

DERBY CITY COUNCIL

Website facilities for Councillors

Acceptable Use Policy

The Council has the power to provide services and facilities to support the role of Councillor and website facilities are being made available for that purpose. The intention is that these facilities will be used for

- giving a range of non-political information about the councillor such as contact details, ward, offices held, duties and responsibilities
- communicating in an objective or impartial manner decisions and action proposed or taken by the Council of particular relevance to councillors' wards or their areas of responsibility
- encouraging the public to make contact with a councillor so as to express views or provide information on particular topics

A Councillor is only permitted to publish information on the website in the context of their official role in respect of matters of general public interest.

There are a number of legal restrictions on the use of such websites. Some of these are specific to councils whilst others are general law. This Policy defines the purposes for which the Councillor **cannot** use their individual websites. In summary these are:

- the introduction of content that may result in actions for defamation or other claims for damages
- processing personal data other than for the purpose stated at the time of capture
- the promotion of any political party or campaigning organisation
- the promotion of personal financial interests, commercial ventures or personal campaigns
- using the site in an abusive, discriminatory or hateful manner
- in a way that is prejudicial to the operation of the Council
- in a way that will bring Elected Members or the Council into disrepute

Further details are given below.

Defamation

Defamation can be summarised as damage to a person's reputation or standing. If a statement is made which exposes a person to hatred, ridicule or contempt, or which causes him to be shunned or avoided, or which has a tendency to injure him in his office, trade or profession in the estimation of right-thinking members of society generally then the person can bring an action. The terms libel and slander are used to indicate whether the defamation has been made in written/permanent form or orally. Statements made on websites and in e-mails are covered by the law of defamation.

Elected Members may not use their Councillor sites to publish defamatory statements or material. Anyone who believes that a Councillor has defamed them will be able to take legal action directly against the Councillor concerned. The

relevant legislation is the Defamation Act 1996 and the full text can be found at <http://www.hms.gov.uk/acts/acts1996/1996031.htm>.

Similar legal protection exists for the economic and financial standing of corporate bodies such as companies.

Data Protection and Confidentiality

In managing a website, Councillors may receive comments, enquiries or complaints from members of the public. Visitors to the site may register to receive occasional mailings. Councillors may refer to (or publish) material that is based upon information drawn from Derby City Council to which they have authorised access or obtained from external sources. All such personal information which can identify or be linked to individuals should be treated with care and respect and in accordance with the Data Protection Act 1998.

Anyone processing personal data must comply with the eight enforceable principles of good practice. Data must be:

- fairly and lawfully processed; - tell people why you are collecting their information
- processed for limited purposes; - only use the information collected for that purpose , it cannot be used for anything else without consent
- adequate, relevant and not excessive – don't collect information that is not needed
- accurate – check regularly for changes
- not kept longer than necessary;
- processed in accordance with the data subject's rights - remember that individuals are entitled to see everything about them
- kept secure;
- not transferred to countries without adequate protection.

Personal data covers both facts and opinions about the individual. It also includes information regarding the intentions of the data controller towards the individual. Processing means anything done to personal data including holding, reading, destroying, and copying.

You can find further advice and guidance about Data Protection in the Council's leaflet entitled 'Data Protection Act 1998' Councillors Guide. You can also contact your Information Services Officer on 01332 255590 or the Council's Data Protection Officer on 01332 256262.

You can also visit the Information Commissioners website that contains lots of information about Data Protection. www.informationcommissioner.gov.uk

The Data Protection Act applies, and the full text of the 1998 Act can be found at <http://www.legislation.hms.gov.uk/acts/acts1998/19980029.htm>

Councillors must confirm that they have read and accept the Council's own policy on Data Protection .

As well as personal information governed by the Data Protection Act, councillors may also be given information that is confidential. They must take care that they do not breach any duty of confidentiality by disclosing the information. As with defamation, councillors can find themselves personally subject to legal proceedings for breach of confidentiality

Political Publicity

The Local Government Act 1986 (as amended) contains specific provisions dealing with local authorities' publicity. The Act's definition of "publicity", "publish" and "publication" is wide enough to include the material that appears on website facilities provided for councillors. In particular there is a prohibition on political publicity.

Because Derby City Council funds the individual websites, Members may not use their site to

- promote political campaigns and advocate political stances on issues
- promote a political party or persons identified with a political party
- promote or oppose a view on a question of political controversy, which is identifiable as the view of one political party and not of another.

