



Communications Protocol

adopted 9th April 2015 resolution FC2014/113.2 refers

Protocol on Communications

Parish Council Correspondence

The point of contact for the parish council is the Clerk, and it is to the Clerk that all correspondence for the parish council should be addressed.

The Clerk should deal with all correspondence.

No individual Councillor or Officer should be the sole custodian of any correspondence or information in the name of the parish council, a committee, sub-committee or working party. In particular, Councillors and Officers do not have a right to obtain confidential information/documentation unless they can demonstrate a 'need to know'.

All official correspondence should be sent by the Clerk in the name of the council using council letter headed paper.

Where correspondence from the Clerk to a Councillor is copied to another person, the addressee should be made aware that a copy is being forwarded to that other person (e.g. copy to XX).

Agenda Items for Council, Committees, Sub-Committees and Working Parties

Agenda should be clear and concise. They should contain sufficient information to enable Councillors to make an informed decision, and for the public to understand what matters are being considered and what decisions are to be taken at a meeting.

Items for information should be kept to a minimum on an agenda.

Where the Clerk or a Councillor wishes fellow Councillors to receive matters for "information only", this information should be circulated via the Clerk.

Communications with the Press and Public

The Clerk will discuss all press reports, or comments to the media, with the appropriate Lead Councillor or Chairman.

Press reports from the council, its committees or working parties should be from the Clerk or an officer or via the reporter's own attendance at a meeting.

Unless a Councillor has been specifically authorised by the council to speak to the media on a particular issue, Councillors who are asked for comment by the press should make it clear that it is a personal view and ask that it be clearly reported as their personal view.

Unless a Councillor is absolutely certain that he/she is reporting the view of the council, they must make it clear to members of the public that they are expressing a personal view.

If Councillors receive a complaint from a member of the public, this should be dealt with under the Council's adopted complaints procedure.

Councillor Correspondence to external parties

As the Clerk should be sending most of the council's correspondence from the Council to other bodies, it needs to be made clear that it is written in their official capacity and has been authorised by the parish council.

Where after discussion with the Town Clerk, Members wish to pursue an initiative on an unofficial/individual basis they are welcome to do so but should be mindful: -



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- of the need to take care not to give the impression that the initiative has the support of, or represents, official Town Council policy;
 - of the dangers of raising public expectation;
 - of publicity or media coverage which may reflect on the Town Council.

Accordingly, Members should make it clear that they are acting in an unofficial/personal capacity.

As a general rule, individual Members should not approach another statutory, voluntary or commercial organisation, other than in a personal capacity, seeking information which might be related to any Town Council function.

Such approaches should be made formally by the Town Council Staff on behalf of the Member in an official capacity. In this respect Members are advised to contact the Town Clerk, as above. If a Member is dissatisfied with the actions/advice of the Town Clerk she/he may ask for an item to be included on the agenda for Council or appropriate Committee.

A copy of all outgoing correspondence relating to the council or a Councillor's role within it, should be sent to the Clerk, and it be noted on the correspondence, e.g. "copy to the Clerk" so that the recipient is aware that the Clerk has been advised.

Communications with Parish Council Staff

Whilst all Members and staff are encouraged to develop contact with each other, both Members and staff need to be conscious of the "Employer" and "Employee" relationship and that professional standards should be maintained at all times. Both should be aware that requests directly from Members to employees to action given matters, whether established Council policy or not, can disrupt established routines and work programmes and could confuse line management. Members wishing to have urgent action taken or to report a problem requiring early attention should contact the Town Clerk, who can then re-schedule staff priorities if necessary.

Councillors must not give instructions to any member of staff, unless specifically authorised to do so (for example, three or more Councillors sitting as a committee or working-party with appropriate delegated powers from the council). In such circumstances Members who wish to investigate or promote any issue for possible adoption and/or action should, in any event, first discuss the matter with the Town Clerk so that preliminary consideration can be given to the legal, financial, technical and staffing implications and to the possible impact and relationship to existing projects or policies in which the Council is currently involved.

Telephone calls should be appropriate to the work of the parish council.

