

Subject: *Members' web pages*
Date of Meeting: **8th September 2009**
22nd September 2009
Report of: *Director of Strategy and Governance*
Contact Officer: Name: **Elizabeth Culbert** **Tel: 29-1515**
Caroline Banfield **Tel: 29-1126**
Wards Affected: All

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 Following two recent complaints, the Standards Committee has asked for some revisions to the existing Members' Web Page Policy, to clarify the guidance given on certain issues. This report sets out a revised Members' Web Page Policy which is in line with the Standards Committee's recommendations.

2. RECOMMENDATIONS:

To Standards Committee:-

- 2.1 That the Committee notes and approves the content of the revised Members' Web Page Policy, subject to the approval of Governance Committee.
- 2.2 That the revised policy is referred to Governance Committee for approval on 22nd September 2009.

To Governance Committee:-

- 2.3 That the Committee notes and approves the content of the revised Members' Web Page Policy having taken into consideration comments received from Standards Committee.
- 2.4 That all Members who have pages published on the Members' Web Pages are asked to sign the revised Web Page Policy as a condition of remaining published on the site and that any Members wishing to join the site in the future should be granted access to it on condition that they first sign a copy of the revised Members' Web Page Policy.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The Members' Web Pages were launched in July 2006 in order to benefit both councillors and residents by:
- Providing information on the local area and councillor activities;
 - Facilitating increased communication and feedback between councillors and constituents;
 - Promoting understanding of the role of councillors and of the local democratic process.
- 3.2 Prior to the launch, an Acceptable Use Policy was drafted to emphasise a number of legal issues that could potentially affect website authors. The policy was approved by the Member Development Working Group and subsequently by Standards Committee at its meeting of 14 July 2006. Any member who wished to publish content on the Members' Web pages was asked to sign his/her acceptance to be bound by the policy as a prerequisite to being supplied with logon details.
- 3.3 On 12 September 2006, Standards Committee approved a revised version of the Acceptable Use Policy, and renamed it the Members' Web Page Policy (copy attached as Appendix One). The revised version contained further information on web page content that could be construed as "political" and also highlighted councillors' duty to promote race equality. All councillors who were live on the site were asked to sign this revised document to indicate their agreement to be bound by it and any new entrants to the site were also asked to sign it.
- 3.4 Since July 2006, the council's complaints team has received two formal complaints regarding content on the Members' web pages. A Standards hearing panel met to consider the complaints in mid June 2009. The substance of the complaints included concern that the Web Page Policy had been breached through inappropriately publicised political events.
- 3.5 The Standards hearing panel concluded that the Web Pages Policy had not been breached but that the complaint had highlighted a need for further guidance to be issued to all members. The panel stated that it would be helpful for the Policy to be reviewed in order to "set more clearly defined boundaries on what matters can properly be communicated using council resources, with particular reference to support for political events and information about visiting politicians."
- 3.6 The hearing panel also called for the Policy to state clearly whether members may use web pages to refer to national events and issues as well as local events and issues.

- 3.7 In response to the recommendations of the Standards hearing panel, paragraph 9 of the Web Pages Policy has been redrafted. The changes from the original text are shown in italics and underlined text in the document at Appendix One.
- 3.8 An additional paragraph has also been added to the Policy (paragraph 6) to remind members of the position when linking to external websites from their Members' web pages.

4. CONSULTATION:

- 4.1 Changes to the Members' Web Page Policy have been requested by a Standards hearing panel and approved changes will be referred to Standards Committee for information.

5. FINANCIAL & OTHER IMPLICATIONS:

5.1 Financial Implications:

There are no financial implications arising from the report. On-going support will continue to be met from existing Democratic Services budgets.

Finance Officer Consulted: Peter Francis *Date: 21st August 2009*

5.2 Legal Implications:

Members are required to use the Member Web Pages in accordance with the Web Page Policy. The policy addresses the key legal issues for Members to have regard to. They are: (a) avoid inclusion of any defamatory material, (b) avoid inclusion of any political promotion or political campaigning material. (c) comply with data protection confidentiality requirements, (d) comply with the council's Code of Conduct for Members, (e) avoid copyright infringement, (f) observe the terms and conditions of the Members Web Page Policy

Lawyer Consulted: Elizabeth Culbert *Date: 19th August 2009*

5.3 Equalities Implications:

The website meets accessibility standards. All members are offered this facility.

