Sefton Council Policy on Dealing With the On-Line Abuse and Intimidation of Councillors

Contents

1.   Introduction

Becoming and serving as a councillor is a responsibility, a privilege and a hugely rewarding undertaking. However, we are aware that an increasing number of councillors and candidates are being subjected to abuse, threats and public intimidation, undermining the principles of free speech, democratic engagement and debate. The growth of social media has provided an additional and largely anonymous route for individuals and groups to engage in such activity. There is also the concern that the growth in public intimidation is putting people off standing as local councillors.

It is of course correct that those who do put themselves forward for public office, and who currently hold public office, should be subject to increased scrutiny and challenge, and that they should expect to be faced with sometimes very strong criticism. The public interest in a democracy of open discussion of matters of public concern does not denote 'open season' and there should be a bar beyond which such challenge and criticism is unacceptable, particularly where the basis of that challenge is devoid of factual substance.

Social Media can be an effective tool to promote political views and activities/projects with which members are engaged. It can also however, present a minefield of delicate situations which can, if not managed correctly, place members at risk of abuse or at risk of breaching the code of conduct.

There is also a darker side to social media which has increased over recent years. Malicious abuse, threats of violence and harassment are unfortunately, all too prevalent across virtual platforms. The Committee on Standards in Public Life's review on 'Intimidation in Public Life" (2017) stated *"The vitality of our political culture depends upon free and vigorous expression of opinion, and it is crucial that this freedom is preserved. The increasing prevalence of intimidation of Parliamentary candidates, and others in public life, should concern everyone who cares about our democracy. This is not about defending elites from justified criticism or preventing the public from scrutinising those who represent them: it is about*

defending the fundamental structures of political freedom". **This is a position that the Council takes seriously.**

2. Councillors and Social Media

This section sets out background information on the use of social media for councillors.

Key points:

- Social media can be very useful in getting feedback on proposals and communicating information about councillors' activities. However, remember that not everybody is on social media and so opinions expressed may not be representative.
- Social media is always on, so consider setting personal limits and establishing your own routine. You have no obligation to respond to posts and comments at any speed but it is often helpful to explicitly indicate that to users.
- Councillors are subject to the council's code of conduct when using social media.
- Consider the content of your communications carefully and apply this test – if you would be reluctant to say it face-to-face or in an official email, then it is probably inappropriate to say online.
- Once something is posted on social media, it is difficult to retain control over how it will be used. Think about this when posting.
- Different platforms allow for different types of interactions. It is useful to indicate the aims and intended audiences of your different accounts.

2.1. Why you may find social media useful

Social media has become an every-day communications tool for councillors and the people they represent, and the potential for councillors using social media is huge. Social media allows you to be innovative and responsive as well as providing links to useful sources of information or sign-posting to other organisations.

In addition, it is a useful source of intelligence:

- People will talk about local issues, their concerns and interests.

- You can find out about breaking news, the latest research or publication or the latest policy announcements.

- People often have little understanding of the councillor role and may have negative perceptions, but social media can give people an idea about the 'life of a councillor'.

- Residents can be made aware of and provide feedback to your work and campaigns, including mobilising support and interest and gathering followers.

- You can have conversations with people who do not traditionally seek out their local representatives.

- Social media allows for immediate communication. You can pass on information and receive opinions in minutes. You can forward information from other people equally quickly (bearing in mind that you may then share equal responsibility for anything later seen to be untrue or defamatory).

- The local and sometimes national press will follow councillors on Twitter or Facebook. Social media is a growing source for stories for news outlets as each tweet or comment is effectively a mini-press release.

2.2.   Online safety, personal security and digital citizenship

Digital Citizenship is about engaging in appropriate and responsible behaviour when using technology and encouraging others to do so as well. It encompasses digital literacy, ethics, etiquette, online safety, norms, rights, culture and more.

