

Policy and practice regarding letters and e-mails received that contain offensive ¹ or, potentially libellous or defamatory comments.

1.0 Background

- 1.1 As part of the Council's current practice, all letters and e-mails submitted that make representations on planning applications are published on the web site, subject to the terms of the Data Protection Act.
- 1.2 The dissemination or publication of libellous and/or defamatory statements in correspondence received, can make the publisher liable.
- 1.3 The current practice is not to publish any such correspondence on our web site.
- 1.4 It is considered that a policy note be prepared that sets out an agreed practice for dealing with such correspondence.
- 1.5 Whilst at present the Council has no such overarching policy, it is important that the planning process contains clear guidance as to how to deal with such, albeit hopefully rare, instances.

2.0 Example of letter to be sent

- 2.1 During the processing of a recent wind farm appeal, the planning inspectorate returned a letter to a correspondent for just the above reasons. It was this that flagged up the issue for the department. Their letter stated -

Thank you for your correspondence.

All representations about an application are published on our web site However, we cannot put copies of any material that may be libellous on our website as we could become liable for publishing libellous statements.

We are returning your correspondence to you because we consider that the comments highlighted may be libellous. If you resubmit your representations, omitting these comments, bywe will make sure that they are taken into account when the application is determined.

- 2.2 This form of words, having been used by the Planning Inspectorate, is, with minor amendment, considered suitable for use by ourselves.

3.0 Suggested practice

- 3.1 The following practice is recommended and the stages identified;

¹ The issue of offensive correspondence is dealt with separately at the end of this report.

- a) Receipt of letter/e-mail
 - i) Support officer will make an initial assessment whether it contains potentially libellous or defamatory comment. If anonymous, destroy copy or delete e-mail.
 - ii) Support officer to discuss with Team Leader.
 - iii) If Team Leader unsure then discuss with Team Leader Planning.
- b) Assessment of whether it contains potentially libellous or defamatory comment.
 - i) If decision taken that not libellous or defamatory, then proceed as normal to place item on web site in accordance with Data Protection Act.
 - ii) If decision taken that the comment(s) is(are) potentially libellous or defamatory, **do not** place on the web site and proceed to stage c) below.
- c) Letter or e-mail written by case officer to correspondent using the template in Appendix 1. Return letter to correspondent with suspect elements highlighted. Copy kept in separate file (to be set up for such letters)
- d) Support Officer to destroy/delete original letter/e-mail.
- e) If no response within 10 working days, destroy file copy of letter with attachment sent.
- f) If response received, return to Stage a) above and destroy file copy of letter with attachment sent.

4.0 Offensive correspondence

- 4.1 Offensive correspondence is to be handed immediately to the Team Leader Planning for a decision relating to response or destruction or deletion.

5.0 Recommendation

- 5.1 It is recommended that the above policy/practice note be adopted and implemented immediately by the planning service.

Appendix 1

Template for letter or e-mail to be sent to correspondents where potentially libellous or defamatory comments are included.

Dear Sir/Madam

Heading as given

Thank you for your correspondence/e-mail.

All representations about an application are published on our web site. However, we cannot put copies of any material that may be libellous or defamatory on our website as we could become liable for publishing libellous statements.

(Where a letter is sent in with an address or an e-mail includes an address) We are returning your correspondence to you because we consider that the comments highlighted may be libellous. If you resubmit your representations, omitting these comments, within 10 working days of the date of this letter, we will make sure that they are taken into account when the application is determined.

(Where an e-mail is sent in without an address) We will return your correspondence to you if you would please let me have your address. When your e-mail is returned to you, you will see that some comments have been highlighted. We consider that those comments highlighted may be libellous. If you resubmit your representations, omitting these comments, within 10 working days of the date of this e-mail, we will make sure that they are taken into account when the application is determined.

Yours faithfully