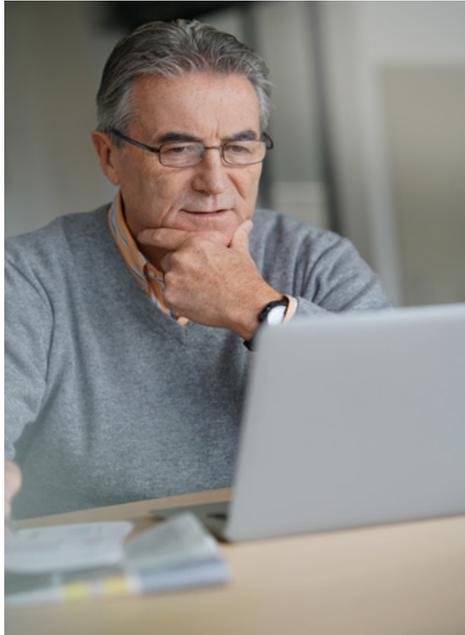




Northern Ireland

**Local Government**  
Commissioner for **Standards**

Guidance for Councillors  
on **Social Media** and  
the Code of Conduct



*Many councillors are concerned about their personal safety and security online*

## Foreword from the Commissioner



**As Northern Ireland Local Government Commissioner for Standards my role is to investigate and adjudicate on complaints that councillors have failed to comply with the Northern Ireland Local Government Code of Conduct for Councillors (the Code). Legislation also provides for me to provide guidance on the Code.**

In recent years, a significant proportion of the complaints I have received allege that comments made by a councillor on social media (or photographs posted online) have not complied with the Code.

In November 2016 I undertook an online survey of councillors asking about their use of social media. In responding to the survey most councillors (80% of respondents) told me that they would welcome training on the use of social media in compliance with the Code of Conduct and the law. Many councillors also indicated that their personal safety and security online is a concern.

Councillors who responded to my survey told me that they most often use social media to chat about their personal interests such as sport (22% of respondents), but also used it to provide general advice or information to constituents (20%), or to respond to the concerns of individual constituents (9%), or to promote community events (9%).

The use of social media is extensive and increasing<sup>1</sup>. It can be an essential tool for you as a councillor in communicating with your constituents. It can help you to listen to your community and to represent your area. You can use social media to campaign on a particular issue; to signpost your constituents to public services they need; to provide assistance in an emergency; or explain your views and your party's policies to the wider public. Using social media appropriately is effective because it allows for immediate communication with a wide range of people.

In August 2016 OFCOM reported that more than 8 out of every 10 households in Northern Ireland<sup>2</sup> (83%) have access to the internet and 7 of every 10 adults here have online access through a mobile phone. Smart phones are the most important device for accessing the internet for almost half of Northern Ireland's internet users (49%).

1 See: <http://www.telegraph.co.uk/technology/2017/04/30/facebook-closes-two-billion-users/> [Web page accessed June 2017]

2 Communications Market Report: Northern Ireland, OFCOM, 4 August 2016

Social media is a very effective means of communicating with your constituents and participating in the wider political debate. However, what you do online has the potential to bring you into conflict with the requirements of the Code. This guidance is intended to help you identify the potential risks to compliance with the Code and to assist you in using social media ethically, legally and safely. I hope that you find it helpful.

I would like to thank those councillors who completed the survey. Their responses have informed this guide and I have included, wherever possible, their comments and advice to other councillors. The detailed survey results are available on my website at [www.nipso.org.uk](http://www.nipso.org.uk).

A handwritten signature in black ink that reads "Marie Anderson". The script is cursive and fluid.

**Marie Anderson**

Northern Ireland Local Government Commissioner for Standards

**August 2017**

# Index

|  | Page |
|--|------|
| About the Code of Conduct and the Commissioner             | 7    |
| What do we mean by 'Social Media'?                         | 9    |
| Key Questions on Social Media and the Code of Conduct      | 10   |
| About the Code of Conduct: When does it apply?             | 12   |
| Bringing your role or your Council into Disrepute          | 13   |
| Social Media: Respect and Freedom of Expression            | 15   |
| Freedom of Expression for Councillors: Heesom v PSOW       | 16   |
| Case Study: Respect for Council Officers                   | 18   |
| Case Study: Respect for Other Councillors                  | 19   |
| Code rules you must follow when using social media:        | 20   |
| Social Media and the civil law - defamation                | 21   |
| Case Study: Councillor commits libel on Twitter            | 23   |
| Social Media and the criminal law                          | 24   |
| Staying protected online – practical advice                | 30   |
| What to do if you are the target of trolls or cyberbullies | 32   |
| Case Study: No guarantee of confidentiality online         | 34   |
| Advice on complying with the Code when online              | 35   |
| Privacy Settings on Facebook                               | 36   |
| Protecting your Tweets                                     | 37   |
| Further Information  | 41   |
| Acknowledgements   | 42   |

## About the Code of Conduct

The **Northern Ireland Local Government Code of Conduct for Councillors** (the Code) sets out the principles and rules of conduct councillors must follow. If there is evidence that a councillor has failed to meet these standards a complaint can be made to the Northern Ireland Local Government Commissioner for Standards (the Commissioner).

## About the Commissioner

The current Commissioner is Mrs Marie Anderson, who is also the Northern Ireland Public Services Ombudsman and the Northern Ireland Judicial Appointments Ombudsman.