E-mails:

Instant replies should not be expected; reasons for urgency should be stated;

Information to Councillors should normally be directed via the Clerk;

E-mails from Councillors to external parties should be copied to the Clerk;

Councillors should acknowledge their e-mails when requested to do so.

Meetings with the Clerk or other officers:

Wherever possible an appointment should be made;

Meetings should be relevant to the work of that particular officer;

Councillors should be clear that the matter is legitimate council business and not matters driven by personal or political agendas.



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APPENDIX A Social media

Why do we need this policy?

There are far too many social media sites to list but some of the most popular examples are; Facebook, MySpace, Twitter and YouTube. The format and levels of interaction vary greatly from one to another. Whenever Council representatives use such sites they should familiarise themselves with the guidance that is set out in this policy.

We need to set clear guidelines for using social media sites to ensure they are used effectively as part of a wider communications mix and that their use does not expose the Council to security risks or reputational damage. Therefore we need a comprehensive policy to effectively manage and regulate the corporate use of social media.

Social media offers great potential for building relationships and improving the services that we provide. This policy will clearly set out how social media can be managed effectively and how any risks or pitfalls can be avoided or mitigated.

Why use Social Media?

- Social media has the advantages of reaching many people very quickly.
- It can be used for one-to-one communications, and also one-to-many communications.
- Media is shared widely and quickly. It can easily spread beyond the original audience.
- Many different devices can pick up this information.
- It can easily include text, photos, audio and video.
- It allows participants to engage as they wish. They can just view the content, comment on it or even create content themselves.
- Communication can be done in real time.

Why not use Social Media?

As with any online activity there are often risks associated, the following types of risk have been identified with social media use:

- Virus or other malware (malicious software) infection from infected sites.
- Disclosure of confidential information.
- Damage to the reputation of the Council.
- Social engineering attacks (*this is the act of manipulating people into disclosing confidential material or carrying out certain actions. Social engineering is often conducted by individuals fraudulently claiming to be a business or client*).
- Civil or Criminal action relating to breaches of legislation.

While there are many advantages to using Social Media as a tool to communicate with residents and the wider world, there are also disadvantages:

- Information is shared in the public domain and it should be expected that it can be viewed by anyone in the world.
- There is often no need to register to view content. Content can be viewed anonymously, registration is only needed should one wish to actively participate.
- Once published it cannot be taken back. Expect anything published, even if later deleted, to be permanently online.
- Media is shared widely and quickly. It can easily spread beyond the intended audience.
- Communication is expected in real time. While some flexibility can be achieved by publicising our operating times, respondents expectations may remain fixed.



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- There is no guarantee of truth. Gossip and misinformation exists and is easily spread online.
- There is a lot of information online and it can be easy to spend a high proportion of time viewing and processing.

Each of these disadvantages can be managed or in some cases negated through the following policy.

Lewes Town Council Social Media Policy

1. Aims

The aim of this policy is to ensure:

- engagement with individuals and communities and successful promotion of council-based services through the use of social media.
- a consistent and corporate approach is adopted and maintained in the use of social media.
- that Council information remains secure and is not compromised through the use of social media.
- that users operate within existing policies, guidelines and relevant legislation.
- that the Council's reputation is not damaged or adversely affected.

The council will make use of these tools to quickly disseminate information but carefully control their use in order to minimise any risk to the Council.

The policy provides a structured approach to using social media and will ensure that it is effective, lawful and does not compromise Council information or computer systems /networks.

That users (regardless whether they are using a personal or official account) ensure they are using social media sensibly and responsibly, and ensure that its use will not adversely affect the council or its business; not be damaging to the Council's reputation and credibility. or otherwise violate any Council policies.

2. Responsibilities

The Town Clerk is the designated owner of all social media accounts in Lewes Town Council's name.

Where a social media account has been set up by another officer, full access will be provided to the Town Clerk. Ownership will be transferred where and when deemed necessary by the Town Clerk.

The opening of any new Social Media channel in Lewes Town Council's name should be approved by the Town Clerk.

