

West Hill Parish Council (WHPC) – 7th February 2023 Agenda Item 23/053

Seeking Resolution with a Resident

Purpose of the paper:

- **to provide an update on efforts to seek resolution with a resident,**
- **To provide an update to Minute 23/026 as a response now received to WHPC letter of 15th December 2022.**

Over the last 4 to 5 years a West Hill Parish Council (WHPC) has responded to extensive correspondence from a West Hill resident. Appendix A provides extracts from WHPC Minutes from the last 15 months to be illustrative of matters that have had to be dealt with (plus two papers at Appendix B and Appendix C) requiring significant resource commitment from this small Council supported by a Part-time Clerk.

Throughout the years, WHPC has not publicly identified the resident and has respected their confidentiality. However, the resident has chosen to publicly identify himself as the person concerned – see for example Minutes 21/313 7th December 2021 and more recently 22/292 4th October 2022 and in his email of 3rd October 2022 where he stated, “*I waive my right to confidentiality in respect of seeking resolution*”.

In December 2021, and again in June 2022, the Parish Council deemed the resident a ‘Vexatious Complainant’ under the WHPC Complaints Policy. This included advising the resident the WHPC did not have to respond to his correspondence unless required to do so by statute eg. Freedom of Information requests and Subject Access Requests. This was deemed necessary due to the tone, content and nature of correspondence being received. The designation is made until 4th May 2023.

WHPC undertaking its responsibilities as an employer, with particular reference to Health and Safety and employment legislation, in August 2022 decided that as a resident and as Councillor the individual be requested that to communicate with The Clerk (by any means) that he must do so via the Chairman. This was due to the tone, content, nature and frequency of communications he was sending to The Clerk.

Eventually, the WHPC with the resident’s agreement arranged for the appointment of a Mediator for a one day mediation with the resident. At the request of the resident he also requested that the mediation was also with him as a WHPC Councillor, and WHPC acceded to this. The mediation process consisted of Party A (The WHPC Clerk and Cllrs DC, MP, AT, SO and AC) and Party B (Peter Bennett). The agreement signed for that day had a confidentiality clause that limits what can be stated here.

The Mediation Day took place on December 7th 2022. The cost of the Mediator and the venue was fully paid by WHPC from the Council revenue received from the residents of West Hill and amounted to £3,294 including VAT. Each Party was in separate rooms and the Mediator moved between the rooms spending the majority of the time with Party B. The day ended without any agreed resolution. The contract with the Mediator, which covered pre-mediation and the mediation day itself, was then completed.

WHPC subsequently received from Party B (Peter Bennett) a document as a response to a submission made by WHPC. As a result Party A on behalf of WHPC wrote to Party B on the 15th December 2022 seeking clarification on whether he was insisting on the inclusion of a particular clause. It was explained that:

- if that were the case, then Party A would go to Council to consider ending any continuation of mediation.
- If not, then WHPC would respond with a draft agreement.

After the exchange of communication with Peter Bennett the Council received a letter from Cllr Bennett dated 18th January 2023 in which he states:

A. "Unless you have anything constructive for the immediate resolution or providing a draft agreement for consideration without conditions, I intend to progress to court action";

and

B. "For the avoidance of doubt, my absolute requirements for resolution are:

1. Complete retraction of the two notices of vexatiousness and a public apology
2. Full disclosure of all information and communications concerning the anonymous letters dated 7th November 2021 relating to me and the election of 18th November 2021. That includes details of the receiving Councillors and Clerk but excludes communications exchanged in letters and emails with Party B.
3. Disclosure of any other communications or records relating to me or the election whether or not I am named and between whatever person or organisation.
4. Acceptance that the extraordinary meeting of 9th November was *Ultra Vires* and misconstrued with an explanation of the true motive and purpose of calling and promoting it as an open public meeting".

With regards to A:

WHPC can demonstrate all its positive actions to progress matters to achieve resolution over many years. Councillors are asked to note a further comment from Peter Bennett relating to court action and that this has been reported to the WHPC insurers.

DECISION A:

- **Councillors to note the insurers have been notified of possible 'court action' from Councillor Bennett.**

With regards to B:

To meet Peter Bennett's requirements WHPC would have to agree to **all 4** conditions cited. These do not take account of what WHPC would wish to see in a resolution agreement that would ensure that the unacceptable behaviour of Peter Bennett ceases.

Notes to Councillors on the 4 conditions required by Peter Bennett:

1. The decisions of the WHPC regarding deeming the resident a "vexatious complainant" were evidence based and following the WHPC Complaints Policy. (See Appendix A – 21/190 9th November 2021; 21/313 7th December 2021 and 22/198 7th June 2022.) These were democratic decisions.

Councillor considerations

- WHPC can only consider Peter Bennett's conduct as a resident, issues relating to his conduct as a Councillor have to be referred to the East Devon District Council Monitoring Officer.
 - To what extent has the unacceptable nature, tone and content ceased/ reduced/ been ameliorated?
 - Is an apology due and if so, what for?
2. The WHPC and individual Councillors have responded to Freedom of Information/Subject Access Requests/correspondence regarding an anonymous letter of 7th November 2021 on numerous occasions. The matter of the Anonymous letter received was dealt with in accord with WHPC on anonymous letters. It has been made absolutely clear that the requirements of the data protection legislation have been met. Complaints regarding the WHPC actions in this respect should be directed to the Information Commissioner's Office.

