

LONDON BOROUGH OF RICHMOND UPON THAMES

STANDARDS COMMITTEE

Agenda No.	Item
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DATE: 1 JULY 2004

REPORT OF: HEAD OF LEGAL SERVICES

SUBJECT: USE OF E-MAIL BY COUNCILLORS FOR PERSONAL CORRESPONDENCE

1. Summary

This report reviews the provisions in the Members' Protocol for the use of e-mail by Councillors. There has been some concern expressed about the appropriateness of such use when expressing personal views. The report makes some recommendations for clarifying the provisions of the Protocol and in relation to refresher training.

2. Recommendation

That the changes to paragraph 2.1 of Appendix B to the Members' Protocol (as attached to this report) be RECOMMENDED to the Council for adoption as part of the Members' Protocol.

3. Details

3.1 There have been a few recent incidents in which it has been questioned whether a Councillor should have used Council e-mail, and in particular to have signed off as a Councillor, when expressing views of a personal nature rather than views expressed on behalf of the Council or as a Ward Councillor. The existing guidelines for the use of personal computers, e-mail and the internet by Councillors, which form part of the Members' Protocol, the relevant part of which is attached as **Appendix B**, are deliberately quite widely drawn, not least because in some cases the equipment involved had to replace personal equipment of the Councillor when installed.

3.2 Nevertheless it would help to clarify the different capacities in which a Councillor might be acting at any given moment and the suitability of a "Councillor" sign-off, and recommend any necessary changes to the Protocol.

3.3 A Councillor might be acting in any of the following capacities when communicating via e-mail:

a) As an elected Councillor carrying out the business of the Council

b) As a formal spokesperson for the Council where suitably authorised to do so (such as members of the Cabinet)

- c) As the Ward Councillor elected for a particular ward pursuing the interests of the residents of the ward (whether within the Council or with external bodies or publicly)
- d) As a person appointed by the Council to be its nominee on an external body, such as a charity or a school governing body
- e) As a member of another public body in his/her own right
- f) As a member of a charity or other body in his/ her own right
- g) As a member of a political party
- h) As someone carrying on a business
- i) As an employee of some other person
- j) As the owner of property
- k) As any other resident of the borough and a member of the public at large

(and there could be more variations).

- 3.4 The framework of conduct put in place by the Members' Code of Conduct means that there are differences between the above in terms of when the Code of Conduct will govern the conduct of the Member concerned.
- 3.5 Thus the Code will apply *fully* to Members acting in the capacities at a) to c) above. A Member appointed to another local authority will be subject to *its* Code of Conduct when acting in that capacity. A Member appointed by the Council to another body will be subject to the Code *except* when that it not compatible with the rules of *that* body
- 3.6 However in any *other* capacity a Member will *only* be subject to the requirements of paragraphs 4 and 5.01(a) of the Code. That is to say that in any situation a Member must not:
 - conduct himself or herself in a manner which could reasonably be regarded as bringing his/ her office or authority into disrepute
 - deliberately act, or cause the authority to act, unlawfully, so as to give rise to a finding of maladministration, in breach of an undertaking or for the advantage of a particular person rather than in the public interest
 - use or offer or threaten to use his/ her position as a Member improperly to confer an advantage or disadvantage.
- 3.7 Although the application of these principles in practice has to be the subject of commonsense, it is suggested that a minor amendment to the existing Protocol provisions on the lines set out in italics in **Appendix B** should, combined with some update training at the next such session for Members, help to avoid any confusion on this aspect of the Protocol.

4. Consultation

4.1 The proposed changes have been discussed with the Chief Executive and the Chairman.

5. Financial Implications

None.

6. Policy and Equality Implications

It is the policy of the Council that high standards of conduct should be maintained.

7. Background Papers

Members' Protocol

8. Contacts

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EXTRACT FROM THE MEMBERS' PROTOCOL –

“PROTOCOL FOR MEMBERS' USE OF PERSONAL COMPUTERS PROVIDED BY THE COUNCIL”

1. Introduction

- 1.1 The Council's policy is to communicate through the use of email, Intranet and Internet. The Council has therefore provided each Councillor with a laptop, associated hardware, the appropriate software and a second telephone line.
- 1.2 The provision of a Personal Computer and related equipment is to support Members in performing their duties. However, although the computer should be predominantly used for Council business, the Council accepts that it will be used by Members for other purposes or by other members of their households.
- 1.3 These terms are to be regarded as the requirements of the Authority for the purposes of paragraph 5.01 (b) of the Members' Code of Conduct.
- 1.4 All equipment provided after 17 October 2001 is subject to this Protocol.
- 1.5 The equipment remains the property of the Council and therefore:-
 - should be protected against misuse, loss or unauthorised access
 - should be returned when a Councillor ceases to hold office

2. Protocol for using E-Mail

- 2.1 The e-mail address is provided predominantly for Council business, *which may take many forms, including that of a Ward Councillor or as a person appointed by the Council to an outside body. ~~but~~ However the Council accepts that e-mail may be used for personal or business use or in the capacity of a member of a political party or indeed as an ordinary resident of the borough. In those capacities it would not normally be appropriate to sign off e-mails as "Councillor". ~~However,~~ Also ~~it~~ e-mail should ~~not~~ never be used for activities that are unlawful or which might give rise to a suggestion of impropriety.*
- 2.2 Members should be aware of the Council's e-mail monitoring policy. The Council has a responsibility under the Data Protection Act 1998 and Regulation of Investigatory Powers Act 2000 to ensure that Members and staff are made aware of its policy relating to the monitoring of e-mail.
- 2.3 Any e-mails that contain attachments such as programs, pictures and executable code, and which are sent or received via the Internet are automatically prevented from onward transmission until their contents are checked. The originator of the message is advised that his or her message has been blocked. If blocked mail contains inappropriate

material, the message is deleted otherwise the message is released for onward transmission.

- 2.4 In addition, messages containing certain keywords that may indicate misuse are checked. The Council may also carry out specific surveillance of e-mail usage where it believes there may be abuse or misuse of the system. Please be aware of this operation when sending and receiving Internet mail.

3. Protocol for using the Internet

- 3.1 The Internet is a facility provided to assist Members in their work for the Council. The Internet contains considerable material of value, including information from Government departments, research organisations, private companies etc. It also contains sites containing inappropriate material. Accessing such sites, via Council facilities is, an abuse of the equipment and, if so, would be dealt with under the procedures of the Standards Committee. Internet usage is monitored centrally.
- 3.2 The Council has installed “Websense”. This is censoring software which blocks certain sites according to their content. The categories banned include subjects that promote violence, sex, racism, hacking, and weapons. This is a generic system and can catch sites that are suitable, such as interest group sites. If a Member believes a site that is restricted is suitable or feels that an unrestricted site should be restricted, IT Customer Support should be contacted to unblock or block the site. Members should consider the need to ensure that they do not, even if inadvertently, lay themselves open to accusations of abuse of privilege.
- 3.3 Members are reminded of the fact that they are bound by the local and national Members’ Codes of Conduct and that these general principles also apply to specific instances, such as use of the Internet, Intranet or e-mail.
- 3.4 Members must ensure that their conduct accords with the requirements of the Members’ Code of Conduct and the Members’ Protocol. As the Protocol says (paragraph 3.1.2):

“Never do anything as a Member which cannot be justified to the public; avoid at all times any occasion for suspicion and any appearance of improper conduct.””