The Town Clerk will designate a site administrator who will be responsible for daily monitoring and maintenance of any content on official Lewes Town Council social media channels.

Councillors and staff are at liberty to use their own social media accounts on any platform they choose. These must be identified as personal and make it clear that they do not represent the Council.

Any personal social media account used in relation to the Council is the responsibility of the account holder and must comply with this social media policy.

Councillors and Officers should at all times present a professional image and not disclose anything of a confidential nature. Comments of a derogatory, proprietary or defamatory nature must not be made, and care should be taken to avoid guesswork, exaggeration and colourful language. Guidelines on standards of behaviour expected can be found in this policy.



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3. Monitoring content and measuring engagement

The Town Council reserves the right to restrict or remove any content on Town Council social media platforms that is deemed in violation of social media policy or any applicable law.

Users will be informed that their posts may not be published/or may be deleted if they meet any of the criteria below.

- Comments not topical to the article being discussed
- Comments that are politically motivated
- Profane language
- Material that perpetuates or promotes discrimination of protected characteristics as listed in the Equality Act 2010, including, age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage and civil partnership, pregnancy and maternity.
- Solicitation of commerce ie: Trying to sell items or encourage the sale of products or services not related to the Council.
- Illegal conduct or encouragement/support of illegal activities
- Information that compromises or may compromise the safety or security of the public or public systems
- Content that violates the legal ownership interest of any other party.

Users may include any staff member acting as Lewes Town Council on social media channels but on some channels this may also include members of the public who have the opportunity to post on Lewes Town Council's page.

Posts to Lewes Town Council official channels that do not observe these standards may be retained or acknowledged when it would be beneficial to transparency. As anything put online will, in practice, remain online even when deleted it is often better not to try to hide it, rather deal with it openly and recognize the 'offence'. If and when this may be required is at the discretion of the Town Clerk.

Impact of the Council's posts will be monitored, so far as each platform allows, *eg* to ascertain the number of 're-Tweets' stimulated, to assist in measuring engagement.

4. The Law and Social Media

There are two ways to think about the harmful acts which may be committed using social media: either they are new acts, or they are acts already prohibited by criminal law but committed in the 'new' forum of social media as opposed to elsewhere. It is generally held that the latter is usually the case: social media is simply a platform for human beings to behave or misbehave; it is not about the medium, it is about the offence.

Harassment, malicious communications, stalking, threatening violence, incitement, defamation *etc* are all unlawful and have been for a long time.

The Director of Public Prosecutions has published guidelines for the application of current statute law to prosecutions involving social media communications. The guidance is structured by conduct, relating different sorts of conduct to different potential offences, and some of the statutes which have a bearing are:

- Data Protection Act 1998
- Freedom of Information Act 2000
- Human Rights Act 1998
- Equalities Act 2010
- Defamation Act 2013
- Malicious Communications Act 1988
- Communications Act 2003



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5. Guidelines on the use of Social Media

Standards of behaviour expected as a representative of Lewes Town Council (Official and personal accounts)

- Be aware of your responsibilities, as identified in this social media policy.
- Remember you are responsible for the content you post on social media.
- Never give out personal details such as home addresses and telephone numbers. Contact details should only be given out when they are in the public domain and even then it is best practice to exchange such contact details outside public social media channels. Ensure that you handle any personal or sensitive information in line with the Data Protection Act.
- Know your obligations: you must comply with other council policies when using social media.
- Show respect to all. Be respectful of the authority, employees and other members of the council.
- Be aware that social media networks are rapidly growing in popularity and are used by all ages in society.
- Always remain aware of web security and ensure you use a secure password and keep your computer or other hardware secure from viruses.
- Ensure that any mobile device you use to access social media is also secure to avoid others using your device to post under your own name.
- Do not get involved in an argument online, neither party tends to come off well. Limited space and a short time frame in which to phrase a response can inflame a situation. Try to introduce a constructive discourse by asking for useful feedback or assistance to change, or acknowledge the complaint and try to take the discussion offline.
- Online there are individuals who purposefully start and perpetuate an argument. If someone is refusing to act rationally or unwilling to discuss offline be alert to this. If you encounter and identify such a situation the best response, having once given an opportunity to discuss rationally, is to cease the interaction.