3. In December 2021 the Council made clear its position on all the issues raised by Peter Bennett made prior to that meeting and the Council's response of 22nd July 2022 to his 'composite complaint' reiterated that stance. It is unclear what, if anything, in this is different from previous requests he has made to the Council under data protection legislation.
4. The Extraordinary Meeting of the 9th November 2021 was convened in accord with WHPC Policy, as has been previously explained in correspondence to Peter Bennett.

DECISION B:

- **Do Councillors accept all four requirements of Peter Bennett to enable the taking forward of drafting an agreement on resolution. YES/NO**
- **Cllrs to consider further actions following the decision.**

Cllr Della M CANNINGS QPM
Chairman
30th January 2023

Extracts from West Hill Parish Council meetings

9th November 2021

21/190 Monitoring Officer: To receive an update on the complaint against WHPC submitted to EDDC in 2020.

The Chairman made the following statement:

Today, 9th November 2021, WHPC has received notification from the EDDC Monitoring Officer that he will not be progressing the complaint made against WHPC.

I wish to put the following on record:

To date WHPC have been dealing with this matter in confidential sessions. It is now thought it is timely and appropriate (see below) to provide information in public, as far as possible, whilst maintaining the anonymity of the Complainant and others named where appropriate. It is necessary to ensure that through the information provided those persons cannot be identified even if not named. There will be matters though that WHPC will still need to deal with in confidential session.

Background

1. Complaint against WHPC

On 19th July 2020 WHPC received notification of

- a complaint from a West Hill resident (who will be referred to as 'The Complainant').

The resident stated they did NOT require WHPC to investigate it.

☑- their intention to submit a complaint to East Devon District Council (EDDC) Monitoring Officer (MO) against WHPC.

On 2nd September 2020 the then Chairman received communication from the Monitoring Officer (MO) that a Code of Conduct complaint had been received from the same resident against 'the council and 5 councillors'.

2. EDDC Monitoring Officer Process

EDDC have a published process for dealing with Complaints against Councillors (that covers Parish Councillors). The EDDC Standards Process is published on their website.

The EDDC MO as a first stage has to make an assessment of the complaint in consultation with an Independent Person (someone EDDC is required to appoint). There are five options for the MO to deal with a complaint:

- No further action
- Investigation by the MO and conclusion on breach
- Complaint alleging criminal conduct
- Complaint referred for independent investigation
- Other action eg informal resolution.

A complaint must be made within 3 months from the date upon which the complainant became, or ought reasonably to have become aware of the matter giving rise to the complaint. It would appear in this case the MO has used his discretion to deal with matters that would otherwise be out of time – this is usually based on the MO's judgement to be justified as in the public interest to continue with the complaint.

3. Monitoring Officer Investigation

The EDDC MO asked WHPC if it would agree to mediation and the Parish Council readily accepted this in the spirit of resolving the issues involved. Since Sept 2020 the WHPC on numerous occasions has sought from the MO to know the details of the complaint and to request progress updates: to date (of this report) such has not been received from the MO.

During this period the matter was under the jurisdiction of the MO.

WHPC agreed to participate in a mediation meeting with The Complainant facilitated by the MO arranged for 4th November 2021 - this is 14 months after being informed by the MO of the complaint. Throughout this period The Complainant has made further requests to WHPC under the Data Protection Act, through Freedom of Information and Subject Access Requests legislation, and also made further allegations regarding the conduct of the Council and those involved in the Council, as well as about another involved in the complaints process.

On the 2nd November 2021 the MO advised WHPC he had cancelled the mediation appointment.

Following a request for clarity, the MO replied on the 3rd November 2021 stating " Having reflected, if you both (ie The Complainant and WHPC) feel that there is benefit in having the facilitated meeting then I am still happy to do that".

On the 3rd November 2021 The Complainant wrote to the MO and WHPC to advise that as a result of the cancellation of the mediation meeting he/she now intended to take civil litigation against WHPC

On 9th November 2021, WHPC received notification from the EDDC Monitoring Officer that he will not be progressing the complaint made against WHPC

4. WHPC Extraordinary Meeting

reflected, if you both (ie The Complainant and WHPC) feel that there is benefit in having the
On the 3rd November 2021 The Complainant wrote to the MO and WHPC to advise that as a result of the cancellation of the mediation meeting he/she now intended to take civil litigation against WHPC.

On receipt of The Complainants 3rd Nov 2021 correspondence WHPC called an Extra-ordinary Council meeting for 9th November to enable Cllrs to consider and agree appropriate actions. WHPC then on 5th November asked the MO a series of questions seeking further clarification of the process. WHPC received a response but are currently not at liberty to publish this response as his decisions relate to other parties.

WHPC now feels it is appropriate to publish this report and highlight that throughout the process the council had agreed to participate in a mediation process and continued to request details of the complaint, which has still not be made available by the MO. WHPC has not been responsible for the timescales involved in the process. From the outset WHPC has made it

known that it actively sought to work with all parties to resolve matters.

In the meantime, WHPC contacted the Complainant to ask if they were willing to provide their complaint and desired outcome as it had not been forthcoming from the MO. The Complainant has provided papers to this end, which have been circulated to all Councillors.

