

## SUMMARY OF CONSULTATION RESPONSES

## FROM STAFF SIDE SECRETARY

Consultation Response	Management Comment
<p><b>1. Introduction</b></p> <p>Whilst understanding the intention behind the proposed policy and accepting the need to issue staff with “advice” to protect them and the school, I have some serious misgivings with regards to the content of the proposed policy and that fact that staff could unreasonably and possibly illegally find themselves disciplined for a breach of a procedure rather than for any genuine misconduct.</p> <p><b>2. Legal framework</b></p> <p>As with any policy the local authority and schools are of course required to abide by the law in this case there are at least four areas of law that need to be taken into account. <b><i>The Community Charter of the fundamental Social rights of Workers, the Human Rights Act, the Trade Union and Labour Relations Act and the Employments Rights Act.</i></b> It is my view that the policy as it stands could breach all of these.</p> <p><b>3. Social Media and the Rights to Campaign</b></p> <p>Over the recent years Social Media and Networking has become a legitimate and key organising tool for trade unions, workers and local communities’ in campaigning in defence of Jobs, wages, the protection of services and opposition to what maybe viewed as an unjust practice or policy. In light of this we need to ensure that any policy does not (even inadvertently) seek to interfere in the legitimate rights of workers.</p> <p>I am particularly concerned that section 3 of the policy could be used to victimise a worker for exercising their legitimate rights in particular as a trade union member and or representative.</p>	<p><b>As outlined in the main body of the report it is not intended to breach any area of legislation and the policy has been drafted in consideration of such. Without further details regarding potential breaches it is not possible to comment further.</b></p> <p><b>Agreed.</b></p> <p><b>The policy is designed to ensure that staff are protected and that everyone has clear guidance about the use of social networking.</b></p> <p><b>The Council will not condone victimisation or vexatious accusation against any employees.</b></p>

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<p><b>4. Problems with the draft policy</b></p> <p><i>Section 3 Staff guidelines in relation to social networking and media activity</i></p> <p><b>Section 3 i</b></p> <p>It says <b><i>“if you wish to have a social network presence please make sure your employer is not identified”</i></b> even if you put aside why that should be an illegitimate thing to do per se, imagine a worker or rep running anti cuts or Anti Academy campaign for which they set up a Face book group inviting supporters to join, by definition it would indentify the school if the policy remains unaltered then a worker would be in breach of the policy.</p> <p><b>Section 3 iii</b></p> <p>A member of staff would fall foul of this section if they for instance they had put up a picture of the recent pension strike of picket’s line or protests which they and other staff took part in, if it contained a picture of other union members who work at the school.</p> <p>It is also not a legitimate interference in the workers rights to have to seek permission of the head first.</p> <p><b>Section 3 iv</b></p> <p><b><i>It says “Staff should not place any information regarding their employer on a social networking or media site”.</i></b> Again this would effectively and illegally seek to silence a workers right to freedom of expression, to participate in the trade union campaigns that may affect the school.</p>	<p>This section of the policy is intended to protect employees where they may for example have a personal Facebook account and state something on that account either intentionally or unintentionally which later brings their employer into disrepute. It is intended to raise awareness of this.</p> <p>Legitimate rights of protest are a separate issue and this would be reflected in any guidance provided to schools where it is considered that a breach of the policy in this area has occurred.</p> <p>In order to provide greater clarity the text of this paragraph has now been amended to state <b>“If you wish to have a social network presence unless there is, on an objective assessment, a legitimate reason for doing so please make sure your employer is not identified”.</b></p> <p>If a member of staff is displaying a photograph that is of either pupil(s) or colleagues it is appropriate that they confirm that the individuals are in agreement with this before doing so. Contacting the Head Teacher in this respect in relation to school activities undertaken by pupil(s) is appropriate and in accordance with other guidance issued by the Council’s Quality Assurance Team.</p> <p>Please refer to response detailed in 3.1 above.</p>

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<p><b>Section 4 staff guidelines in relation to pupil contact</b></p> <p><b>Section 4 i</b></p> <p>I understand why this is there however I think it is at risk of capturing more than it intends. It is entirely possible for members of staff to belong to for instance the same sports club or even church, imagine the organisation had a web site or Face book page on which there was a comment section for members to participate in this case it would be possible for a member of staff to post as well as a pupil and despite the contact being legitimate. The member of staff could be deemed in breach of the policy.</p> <p>This would seem odd as schools don't currently don't ban staff being members of the same organisations as pupils now where there is real contact yet some form of virtual contract could be deemed illegitimate.</p> <p><b>Section 4 ii</b></p> <p>This section says that staff may only contact parents using the schools website and email address Again this misses out the scenario of a local worker trade union/parent campaign setting up a website and or using social media site or of a worker and a parent being a member of the same organisation perfectly legitimately.</p> <p><b>Section 4 iii</b></p> <p>This section is to ill defined, who determines what brings a school into disrepute? A head or governing body may not like staff organising a Face book campaign about say their decision to make cuts but that does not make it illegitimate to do so.</p>	<p><b>Casework has identified that staff sometimes breach the professional boundaries they must maintain and the wording in the policy is intended to make clear that contact with pupils should not be conducted through personal social networking accounts.</b></p> <p><b>This section is intended to make clear that when communicating with parents use of the school's website and email address reflects that the contact is being made on a professional basis and not a personal one.</b></p> <p><b>As indicated previously the policy is not intended to interfere with any legitimate legislative rights of individuals. However it is a fact that there are instances of conduct by employees which have had a detrimental impact on the school and employer. It would be for the Governing Body to determine whether this conduct is sufficiently serious enough to warrant formal disciplinary action being taken.</b></p>

**FROM UNISON PRO-TEM BROMLEY BRANCH SECRETARY**

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<p>We e-mailed all the Unison members in schools that we have who come under community, voluntary controlled, foundation and VA schools asking for their comments and to raise with us any concerns they had about the content.</p> <p>We have received no negative feedback on the proposed document (no feedback at all in fact) and we therefore have to assume that members do not have any queries to raise.</p> <p>I do think we have to be careful about restrictions being placed on individual's freedom but also understand the need for guidelines given the increased use of social networking sites and I'm aware that many employers have introduced such guidelines.</p> <p>I think my main concern is about the fact that not following the guidelines could result in disciplinary action which could lead to dismissal. I would hope it can be made clearer that breaking the guidelines is not automatically 'gross misconduct' - as there are different levels of misconduct.</p>	<p><b>The policy is designed to ensure that staff are protected and that everyone has clear guidance about the use of social networking.</b></p> <p><b>As indicated previously the policy is not intended to interfere with any legitimate legislative rights of individuals. However it is a fact that there are instances of conduct by employees which have had a detrimental impact on the school and employer. It would be for the Governing Body to determine whether this conduct is sufficiently serious enough to warrant formal disciplinary action being taken and any level of sanction applied based on the facts and circumstances of the case.</b></p>