Developing digital citizenship requires us to improve online political communications.
It is about expressing our opinions while respecting others' rights and personas and avoiding putting them at risk or causing unnecessary distress. It is about respecting freedom of speech and dissidence while condemning abuse.

In any personal online biography, it is advisable to make clear that the views are those of the councillor in question and may not represent the views of the council. If space allows, you may also want to set out the aims of the page, the 'response' policy, such as "I welcome questions via email" and an 'engagement' policy, such as "abusive content will be removed".

It is easy to put personal information online, such as your birthday, routines, places you frequent, future visits, holiday destinations, relationships, and opinions, etc., which are then available for anyone in the public domain to access. For personal safety, as well as identity security, you may want to consider whether you share personal information, images of friends and/or family and details of any routines.

Social media platforms have different privacy options. You can choose different levels and change them depending on your own preferences.

Concerning personal security, it is advisable not to include on social media details such as your personal phone numbers, home address, details of family members or vehicle details. A picture paints a thousand words, and a photo can relay personal information you may not want to be shared on social media.

Some people say things via social media that they probably would not say in person, and they can post false information, insults or messages that you would not want to be associated with you. These can multiply and be shared quite rapidly. Councillors, and in particular female, LGTBQ+ and BAME councillors, are unfortunately increasingly the subject of online abuse, bullying and harassment on social media.

You can be sent phishing requests and malicious software on social media the same as you can on email, so maintain the same level of vigilance. Be aware that some individuals post socially unacceptable, defamatory, inciting or even intimidatory remarks to generate online activity on the back of advertising or promotion of ideologies, brands or events. Similarly, the term "internet troll" is used to refer to a person or group of people who deliberately start arguments or upset people by posting inflammatory or off-topic messages online with the deliberate intent of provoking readers into an emotional response or of otherwise disrupting normal discussion, often for their own amusement.

Be aware that social media is the principal form in which misinformation spreads. Very often articles that spread false information trigger strong emotional responses

such as fear, anger or shock to maximise 'share ability'. Individuals posting online are responsible for the content of their posts even if they did not originally create it. Councillors should very carefully consider the content of new posts, posts they have shared and posts they support.

Be aware of safeguarding because social media sites are often misused by offenders. Safeguarding is everyone's business – if you have any concerns about other site users, you have a responsibility to report these.

The usual protocols regarding confidential information, copyright, data protection, purdah, exempt reports, etc., apply to social media. Avoid publishing anything where there is doubt or seek permission in advance.

To be an effective councillor you won't stop meeting people and posting leaflets simply because you are posting online. You will know your residents best—consider which channel works best for them to connect with you, online and offline.

2.3. Responsibilities of councillors on social media

Councillors are personally responsible for the content they publish on any form of social media.

Social media sites are in the public domain and it is important to ensure you are confident of the nature of the information you publish. Once published, content is almost impossible to control and may be manipulated without your consent, used in different contexts, or further distributed.

You can make use of privacy settings if you do not want your social media to be accessed by the press or public. It is advisable to read the terms of service of any social media site accessed and make sure you understand their confidentiality / privacy settings.

Some councillors choose to have separate social media profiles for personal and council use. It is important to keep in mind, however, that even the strictest privacy setting is no guarantee for posts or actions to remain private. As a rule of thumb, never post anything online you would not be comfortable saying or sharing in a public meeting.

The code of conduct for members and relevant legislation continues to apply online and in social media. If you are referring online in any way to your role as a councillor, you are deemed to be acting in your "official capacity" and any conduct may fall within the code.

Don't become a troll yourself!

Social media is a great tool for councillors to challenge and scrutinise, but always think about what you are saying, how you are saying it, how often and about whom. If you are perceived to be too aggressive or too confrontational or too frequent, it could begin to damage your reputation, undermine your relationship with colleagues or you could risk breaching the Code of Conduct in terms of bullying, intimidation or lack of respect for others.