The Complainant's most recent correspondence includes further allegations against the Council, Councillors, employee and other parties. These include:

- The The Complainant states that WHPC 'branded' them 'vexatious'. WHPC has never deemed anyone as a 'vexatious complainant'

- The Complainant stated that “Cllr DC” was not a Councillor on 16th February 2021 – they refer to her as ‘Della Canning’. Cllr Della CANNINGS has been a Councillor since being declared such on 7th July 2020.
- The Complainant states, “The unjustified delays, prevarications and the false publication that the complaint had been resolved force me into now taking civil litigation for libel and/or malicious falsehood”.
- The Complainant states he/she has made a complaint to the Information Commissioner’s Office regarding refusal to make disclosures.
- Inferences regarding the conduct and truthfulness etc of those associated with WHPC.
- The WHPC has conspired with other parties against the Complainant

This excludes allegations which are repetitious of matters previously addressed then obviously they are not included here as they have been finalised e.g. challenge with regards the Declaration of Interests at a meeting.

Cllrs considered the Chairman’s statement and Cllrs resolved

1. To note the Monitoring Officers decision not to progress the complaint
2. To note that all matters relating to The Complainant prior to the Monitoring Officer’s decision on 2nd November are now finalised. WhPC has fulfilled its responsibilities under law with regards requests for information and where applicable the Council’s complaints procedures have been completed/exhausted.
3. To note WHPC has notified its insurers regarding the intimation of litigation.
4. To note WHPC will await contact from the Information Commissioner’s Office.

The Chairman proposed the following items were considered in confidential session to ensure the anonymity of The Complainant.

- A. WHPC will assess any further allegations that have been made against the Council, Councillors and employees as to what further action (if any) is required
- B. WHPC will consider whether to invoke the Complaints Policy – unreasonable, persistent or vexatious complainant process with regards this Complainant.

Cllrs agreed and recording of the meeting stopped at 19.51pm.

The member of the public left the meeting. Cllrs went into Confidential session.

- A. Cllrs considered each of the allegations and considered possible actions for each.

Cllrs resolved to await communication from the Information Commissioners Office and other external parties.

- B. Cllrs carried out a detailed assessment of the vexatious complainant criteria set out in the WHPC Complaints Policy.

Cllrs resolved, to invoke the first stage of the policy, and to notify The Complainant verbally and in writing of the Council’s decision.

7th December 2021

21/313 WHPC Complaints Policy: To receive an update on item 21-190

Cllr PB made a statement

- Identifying himself as the complainant: the subject of agenda item 21/190 and 21/313.
- Referring to an anonymous letter received by the Council (ref Min 21/185)

Cllr PB and 2 members of the public left the room at 20.40hrs.

Cllr MP reported

- Following the decision taken at the Council's Extraordinary meeting on 9th Nov 2021 (item 21/190) to invoke the first stage of the Complaints Policy (vexatiousness) the Complainant had been advised verbally and in writing asking for their co-operation.
- The Council had received 11 further items of correspondence.

Cllrs asked Cllr PB to re-join the meeting as the meeting had not gone into confidential session and to answer questions regarding his statement. Cllr PB confirmed that he will not be seeking litigation against the Council. He also explained his comments regarding the anonymous letter received by WHPC.

The meeting went into Confidential session at 20.47hrs. Cllr PB and all members of the public left the room.

Cllrs expressed regret that the complainant had not co-operated with the Council's request to modify their behaviour. The Council had continued to receive a high volume of emails. Cllrs noted the ongoing adverse impact on the Council, Cllrs and staff.

Cllrs agreed to invoke the next stage of the complaints policy.

Confidential session closed and the meeting resumed at 21.00hrs. Cllr PB and a member of the public re-joined the meeting.

The Chairman and Cllrs resolved: to advise The Complainant in writing that as all matters previously raised by them have been dealt with by WHPC, then the matters are now considered closed and the Council will not engage in further communication on those matters as per the Policy (as per protocol set out in the Councils policy).

1st February 2022

22/042

The Chairman asked for item 20/042 to be brought forward. She proposed to make a short statement and then go into confidential session. Cllrs AC,AT,DC,ABC, SO agreed.

Cllr PB asked for details of any vote to be recorded as per Standing Orders.

Resident Communication: To receive an update on a further request for the anonymous letter received by the Council in 2021 (ref agenda item 21-313)

Cllr MP read a statement

On 9th Nov several Cllrs reported that they had received paper copies of an anonymous letter. As per policy, the letter was referred to the relevant agency, in this instance EDDC. This matter was reported in the minutes of the Extraordinary meeting 9th Nov-22. (ref 21/185)

On 16th November a resident submitted a request for a copy of the anonymous letter received by WHPC during the by-election period. On 22nd November WHPC declined the request giving the following reasons:

☑ WHPC Anonymous Communications Policy

☑ WHPC may restrict the rights of an individual to protect the rights of others

On 20th Jan 2022 the resident advised WHPC that a full copy had been received from EDDC. WHPC had not been informed by EDDC. The resident advised he was referring the letter to the Police and made repeated allegations against WHPC.

Cllr MP noted her statement has been prepared in the interests of openness and transparency for the public record. WHPC has taken advice at all stages of this issue and responded appropriately to all correspondence. The Council understood that the matter is now part of a police investigation and WHPC would co-operate with the police if requested to do so.

The meeting went into confidential session at 21.05pm. All members of the public and Cllr PB left the room.

The meeting resumed at 21.22pm. Cllr PB re-joined the meeting

The Chairman advised Cllrs MP, AC, AT, DC, SO, ABC had unanimously agreed to write to Cllr PB to advise that they were not happy with his continuing behaviours instigated by the anonymous letter issue and will be investigating various code of conduct issues

1st March 2022

22/07/3

Matters arising: The Clerk reported that the Police had contacted the Parish Council about the anonymous letter received in Nov-21. They advised that they would not be taking action. (ref 22/042)

22/067 Training/Mentoring: To confirm the appointment of The Local Government Resource Centre (LGRC).

