



Heanor and Loscoe Town Council

Policy and Procedure for dealing with unreasonably persistent complainants, and behaviour and malicious, hostile, abusive, vexatious, defamatory, libellous, or offensive communications.

1.0 Background

1.1 The Freedom of Information Act (referred to in this policy as “the Act”), which came into force for local councils in January 2005, places a general duty on Heanor and Loscoe Town Council to give the public access to releasable information, which is held on record. This council has previously adopted a Scheme of Publication, which explains how it will provide information, which can be released under the Act.

1.2 This council, by adoption of this policy, reaffirms its commitment to open and transparent local government but will remain conscious of its responsibility to ensure the effective use of its resources, which are funded by the council tax payers of the parish of Heanor and Loscoe, together with the care and protection of its staff.

1.3 The Information Commissioner is the person appointed by Government to oversee the application of the Act and this policy has been prepared using the guidance issued from that source to all public bodies.

1.4 This council acknowledges that most members of the public will exercise their rights sensibly and responsibly, however it recognises there is a risk that some individuals, and perhaps some organisations, may seek to abuse these rights by making requests which are manifestly unreasonable, and which would impose substantial burdens on the financial and human resources of this council. Such cases may be interpreted as being vexatious or repeated requests and may well arise in connection with a grievance or complaint which an individual is pursuing against this council and or a member of its staff.

1.5 Section 14(1) of the Act states that the general right of access to information “does not oblige a public authority to comply with a request for information if the request is vexatious”. However, this council accepts the guidance from the Information Commissioner to the effect that it is important to note that it is the request, rather than the requester, which must be viewed as being vexatious. The council further accepts the Information Commissioner’s guidance that the useful test, which a public authority should apply in determining if it will comply with a request for information in such circumstances, is to judge whether or not the information would be supplied if another person, unknown to the authority, requested it.

1.6 The term “vexatious” used in this policy is intended to have its ordinary meaning and there is no link with legal definitions from other contexts.

2. Introduction: Dealing with malicious, hostile, abusive, vexatious, defamatory, libellous, or offensive communication

2.1 This Council is committed to dealing with any concerns it might receive fairly and impartially and to providing prompt response should any complaint arise. However, there may be occasions when the Council experiences unreasonable behaviour, or persistent or malicious conduct or communications towards councillors/members of staff which cause anxiety or distress. This policy sets out the rationale and procedures which will govern the Council's approach to such an individual or group exhibiting such behaviours.

2.2 This Council has the expectation that any communication received from members of the public, either in written or spoken form, are mindful of the same standards of respectful and rational conduct that govern the actions of councillors/members of staff. The Town Council therefore sets out here its procedure for dealing with such examples of communication as those indicated in 1.2 above.

3. Definitions of Terms

3.1 The Malicious Communications Act (1988) determined that any person who sends to another person a letter or other article which conveys, a message which is indecent or grossly offensive, a threat, information which is false and known or believed to be false by the sender, or any other article which is, in whole or part, of an indecent or grossly offensive nature, is guilty of an offence if his/her purpose, or one of his/her purposes, in sending it is that it should cause distress or anxiety to the recipient or to any other person to whom he/she intends that it, or its contents or nature, should be communicated.

3.2 The Information Commissioner's Office, which deals with complaints relating to the operation of the Freedom of Information Act, defines vexatious requests or communications as where the tone or content of the request might be so objectionable that it would be unreasonable to expect the authority to tolerate it, no matter how legitimate the purpose of the requester or substantial the value of the requested information, or where threats have been made against employees, or offensive language is used. In such cases, if councils believe that are dealing with a request which is clearly vexatious, they are directed to consider reaching a decision that section 14(1) of the FOIA applies. Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious. In determining if a request harasses the Council, its Councillors or causes distress to any member of staff, the Council will be guided by the Information Commissioner who has stated that 'the focus should be on the likely effect of the request (seen in context), not the requester's intention.' Relevance will be placed on 'the volume and frequency of correspondence, the use of hostile, abusive or offensive language, an unreasonable fixation on an individual Councillor or member of staff, or mingling requests with accusations and complaints.'