Remember

If you receive a message or someone posts something on your page that you consider to be unsuitable remove it as soon as possible. If you "like" or appear to endorse or retweet a message or image you are regarded as having published it, and will face any legal consequences. It is therefore important to regularly check and moderate any site on which others can post.

Beware of Fake News!

Social media is breeding ground for fake news or 'click bait' (where a deliberately salacious headline with a link tries to draw you in, often to a very mundane news item accompanied by lots of pop-up adverts); view all news or gossip with a discerning eye – it could be embarrassing if you retweet or promote fake news and, worse, you could be breaking the law if you circulate false statements about someone, even if you are just retweeting something someone else has posted.

If you create a social media presence it may be a good idea to have a graphic like below to set the grounds rules of how you will manage your social media platform.

Rules of engagement

Welcome to my page, which aims to communicate my activities as a councillor.

If you wish to be a part of this online community, you must agree to abide by this code of digital engagement, which is designed to keep everyone safe.

RULE 1
Debate and disagreement are welcome on this page, but only if expressed with courtesy, respect and politeness.

RULE 2
Posts should not contain abuse, harassment, intimidation or threats of any form.

RULE 3
Posts should not contain any form of discrimination – including racism, sexism, ageism, ableism, homophobia, transphobia or religious intolerance.

RULE 4
Posts should not spread false or unverified information.

RULE 5
For transparency reasons, users should not post anonymously.

If any of these rules are broken, page admins reserve the right to delete posts, block users and report content to the police if necessary.

It may not be possible to respond to all queries on this page due to time constraints - if you have specific enquiries or casework, please send directly to my official email.

Local Government Association   CLILC-WLGA   nilga northern ireland local government association   COSLA

For more information on the LGA's work on handling abuse on social media and digital citizenship visit: **www.local.gov.uk/civility-public-life**

REF 43.4

2.4. Dealing with harmful rumours and misinformation

It is difficult not to engage when you are the subject of rumours, misinformation and smear campaigns. While it is always tempting to respond and clarify every rumour and falsehood circulated about you, it is also useful to think about the emotional, economic and time costs of engaging as in many cases, rumours disappear as quickly as they emerged. The following tips may be useful:

- Calmly try to understand who is behind the attack. Most of the time, they are people with a clear agenda trying to gain control or to manipulate.

- Correct the facts. This can be done with a formal statement or if you can identify the source, then do it publicly by correcting their posts with facts and evidence.

- Remember that rumours and misinformation are fed by repetition. It is good to defend your reputation but councillors may find that the most efficient way is to do it once and then stop engaging this way.

- Respond or ignore? When faced with an abusive comment give yourself some time to decide whether to respond or ignore it. Trolls often have few followers or few followers of significance – if you reply it can lead to a tit for tat argument

fuelling further confrontation and provides the troll with the "oxygen of publicity" or the satisfaction of seeing you riled. Chances are you'll have far more followers than the troll, so if you reply, all of your followers will be aware of the troll's original tweet. Ignoring the comment can lead to short term allegations of dodging an issue but may succeed in the long term.

- Stay calm and polite - not every criticism is from a troll – sometimes a frustrated member of the public may be critical or angry with you initially on social media, particularly if they are trying to resolve a council service issue. If you respond constructively, their tone may change and they may even apologise or show you appreciation online.

- Bear in mind that for every troll there will be many more legitimate and sensible followers. Think of them when you respond. One approach is to respond with facts only or to refer the troll to a longer factual statement about the situation. You might want to invite the troll to a public meeting. They may find it harder to be abusive in public. You may also want to remind the troll that you are more than happy to have a political debate in your role as a councillor but that personal comments about you or your family are unacceptable.

- Leave the environment the rumour is being spread. A smear campaign tries to manipulate and gain control but no control can be gained if you do not participate. You may wish to advise your followers that you will be logging out of social media for a period of time, which gives the rumour time to calm down while protecting your own emotional and mental wellbeing.

- Rumours and smear campaigns can be very stressful and at times, they can feel very isolating. Keep your self-confidence by talking to family, friends and others in your support network. Some may also feel able to counteract rumours with factual information.