Cllrs considered a paper circulated prior to the meeting (ref 22/042) Cllrs approved the Appointment of The Local Government Resource Centre for a one-off mentoring session at a cost of £330+vat

5th April 2022

22/098 To receive a report from The Local Government Resource Centre (ref minute 22/067, 22/104)

Cllrs acknowledge receipt of the report.

Annual Parish Meeting 9th May 2022

APM 22/3/6

The Chairman noted her wish to emphasise the positives of the Council's work however she reported the major distraction caused by a resident who in December 2021 the Council eventually deemed a 'vexatious complainant'. Cllr DC reported the quantity, content and tone of communications from the resident had been unacceptable and had continued. The resident had also submitted numerous Freedom of Information and Subject Access Requests which were very time consuming. A Complaint by the resident made to the Information Commissioner's Office was not upheld with the Commissioner stating, "... your organisation has complied with your data protection obligation. This is because you have properly responded to the subject access request." Our internal auditor has also commented on the 'unreasonable amount of time' the Council is having to spend on this matter.

10th May 2022

22/151 Information Commissioners Office: Notification of a complaint against WHPC, WHPC's response and ICO outcome.

Cllr PB left the room at 9.17pm.

The Chairman noted Cllr PB had chosen to leave the room however this was not necessary. The Chairman reported the receipt of a ICO notification of a complaint against the Parish Council (7th April). The Council had provided the information requested. On 14th April the ICO concluded:

☐ “We have considered the information available in relation to this complaint and we are of the view that your organisation has complied with your data protection obligations. This is because you have properly responded to the subject access request (SAR).”

22/152 Subject Access Request (SAR):

- a. To note WHPC’s 29th April 2022 response to the SAR received on 23rd April 2022.
 - b. To note the receipt of a SAR on 29th April 2022.
- Cllrs noted the SARs received and processed in April 2022. The Council has responded to the most recent SAR 29th April, on 10th May.
- Cllr PB re-joined the meeting at 9.24pm and the Chairman advised him of Councils decisions on the items he had absented himself.

31st May 2022

22/159

Two members of the public attended the meeting. One wished to speak and identified himself as Paul Hayward, the Internal Auditor who had recently completed the internal audit of WHPCv

He noted that the report had been properly received and minuted by the Council.

He stated that he was wholly independent of the Council and had completed the audit according to the national guidelines.

He advised that he had received correspondence from a member of the public seeking to (a) object to, scrutinise, or query his report and (b) question his independence and objectivity. He had replied that the only bodies able to query the report, if they wished, were WHPC or the External Auditor. He recognised the work of the RFO/Clerk but noted the disproportionate amount of time spent on matters raised by one resident during the year, still ongoing, which “served no useful purpose to the Parish”.

The Chairman thanked the Internal Auditor for advising the Council of the correspondence and for his frank comments. She noted that the Internal Audit report had been circulated, received and accepted by the Council with no questions raised by Cllrs.

She noted that the Council was in a difficult position as the Council was required to respond to the resident’s correspondence, however the Council’s replies elicited further correspondence.

The Internal Auditor noted the Council’s duty to protect its staff and Cllrs from harm through abuse, bullying and harassment.

22/168

To consider a complaint against West Hill Parish Council and to agree arrangements for the actions to be taken according to the Council’s Complaints Policy.

In confidential session, Cllrs considered the implications of the complaint made against the Council and potential reputational and other consequences.

Cllrs unanimously

1. Noted the actions taken to date.
2. Resolved to engaged suitable legal advice. Such costs will be funded from the Council’s contingency and will be reported to Council.
3. Approve to notify the Council’s Insurers of potential litigation.
4. Approved up to 50 hours overtime for the Clerk.

22/169

To consider the request for a SAR review and arrangements for the review.

In confidential session, Cllrs resolved to

1. Note the actions taken to date.
2. To notify WHPC Insurers of potential litigation⁷

7th June 2022

21/174 Declarations of Interest

b. To declare any personal interests in items on the agenda and their nature. To declare any disclosable pecuniary interests in items on the agenda and their nature (Councillors with DPIs must leave the room for the relevant items).

...

Cllr PB declared a personal interest in items 22/175, 22/176, 22/192, 22/193 and 22/198 as these items related to him. Cllr PB stated that he would not participate in these items and would decide whether to leave the room at each item. The Chairman advised that Standing Orders may require that he left the room for an item.

22/192 Complaint against WHPC: To receive an update on the investigation, if appropriate.

Cllr PB stated he would leave the room for this item and 22/193. The Chairman advised that this was not required. Cllr PB left the meeting at 21.02pm.

The Chairman reported that the complainant had been advised that the investigation was underway but was unlikely to be completed with standard timescales and the anticipated completion date was early July.

The Chairman checked whether Cllr PB wished to return to the room. He declined.

22/193 Request for SAR Review: To receive an update on the investigation, if appropriate.

The Chairman reported that the request had been processed as a complaint as the correspondent was dis-satisfied with the Council's response to two Subject Access Requests. The investigation had been completed and a letter sent to the complainant.

Cllr PB re-joined the meeting at 21.06pm. The Chairman gave a summary of items 22/192 and 22/193.

22/198

Vexatious Complainant: To conduct a six-month review of the designation.

Cllrs carried out a detailed assessment of correspondence against the criteria set out in the Council's complaint policy.