Section 4 of the 1986 Local Government Act enabled the Secretary of State to issue a Code of Practice on Local Authority publicity. The original Code was amended in 2001. The Code was made more flexible in relation to publicity about individual councillors and the relevant paragraphs are:

"Publicity about individual councillors may include the contact details, the positions they hold in the Council (for example a member of the Cabinet or Chair of Overview and Scrutiny Commission) and their responsibilities. Publicity may also include information about individual councillors' proposals, decisions and recommendations only where this is relevant to their position and responsibilities within the council. All such publicity should be objective and explanatory and whilst it may acknowledge the part played by individual councillors as holders of particular positions in the council, personalisation of issues or personal image-making should be avoided.

Publicity should not be, or liable to misrepresentation as being, party political. Whilst it may be appropriate to describe policies put forward by an individual councillor which are relevant to her/his position and responsibilities within the council, and to put forward his/her justification in defence of them, this should not be done in party political terms, using political slogans, expressly advocating policies of those of a particular political party, or directly attacking policies and opinions of other parties, groups or individuals".

Members may use the 'My Politics' section of their website to link to external websites of a political nature.

Publicity and Elections

The issue of local authority publicity is particularly sensitive at election times. During election times (from the 'notice of an election' to the election itself), most parts of Councillors' websites will be suspended in order to meet legal restrictions on publicity at that time. Visitors will still, however, be able to contact them through the website.

Elected Members Code of Conduct

Derby City Council has provisions that govern the conduct of elected members. The Councillor site should be used with due regard to the Members Code of Conduct which can be found in Part 5 of the Council's Constitution at:

derby.gov.uk/Constitution

In the event of an Elected Member having a complaint about the content of the Councillor site of another Elected Member then that complaint will be referred to the Civic and Members' Services Manager who will take advice on appropriate action.

On a general level

- The site must not be used in a way that will bring Elected Members or Derby City Council into disrepute
- The site must promote equality by not discriminating unlawfully against any person, treating others with respect and not to do anything which compromises the impartiality of those who work for or on behalf of the authority.
- To treat Local Government Officer's recommendations or known views impartially
- Elected Members must not disclose information given to them in confidence or information acquired, which they believe, is of a confidential nature without the consent of a person authorised to give it.
- Elected members must not use their Councillor site to disclose information, which the council has considered in private session, or which they are on notice is confidential for any other reason.
- Elected Members must not use their Councillor site to secure personal advantage or secure use for themselves or others of the resources of the authority (for instance, by advertising a commercial service or by using the site to encourage the Local Authority to purchase a particular item or service)

Tainting of Decision Making through Biased/Closed Minds

Councillors who are involved in formal decision taking, particularly those of a quasi-judicial nature such as planning and licensing applications, or determining the outcome of consultation exercises must exercise care to keep an open mind on issues which they may be required to make decisions.

The use of individual websites to set out a clear position on a particular issue could well provide evidence of bias based on a particular personal interest or view, or a closed mind. This would demonstrate the artificiality of the Councillor then purporting to consider openly all issues in the determination of that matter.

Sound decision taking requires councillors to have regard to all relevant advice and material matters when reaching decisions and in many cases to give reasons for decisions.

Elected Members must give an accurate and even-handed account of discussions or processes that lead to decisions being taken. For example, they must not give a one-sided account of the reasons for a planning application being refused.

Failure to meet these requirements or the making of ill-judged comments can lead to Council decisions being successfully challenged and overturned by the Courts.

Other Issues

As well as the specific issues described above there are other relevant Council policies and statutory provisions such as

- the particular legislative requirements relating to discrimination/incitement to racial hatred etc. (e.g. Anti-Terrorism, Crime And Security Act 2001 & Race Relations (Amendment) Act 2000)
- Publication of obscene material (e.g. Obscene Publications Act 1959, Protection of Children Act 1978, Criminal Justice Act 1988)
- The Council's policies on internet and e-mail use, Information Security and use of IT facilities
- The Freedom of Information Act policy statement

Councillors must have regard to all such items in their use of the website facilities.

The text of all legislation can be found at the local reference library and Acts since 1988 can be found at:

<http://www.hms0.gov.uk/acts.htm/acts.htm>

Failure to comply with this policy

The Council is not responsible for approving content on individual sites, but sites will be monitored to make sure that they are being used only for appropriate purposes and in accordance with this policy.

The Council reserves the right to remove material which it feels is in breach of this Acceptable Use Policy or to withdraw the facility from a Councillor if they fail to comply with this policy