- If you can identify the source of the rumours and smear campaigns, you should document it and keep a record. This may be useful if further legal action is required.

2.5. Handling abuse on social media

This section provides advice on handling intimidation and abuse online.

Key points:

- Keep a record of any abuse
- Carefully consider how and whether to respond to inaccurate or defamatory social media comments
- Report any abuse to the social media companies for its deletion or to raise concerns about an account

Any intimidation or abuse on social medial is subject to all the same potential criminal prosecutions as other forms of intimidation, with the additional criminal offences relating specifically to electronic communications.

You are best placed to determine whether a post or interaction is abusive or intimidating, and if you feel intimidated you can take action to report it. Good digital citizenship encourages the labelling of abusive and inappropriate online material so that both the perpetrator and others viewing it can also know it is not acceptable.

However, it does not necessarily follow that the police or courts will regard it as intimidatory behaviour in law as they have to apply their own 'average person' tests – also known as 'reasonableness tests' or the 'Clapham omnibus' test.

Every situation will be different, and it will need a personal judgement about whether it is worthwhile to pursue the incident, ignore it or politely acknowledge.

Keep a record

If you have received online abuse, even if you are not overly concerned or if you intend to ignore it, you should consider keeping a record should any incidents escalate in the future. You can simply 'screen shot', 'clip' or 'snip' tweets or posts on your phone, tablet or computer. You may also decide to warn the perpetrator that you are keeping a record of all messages and may refer them to the appropriate authorities, which may stop them posting further comments or might encourage them to delete them.

2.6. Tackling abuse on social media

In any situation that arises on social media, you will need to decide whether you want to engage in a discussion or ignore it, and whether the communication is abusive, intimidatory or threatening.

When determining whether to engage or ignore, you'll need to balance the risks and likely success of either approach in stopping the situation. Engaging in online discussion could defuse it through the use of humour or similar, or could inflame the situation further. There is no right or wrong here. However, it is likely that the person posting has less of a following or public profile than you and by engaging you can increase their audience.

If you think there are threats to your personal safety or security, you can ask for advice from the police.

It may be useful to refer to the section on the legislation applicable to harassment and abuse to see if the communication falls into any of the categories so you can describe it to the police in these terms.

Perhaps most distressing is when multiple users all send abusive messages in quick succession or at the same time. This can be overwhelming and the structure of Twitter in particular means that the more posts and retweets, the more others see it, and they can be encouraged to add to the abuse. It can escalate very quickly. There are sadly some who will willingly add to the abuse for their own amusement, even if they are unaware of the details. This is a difficult situation to handle, particularly if the information is being held by another user. If this occurs, you are advised to make a record of the abuse, inform the social media platform, the council and the police if any of the tweets make significant personal threats.

If someone has posted some inaccurate information about you or the council, and if the information is defamatory (a false statement that could harm your reputation), again, the first step is to gather evidence. You may then want to contact the individual initially to request that the tweet or post be deleted; some individuals may have made a mistake without malice and will remove their post immediately.

Depending on the nature of the tweet or post and the number of followers who may have viewed the tweet, you may wish to seek a correction and/or an apology. If this approach is unsuccessful or where a defamatory tweet or post causes serious concern or is part of a concerted campaign, in addition to informing your council, you may wish to take legal advice and to issue a "notice and take−down" letter via your solicitor (assuming you are able to locate the perpetrator). Although you may not have the intention of proceeding further, the threat of legal action is often a powerful deterrent and can prompt a swift and successful resolution.

If the tweet or post is a complaint about a council service, you can ask for contact details and pass the information to officers to follow−up on and inform the individual that this is the course of action you are taking. This may help defuse any tensions.