Those present Cllrs DC, MP, AC, SO, ABC unanimously resolved

- that the Complainant is freshly considered a vexatious complainant.
- This designation will last until 4th May 2023.
- 7 The Council will write to the complainant advising of this decision.

5th July 2022

22/199

The Chairman made a statement:

"At the Annual Parish Meeting in May 2022, 'I stated I wished to emphasise the positives of the Councils work' however, I reported about the major distraction caused by a 'resident'. Over the years the Council has taken great care not to publicly identify the resident. In December 2021 and again in June 2022, this resident had to be deemed a 'vexatious complainant' due to the quantity, content and tone of communications which were unacceptable.

I was co-opted onto the WHPC in 2020 during the pandemic as I wished to use my skills, time etc to help the community of West Hill. I have been Chairman since March and re-elected in May in the

absence of any other nominations. This 'resident' is making it extremely challenging for the Chairman, Clerk and most councillors to ensure we are serving the community.

You will see on the agenda today 5 items in Part A and 3 in Part B that all relate to that one 'resident'. It cannot be right that an enormous amount of council time and resource is being expended on one 'resident' to the detriment of the other 2000 residents.

This is a sample of what 'the resident' has had to say about this Council, Councillors, the Chairman and the Clerk just in the last few weeks:

- ☑ The resident has said the Council has engaged in defamation of their character and reputation.
 - ☑ The Council's actions have aggravated the distress and harm to the mental health of them to such an extent they had to move house
 - ☑ The Council has consciously 'gaslighted' and bullied this resident in attempts to secure capitulation
 - ☑ The Council has continued its hateful harassment and bullying of this resident
- Such allegations (and there were many more) have been investigated and are UNFOUNDED. The Council has advised the resident on many occasions that it is not in dispute with them. The ongoing attacks against the integrity of the Chairman, The Clerk and councillors are totally unacceptable and need to cease. Cllrs are volunteers who choose to give their time for the betterment of West Hill. When we get to agenda items 22/220 to 22/224 I will explain more of what is happening: continuation and escalation of years of the resident's communications.

The Council has acted within the law, answering queries professionally and to the full extent it is able. The resident has stated they are at the time-limited point of Judicial Review without a U turn from WHPC such is now most likely. Further, they have stated they have considered local and national media and involving the MP, but have so far held back to minimise damage, - unclear though to whom! The most recent response from the resident stated, 'The Council is clearly at fault and we are at the point of resorting to judicial process'. That is a matter for the resident. The Chairman and Clerk have been communicating with the resident to look to see how the resident thinks matters can be resolved. The resident wishes mediation but it is still unclear what the specific issues are and how they believe the mediation process could be undertaken. Efforts will continue to gain clarity so that options can be put before the Council for the next decisions required".

22/220 Resident Communication: To record the receipt of correspondence during June 2022 from a resident

Cllr PB advised that he would leave the room for items 22/220-224. The Chairman advised this was not necessary. Cllr PB left the meeting at 20.59pm

The Chairman explained agenda items 22/221 – 22/224 would cover recent correspondence received from a resident:

- a. Subject Access Request (ref 22/222)
- b. Complaint against the Council (ref 22/221)
- c. Freedom of Information Request (ref 22/222)
- d. Complaint against the Council (ref 22/221)
- e. Complaint against the Clerk (ref 22/221)
- f. Freedom of Information Request/Subject Access Request to individual Cllrs (ref 22/222 + 22/223)

22/221 Complaints: To record

a. the outcome into the investigation of a complaint against WHPC received in May 2022.

The Chairman reported the complaint made by the resident extended to 12 pages, including 15 numbered sections. The complaint described as a 'Composite Complaint' included

- seven issues that had already been dealt with by the Council,
- issues relating to the Conduct of Councillors and so the resident was referred to the EDDC Monitoring Officer if breach of the Code of Conduct needed to be investigated
- querying of the WHPC handling of Freedom of Information responses regarding the redactions of personal data
- the Council holding parts of meetings in Confidential sessions – which the Council can do under section 1(2) public bodies (admission to meetings) Act 1960.
- querying the holding of an extraordinary meeting in November 2021 and deeming the resident a ‘vexatious complainant’.

This complaint was investigated in accord with the WHPC Complaints Policy. With Council’s approval (ref Min 22/168 31st May 2022) The Chairman, Clerk and a Cllr sought legal advice on this as the complaint covered a period of 4-5 years, was multi-stranded and unclear as to the specific nature of the complaints. The complainant had also made reference to litigation. A cost of £2,000+vat was incurred at public expense.

The complaint has been investigated and the complaint is UNFOUNDED.

Cllrs noted the actions taken and the outcome of the investigation.

b. the receipt of a complaint against WHPC received in June 2022 and the outcome of the investigation.

The Chairman reported this complaint was also investigated in accord with the WHPC Complaints Policy. The complaint was NOT upheld. The complaint included that the resident

- considered a delay regarding their previous complaint was unreasonable and contrary to the complaints policy. The resident had been advised that there might be a delay due to the complexity of the complaint, but in fact a response was given within the timescales of the policy. - alleged the council had revealed his personal details outside the Council without his permission. There was no evidence of such occurring.

- A further 14 allegations/complaints.

Cllrs noted the receipt of a complaint and the outcome of the investigation.

c. the receipt of a complaint (SAR response) against WHPC received in June 2022 and the outcome of the investigation.