6. Standards of behaviour expected as a representative of Lewes Town Council

Official Channels

- Channels will be operated only during business hours 9:00am – 5:00pm Monday to Thursday, and 9:00 - 4:00pm on Fridays.
- Keep the content relevant to the audience

Appropriate content may include:

- Any Lewes Town Council project; or project in which we are working in partnership.
- Sharing projects from partners related to the above.
- Sharing information in the local public interest
- Avoid where practical any linking of professional and personal social media accounts within web enabled devices and applications. It is appreciated that some platforms such as Facebook will not work correctly without a certain amount of linkage between personal profile and business pages however care should always be taken to ensure you are responding as the correct entity at all times.

Personal accounts

- Use a disclaimer. When using social media for personal purposes, you must not imply you are speaking for the Council. Make it clear that what you say is representative of your personal views only.



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APPENDIX B Defamation – briefing note – the legal framework

Definitions

A defamatory statement is one “which tends to lower a person in the estimation of right thinking members of society generally or to cause him to be shunned or avoided or to expose him to hatred, contempt or ridicule, or to convey an imputation on him disparaging or injurious to him in his office, profession, calling, trade or business” (*Halsbury’s Laws of England*).

A defamatory statement made in writing or printed or in some other permanent form is called libel. The statement may be made in actual words or by images, pictures and the like. A statement made on radio or television is in permanent form. Websites; social media, and “blogs” are included in these definitions. A defamatory statement made orally or in some other transient form (e.g. a gesture) is called slander.

The law of defamation is governed by common law and statute such as the Defamation Act 1996 (“the 1996 Act”) and the Defamation Act 2013 (“the 2013 Act”). One of the objects of 2013 Act, which came into force on 1 January 2014, is to discourage trivial defamation claims.

Actionable defamation

The person defamed can only sue the defamer where the defamatory statement is communicated (in legal terms “published”) to some other person. Thus a defamatory letter written by person A about person B is not actionable if it is sent to Person B and seen only by him/her; but if it is sent to a third party, Person C, and is seen by him/her, there is communication and Person B can sue. However, if the letter is sent to Person C who passes it on unopened to Person B there will be no communication to a third party.

A statement is not defamatory unless it has caused or is likely to cause serious financial loss to a person (s.1 of the 2013 Act)

Who can bring an action for defamation?

Any living person can be defamed and bring an action against the defamer. Individual councillors or council staff can sue for defamation. A company can also bring a defamation action

Public and local authorities (including local councils) can NOT be defamed and cannot sue. This is now settled law: the House of Lords held that it was in the highest interest of the public to allow a council to be subject to scrutiny and criticism, and it would be contrary to such interest for local authorities to have any common law right to bring an action for defamation (*Derbyshire C.C. v The Times Newspapers Ltd [1993] 1.AER.1011*).

In contrast, however, trading or non-trading corporations (*ie* bodies who have a identity, rights and responsibilities distinct from those individuals who form them), *eg* companies can be defamed by statements affecting their trading reputation.

An unincorporated body is an association of individuals or bodies which is not recognised by the law as having a separate legal existence e.g. NALC or a sports club. An unincorporated body cannot be defamed. If words disparaging an unincorporated body reflect on certain individuals, those individuals could sue.

Even though a statement cannot be defamatory of a local authority itself the same statement can be personally defamatory of a member or officer who can bring a personal action in their own name.

Who may be sued for defamation?

As a general rule, the person to be sued is the person who ‘publishes’ the defamatory statement. Every person who participates in publication may be liable as a ‘publisher’. Thus where a libel appears in a newspaper, the originator, reporter, proprietor, editor, printer, publisher and vendor may be liable, as well as the author. . S.10 of the 2013 Act confines legal action to the author, editor or publisher (defined by s.1 of the 1996 Act) of the defamatory statement unless it is not reasonably practicable to bring an action against them. However, innocent dissemination of a libel does not amount to publication, thus a



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postman who delivers a letter in the ordinary course of his duties without knowing it is defamatory is not liable as a publisher.