2.7. Muting or blocking accounts on Twitter and Instagram

You may wish to unfollow, mute or even block a person or group who is persistently posting you or is being abusive or intimidatory. Guidance about how to mute and block is available from Twitter and Instagram, but in summary:

Muting allows you to remove an account's posts from your timeline but does not go as far as unfollowing or blocking the account. Muted accounts will not know that they have been muted and you can 'unmute' them at any time.

Blocking allows you to restrict specific accounts from contacting you, seeing your posts or following you. Unlike muting, the perpetrators can find out that they have been 'blocked' and may accuse you of avoiding their scrutiny; this may be a small price to pay if their behaviour is checked and can be easily rebutted if necessary.

2.8. Reporting the abuse on Twitter

Twitter itself promotes 'Rules' encouraging constructive debate but it explicitly prohibits behaviour "…that crosses the line into abuse, including behaviour that harasses, intimidates, or uses fear to silence another user's voice".

If tweets are so offensive that you believe they violate Twitter's rules, you can report them to Twitter who may decide to take action. For further information about how to report 'violations' visit Twitter's "how to report violations" page.

Anyone can report abusive behaviour directly from a Tweet, profile, or Direct Message.

An extract from the guide on Twitter is as follows:

To report a Tweet:

- Navigate to the Tweet you'd like to report on twitter.com or from the Twitter for iOS or Android app.
- Click or tap the icon.
- Select Report.
- Select It's abusive or harmful.
- Next, we'll ask you to provide more information about the issue you're reporting. We may also ask you to select additional Tweets from the account you're reporting so we have better context to evaluate your report.
- We will include the text of the Tweets you reported in our follow-up emails and notifications to you. To opt-out of receiving this information, please uncheck the box next to Updates about this report can show these Tweets.
- Once you've submitted your report, we'll provide recommendations for additional actions you can take to improve your Twitter experience.

To report an account:
- Go to the account profile and click or tap the overflow icon
- Select Report.
- Select They're being abusive or harmful.

- Next, we'll ask you to provide additional information about the issue you're reporting. We may also ask you to select Tweets from that account so we have better context to evaluate your report.
- We will include the text of the Tweets you reported in our follow-up emails and notifications to you. To opt-out of receiving this information, please uncheck the box next to Updates about this report can show these Tweets.
- Once you've submitted your report, we'll provide recommendations for additional actions you can take to improve your Twitter experience.
- Note: You can report an account that you have blocked or that has blocked you. Go to that account's profile and click or tap the overflow icon and then select Report.

How to report an individual message or conversation

Step 1

Click into the Direct Message conversation and find the message you'd like to report. (To report the entire conversation, click the more icon)

Step 2

Hover over the message and click the Report message icon when it appears.

Step 3

You can also click on the information icon and select Report @username.

Step 4

If you select It's abusive or harmful, we'll ask you to provide additional information about the issue you're reporting. We may also ask you to select additional

messages from the account you're reporting so we have better context to evaluate your report.

Step 5

Once you've submitted your report, we'll provide recommendations for additional actions you can take to improve your Twitter experience.

Reporting the abuse on Instagram

Instagram has a set of 'community guidelines' allows you to report abuse via its Help Centre which can be accessed in the Help section in Settings.

An extract from the guide on Instagram is as follows:

There are multiple ways to report something or someone on the Instagram app for **Android and iPhone**:

Tap more actions (iPhone) or more actions (Android) above the post.

Tap Report.

Follow the on-screen instructions.

Tap their username from their feed, story post or from your chat with them. You can also tap explore and search their username to go to their profile.

Tap more actions (iPhone) or more actions (Android) in the top right of the profile.

Tap Report.

Follow the on-screen instructions.

There are also multiple ways to report something or someone on Instagram.com from a **computer or mobile browser**:

Click or tap more actions in the top right of the post.

Select Report and follow the on-screen instructions.

Click or tap their username from their feed or story post, or click or tap explore and search their username to go to their profile.

Click or tap more actions next to their username.

Select Report user, then select the type of account that you want to report and follow the on-screen instructions.