The Chairman reported this complaint was investigated in accord with the WHPC Complaints Policy. Following an investigation the complaint was UNFOUNDED and the response to earlier Subject Access Requests was upheld.

Cllrs noted the receipt of a complaint and the outcome of the investigation.

d. to record the receipt of a complaint against the Parish Clerk received in June 2022 and the outcome of the investigation.

The Chairman reported this complaint was investigated in accord with the WHPC Complaints Policy. As a personnel matter no details were made public. Following an investigation the complaint was UNFOUNDED.

Cllrs noted the receipt of a complaint and the outcome of the investigation. Cllrs commented that they often felt unclear as to what was the complaint.

22/222 Subject Access Requests: To record the receipt of SARs and to note the WHPC response.

The Chairman reported a Subject Access Request submitted by the resident for records and communications by WHPC with our Internal Auditor about the resident. The reply made it clear that there was no record any such communications. Further, other matters in the letter were not responded to as the individual is a vexatious complainant and there was no requirement on WHPC to respond.

Cllrs noted the receipt of a SAR and the Council’s response.

22/223 Freedom of Information Requests: To record the receipt of FOIs and to note the WHPC response.

1. The Chairman reported three issues have been responded to under FOI, but clarity is being requested of the Resident on 4 further matters in their correspondence and a response is awaited. Cllrs noted the receipt of FOIs and the Council's response.

2. Four Councillors have received letters directly from this resident requesting information under FOI, and SAR. These are currently being dealt with.

The Parish Council had previously addressed this request on a number of occasions.

22/224 Information Commissioners Office: To note correspondence and ICO outcome.

The Chairman reported

☑ The ICO contacted WHPC following a request from the resident to review their response to a residents complaint to them, during the course of their investigation into their actions the ICO couldn't find the WHPC Privacy policy on the website. It was there and they were provided with the link, but also WHPC sent the resident a copy, although we knew they were already aware of it as it had been quoted in correspondence.

☑ The ICO had previously confirmed that WHPC had properly complied with legislation

2nd August 2022

22/232

The Chairman gave a report to the meeting, including:

...

- the Parish Council had received further correspondence, some of which was unpleasant, from a vexatious complainant during July. Later in the meeting Cllrs would be considering a paper, available on the website, which sets out options proposed by the resident for resolution of their issues with the Council. The chairman hoped that progress will be made as the ongoing campaign was resource intensive and diverting the Council from serving the community.

22/249 External Audit: To note an objection submitted to the External Auditor regarding the 2022-23 Accounts and Governance.

- The Chairman explained that following the Internal Audit the 2022-23 Accounts and Governance reports (AGAR) are submitted to the External Auditor for review. During the Period for the Exercise for the Public Rights, a resident submitted an objection to the External Auditor regarding the Internal Audit and Auditor. On receipt, the Auditor considered 3 of the 5 points ineligible and advised they would consider the eligibility of the remaining objections. The Chairman advised the Council of the potential outcomes of the objections. WHPC awaits the response to the External Audit.
- The Chairman advised that Cllrs wished to be open and transparent on this matter. The Chairman and Clerk had provided further details in a briefing paper available on the WHPC website (see Council meeting 2nd Aug 2022).
- 22/249 External Audit: To note an objection submitted to the External Auditor regarding the 2022-23 Accounts and Governance.
- The Chairman explained that following the Internal Audit the 2022-23 Accounts and Governance reports (AGAR) are submitted to the External Auditor for review. During the Period for the Exercise for the Public Rights, a resident submitted an objection to the External Auditor regarding the Internal Audit and Auditor. On receipt, the Auditor considered 3 of the 5 points ineligible and advised they would consider the eligibility of the remaining objections. The Chairman advised the Council of the potential outcomes of the objections. WHPC awaits the response to the External Audit.

- The Chairman advised that Cllrs wished to be open and transparent on this matter. The Chairman and Clerk had provided further details in a briefing paper available on the WHPC website (see Council meeting 2nd Aug 2022).

22/253 Freedom of Information (FOI) Requests:

1. To record the receipt of an FOI in July 2022.

Cllrs noted the residents' request for information regarding the Council's Audit, AGAR and that this was noted that this was the second FOI request within 60 days, Cllrs also noted the response to the resident.

2. To record the closure of an FOI submitted in June 2022

The Chairman advised that WHPC has responded, in part, to the request and sought clarification of the remaining points. No response had been received so the request was deemed closed. However WHPC has revisited the request and provided further information as appropriate. One matter was outstanding.

Cllrs unanimously agreed to extend the meeting beyond 2 1/2 hrs.

22/254 Seeking Resolution with a Resident

The Chairman wished the Council to be open and transparent on this matter, as far as was possible, in order for the community to understand what the Council was dealing with and also how the Council's finances may be impacted. In particular, The Chairman wanted the community to be aware that the resident's "dispute" with the Council is continuing and the potential costs, possibly including legal costs, seemed likely to increase.

The Chairman gave a progress report on the attempt to

- seek the resident's view on a process to resolve their issues with the Council
- the resident had proposed four options with conditions to be agreed by Council.
- identify the issues to be resolved with the Council

A briefing paper, prepared by the Chairman and Clerk, had been published on the Parish Council's website giving further information including possible next steps. [now at Appendix B]

Cllrs noted the residents' intention to proceed with a private criminal prosecution however the details of this were unclear including whether it was to be against the Council.

Cllrs did not make further comment in Public session and wished to discuss the matter in confidence (see item 22/259).