5.4 Sustainability Implications:

There are no sustainability implications arising from this report.

5.5 Crime & Disorder Implications:

There are no Crime and Disorder implications arising from this report.

5.6 Risk and Opportunity Management Implications:

The main risks associated with use of the site are that individual members could be found to have breached the code of conduct and/or to be legally liable for any of the other issues outlined in 5.2 above. The main risk for the council is that it could be found to have acted unlawfully in allowing its resources to be used for political purposes, contrary to the Local Government Act 1986. The opportunities associated with the use of this site are that it will improve community engagement and raise the profile of members and the council.

5.7 Corporate / Citywide Implications:

There are none.

SUPPORTING DOCUMENTATION

Appendices:

1. Brighton & Hove City Council Members Web Page Policy.

Documents In Members' Rooms:

1. None.

Background Documents:

1. None.

Appendix One

Brighton & Hove City Council

Members' Web Page Policy

1. Introduction

1.1 The Councillors' Web Site is designed to provide Councillors with an improved and technological up-to-date medium of communication with their constituents. Web Sites of this nature are increasingly being used as a source of imparting information and facilitating interaction between Councillors and constituents while allowing Councillors to raise their personal profile as well as their democratic role within the local community. Councillors' Web Sites can also be used to encourage feedback from constituents as well as keeping the local community informed of matters affecting the community, news, events, surgery times etc.

1.2 Brighton & Hove City Council's Members' Web Page Policy is designed to afford protection for Councillors and to ensure that they get maximum value from their use of their web pages in a way that does not infringe any legislative or regulatory requirements as well as any existing Codes of Practice in a manner that would bring either their own or the Council's reputation into disrepute. The Council makes the facilities available for the use of Members in connection with Council business. Like all the Council's ICT equipment and systems, they must not be used for any purpose other than those directly concerned with official Council business*, or the work of Elected Members.

*'Official Council business' means matters relating to a Member's duties as an elected Councillor; as a member of a Committee or Scrutiny Panel, sub-Committee or as a Council representative on another body or organisation.

1.3 The Policy will explain the restrictions that will apply to Councillors in using the Web Site. In summary there are prohibitions against use of the Web Site for:

- any matter that would place the Councillor in breach of the Code of Conduct for Members (see section 2.1 below)
- any matter that would be against the decision making process (see section 3 below)
- financial gain (see section 4 below)
- the posting of illegal or inappropriate content (see section 5-6 below)
- political promotion or political campaign (see section 8-10 below)

- breach of confidentiality and data protection principles (see section 11 below and separate document “Data Protection: A Councillors Guide)

2 General usage

- Councillors are only permitted to use their Web pages in furtherance of their official role as an elected Member of Brighton & Hove City Council.
- Councillors are responsible for the content of their own web pages.
- The Council is not responsible for approving content placed on to Councillors’ web pages.
- The Council does not authorise or in any way sanction or approve the publication of statements that may be construed as defamatory or in breach of equalities laws

2.1 The Council has adopted a Code of Conduct for Members. Councillors must ensure that they observe their obligations and responsibilities in the Code of Conduct together with any guidance that may be issued by the Standards Board for England and the Council’s Standards Committee when using the Councillors’ Web pages. In particular Councillors are reminded that the content of their web pages must comply with:

- the Council’s Code of Conduct for Members
- any guidance issued by the Standards Board for England and the Council’s Standards Committee
- the Council’s Procedure Rules
- the Council’s Equal Opportunities Policy*
- the Council’s Use of ICT Policy
- the Code of Conduct for member/employee relations

* In 2000, the government gave most public authorities in Britain a legal duty to promote race equality (‘race equality duty’). This means that, in carrying out its functions, the Council must now also have ‘due regard’ to how it will:

- Eliminate unlawful racial discrimination;
- Promote equal opportunities; and
- Promote good relations between people from different racial groups.

It is the responsibility of all Councillors and Council employees to look for and eliminate institutional racism and discrimination against all communities in the provision of services; as an employer; and as a democratic body, recognising that people are complex and may experience more than one form of discrimination. This includes discrimination on the basis of race and ethnicity (including travellers and Gypsies); homophobia; transphobia; ageism; sexism; and

discrimination as a result of disability/learning disability; mental health; HIV/Aids; social class; refugee and asylum seeker status; and religion or belief.