2.9.   <u>Tackling abuse on Facebook</u>

Facebook has slightly different 'Community Standards' to Twitter and alternative methods of dealing with complaints.

You are also more likely to encounter community or campaign groups or pages which facilitate scrutiny of you, fellow councillors or your local council on Facebook, and some pages will have been set up specifically with that purpose in mind. If these groups are not moderated effectively, they can provide a conduit for abuse and harassment.

The Council has a presence on Facebook and Twitter and it may be helpful to seek advice and assistance from the Council's Communications Team.

There is no right or wrong way with regards to responding to a group or page which regularly criticises the council or councillors; some believe that it is beneficial to engage constructively, to explain, inform or signpost and hopefully improve awareness, understanding and support, whilst others are more reluctant as it will require emotional energy and time and the likelihood of successful engagement may be limited.

If you are concerned about comments or posts about you in a group or page, you can report the post to the group administrator. If you are concerned about a group that is abusive and you think it has broken Facebook's Community Standards, you can report the group to Facebook.

Although Facebook encourages respectful behaviour and takes action to protect 'private individuals' from bullying and harassment, it permits 'open and critical

discussion of people who are featured in the news or have a large public audience based on their profession or chosen activities'.

There is a range of options for you to manage abuse or harassment on Facebook and full instructions are available on the Facebook help page:

- if you want a post removed from Facebook, you can:
  - ask the person who posted it to remove it
  - if you don't like a story that appears in your news feed, you can hide it
  - if you are not happy with a post you're tagged in, you can remove the tag
  - you can leave a conversation at any time, though the other people in the conversation will be notified and you will no longer receive messages from the conversation
- you can **unfriend** or **block** another user; they will no longer be able to tag you or see things you post on your timeline
- If the post goes against Facebook's Community Standards you can report it to Facebook.

An extract from the guide on Facebook is as follows:

If you think a message you've received is spam or goes against our Community Standards, you can let us know.

To send feedback on or report a conversation on Facebook:

In the top right of your Facebook account, click messenger.

Open the conversation that you want to report.

At the top, click the person or chat's name or.

Click Something's wrong.

Select a category to help us understand what's wrong, and then click Send feedback.

Click Done.

We won't let the person know who's reported them. Bear in mind that not everything that may be upsetting violates our Community Standards.

Community Standards violations include:

Bullying or harassment: Content that appears to purposefully target a person with the intention of degrading or shaming them, or repeatedly contacting a person despite that person's clear desire and action to prevent contact.

Direct threats: Serious threats of harm to public and personal safety, credible threats of physical harm, specific threats of theft, vandalism or other financial harm.

Sexual violence and exploitation: Content that threatens or promotes sexual violence or exploitation, including solicitation of sexual material, any sexual content involving minors, threats to share intimate things you want to keep private (such as images or videos) and offers of sexual services.

Learn more about Facebook safety tools and resources. If you ever feel like you or someone you know is in immediate danger, contact your local police.

If someone is bothering you on Messenger, you can always block messages from them or block them on Facebook.

2.10. Tackling abuse on blogs

Blogs are a quick and easy way for members of the public or councillors to set up mini-websites to discuss and air views on matters of interest. Occasionally, blogs may take an interest in local, community matters and some have been set up specifically to scrutinise the local council or councillors. At other times, councillors may face negative comments on their own blog.

While scrutiny is a key part of local democracy and accountability, on occasions, some blogs may make unfair comments or untrue allegations or may include abusive or threatening commentary. Unlike Facebook and Twitter, there are no 'community rules or standards' to moderate or challenge such content.

Depending on the nature of the comments, councillors therefore have several choices:

- ignore them altogether and hope that few people read and become aware of the comments.
- engage with the blogger and seek to assure, inform or correct the comments as appropriate. Bear in mind that this course of action may fuel and prolong the debate and abusive comments further.
- If you are concerned that the blogger is harassing you, threatening you, spreading malicious communications or is defaming or libelling you, you may wish to record any evidence (such as screen shots) and seek legal advice or refer the matter to the police.