Part B:-

22/248 (5) Personnel Matter + Communications with the Clerk

Cllrs considered recent correspondence with the Clerk and their duty as an Employer:

- Cllrs unanimously resolved to block communications sent to the Clerk from a named resident.
- Cllrs unanimously resolved to write to the resident advising of their decision and that future correspondence should be sent via The Chairman.
- CONFIDENTIAL minute

22/259 Seeking Resolution with a Resident

Cllrs considered the 4 options for resolution proposed by the resident. Following a lengthy discussion two options were considered in-practical and one was considered unacceptable.

Cllrs resolved

- to re-state their desire for resolution of the resident's issues with the Council.
- to explore the remaining option - mediation with the resident. To provide details of mediation services, processes and costs to Council for consideration at a Council meeting.

c. to write to the resident advising of the Council's decision and to invite the resident to provide details of mediation services

6th September 2022

22/260

The Chairman re-stated her belief in open democracy and acknowledged that a few matters had to be considered in confidential session for commercial/personnel matters or to protect the identity of an individual.

The Chairman reported that

- 3 of the 7 WHPC Cllrs had recently raised concerns regarding her Chairmanship and
- a resident continued to be critical of the Chairman, Clerk, Cllrs and Council: alleging that the Council was '... akin to a Kangaroo Court', and by exercising their right to issue a Notice of objection to the Annual AGAR return had cost the West Hill community £1,597.50 +vat in extra external auditor's fees for matters not upheld by the auditor.

Cllr DC offered to stand down as Chairman.

Cllr MP, vice-chairman, expressed her full support for the Chairman and thanked her for the "enormous amount of time devoted to WHPC matters", particularly over recent months. Cllrs AC, AT and SO re-affirmed their "unequivocal" support for the Chairman.

Cllr PB identified himself as one of the 3 Cllrs and as the resident. He then made a short statement questioning the actions of the Chairman, Clerk and Council and alleged that the Council had acted unlawfully to block his communications.

Cllr DC called for a vote on whether she should continue as Chairman: Cllrs MP, AT, SO and AC supported Cllr DC to remain as Chairman. Cllr PB voted against.

22/280 Freedom of Information (FOI) Requests: To receive a verbal update having sought advice from the ICO.

The Chairman gave an update on an outstanding issue

- WHPC had responded to an FOI received on 13th June 2022 but had advised the resident that one Cllr had failed to provide copies of documents.
- The ICO had provided advice
 - a. WHPC could repeat the request to the Cllr. Also if the Cllr failed to respond the matter could be reported to ICO
 - b. or the Clerk, as the Councils Data Controller, could check the Cllr's email account

It was resolved

- To take the actions (a) and (b) as advised by the ICO.

22/284 Seeking Resolution with a Resident: To receive a progress update and to consider next steps.

Cllr PB left the meeting although the Chairman had advised that this was not required.

Cllrs noted the paper circulated for the meeting (available on the website) and a confidential addendum. Cllrs resolved to discuss the item in confidential session under item 22/289.

22/289 Seeking Resolution with a Resident

Cllrs considered the paper circulated for the meeting (available on the website and now at Appendix C) and a confidential addendum.

Cllrs resolved :

- a. To reaffirm the wish of WHPC that the residents' issues are resolved.

- b. For WHPC to progress contacting mediation services once an agreed statement is achieved between WHPC and the resident, or if not, after two weeks from this meeting
- . c. CONFIDENTIAL Minute

October 4th 2022

22/290

The Chairman

- reminded Cllrs of the Code of Conduct and the expected behaviours towards each other and the Clerk. Cllrs were asked to re-familiarise themselves with the Code.
- Reported that 9 further communications had been from the vexatious complainant since the previous meeting, including two complaints. Comments included
 - “ the Council ... is not genuinely seeking resolution through mediation”
 - “ the council and in particular the Clerk and Chairman have set a path of escalation and increased risk through failing leadership and mismanagement.”

Cllr PB interrupted the Chairman to state that she was making prejudicial comments. Cllrs agreed to proceed with the Chairman’s opening remarks.

The Chairman stated

- that the Council is actively seeking a mediator to resolve matters. (Ref agenda item 22/316).
- the Council’s effort should be on the upcoming Local Plan consultation and also Neighbourhood Planning matters (Ref 22/300)

22/292/2

A member of the public spoke with regards to the 2021-22 External Audit. He noted that

- the Council had received a “clean bill of health” from the External Auditor
- all Cllrs had signed off the Annual Governance and Accounts Return (AGAR) (for 2021-22).
- Cllr PB had submitted an objection to the AGAR to the External Auditor which was not upheld and incurred a cost (nearly £2,000) to the Council.

He stated that Cllr PB had signed up to serve the community but appeared, over 10 months, to be seeking to frustrate the work of the Council. He asked “Cllr PB, how do you propose to re-imburse the community?”

The Chairman explained that the Council was not required to respond immediately but could provide a written response. Cllrs were asked if they wished to speak. Cllr PB spoke for several minutes regarding his correspondence with the Council including “any member of the public has a right to object to the audit”. The resident noted that Cllr PB had signed off the audit. Cllr PB said the he had not objected to the finances but rather the risk management which was “biased and prejudicial”.

The Chairman advised Cllr PB that he had reached the 3 minutes speaking limit. Cllr PB continued to speak. The Chairman proposed that the meeting would no longer hear the Cllr. Seconded by Cllr AC. The Chairman called a vote.

