

Preface added 26<sup>th</sup> July 2022

West Hill Parish Council (WHPC) have been in contact with the resident as reported at the last meeting in an attempt to identify how the resident's dispute(s) with WHPC could be resolved and to identify the specific issues the residents considers need resolution.

The below paper (in black type) was prepared ready for publication on 27<sup>th</sup> July 2022, with the agenda and papers for the 2<sup>nd</sup> August 2022 WHPC meeting.

However, a letter received by WHPC via email at 18:12 hrs 26<sup>th</sup> July 2022 from the resident circulated to Councillors and the Clerk places the prospect of resolution in a different light.

The original paper is for consideration, but, there is of necessity an addendum (in red) for consideration and decisions.

**Resolution – how can this be achieved?**

**Purpose – to consider how the issues with the WHPC for a resident can be resolved.**

**Background**

1. There is one resident of West Hill, out of a population of over 2000, who is a frequent correspondent with WHPC over a wide range of issues. Such correspondence has gone on over the last five years and has been escalating in recent years. In December 2021 and again in June 2022, due to the quantity, content and tone of the communications this resident had to be deemed a “vexatious complainant” in accord with the WHPC Complaints Policy.
2. The WHPC has now dealt with several Freedom of Information Requests and Subject Access Requests from this resident - all reported to WHPC meetings and duly recorded in the Minutes. The resident can make such requests and the WHPC, as a public authority, has to deal with these and any subsequent complaint the resident makes to the Information Commissioner's Office.
3. The WHPC has also received numerous Complaints from the resident, that have all been investigated in accord with the Complaints Policy, reported to the Council and recorded in the Minutes. To date all complaints received have not been upheld, therefore declared ‘unfounded’.
4. In July 2020 the resident made a complaint about WHPC, but asking that we do not investigate as he was reporting to the Monitoring Officer of the East Devon District Council. In September 2020, the Monitoring Officer informed WHPC that he was dealing with complaints against the Council and 5 Councillors. The Monitoring Officer never advised the Council nor Councillors of the content of the complaint(s), WHPC were then advised that the complaint had be reworded to be against the then Chairman. At the outset, in 2020, WHPC agreed to partake in facilitated mediation. In October 2021, the Monitoring Officer arranged for a meeting for mediation between the Chairman, Clerk and the resident with the Monitoring Officer to be held on 4<sup>th</sup> November 2021. This was cancelled by the Monitoring Officer on the 2<sup>nd</sup> November 2021. On the 3<sup>rd</sup> November 2021, the resident wrote to both

the Monitoring Officer and WHPC to advise that as a result of the cancellation of the mediation meeting they now intended to take civil litigation against WHPC. To date no litigation has been notified to WHPC. On the 9<sup>th</sup> November 2021 the Monitoring Officer informed WHPC would not be progressing the complaint against WHPC. (Minute 21/190)

5. The resident has often stated that WHPC has refused to undertake mediation.
  - The process described at 4 supra ceased and the decision in December 2021 that the resident was deemed a “vexatious complainant” which stated all matters previously raised by the resident had been dealt with by WHPC, the matters are now considered closed and the Council will not engage in further communication on those matters as per WHPC policy. (Minute 21/313)
  - The only other time the WHPC have considered an issue of mediation was in regard to report from a mentoring session arranged for a Councillor, where the mentor recommended mediation but made clear he didn’t understand what the issues raised were. The WHPC did not follow through on that recommendation. (Minutes 22/067, 22/098 and 22/104)

### Options?

6. The WHPC has regularly informed the resident that there is a desire for resolution to the ongoing issues. E.g. In the Chairman’s letter of 20<sup>th</sup> June 2022 to the resident providing the outcome to a complaint the resident had made she stated, “ The Council continues to seek resolution to the ongoing drain on Council resources by your conduct. You are welcome to make a constructive suggestion as to how such should be achieved”.
7. The resident in an email of 23<sup>rd</sup> June 2022 set out two alternatives:
  - a) Face to face meeting between the resident, the former clerk and present clerks and the Chairman with an independent legally qualified interlocutor; or
  - b) The Council agrees to conduct an independent mediation or arbitration process with the whole Council and Clerk.
8. In a WHPC letter of 24<sup>th</sup> June 2022 to the resident, it was stated, “ It is a matter of import to you and the Council that matters are resolved”. The letter sought for the resident to identify the specific issues they considered required resolution, and another matter that cannot be placed in an open public paper.
9. The resident stated in a letter of 3<sup>rd</sup> July 2022 that, “The Chairman and Council are in no doubt about the specific issues that require resolution but the major one is the culmination of the whole matter in the publication of the anonymous and malicious letters containing my personal data which the Council and some of its members have sought to conceal from me. The Council is clearly at fault and we are at the point of resorting to judicial process”. WHPC responded reinforcing the fact that there was a wish to progress matters to bring about a resolution to the longstanding dispute the resident has with the Council. Again a request was made for the resident to identify the specific issues they wish resolved so a paper could be brought to Council to consider, a potential process, cost implications etc. The response received was another copy of the previous letter of 3<sup>rd</sup> July 2022 and took matters no further forward. As it was believed the wrong letter had been attached this was raised with the resident but another letter was not forthcoming.