Only the Commissioner can decide if a councillor has failed to follow the Code. If the Commissioner finds, following a public hearing, that the Code has been breached, she can impose a sanction. This could involve censuring or suspending the councillor concerned. In the most serious cases, the Commissioner can disqualify someone from serving as a councillor for up to 5 years.

The Commissioner can also decide, where it is proportionate and in the public interest, to deal with a complaint without holding a public hearing. She can, for example require the councillor to apologise for his or her conduct or to attend training on the Code.

## The Commissioner has received a number of complaints about councillors' use of social media

The Commissioner has to date received between 30 and 40 complaints a year. Many complaints allege that a councillor has failed to show respect to others or that he or she has brought their council or the role of councillor into disrepute. A significant proportion of these complaints concern comments made on social media and particularly on Facebook.

The relatively low numbers of complaints overall about the use of social media indicates that the majority of councillors are using social media responsibly and in compliance with the Code. However, councillors have indicated to the Commissioner that this is an area of some concern to them and that they would welcome advice and guidance.

Given the impact of social media the concern for many councillors is not 'whether' to use it but 'how' to do so safely, effectively and in compliance with ethical standards. This Guidance is intended to assist councillors in using social media in a way that complies with the requirements of the Code.

## What do we mean by 'Social media'?

Social media is a term describing web-based applications that allow people to create and exchange content. In this guidance the term social media is used to include blogs (an online log or diary), micro blogs (such as Twitter and Tumblr), internet forums, content communities (such as YouTube, Pinterest and Vine), messaging apps (such as Instagram, Snapchat or WhatsApp), social networking sites (such as Facebook and LinkedIn) and business-orientated social media sites such as Yammer.



**Facebook is the social media site most used by the councillors responding to our survey (all 70 councillors who responded to this question had used it in the past year). Twitter was the second most popular site (54 respondents had used it in the previous year).**

## Key Questions on Social Media and the Code

### Can I conduct council business and identify myself as a councillor on social media sites?

Councillors often use social media sites to promote their work as councillors and to inform their constituents. There is nothing in the Code to prevent you using social media for your work as a councillor. However, when you use social media on council business or identify yourself as a councillor on social media sites, the Code will apply to what you do. The Code may sometimes apply even if you do not identify yourself as a councillor. For more information about when the Code applies see page 12.

### What restrictions are there on how I use social media?

Everyone posting material on social media sites has to do so in compliance with the law. Certain comments or material posted online may not only be unlawful, but for councillors they may also amount to a failure to comply with the Code. For more information about the law and how it relates to the use of social media turn to page 24.

In your use of social media you also have to comply with any relevant policy provided by your council. Failing to comply with your council's policies can put you at risk of breaching the Code. For more on this see page 35.

## **Can I use my council issued IT equipment and its IT network to access social media sites?**

If you are using council IT equipment (for example, a tablet or smart phone) to access social media, you must abide by any conditions your council has imposed on such use. Failure to do so may be a breach of the Code because it is a misuse of Council resources. Also, you must not use the IT equipment provided by your council for party political purposes or for campaigning in elections, see page 28.

## **How much can I say about the work of the Council online?**

As a councillor some of the information you have access to will be confidential. Disclosing confidential information which you have access to because you are a councillor, is likely to be a breach of the Code. A breach of confidentiality is also unlawful. For more information about how to handle confidential information see page 25.

As a councillor there are other restrictions on what you can do. If you are a decision maker you must not express an opinion on certain matters before you have considered all the evidence, this is called pre-determination. For more about making sure you comply with the rules against pre-determination see page 29.

## **I know freedom of expression is an important right but what are the limits of freedom of expression?**

Politicians have greater freedom than ordinary citizens to criticise the political views and performance of others. But there are limits to what can be said. For more information about the requirement to respect others, freedom of expression and protecting yourself from hostile comments online see page 15.

## About the Code of Conduct: When does it apply?

Many rules contained in the Code apply only when a councillor acts, or claims to act, or gives the impression that he or she is acting as a councillor or is representing his or her council.

**Survey results show that 92% of respondents identify themselves as a councillor on social media - this means the Code will apply to what they do and say online.**

Some rules in the Code apply **at all times**:

- When your behaviour might bring your position as councillor or your council into disrepute
- When you encourage, persuade or support others to disregard or break the Code
- When you improperly use your position as councillor, or attempt to use your position, to gain an advantage for yourself or others or to disadvantage others
- When you improperly use, or authorise others to improperly use, council resources

The Commissioner has advised councillors that the same standards of conduct apply online as offline: ***“When the Code applies, it applies to all your communications including social media: Twitter, Facebook, internet forums or blogs”***

## Bringing the role of Councillor or your Council into Disrepute

In cases involving the use of social media, complainants may allege that comments made have brought the role of a councillor or his or her council into disrepute. In considering such complaints the Commissioner will consider not only the requirements of the Code and the advice provided in her Guidance on the Code, but will also take into account relevant case law.

