

From: [Cheryl Hardman](#)
Bcc: [REDACTED]
Subject: Use of personal email addresses by councillors
Date: 20 February 2023 09:56:00
Attachments: [Personal email accounts.pdf](#)
[Appendix A Use of Information Technology - Guidance on the Councillor Code of Conduct.pdf](#)
[image001.png](#)
[image003.png](#)
[image005.png](#)

Sent to all Members on behalf of the Chair of Standards Committee

Dear Members

Following some recent examples of Government Ministers using personal email addresses to conduct Government business, Standards Committee has received a report (attached) explaining why councillors should not use personal email accounts to conduct Council business and highlighting the existing protocol within the Council Constitution: *Use of Information Technology – Guidance on the Members' Code of Conduct*.

Use of personal email addresses by councillors to conduct Council business introduces several risks to the Council, which are listed below:

Freedom of Information

The Freedom of Information Act 2000 entitles members of the public to request information from public authorities. The Act covers recorded information such as computer files and emails held by local authorities. In accordance with Section 3(2)(b) of the Act, in circumstances where information is held by another person on behalf of the public authority, the information is considered to be held by the Authority for the purposes of the Freedom of Information Act. Guidance from the Information Commissioner's Office advises that information held in a councillor's personal email account may be subject to the Act if it relates to the official business of the local authority. Therefore, when a Freedom of Information request is received, the Council would need to consider all locations where relevant information may be held, including personal email accounts if used by councillors for Council business. Councillors should be aware that if information covered by a request is knowingly treated as not held because it is held in a private email account, this may be considered as concealment with the person concealing the information prosecuted under Section 77 of the Act.

Information security

Data on personal email accounts is backed up on servers outside the Council's control. This means that the Council would not be able to protect that data should a councillor's personal email account be compromised. The Council would not be able to provide assurance as to where that data is stored or how it is protected. This could put the Council at risk of violating certain regulatory requirements which it is required to comply with.

Data protection

The Council is obliged under the Data Protection Act 2018 and UK GDPR (General Data Protection Regulation) to ensure that personal information is accurate, secure and is processed correctly and proportionately. Data protection law potentially impacted by using personal email accounts to conduct Council business includes personal data being processed without sufficient security controls, being potentially retrieved by an unauthorised person, and kept longer than needed.

Standards issues

The Use of Information Technology – Guidance on the Councillor Code of Conduct (attached) is in effect and failure to comply with the Guidance may mean that a councillor is in breach of the Code of Conduct. The Guidance states that non-Council email addresses should not be used to conduct Council work “save in the very exceptional circumstance where the webmail system is unavailable and the matter is urgent”. In accordance with this guidance, any use of a personal email account should be justifiable through urgency, copied to a council email address and deleted from personal email accounts as soon as possible. Members are advised to take the time to read the Guidance which addresses a broad range of issues regarding the use of technologies. However, the circumstances through which councillors can use personal email accounts, as noted above, are very limited.

Regarding the specific obligations within the Code of Conduct, the use of private emails to conduct Council business, including sharing Council documents, could be considered a breach of the obligation to act in accordance with the local authority’s requirements when using council resources.

I hope that this proves helpful to you and if you have any questions, please contact Andrew Maughan, the Borough Solicitor.

Regards

Richard Cotton (Chair of Standards Committee)

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