10. A letter has been received on 22<sup>nd</sup> July, 2022 from the resident – also dated 3<sup>rd</sup> July 2022, but referring to matters post that date. With regards moving matters forward for resolution the resident now states:
- a) *“I have repeatedly made it absolutely clear that formal mediation is the best way of progressing towards resolution with candour and constructive”.*
  - b) *“... I will offer an alternative in goodwill. The Council should rescind both designations of me being vexatious, publicly apologise and disclose the information that it knows I need to pursue justice. That information includes an honest explanation for the antipathy, slander and libel by former and present Councillors and the malicious actions of others who are not Councillors. An important part of that will be disclosure of the 7<sup>th</sup> November 2022 (stet) malicious letters with associated records, documents, communications and social media content”.*
11. In a letter from the Resident via email 17:13 25<sup>th</sup> July 2022, stated, “ You include a claim that the Council ‘wishes to achieve a resolution with regards the issues you have with WHPC’. I await a demonstration of that wish which is entirely in the responsibility of the Council and the only demonstration so far has been to the opposite. As Clerk, you are certainly not helping as you have claimed”. The resident then goes on to state, “ in the absence of positive public reconciliation by the Council, legal action is the only means of resolution remaining”.

### **Way Forward/decisions**

12. The purpose of asking the resident as to how they envisaged a process to bring about resolution, was so that WHPC could progress steps to organise a process that would be acceptable to all.

The resident has now suggested four processes – 7a, 7b, 10a and 10b. Any results of a resolution process however conducted would have to go to a subsequent full WHPC meeting for ratification (or otherwise).

13. Considerations of each option for discussion by Councillors:  
(If there is a preferred option(s) then there would be need to explore feasibility, timescales, costs and enable determination of the residents specific issues for discussion).

**Option 7a – face to face resident, Clerk (current and past), Chairman with legally qualified interlocutor.**

Would listed participants agree to participate?

Is this an appropriate mechanism for the Council to participate in?

Likelihood of achieving an outcome acceptable to whole council, as well as, resident?

**Option 7b – Whole Council and Clerk in an independent mediation or arbitration process.**

It would not be possible to involve the whole Council ( cannot be explained in an open public paper).

Would participants agree to participate.

Likelihood of achieving an outcome acceptable to whole council, as well as, resident?

#### **Option 10a – Formal mediation**

Is this the same or different from 7b?

Do WHPC policies allow a consideration of ‘mediation’ ( as still within 6 months of last consideration, although there is a difference that cannot be set out in an open public paper)?

WHPC has responded to the resident over a number of years in a professional manner, within the law and has explained matters even when not required to do so, but , the responses are often challenged or not accepted. What’s different now?

#### **Option 10b – see above all the Conditions set out by the resident**

The Council has on two occasions given thorough consideration to the criteria for designating someone a ‘vexatious complainant’ and satisfied itself that such was appropriate. It is within a six month period from the last designation without any noticeable improvement with regards the resident’s conduct.

The Council has responded to all requests for information under the Freedom of Information Act and under Article 15 GDPR with what it holds and is required to release by law, there is no more.

The serious allegations made against Councillors by the resident can be referred to the relevant authority by the resident and are not matters for any kind of mediation.

#### **14. Decisions**

There is a need for the residents issues to be resolved in the expectation that would bring to a halt the excessive demands being placed on the Council and Clerk. WHPC must take a step to seek a process to attempt to bring about such a resolution. Whatever process is taken forward will require clarity in advance from the resident what are the specific issues to be resolved. Mediation is not a ‘blame’ process but the reality is that some issues will not or cannot be resolved as the WHPC has to act within the law, it’s remit and policies.

**Councillors needs to decide if any of the four options proposed by the resident should be progressed? If so, which? So that the option can be explored as to how it can progressed and brought back to Council with more detail including potential costs.**

**If Councillors do not select any of the resident’s options, they need to consider and recommend an alternative course of action or await the resident taking ‘legal action’.**

**25<sup>th</sup> July 2022**

#### **Addendum**

15. In view of the content of the correspondence from the resident of 18:12 hrs 26<sup>th</sup> July 2022 it is recommended that the discussion and decisions of WHPC as below are held in Part B (confidential session) due to the personnel and personal matters to be discussed.

16. Decisions:

- i. WHPC agrees that legal advice is obtained and funded to seek an injunction with regards the resident.

- ii. WHPC notes notification of a potential private criminal prosecution but is unaware of who/what such a prosecution is against or even for what.

26<sup>th</sup> July 2022