

# Dethick, Lea and Holloway Parish Council

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

**Adopted 1/2/2023**

### **1. Introduction: Dealing with malicious, hostile, abusive, vexatious, defamatory, libellous or offensive communication**

1.1 The Parish 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 or the clerk 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.

1.2 The Council also already has in place a **Policy for Dealing with Vexatious or Repeated Requests for Information** which was first adopted in May 2019. However, this Policy, designed primarily to deal with repeated requests under the Freedom of Information Acts, does not extend sufficiently to cover incidents where communications and/or complaints are unreasonably persistent, or where behaviours and/or communications are malicious, hostile, abusive, vexatious, defamatory, libellous or offensive.

1.3 The Parish 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 and the clerk. The Parish Council therefore sets out here its procedure for dealing with such examples of communication as those indicated in 1.2 above.

### **2. Definitions of Terms**

2.1 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.

2.2 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'*. In making the determination the

Council will be guided by the outcome of *Gower V Information Commissioner and LB Camden EA/ 2007/0114 (13 May 2008)*.

2.3 **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.

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

### 3. Verbal Communication in Parish Council Meetings

3.1 Meetings of the Parish 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 Parish Council Chair authorises them to do so. However, as part of its community engagement, Parish Council's can set out a time for public participation at an agreed time when members of the public are invited to speak and DLH PC does so.

3.2 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.

3.3 The Standing Orders of the Council can be found at <https://dethickleaandholloway.org.uk/documents/>. General provisions for Disorderly Conduct at Meetings are as follows:

- a. No person shall obstruct the transaction of business at a meeting or behave offensively or improperly. If this standing order is ignored, the chair of the meeting shall request such person(s) to moderate or improve their conduct;
- b. If person(s) disregard the request of the chair of the meeting to moderate or improve their conduct, any councillor or the chair of the meeting may move that the person be no longer heard or be excluded from the meeting. The motion, if seconded, shall be put to the vote without discussion;
- c. If a resolution is ignored, the chair of the meeting may take further reasonable steps to restore order or to progress the meeting. This may include temporarily suspending or closing the meeting.

Additionally the Parish 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.

#### **4. Written or Electronic Communication to the Clerk or Councillors**

4.1 All written communication, whether by letter, email, social media or other means must be governed by the identical principles to those guiding verbal communication. The PC of course 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.

4.2 In the interest of good order and civility, the DLH PC 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, the clerk 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 no responsibility;

4.3 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 parish council has no responsibility;
  - to seek legal advice;
  - and/or to escalate the process to the Derbyshire Constabulary.

#### **5 Adoption**

This Policy was adopted by Dethick Lea and Holloway Parish Council on 1st February 2023.

**END**