Localism Act 2011 should be amended to permit local authorities to presume so when deciding upon code of conduct breaches”.



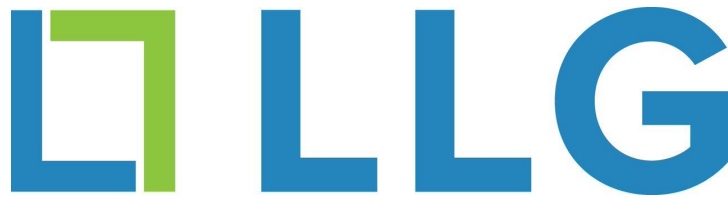
The LGA draft code states “The Code of Conduct applies to you when you are acting [or claiming or giving the impression that you are acting] in [public or in] your capacity as a member or representative of your council,...” and “These obligations must be observed in all situations where you act [or claim or give the impression that you are acting] as a councillor [or in public], including representing your council on official business and when using social media”

The draft code also states “Note – items in square brackets [x] refer to recommendations made by the Committee on Standards in Public Life and may be part of a future Government consultation. This includes possible future sanctions and appeals processes”

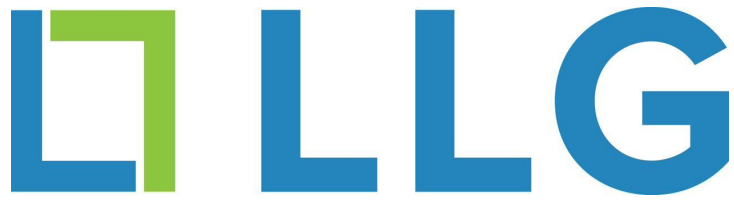
11. Do's and Don'ts

DO: -

- 11.1 Have in place policies for both officer use and use by elected members in their capacity as a Member of the Council – back this up with a policy on unreasonable complaint behaviour.
- 11.2 Provide regular training to elected members and to officers, particularly those who are given access to social media accounts on behalf of the Council.
- 11.3 Restrict the number of officers authorised to use the Council's social media accounts (normally comms officers or dept heads).
- 11.4 Require officers and elected members to sign up to the Council's policies on social media use.



- 11.5 Consider hosting elected members blogs through modern.gov therefore allowing a degree of control but be careful in relation to the code of publicity and particularly purdah (Council resources must not be used for party political purposes).
- 11.6 Remember that FOIA/EIR and DPA Subject Access requests might be made via social media.
- 11.7 Actively respond to people who engage with you – this shows that the Council is listening and responsive. It also allows Councils to be involved in and address issues at an early stage.
- 11.8 Deal with inappropriate content quickly where possible.
- 11.9 Be mindful of the Council's duties towards employees and others.
- 11.10 Use social media during crisis situations – this provides an immediate interface with persons affected and allows quick dissemination of advice and critical information. Include its use in emergency plans.
- 11.11 Use it to live broadcast meetings therefore increasing transparency, engagement and understanding.
- 11.12 Use it for consultation purposes.



11.13 Ensure staff report back regularly on usage and activity in order to assess strategy and any issues.

DON'T

11.14 Ban or shy away from the use of social media.

11.15 Assume that social media will look after itself.

11.16 Forget that anything you post is permanent and available to the world at large.

11.17 Forget that it is a two-way tool.

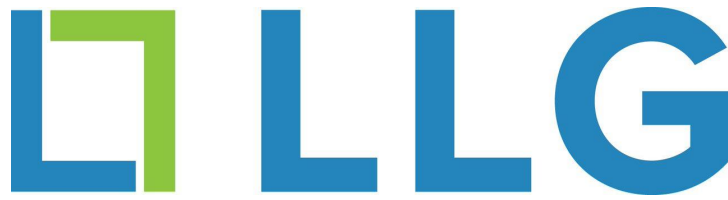
11.18 Get drawn into arguments and debates on social media – where individuals are expressing dissatisfaction direct them to the right place to make their complaints.

12. Social Media Suggested Guidelines for Inclusion

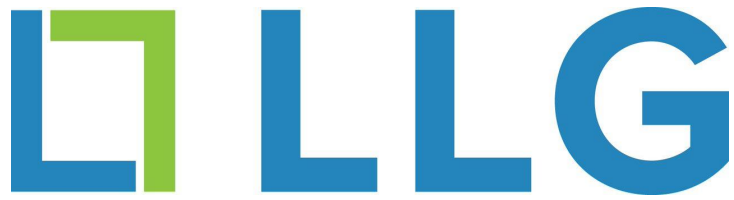
12.1 Be clear as to the objective of your engagement: e.g. consultation, influencing, communication.

Potential Guidelines

- I. Principles of integrity, professionalism, privacy, and impartiality should be observed when posting.



- II. Posting items to social media is publication for the purposes of the laws of defamation and intellectual property.
- III. Proper copyright and reference laws should be observed when posting on-line.
- IV. When posting on your own social media accounts and referencing your authority be clear about the capacity in which you are posting, for example clearly stipulating that your views are personal and purely your own, and complying with the code of conduct and council's policies on social media together with the law.
- V. Discriminatory content is prohibited and may be unlawful and criminal.
- VI. You must be mindful of the political sensitivities within which individuals operate in their day jobs.
- VII. You must not disclose any information which is sensitive or confidential in nature including financial, operational, and legal information as well as personal information pertaining to employees, clients, service users or third parties.
- VIII. You should be mindful of giving rise to a perception of bias or predetermination where you are the decision maker or are advising the decision maker.
- IX. You should show respect for other's opinions.
- X. You should uphold the code of conduct and any values policy.



- XI. You should contact the Communications Team (and/or your line manager if relevant) immediately if you make a mistake or spot something you are concerned about.

13. Useful Links: -

LGA ['Handling Abuse on Social Media'](#)

LGA ['Councillors and Social Media'](#)

LGA ['Councillors Guide to Handling Intimidation'](#)

The Welsh Local Government Association ['Social Media and Online Abuse'](#)

CSPL ['Local Government Ethical Standards Review'](#)

CSPL ['Intimidation in Public Life Review'](#)

LGA ['A Basic Guide to Social Media'](#)



Acknowledgements: -

LLG would like to thank David Kitson, Sarah Lamont and Wesley O'Brien from Bevan Brittan, and Durham County Council.

Legal Notice: -The LLG Social Media Toolkit has been produced by LLG for the benefit of its membership only. It may not be copied, transmitted or otherwise distributed to anyone who is not a member of LLG without prior express written consent.