2.2 Councillors are further reminded that the content of their web pages must:

- promote equality by not discriminating unlawfully against any person
- treat others with respect
- not compromise the impartiality of officers
- not contain information given them in confidence
- not bring them, fellow Councillors or the Council into disrepute
- not be used for political purposes (see below for further information)
- not infringe Copyright Law
- not breach the principles of data protection legislation

3. **The Decision making process**

Councillors must use their web pages responsibly and have regard to the decision making process:

- Councillors must not use their web pages in any way which taints the decision making process through biased or closed minds, based on a particular political view/personal interest. This could undermine the Councillor's commitment to consider openly all issues when the matter is determined;
- Councillors who are members of the Planning Application Sub-Committee or Licensing Committee should not express personal opinions about Committee matters on their web pages as this will prevent them from being able to speak or vote as a member of that Committee when an application is determined.

4. **Financial gain**

Councillors must not use their web pages for financial gain. For example, web pages cannot be used for advertising a commercial service or for encouraging the Council to purchase a particular item or service.

5. **Inappropriate content**

The site must promote equality by not discriminating unlawfully against any person, must treat others with respect and not do anything which compromises the impartiality of people who work for or on behalf of the Council

- Councillors must treat officers' recommendations or known views impartially and should not refer to individual officers by name when commenting on Council recommendations or decisions.

- Councillors must not use their web pages to disclose information, which they know to be confidential.

6. Distribution/publication of any material on Councillors' web pages

Councillors must not distribute or publish any material that:

- (i) Infringes any intellectual property rights or is in breach of law, statute or regulation, including the Data Protection Act 1998;
- (ii) Is unlawful, defamatory, libellous, threatening, harassing, racially offensive, obscene, pornographic, indecent or otherwise objectionable;
- (iii) Contains any viruses or other computer programs intended to damage, detrimentally interfere with, surreptitiously intercept or expropriate any personal information

External Links

Where external links to personal blogs, web pages or political web sites exist these sites must comply with the restrictions at 6(i)-(iii) above. External links may be removed without notice at the Council's discretion. The disclaimer below shall appear on Members Web Pages and shall apply to all external blogs or web pages:

“Please note that external links from this website may include material of a political nature. Brighton & Hove City Council takes no responsibility for information contained on external links from this website. Views expressed by individual Councillors on their own webpages are not necessarily those of the Council itself.”

7. Monitoring Web pages and links

Councillors must:

- Monitor for libellous or defamatory material and must remove any such material when becoming aware of its existence;
- Take responsibility for any legal fees, damages or other expenses that may be incurred as a result of publication by them;
- Maintain and promptly update the information on their web pages to ensure it is true, accurate, current and complete.

Council checks

- One or more Council officers will periodically review the content of web pages authored by Members, including checking compliance with this policy, and if necessary may prevent publication of pages that appear not to comply. However, it must be noted that this is provided only as assistance as reviews are only likely to be carried

out after page(s)/blog content has been authored by the Member, such that the Council accepts no responsibility whatsoever for content. It remains the responsibility of the authoring Member to ensure that the material they produce complies with the law and this policy. Members who are unsure about any permissible uses of these facilities must seek clarification, in the first instance from the Member Support Officer.

Anyone who believes that they have been defamed by a Councillor will be able to take legal action directly against the Councillor concerned. Therefore care should be taken in what is said on the pages about other people or organisations. If the truth of any such comments could not be proved, then clearly there could be difficulty in defending a claim of defamation.

8. Political promotions or campaigns

According to the Local Government Act 1986, a council must not publish material which “in whole or part appears to affect public support for a political party”. Placing material on a publicly visible website almost certainly constitutes “publication” in this sense. This means that the Council would be acting unlawfully if it published such material on its own website.

The Code of Recommended Practice on Local Authority Publicity sets out detailed guidance on publicity material produced by councils. The Code makes specific reference to the situation in the pre-election period as well as in relation to councils providing “assistance to others to issue publicity” which might be taken to apply to links from council websites. As all Councillors’ web pages are funded by the Council, Councillors may not use their web pages to promote political campaigns or particular political stances on issues. For example:

- They must not use their web pages to promote a political party or persons identified with a political party.
- They must not use it to 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.