An important legal judgment which looked at the requirement placed on councillors not to bring themselves or their council into disrepute involved the former Mayor of London Ken Livingstone and comments he made about a journalist. In *Livingstone v Adjudication Panel for England* (2006)<sup>3</sup> the Court found that the comments in question were offensive but that they did not fundamentally undermine the relationship between the elected member and his constituents and so did not amount to a breach of the Code:

***“Misuse of the office can obviously bring disrepute on the office, but personal misconduct will be unlikely to do so”.***

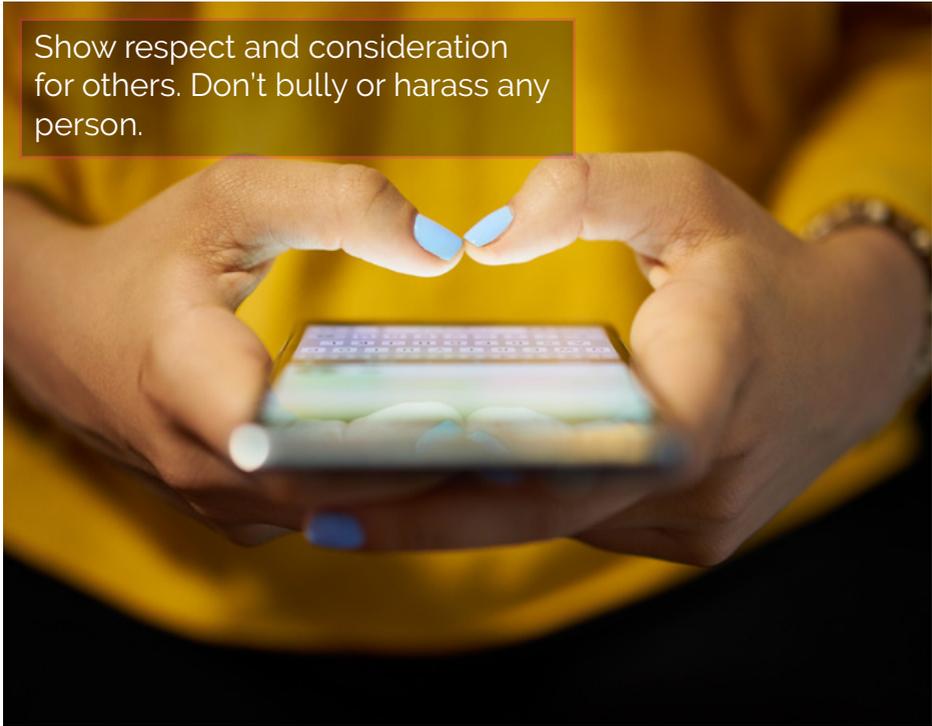
<sup>3</sup> *Ken Livingstone v Adjudication Panel for England* [2006] EWHC 2533 (Admin)

***Commissioner's Guidance states in relation to disrepute:***

The Commissioner has provided the following guidance on conduct she is likely to regard as bringing a councillor or your council into disrepute:

***"Dishonest and deceitful behaviour or conduct that results in a criminal conviction, even where such conduct occurs in your private life, could reasonably be regarded as bringing your position as councillor, or your council, into disrepute."***

***"I will consider: whether that conduct is likely to diminish the trust and confidence the public places in your position as councillor, or your council, or is likely to result in damage to the reputation of either."***



Show respect and consideration for others. Don't bully or harass any person.

## Social Media: Respect and Freedom of Expression

The Commissioner has to date received a number of complaints about the conduct of councillors, alleging a lack of respect to others as a result of comments made on Facebook or Twitter. The Code states that councillors must:

- ***“show respect and consideration for others” and “not use bullying behaviour or harass any person”***
- ***“work responsibly and with respect, with others and with employees of councils.”***

In considering these complaints, the Commissioner often has to strike a balance between the public interest in councillors observing proper standards of conduct and an elected representative's right to freedom of expression.

The Human Rights Act 1998 makes it unlawful for a public authority to act in a way that is incompatible with European Convention on Human Rights (ECHR). Article 10 of the ECHR provides that:

*‘Everyone has the right to freedom of expression [including the freedom to hold opinions and to receive and impart information and ideas..’*

The right of Freedom of Expression is a qualified right and may only be interfered with if the interference is: in accordance with the law; in pursuance of a legitimate aim; necessary in a democratic society; and proportionate. Legitimate aims include:

- For the protection of the reputation or rights of others; and
- For preventing the disclosure of information received in confidence.

It is important to note that any restriction that the Commissioner might place on a councillor's right to freedom of expression must be necessary and not simply reasonable or desirable.

## **Freedom of Expression for Councillors: Heesom v Public Services Ombudsman for Wales<sup>4</sup>**

An important legal judgment which set out the scope of and legitimate restrictions on an elected representative's right to freedom of expression involved a Welsh councillor, Patrick Heesom.

It was alleged that Councillor Heesom had failed to show respect and consideration for council officers, used bullying behaviour, attempted to compromise the independence of officers and conducted himself in a manner likely to bring his office or his council into disrepute.

The investigation report by the Public Services Ombudsman for Wales was considered by the Adjudication Panel for Wales and their adjudication decision was that Councillor Heesom had breached his council's Code of Conduct. Councillor Heesom appealed this decision to the High Court in Wales.

<sup>4</sup> Patrick Heesom v The Public Services Ombudsman for Wales and the Welsh Ministers, [2014] EWHC 1504 (Admin)

The Court upheld most, but not all, of the Adjudication Panels findings and reduced the sanction imposed (from suspension for 30 months to 18 months suspension).