3. Legal Considerations

Whilst the law on physical and verbal intimidation and abuse is better established and known, the law has been catching up with developments in the area of communication generally and the recent seriousness of intimidation arising from the conduct of our democracy. This includes the speed and available uses of the internet as well as the subsequent significant growth in the use of social media in both promoting political causes and discussions with residents and voters.

Although social media can create a new type of relationship with the electorate, it can provide a platform, through its remoteness and anonymity, to be used by those wishing to intimidate others.

Councillors are not employees of the council and do not have the benefit of safeguards in employment legislation if they suffer intimidation. However, they will be supported by the council to undertake their duties safely and without fear or intimidation. Their political party may also offer them support.

In undertaking your activities as a councillor, you are protected by the same legislation relating to intimidation or threats as to any member of the public. As councillors are servants of democracy, they, arguably, deserve greater support as they undertake their public duties.

If you are feeling intimidated, then that experience is legitimate and should be your own test as to whether you want to report the situation. In determining whether an act is classed as intimidation in law, the police and the courts will apply their own tests based on the existing legislation and 'reasonableness'. However, legislation, guidance and case law evolve and this should not put you off reporting a situation and seeking a resolution should you feel you have been intimidated.

Threats to kill, rape, serious violence or actual common assault, damage to property (such as arson) should be reported to the police.

3.1. Harassment

There have been a number of cases arising from the provisions of the 1997 Protection from Harassment Act where judges have provided guidance as to when the intimidation complained about should require the involvement of the civil or criminal law. The judge in the case of *Dowson and Others v Chief Constable of Northumbria [2010] EWHC 26* set out six steps under the 1997 Act:

1. There must be conduct which occurs on at least two occasions
2. Which is targeted at the individual
3. Which is calculated in an objective sense to cause alarm or distress, and
4. Which is objectively judged to be oppressive and unacceptable
5. What is oppressive and unacceptable may depend on the social or working context in which the conduct occurs
6. A line is to be drawn between conduct which is unattractive and unreasonable, and conduct which has been described in various ways such as "torment" of the victim, "or an order which would sustain criminal liability".

Although the courts look at the conduct from an objective point of view, the victim's reaction to the intimidation will be subjective and it will be for that individual to decide upon the action which is taken. The courts will also take a view on whether the perpetrator knows or ought to know that his conduct amounts to harassment.

Unlike with defamation claims by officers or members, a council can indemnify officers and members to bring an action under the Act. The council can also start an action in its own name (section 1(1A) and 3A of the Protection from Harassment Act 1997) where there is harassment of two or more of its members or officers which the perpetrator knows or ought to know involves harassment of those persons; or by which they intend to persuade any person to do something which they are not obliged to do or not to do something which they are entitled or required to do.

3.2. Defamation

Defamation is a complex legal area necessitating specialist legal advice. It is often a lengthy and costly pursuit of action and should be considered carefully. Simply put, if someone has posted a false statement which could cause serious harm to an individual's or organisation's reputation and character this could give rise to a claim for defamation. Defamation law both protects from damage to reputation and character and compensates for the loss and damage arising.

There are a number of defences to defamation, including truth, honest opinion, fair comment, publication on matter of public interest, absolute privilege, and innocent dissemination.

It is important to note that local authorities cannot themselves sue in defamation, which was a principle laid down by Derbyshire County Council v Times Newspapers Limited ([1993] 1 All ER 101). In that case the court held that local authorities are distinguished from corporations as democratically elected government bodies and as such, it was highly important that they were open to criticism. The threat of defamation would therefore inhibit freedom of speech and be contrary to the public interest.

Officers (or members) of a local authority can sue for defamation in connection with statements made about them which relate to the exercise or discharge of their duties or as an employee of the authority and where it personally relates to them *(McLaughlin v Lambeth LBC [2010] EWHC 2726 (QB))*.