The Code of Recommended Practice on Publicity states:-

“Publicity about individual Councillors may include the contact details, the positions they hold in the Council (for example Chair of a Scrutiny Committee) 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. While 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 opinion of other parties, groups or individuals”

9. Publicity

9.1 As set out above, the Council is prohibited from publishing material that appears to be designed to affect public support for a political party and this restriction applies to material placed by individual Members on their Member web Page.

9.2 Subject to complying with the requirement at 9.1, Members may use their web pages to publicise issues relevant to council business or function.

9.3 Members are not precluded from referring in their web pages to an issue or event of a political nature, so long as the content complies with 9.1 and 9.2 above.

9.4 By way of example, subject to satisfying the conditions above, it would not be inappropriate for a Member's web page to mention a forthcoming national political event or a visit by a national politician to Brighton & Hove. However, the Member author should be satisfied that the event or issue they are publicising is relevant to one or more functions of the authority.

10. Representation of the People Act 1983 and the Political Parties Elections and Referendums Act 2000

- These establish controls over political donations. A donation can include the provision of services or facilities. This means that, to the extent that Members website facilities are provided free of charge or at subsidized rates, they are regulated by the Act if they are used for political activity;
- During election times, including By-elections, (i.e. from the “notice of an election” to the election itself), most parts of relevant (in the

case of By-elections) or all Councillors' web pages will be suspended. Visitors will still, however, be able to contact Councillors through the Council's main website.

11. Personal confidentiality

- Councillors must not disclose information given to them in confidence or information acquired, which they believe, is of a confidential nature, without first having the consent of a person authorised to give it. For example, details about a constituent who has made a complaint about a council service to the Councillor but does not wish their personal details to be passed to the Council.
- Councillors must not display or process personal data on their web pages other than for the purpose stated at the time of capture.
- In managing a web page Councillors may receive comments, enquiries or complaints from members of the public. Councillors may refer to (or publish) material that is based upon information drawn from the Council or obtained from external sources. All such personal information should be treated with care and respect for relevant data protection law.

12. Data Protection issues

Anyone processing personal data must comply with the eight Data Protection Act principles. (Please refer to Data Protection: A Councillor's Guide). The principles state that data must be:

- Fairly and lawfully processed;
- Processed for limited purposes;
- Adequate, relevant and not excessive;
- Accurate;
- Not kept longer than necessary;
- Processed in accordance with the data subject's rights'
- 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.

The definition of processing incorporates the concept of obtaining, holding and disclosing.

13. Breach of the Members' Web Page Policy

- 13.1 Your authorisation to use the Members' Website automatically terminates without notice, at the Council's sole discretion, should you

fail to comply with any of the Terms and Conditions of this Policy. Upon such termination you must cease all use of your web pages. This provision does not limit the Council's right to terminate at any time for any reason whatsoever.

- 13.2 A message will be posted on the website explaining that any visitor who wishes to complain about any Member's pages should, in the first instance, attempt to resolve any concerns with the Member direct. It is hoped that a number of potential complaints will be resolved informally in this way. It is also anticipated that some visitors will recognise that their concern is more connected to expressing a different point of view about published content rather than complaining that the content is intrinsically offensive, for example.
- 13.3 Visitors will also be offered the opportunity, in the case of serious complaints or complaints that were not resolved through discussion with the Member, to raise their complaint with the Standards and Complaints Team. The Standards and Complaints Team will refer all complaints to Democratic Services (who will discuss these with the Member concerned) and/or will direct complainants to the Standards Board as appropriate.
- 13.4 Staff in Democratic Services reserve the right to suspend a Member's pages while they or the Standards Board investigate any complaint and they also reserve the right to close a Member's pages permanently in the event of a serious complaint being upheld as well founded.
- 13.5 Democratic Services also reserve the right to suspend or remove permanently any pages that they themselves consider to be inappropriate, including in cases where no complaint has yet been received.

UNDERTAKING

I have read and understood the above Members Web Page policy and agree to be bound by the terms set out in it.

Signed:..... Date:

Print name:.....