The Court made a number of significant findings which have implications for all future decisions about the limits of freedom of expression for councillors. The Court held:

- that Article 10 protects, in a political context, comments by elected representatives which might be regarded as immoderate, shocking, offensive, or disturbing. What is regarded as 'political' can include comments on the inadequacy of the performance of public duty by others; it cannot include gratuitous personal comments;
- in a political context, Article 10 protects the right to make incorrect but honestly made statements, it does not protect statements which the publisher knows to be false;
- because politicians have taken that role voluntarily and are free to respond to criticism, they are expected to have 'thicker skins' in responding to criticism;
- public officials can be criticised by councillors, even in public, but there is a public interest in protecting them from unwarranted criticism which could undermine public confidence in the administration of government. The acceptable limits of public criticism of officials is therefore wider than for ordinary members of the public, but not as wide as for politicians. Also, the more senior the official; the greater the degree of robustness they are expected to demonstrate in relation to criticism.

## Case Study: Respect for Council Officers

West Dunbartonshire Council, Scotland

A councillor sent an email to the Chief Executive criticising her for releasing confidential information to another councillor and alleging this action displayed "clear political bias". Fifteen minutes later the councillor posted this email on his Facebook page without giving the Chief Executive an opportunity to respond to the allegation.

The Chief Executive complained that the councillor had breached the Respect requirements of his council's Code of Conduct and had contravened its procedures which required that councillors should not criticise council officers in public.

### **The decision:**

The decision of the Adjudication Hearing was that this action was a breach of the Code which requires councillors and officers to work in an atmosphere of mutual trust and respect.

The Adjudication Hearing was minded to impose a suspension. However, it decided that censure was the appropriate sanction as, since this incident, the Councillor had served a period of suspension arising from an earlier complaint of a similar nature, the Councillor had since amended his conduct and no further breaches had occurred.

Standards Commission for Scotland, case reference LA/WD/1493

## Case Study: Respect for Other Councillors

Manorbier Community Council, Wales

A councillor ran a blog which informed people about his work and posted comments criticising the activities of his council and the actions of other councillors.

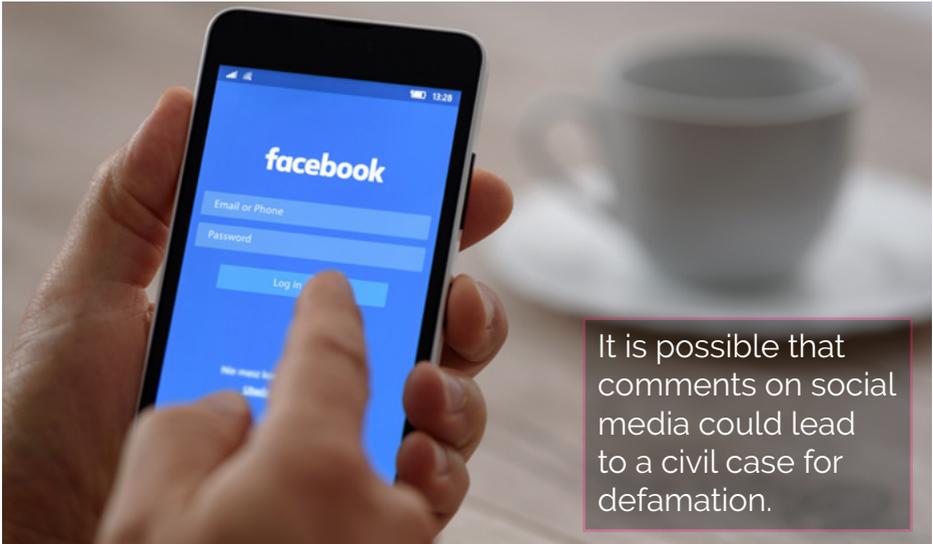
The councillor's blog did not give his name or identify him as a councillor but he could be readily identified as a member of that council from the content.

Following an investigation, the adjudication decision was that the councillor had breached the Code of Conduct by failing to show respect and consideration for others.

### **The decision:**

On appeal the High Court found that the councillor had not breached the Code of Conduct. Although his comments involved public mocking of fellow members, they were deemed to be political expression because they related to the performance of those councillors and the way in which council meetings were run.

Calver v The Adjudication Panel for Wales (Rev 2) [2012] EWHC 1172



## Code rules you must follow when using Social media

In addition to the Code rules which require you to show respect to others and not to bring yourself or your council into disrepute, there are other rules contained in the Code which you should take particular care to observe in your use of social media:

- The requirement to act lawfully<sup>5</sup>;
- The rule that a councillor must not to disclose confidential information without the consent of an authorised person;
- The obligation for councillors not to make improper use of Council resources; and
- The requirement that a councillor must not pre-judge or demonstrate bias in respect of certain decisions.

<sup>5</sup> You should note that the Department for Communities has proposed that this rule be amended to require councillors to uphold the criminal law when acting in the capacity of a councillor.

## Social media and the Civil law - defamation

It is possible that comments on social media could lead to a civil case for **defamation**. Defamation is an intentional false communication either written (libel) or spoken (slander) that harm's a person's reputation, decreases the respect, regard or confidence in which a person is held; or induces disparaging, hostile, or disagreeable opinions or feelings against a person. Defamation is a civil matter and a case is determined on the balance of probabilities (that is whether it is more likely than not that an event occurred). A person bringing a civil claim for defamation (the plaintiff) must establish that:

- there has been publication to a 'third' party. Blogs, tweets, e-mails, Facebook posts would all be publications for these purposes;
- the publication identifies the plaintiff; and
- the impact can be shown to be defamatory, i.e. that it has an adverse effect or has the tendency to have an adverse effect on the plaintiff's reputation (note that in Northern Ireland there is no need to prove that serious harm was caused).

There are a number of defences which can be raised by the publisher of the allegedly defamatory material:

**Justification** - the defendant must prove that the remarks are substantially true. Such proof, if it exists, may be very difficult to obtain.