In contrast to the rule above, a public or local authority (including a local council) may be sued for defamation. A commercial trading company may also be sued. These bodies may also be liable for any act of publication by an agent or employee if done within the scope of his authority or employment. An agent or employee may also, as an individual, be liable as a publisher; but if acting under instruction he would be entitled to be indemnified against any personal financial loss.

A local council may be liable as a publisher of libel in any of the following cases if:

- it directly authorises the making of a defamatory statement (e.g. in the words of a resolution reproduced in its minutes);
- it authorises a member or instructs an officer to write a letter etc in terms which are defamatory;
- a member or an officer is given general authority to express the council's views on a matter and does so in defamatory terms; and
- a council cannot, in itself, be liable for slander, since acts which constitute slander can only be carried out by living persons. Thus the making of a slanderous remark by a councillor at a council meeting will result only in personal liability on the councillor. However a slanderous statement by a council employee, acting in the course of his employment, will make the employing council liable.

Defences

The main defences to an action for defamation:

(i) Truth

S.2 of the 2013 Act creates the defence of "truth". A defendant must prove that the statement is substantially true

(ii) Absolute Privilege

'Absolute Privilege' means that a person who makes a defamatory statement in certain circumstances has an absolute defence (arising under various statutes) to a defamation action. The defences are relevant when there is a public interest in ensuring the ability of parties to speak freely without fear of legal action. Privilege can provide a defence for statements that may be false or damaging.

Those circumstances are:

- court or tribunal proceedings;
- proceedings in Parliament (*Article 9 of the Bill of Rights 1688*);
- contemporaneous fair and accurate reports in any medium of publication of court proceedings (*s.14 of the 1996 Act*);
- authorised reports of court or parliamentary proceedings (e.g. official law reports, Hansard) (*s.2 of the Parliamentary Papers Act 1840*);
- investigations by the local government Ombudsman; (*s.32 of the Local Government Act 1974*)
- statements made in the course of judicial proceedings; and
- affairs of State (unlikely to affect local councils).

Absolute privilege cannot be used as a defence for defamatory statements made in council meetings.

(iii) Qualified privilege

The defence of qualified privilege can arise from statute or in common law. Pursuant to paragraph 11 of schedule 1 of Defamation Act 1996, fair and accurate reports of proceedings at a public meeting of a local authority (which includes local councils) have qualified privilege without explanation or contradiction. This means it is not possible to sue for defamation unless it can be proved that the statement was made with improper motive or malice. In the case of reports of local authority proceedings anyone who considers he has been defamed has a right to have the newspaper publish his explanation or contradiction.



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At common law, the defence will apply where a person making a defamatory statement has an interest or a legal, social or moral duty to make it to the person to whom it is made, and the latter has a corresponding interest or duty to receive it. Qualified privilege will normally attach also to statements (both written and oral) made by local councillors or council staff *in the course of their official duties, and for the purposes of council business*, provided that the statements are made in good faith and without any improper motive. Qualified privilege can be destroyed if the defendant is proved to have been actuated by spite or ill-will. So long as a person believes in the truth of what he says and is not reckless, malice cannot be inferred from the fact that his belief is unreasonable, prejudiced or unfair. A leading case on the defence of qualified privilege (which arose out of remarks made by an alderman of Bolton corporation at a council meeting) is *Horrocks v Lowe* [1974] 1 AER 662. The facts are of no particular relevance, but the following words of Lord Diplock in this Court of Appeal case are worth reproducing in full:

“My Lords, what is said by members of a local council at meetings of the council or of any of its committees is spoken on a privileged occasion. The reason for the privilege is that those who represent the local government electors should be able to speak freely and frankly, boldly and bluntly, on any matter which they believe affects the interests or welfare of the inhabitants. They may be swayed by strong political prejudice, they may be obstinate and pig-headed, stupid and obtuse; but they were chosen by the electors to speak their minds on matters of local concern and so long as they do so honestly they run no risk of liability for defamation of those who are the subjects of their criticism.”