In Thompson v James [2013] EWHC 515, the judge acknowledged that there would be "a serious gap in the law if members and officers of a local authority (and others who work in or for other public authorities) could not sue for libel" and "if those who work in or for public authorities could not defend themselves against the dissemination of falsehoods, the public would be the losers".

In accordance with The Local Authorities (Indemnities for Members and Officers) Order 2004 an authority cannot provide an indemnity for a defamation claim brought by a councillor but it can fund a defence to such a claim.

3.3. Malicious Communications Act 1988

Section 1 of the Malicious Communications Act 1988 makes it an offence for a person, with the intention of causing distress or anxiety, to send certain items to another person which convey an indecent or grossly offensive message or are themselves of an indecent or grossly offensive nature, or which convey a threat or information which is false and known or believed to be false by the sender.

3.4. Communications Act 2003

Section 127 of the Communications Act 2003 makes it an offence to send through a 'public electronic communications network' a message or other matter that is 'grossly offensive' or of an 'indecent, obscene or menacing character'. The same section also provides that it is an offence to send or false message 'for the purpose of causing annoyance, inconvenience or needless anxiety to another'.

Prosecution Service guidance in relation to both the Communications Act 2003 and the Malicious Communications Act 1988 makes it clear that a prosecution should only proceed where it involves offensive, shocking, and disturbing communications.

4.   Support and Advice

The Corporate Communications Team provide social media training for elected members, especially newly elected. Please contact Democratic Services if you wish to register for the next training session. The Corporate Communications Team are always willing to provide advice and guidance on the use of social media, and can be contacted at communications@sefton.gov.uk

As part of the Council's Member Development Programme training sessions are provided on 'Communications and Social media' and 'Cyber Security'

If a councillor is concerned about social media activity they can seek support and guidance from:

- Their political group leader or whip
- The Council's Chief Executive – dwayne.johnson@sefton.gov.uk - 0151 934 2057
- The Council's Monitoring Officer – david.mccullough@sefton.gov.uk – 0151 934 2008
- **Merseyside Police** have identified dedicated officers who can advise members as follows:
  - Hub 1 for us is South Sefton – Bootle / Seaforth / Litherland / Netherton / Maghull / Aintree / Lydiate / Crosby / Waterloo (Insp Mavrakakis)
  - **B.Community.Hub.1@merseyside.police.uk**

  - Hub 2 is North Sefton – Southport, Birkdale, Ainsdale, Formby, Hightown (Insp Fisher)
  - **B.Community.Hub.2@merseyside.police.uk**

<u>Access to Counselling and Cognitive Behavioural Therapy (CBT) Support via Health Unit</u>

The Council currently provides support to its employees and councillors for mental health related issues, harassment support and where employees have been subject to abuse through its contracted agreement with Listening Ear. Listening Ear is a charitable organisation offering a wide spectrum of accredited support services. These services include:

- **Cognitive Behavioural Therapy (CBT)** which focuses on current problems rather than past issues. It aims to change the way clients think about these (the cognitive element) and how they behave in the face of them (the behavioural element). In short, it aims to help people to deal with their problems in a more positive way over a dedicated period of time, allowing them to learn new techniques and then test them out.
- **Counselling** which can be provided in a number of ways such as person centred, solution focused, mindfulness and bereavement.

   More information about counselling and CBT is available via the health.unit@sefton.gov.uk

To access either of the above services please contact Jan Martin in the Health Unit on 0151 934 3650.

Links to access therapy are supported by providing details of the web chat Qwell, which is an online counselling and emotional wellbeing service for employees and councillors over 25 and Kooth for those employees and councillors under 25. They are accessible either through a smart phone, tablet or computer and employees can sign up for free and explore both services at https://www.qwell.io/ or https://www.kooth.com/

After signing up, employees and councillors have access to online counsellors every day until 10pm via drop-in sessions or scheduled text-based sessions; self-help materials; moderated forums and personal goal-based journals.