**Honest Comment** – the defendant must show that the statement complained of was not a statement of fact but was his or her honestly held opinion and this opinion was justified because it was based on facts. A defence of honest comment should concern a matter of 'public interest'; that is a matter which has an impact on the public and not merely something that the public might find interesting.

**Responsible Publication** – if the defendant can demonstrate that the statement was on a matter of public interest and that he or she acted responsibly in preparing it for publication for example, by taking steps to verify the facts or seeking comments from the plaintiff, there will be no liability if the statement published turns out to be wrong.

**"Privileged" speech** – means speech in Parliament, the Assembly or in court.

It can be very difficult to successfully defend a defamation case and the cost of losing such a case can be significant.



Comments on social media could lead to a civil case for defamation.

## Case Study: Councillor commits libel on Twitter

### Councillor pays £3,000 and costs to a political rival for posting a libellous comment on Twitter

The defendant, a Caerphilly county councillor wrote on his Twitter page on Election Day that another councillor running against him in a by-election in 2009 had been removed from a polling station by police.

The man targeted by the Tweet, who came second to the defendant in a closely-fought election, said the statement left him open to ridicule. The implication of the Twitter statement was that he had been forcibly removed for criminal or disreputable conduct, and he said this was completely untrue and defamatory.

The case concluded in March 2011 when the defendant agreed to pay £3,000 in compensation and legal costs (estimated at £50,000) and to publish an apology to his 28 followers on Twitter.

The defendant said: "This case will no doubt act as a warning to people, including politicians, to be extremely careful when using Twitter and other social media such as blogs."

<http://www.bbc.co.uk/news/uk-wales-south-east-wales-12704955>

## Social Media and the Criminal law

It is possible that comments or other material posted on social media could result in a breach of legal requirements set out below. Depending on the circumstances, they may also result in a failure to comply with the Code of Conduct.

- Under the Protection from Harassment (NI) Order 1997 those who engage in behaviour which makes someone feel distressed, humiliated or threatened can be prosecuted or subject to civil action. In the most serious cases conviction could result in imprisonment of up to two years.
- If someone is harassed on the grounds of their race, sex, disability, age, religion or belief, or sexual orientation they can take action under the relevant anti-discrimination legislation.
- The Malicious Communications (NI) Order 1988 (section 3) makes it an offence to send material including an electronic communication which is indecent, grossly offensive or threatening with the intention of causing offence or anxiety.
- The Communications Act 2003 (section 127) makes it an offence to send a message or other communication that is grossly offensive, obscene or menacing in character using a public electronic communications network. It is also an offence to send false messages or to persistently use a network to cause someone annoyance, inconvenience or needless anxiety. Conviction may result in imprisonment of up to six months or a fine or both.

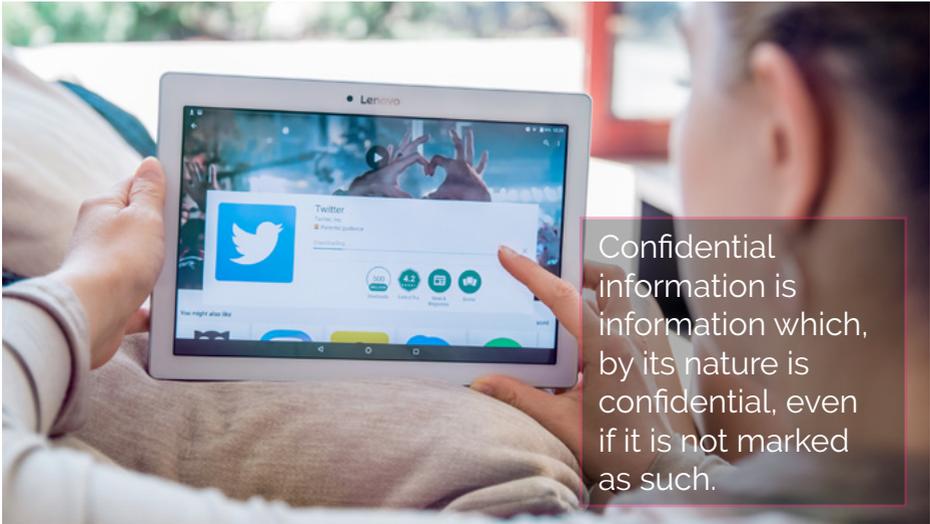
- The Copyright, Designs and Patents Act 1988 protects the rights of the owner of a copyrighted work; this includes material often posted to social media sites such as photographs, sound recordings and extracts from broadcasts. The courts may award damages for infringement of copyright.
- If you use social media in relation to your work as a councillor you are likely to be subject to the Data Protection Act 1998. This may require you to treat the personal data of living individuals in accordance with the eight 'data protection principles' contained in the Data Protection Act 1998. Information about the principles and further Guidance is available from the Information Commissioner's Office.<sup>6</sup>

## **You must not disclose confidential information**

Confidential information is information which, by its nature is confidential, even if it is not marked as such. It includes:

- commercial information (for example, a contractor's rates);
- personal information (such as employment information);
- information which is confidential because of a statutory provision, for example, the Commissioner's investigations are confidential;
- information discussed in the closed sessions of council meetings should always be treated as confidential;
- legal advice obtained by a council is a confidential communication covered by legal professional privilege and should not be disclosed; and
- information where there is an implied duty of confidentiality such as private correspondence between a councillor and a constituent.