The words can also be applied to written communications sent by a local council in the course of official business.

(iv) Publication on matters of public interest

S.4 of the 2013 Act creates a defence if :

- the defamatory statement was, or formed part of, a statement on a matter of public interest and
- he or she reasonably believed that publishing the statement was in the public interest.

The defence applies to a statement of both opinion and fact.

(v) Honest opinion

S.3 of the 2013 Act creates the defence of “honest opinion” for a defamatory statement. As its name suggests, the defence cannot be used for statements of fact. The defendant must establish that the statement indicated the basis of his or her honest opinion and that an honest person could hold the opinion in the circumstances. The defence is available to anyone, whether or not he or she has a duty or interest to communicate the statement to another person (see “qualified privilege” above). The defence of honest opinion is primarily of use to journalists and others who report on the proceedings of public bodies (including local councils).

(vi) Offer of amends for unintentional defamation

This defence is available where the defendant did not know or have any reason to believe that the statement referred to the claimant and was untrue and defamatory of him.

S.2 of the 1996 Act provides an opportunity for a person to defend a defamatory statement. If a defamation action has been issued, the offer of amends must be made prior to service of the defence. The person who has published a defamatory statement must offer:

- a suitable correction to the statement complained of; and
- a suitable apology to the aggrieved person; and
- to publish a corrected statement and apology; and
- offer to pay the aggrieved person’s costs and damages.

An offer to make amends may be in relation to the whole statement or a specific defamatory meaning (“a qualified offer”).

It is always possible that an offer of amends may be made and accepted without the statutory formalities.

(vii) Innocent dissemination/operators of websites and secondary publishers

S.1 of the 1996 Act provides a defence that is available to defendants who are not the author, editor or commercial publisher (e.g. printers, distributors, on-line service providers and live broadcasters). The



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defendant must have taken reasonable care in relation to the publication of a defamatory statement, and must not have known or had reason to believe that he or she caused or contributed to the publication of a defamatory statement. S.1 is a defence that is available to internet service providers

Website operators also have a defence under s.5 of the 2013 Act if they did not post the defamatory statement on the website; and the aggrieved person gave the website operator formal notice of complaint; and the website operator responded to the notice in accordance with the procedure set out in the Defamation (Operators of Website) Regulations 2013. The defence will not succeed if the aggrieved person cannot identify who posted the defamatory statement on the website. Guidance on the statutory procedure is available from the Ministry of Justice via the following link:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/2639138/defamation-guidance.pdf

Implications for local councils

Local councils, councillors and council staff will be able to take advantage of the appropriate defence(s) if threatened with a defamation action. In particular, those of qualified privilege and fair comment will often be relevant. However, care should always be taken not to make statements which might be defamatory; if in doubt, they should take legal advice before taking any action. The same care should be exercised before publishing statements made by others, *eg.* by reading out letters from constituents at council meetings or reproducing complaints *etc* verbatim in the minutes of a meeting or permitting third parties to post material on their websites.

Where a potentially defamatory matter needs to be reported or recorded then so far as possible only the gist of it should be included in report or minute, so as to exclude publication of defamatory matter.

A distinction must be drawn between statements *etc.* made by councillors in their public and private capacities. A defamatory statement made in a private capacity does not attract any of the defences specified above, especially that of qualified privilege.

Insurance

Pursuant to Article 6(3) of the Local Authorities (Indemnities for Members and Officers) Order 2004 (SI.3082), a council is able to provide indemnity to members and officers in order to allow them to defend a defamation action. An indemnity cannot be provided for the bringing of such an action by a member or officer.

Court Proceedings

If court action is threatened, the parties to the claim must comply with “Pre-Action Protocol for Defamation” published by the Ministry of Justice. This is intended to encourage the exchange of information between parties at an early stage of legal proceedings and to provide a clear framework for resolving the claim. The protocol forms part of the Civil Procedure Rules and can be accessed via the Ministry of Justice using the following link

http://www.justice.gov.uk/courts/procedure-rules/civil/protocol/prot_def

In case of potential challenge or uncertainty, first contact the Town Clerk.