3.3 The Protection from Harassment Act (1997) protects individuals from behaviour on more than one occasion that reveals signs of being fixated, obsessive, unwanted and repeated and with results in feelings of anxiety, distress, or threat. It is often the preferred legal statute deployed by the Police to deal with threatening and abusive communications.

3.4 Beyond these definitions of malicious, unreasonably persistent complainants and vexatious complaint or requests, lies the tone and conduct of either verbal or written communication.

4. Verbal Communication in Parish Council Meetings

4.1 Meetings of the Town Council are not public meetings, but members of the public have a statutory right to attend meetings of the Council as observers. They have no legal right to speak unless the Chairman, in line with Standing Orders and 'Taking Part in Council's Decisions' given in the Public Information section of the agenda, authorises them to do so. However, as part of its community engagement, Councils can set out a time for public participation at an agreed time when members of the public are invited to speak and Heanor and Loscoe Town Council do so.

4.2 Members of the public are not involved in the decision-making of the Council. The Council will not make any instant decisions at the behest of members of the public on items that are not included in the agenda. As a matter of best practice, the public forum is kept separate from the debate of the Councillors. If matters raised are not on the agenda for the meeting these can be used to form part of the agenda for a future meeting at the discretion of the Council. Members of the public are welcome to stay for the Council meeting after the public session as observers but will not be able to join in the discussion unless invited to do so by the Chair. Members of the public may be excluded by a resolution of the meeting for specific items which need to be discussed in confidence, for example, staffing matters, tenders for contracts, some legal issues.

4.3 The Standing Orders of the Council can be found on the website www.heanorloscoetowncouncil.gov.uk.

Additionally, the Council expects that:

d. All persons present will act respectfully towards every other person present and will not act in a manner that demeans, insults, threatens or intimidates any other person. All statements, questions and responses, challenges to statements, complaints or criticisms will be made politely.

e. All statements, questions and responses must be related to the facts of the matter and not be personal in nature. There should be no reference to personal views of any person.

f. Offensive or threatening behaviour will not be tolerated. If a member of the public interrupts the proceedings of any meeting the Council reserves the right to curtail the contribution of that person and exclude a disorderly person.

5. Written or Electronic Communication to the Clerk or Councillors

5.1 All written communication, whether by letter, email, social media, or other means must be governed by the identical principles to those guiding verbal communication. This Council welcomes communication from parishioners and others at any time but reserves to itself the right to respond appropriately in the rare event that any communication is malicious, disrespectful, abusive, offensive, libellous, or defamatory.

5.2 In the interest of good order and civility, this Council has set down a number of rules to govern its responses to any such written communication to make clear what is unacceptable written communication, (in whatever media), and what is not, and what may therefore be actionable. These are as follows:

a. any written communication that impugns the reputation of any individual councillor, employee of Council, or the Council as a whole, or which contains malicious, hostile, abusive, libellous, or defamatory language, or is offensive or accusatory in tone, will not be tolerated.

b. repetitive communication which revisits prior discussions and/or decisions already taken and ratified will not be tolerated.

c. communications that are excessively long or relate to matters for which the parish council has communications that are excessively long or relate to matters for which the parish council has no responsibility.

5.3 If the Council deems that it has received written communication that meets any of the criteria noted at 4.2 a-c above, it will act as follows:

- the communicator will be informed in writing of the reasons why the Council considers the communication to have breached this policy.
- restrictions as to communication with the Council and/or attendance at Council meetings will be applied together with a statement as to how long these measures will be in place and what might be done to have the restriction reviewed. This may include entering into a written agreement about their future conduct in relation to the Council.
- the Council reserves the right to:
 - not respond at all to malicious communication or to communications that are deemed excessively long or relate to matters for which the Town Council has no responsibility.
 - to seek legal advice.
 - and/or to escalate the process to the Derbyshire Constabulary.

6 Adoption

This Policy was adopted by Heanor and Loscoe Town Council 7 December 2023

Minute 077(b) – 2023/24