6 [www.ico.org.uk](http://www.ico.org.uk)



It is important for councillors to respect the privacy of others especially someone who has approached them for assistance. You ought not to post personal information on social media: this breaches the Data Protection Principles. If approached online about something which relates to a private matter, you should ask the person to send you a private message or to email you at your council email address and to mark the email as confidential.

You should not disclose confidential council information or documents which you hold in your role as a councillor. Not only is this likely to be a breach of the Code but unauthorised disclosure of confidential information may lead to legal action for breach of confidence or, where the information is personal information about living individuals, you may face a fine from the Information Commissioner.

## Case Study: Sharing Confidential Information

Connah's Quay Town Council, Wales

**A councillor was alleged to have breached the Code of Conduct when he sent a tweet which disclosed the way another Councillor voted during a confidential meeting of the Town Council.**

The Welsh Ombudsman's investigation report of February 2016 found that:

- the resolution was due to be published the next day
- the information posted was not sensitive
- the report was accurate
- the comments made were not grossly offensive
- the information was political in nature.

On this basis, the Welsh Ombudsman found the breach was not sufficiently serious to be in the public interest to pursue. The Welsh Ombudsman decided that no action need be taken.

Public Services Ombudsman for Wales

## You must not improperly use Council Resources

The majority of councillors responding to the survey told us that they access social media on devices provided by their council (59% of those responding). Over a quarter of councillors (27%) did not know if their council had a policy on members' use of social media.

Councillors are required not to improperly use council resources. This means that you should not use equipment or facilities that your council has provided for you in **breach of Council requirements** or unlawfully or improperly for political or private purposes. This is a rule that applies **at all times**.

Anything that is provided by the council or is paid for from council funds is likely to be considered a council resource. This includes equipment such as mobile phones, tablet computers, laptops and it also includes facilities such as a council email address. Where your council provides you with a resource, it must be used only for carrying out official council business or for any other activity for which its use has been expressly authorised by your council. That means that private use of a council's IT resources, such as sending and receiving personal emails, **without your council's approval**, may result in a breach of the Code.

You must ensure that you are aware of, understand and act in accordance with your council's policies on the use of IT resources, and you should have regard to any related guidance your council provides. If you are in any doubt about this matter, you should seek advice from an appropriate person in your council.

## You must not pre-judge or show bias

Councillors are required when participating in meetings or reaching decisions regarding the business of their council to do so objectively, on the merits of the case and in the public interest.

In making decisions you must not make up your mind about a particular matter before considering all of the evidence. To do so is known as a pre-determination. Pre-determination will not only invalidate the Council's decision, leave it open to legal challenge and would also, if proven, be a breach of the Code. You should not post online your consideration of a council decision in advance of the decision being made.

As a councillor, you must not demonstrate bias or be seen to demonstrate bias, in respect of any decision where you are a decision-maker. You should be careful not to post comments online which would suggest that you are biased in relation to a decision where you are a decision-maker.



Some social media sites are location-aware so others can see the exact location from which you posted.

## Staying protected online – practical advice

- Don't disclose personal information online, such as your date of birth or home address. Doing so may put you at risk of identity theft. If you need to give details such as date of birth or home address, do so offline or in private messages.
- Take care about posting information about your schedule or plans. You may be at risk of burglary, particularly if posts include your personal address. Some social media sites are location-aware so others can see the exact location from which you posted. You should regularly check and if appropriate disable your location settings if you wish your location to remain private.
- Don't post personal information which might allow cyber attackers to guess the answers to the secret questions that may be used to reset your passwords.
- Don't use your social media account to log on to other sites, if it were to be hacked, all of your accounts become vulnerable.

- Be suspicious of emails claiming to come from your social media site. These can be sent by cyber criminals. The safest way to deal with these is to log on to your social media site directly and then respond to any messages or notifications from the website.
- Be aware that financial information can be accessed through your social media accounts. So called 'phishing attacks' happen when criminals, posing as an organisation you trust, such as your bank, obtain sensitive information such as passwords and credit card details.
- Be aware that messages that appear to be from friends may not be from them; their account may have been compromised. If a message seems odd (an unexpected request to send money) contact the apparent sender by another means, such as a call to their mobile phone, to confirm that they sent the message.
- Use 'strong' passwords for your online accounts, don't use the same password for more than one account and don't share passwords. Keep your passwords complex by picking three random words, such as roverducklemon and add or split them with symbols, numbers and capitals: ROv3rDuckLemon!
- Use and update antivirus/anti-spyware software and use an IT network which is protected by a firewall blocking unauthorised access.
- Consult your council's IT security and social media policies.
- Take care on public wifi as fraudsters can hack or mimic them. Avoid using sensitive apps such as mobile banking when using public wifi.
- Download updates to your software when your device prompts you - they often add enhanced security features.

## What to do if you are the target of trolls or cyberbullies

**The majority of councillors responding to the survey (61%) had been subject to unfair or hostile comments on social media, mainly from members of the public.**

Social networking sites can be forums for bullying and harassment (cyber bullying or cyber stalking). Harassment is potentially criminal behaviour that makes others feel distressed, humiliated or threatened. "Troll" is a term used to describe a person who sows discord online by starting arguments, or upsetting people, often for their own amusement. People who simply disagree with you or criticise you are not trolls.

Steps you can take to address this problem include:

- Do not engage with trolls, this gives them the attention they are seeking and do not resort to trolling behaviour yourself. The advice to ignore trolls online is often phrased as **"do not feed the troll"**<sup>7</sup>. Stand up for yourself but keep it factual not personal, be friendly if you can.

*"Trolls live to stoke rage. That is all they can do. Friendliness is their kryptonite."*<sup>8</sup>

- On most social media platforms you can try to stop someone contacting you by 'blocking' them. Blocking cyberbullies may not stop the abuse happening but it will save you from having to see it. Be aware that blocking others just because they have criticised you may be perceived as unwarranted censorship.

<sup>7</sup> "Follow Me" National Communications Advisory Group (Scotland) and the Improvement Service (Scotland)

<sup>8</sup> David Sax, The Guardian, 21 August 2016

- You should take a copy or a screenshot of inappropriate social media postings so they can be investigated even if they are later deleted.
- Social Media providers have standards of conduct they expect users to follow and they can take action including removing abusive content and disabling the accounts of those who bully others. You can report inappropriate behaviour to your social media provider by clicking the 'report' button. You should provide a screenshot of the comment as evidence.
- If reporting what has happened to the social media provider does not stop the abusive behaviour, you can involve the police. You should provide them with any evidence you have collected.
- Obtain legal advice if you feel this is appropriate as cyber bullying might be considered harassment.
- You can make a complaint to the Commissioner where you have evidence that another elected member may have breached the Code.

## Case Study: No guarantee of confidentiality on Facebook

The case of Martin v Giambrone, NI High Court, 2013 was heard in Belfast in 2013. A local couple had been granted an injunction against an Italian lawyer who had represented them in a failed investment in order to prevent his disposing of assets. The lawyer posted Facebook comments which appeared to be a threat to leave the couple with nothing. The lawyer claimed his comments were confidential as his Facebook account was restricted to 'friends only'. The High Court rejected his application to have his Facebook comments ruled as inadmissible.

The Court found:

***“There is no guarantee that any comments posted to be viewed by friends will only be seen by those friends. It is difficult to see how information can remain confidential if a Facebook user shares it with all his friends and yet no control is placed on the further dissemination of that information by those friends.”***

Martin & Ors Gabriele v Giambrone P/A Giambrone & Law [2013] NIQB 48 (5 March 2013)

## Advice on complying with the Code when online

- Understand and follow your council's policy on the use of the Internet and Email and related policies and procedures. Remember that the Code states that you must not use the resources of the council "in breach of your council's requirements". **This is a rule which applies at all times.**
- Be clear what role you are acting in when you post online. Some parts of the Code will apply to everything you do, other parts only apply if you are acting in the role of councillor – this can be when you identify yourself directly as a councillor or indirectly by referring to your council or through the information or images you place online. Be aware that your perception of when you are acting in the role of councillor can be different from the view of a member of the public.
- If possible, maintain separate personal and professional personas online. 74% of councillors responding to our Survey said they do not have separate social media accounts for their work as councillors.
- Check any privacy settings you apply, who do you want to see your information? Classify your contacts ('family' 'friends' and 'professional contacts') and set appropriate privacy controls. Over a quarter of councillors who responded to our Survey (27%) do not know how to restrict access to the social media sites they use and over half (57%) do not use any 'privacy setting' to restrict access to sites they use in their private life.
- Chose your Facebook 'friends' and Twitter 'followers' carefully. The privacy of your posts is only as secure as the people you share them with. But remember there's no such thing as complete privacy online.

- Be aware of what friends are posting about you. If you are not comfortable with something ask them to take it down. If they refuse or ignore you, contact the social media site and ask them to remove the content.
- While privacy settings provide some protection they can change without your knowledge and what you thought was private can become public.
- If you allow someone else (a party worker or family member) to update your social media accounts, think about how you will ensure you meet your personal responsibility to comply with Code.
- Think about the comments you 'like' or 're-tweet'. You are responsible for what you share so don't share something inappropriate. You could be perceived as endorsing the original opinion, comment or information and you may leave yourself open to legal action if you could be regarded as a publisher of defamatory material. It is good practice to add a disclaimer indicating that 'likes' should not be viewed as an endorsement.
- Local and even national press may follow councillors on Facebook and Twitter. This means they will know what you have posted as soon as you post it.
- Hashtags are a type of label used online which make it easier for users to search for messages with a specific theme or content using the symbol #. For example, using #belfast in a tweet indicates that you are communicating about the city and encourages others to join in the conversation. Be aware that using hashtags can make your post and your account visible to a wider audience than you intended.

- Remember tone can be very difficult to convey online and humour, irony or sarcasm can be misinterpreted.
- Treat others with respect and consideration. Before you post think about whether you would make this comment to a reporter, your boss or an older relative, if you hesitate, it may be best not to post. And remember while robust criticisms of the policies and performance of other politicians are acceptable, gratuitous personal insults are not.
- Consider how you will respond to those who disagree with you online. It is best to confine yourself to correcting factual errors or providing further information or clarification but you should not allow yourself to be drawn into an argument. Often the best way to respond to those looking for an argument is to ignore them.
- Be open to fair criticism. If you have made a mistake or regret something you have said online it is better to apologise. If a comment you receive is as a result of a negative experience with your work try, if possible, to rectify or restore the situation and act upon reasonable suggestions. In our Survey, 19% of councillors told us they had posted comments online which they later regretted.
- Be careful about engaging with those who may have been drinking alcohol and are looking for an argument: it is unlikely to be a good idea to post when you are "tired".

- Don't forget ***what goes online stays online*** – you should assume anything you post can become a public and permanent part of the Internet.

## Survey responses from Councillors

***“Be aware that what you write can be misinterpreted”***

***“Think twice about posting, take a deep breath and go and make a cuppa before responding to something you dislike”***

***“If you're not willing to put your post on the front page of a newspaper then don't post it online”***

## Privacy Settings on Facebook

**Every time you post something to Facebook you can select the audience who sees it.** Click on the drop down menu to the left of the blue **“Post”** box. You can choose to share your post with the **“Public”** granting access to anyone on the Internet or with **“Friends”** or **“Only Me”** or by selecting **“More Options”** you can opt to customise a list of names of your choice.



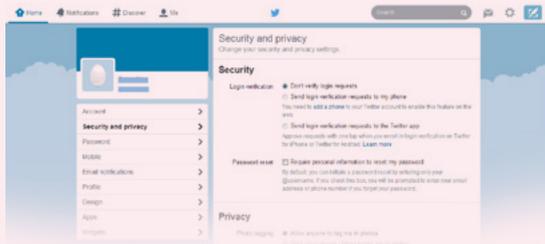
**It may be safer to restrict access to all your future posts.** Again you can restrict access to Friends, to Only Me or to a customised list of contacts. Access your privacy settings by clicking the big question mark in the upper-right corner of the main Facebook toolbar. Select **“Privacy shortcuts”** then click on **“Who can see my stuff?”**. Under the option **“Who can see my future posts?”** you can select who you want to restrict access to.

**You may want to restrict who can and cannot post to your Timeline.** This ensures your page consists of posts from those you trust and that you will not be associated with unsuitable material. Click the arrow down symbol to the right of the big question mark on the main toolbar...then click on **“Settings”**. On the Settings page click on **“Timeline and Tagging Settings”**. Beside the option **“Who can add things to my Timeline”** you can choose to allow Friends or Only Me to add to your Timeline.

**If you post something and later decide you don't want people to see it,** you can delete it. Go to your **“Timeline”** and find the status update, photo or video you want to remove. Open the **“menu”** in the upper right corner of the post and select **“Delete”**. Remember that someone may already have taken a copy or screenshot of the post.

## Protecting your Tweets

On Twitter the whole world can see what you tweet unless you protect your Twitter account and tweets by making them private. Once you make your tweets private other users will have to make a request to follow you, and you will be able to approve all requests. Your tweets will only be visible to approved followers.

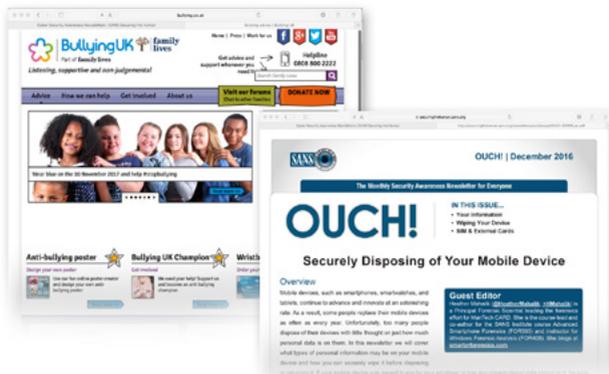


To protect your tweets, log in to your Twitter account. Click on the “Profile and Settings” icon. This is the small version of your profile pic in the top right-hand side of the page. Scroll down to the “**Settings**” option and click. Click on the tab labelled “**Privacy and Safety**”. Scroll down to the privacy section, and then tick the “**Protect my Tweets**” box to make your account private. Scroll down to the bottom of the settings page, and click on “**Save changes**”. All of the tweets you publish will now be protected, and will only be seen by your Twitter followers.

The instructions for Facebook and Twitter are for desktop versions of these sites. The instructions will differ on the Facebook and Twitter mobile/tablet apps.

## Further Information:

- Copies of the Code and the Commissioner's Guidance on the Code are available on her website at [www.nipso/nilgcs/](http://www.nipso/nilgcs/)
- You can find out more about anti-discrimination legislation on the Equality Commission for Northern Ireland website at <http://www.equalityni.org/Footer-Links/Legislation>
- Information about the Data Protection Principles and guidance on the application of the Data Protection Acts to Social Networking and online forums can be found on the website of the Information Commissioner at <https://ico.org.uk/>
- General online safety advice is available at [www.getsafeonline.org](http://www.getsafeonline.org) or from the Ouch! monthly online newsletter at <https://securingthehuman.sans.org>
- You can find more advice about keeping you and your family safe from cyberbullying from the charity Bullying UK at [www.bullying.co.uk](http://www.bullying.co.uk)



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Don't forget ***what goes online stays online*** – you should assume anything you post can become a public and permanent part of the Internet.

## How to contact the Ombudsman's Office:

You can contact us in the following ways:

**Telephone:** 028 9023 3821 **or**

**Freephone:** 0800 34 34 24

**Text Phone:** 028 9089 7789

**Email:** [nipso@nipso.org.uk](mailto:nipso@nipso.org.uk)

**web:** [nipso.org.uk](http://nipso.org.uk)

**Freepost:** Freepost NIPSO

or  
The Northern Ireland Public Services Ombudsman  
Progressive House  
33 Wellington Place  
BELFAST  
BT1 6HN

or  
By calling, between  
9.00am & 5.00pm,  
Monday to Friday,  
at the above address.

Please contact us if you would like this guide  
in another language or format (such as large print or Braille)