For Cllrs: MP, AT, AC, SO, DC Against: Cllrs ABC, PB

22/305/5

Any urgent matters arising

The Clerk reported two complaints had been in September:

- one advising there would be a formal complaint against the Clerk
- one against the Council. This appeared to raise two matters. The complaint has been reviewed and responded to: not upheld/ insufficient information to progress

22/313 Freedom of Information (FOI) Requests: To record the closure of an FOI submitted in Jun-2022.

Cllrs noted the outstanding item on an FOI had been responded to and the FOI was now closed.

22/314 Subject Access Request (SAR):

1. To record the receipt of a SAR to the Council and to individual Cllrs in Sep-2022.
2. To record the closure of the SAR submitted to the Council in Sep-2022.
3. To record the closure of the SAR submitted to the individual Cllrs in Sep-2022, if appropriate.

Cllrs MP, AT, DC, AC, SO and ABC confirmed they had responded. Cllrs noted the receipt and closure of the SAR

22/315/2

Cllrs considered the impact of a Cllr requesting that all communications are posted to their home address.

Cllr DC explained, following the creation of WHPC, council email accounts had been created in line with best practice and the advice of NALC and ICO. Use of email for council business was the established way of working for the Council for day-to-day communications and for the circulation of papers.

Cllrs were invited to consider how the Clerk should communicate with the Councillor taking into account the associated additional workload. Also, the Councillor would lose the spontaneity of email communications.

Comments included

- It seems very one way

The Chairman proposed "All councillors will continue to be allocated a Council email address for council business"

In favour: Cllrs MP, AT, AC, SO, DC Against: Cllr PB

The Chairman noted the Clerk is required to send the summons and agenda to all Councillors.

Councillors considered what else should be posted and at what frequency. Comments included

- This is absurd
- There is a perfectly good system used by Cllrs.
- Could just read the documents
- Perfectly acceptable modern way of operating
- Unacceptable additional workload for Clerk
- Subject to postal strikes

Cllr PB stated that the Clerk had blocked access to his Council email account and then made serious allegations against the Clerk. Cllr DC interrupted the allegations and reminded the meeting of the decision previously made by the Council, communicated to the Cllr and enacted by the Clerk.

Cllr PB noted that several Cllrs were using personal computers/devices at the meeting and stated he would use his WHPC email account if provided with such a device funded by WHPC.

The Chairman proposed WHPC continued to send all documents via the Council's email system. If a Cllr chose to receive the summons and agenda by post this would be acknowledged and actioned.

The Clerk queried the circulation of papers for the meeting. The Chairman stated the only obligation was to post the summons and agenda and the papers would be available on the email system.

In favour: Cllrs MP, AT, AC, SO, DC Against: Cllr PB

Part B

22/312 WHPC Communications Policy: (At request of a Cllr) consider dis-satisfaction with actions of the Clerk.

The Chairman reported that the Councillor who asked for this item was not present, and correspondence received earlier in the day indicated this matter was a complaint against the Clerk. Cllrs did not discuss the content of the complaints but agreed the process for reviewing the complaint as per the Council's complaint policy

1st November 2022

22/341 Complaint: To note the outcome of the review of the complaint against the Clerk.

Cllr MP reported the complaint was processed according to the Parish Council's complaints policy by the chairman and one other councillor. The outcome was that the complaint was not upheld and that the matter is now closed.

22/342 Seeking Resolution with a Resident: To receive a briefing paper and to consider next steps.

Cllr MP stated that the Council was committed to seeking resolution with a resident concerning a long running issue stretching back over several years. She commented "This is stressful and distressing to all involved, it is taking up far too much of limited council time and resources, and it cannot continue."

All Cllrs agreed to consider a briefing paper detailing several mediation service providers, options and costs in confidential session, Part B.

Cllr PB returned to the meeting

Part B

22/347 Seeking Resolution with a Resident: To receive a briefing paper and to consider next steps.

Cllrs considered a briefing paper detailing proposals from several mediation service providers, risk assessment, options and costs.

Cllrs resolved to

- commit to seek resolution
- appoint a mediator
- delegate the Chairman and Clerk to carry out pre-mediation with the mediator
- set a capped budget for the mediation process
- seek to start the process as soon as possible

6th December 2022

22/369 Seeking Resolution with a Resident: To confirm

1. the appointment of a Mediator
2. the date for mediation, venue and costs incurred to date (ref 22/347).

Cllrs noted and confirmed

- a mediator had been appointed,
- the venue and date for mediation had been set
- costs to date £2,354+vat

and they looked to the mediation being positive and enabling the Council to move forward.

3rd January 2023 – draft Minutes

23/006

The Chairman invited Cllr PB, who was present in the room but not sitting with the Parish Council, to join the meeting. He declined stating he was present as a member of the public.

The Chairman stated

o In Oct 2022 a Cllr had declined to continue receiving the agenda and summons to the meeting via their Council email account. The agenda and Summons for the November and December meetings were posted to the Cllr. The summons to this meeting had been emailed to all Cllrs but due an oversight the summons to this meeting was not posted to the Cllr in question. The Chairman apologised for the omission.
Cllr PB stated that he had not been summoned to the meeting.

4th January 2023 – draft Minutes

23/010

The Chairman stated

o In Oct 2022 a Cllr had declined to continue receiving the agenda and summons to the meeting via their Council email account. The agenda and Summons for the November and December meetings were posted to the Cllr. The summons to this meeting had been emailed to all Cllrs but due an oversight the summons to this meeting was not posted to the Cllr in question. The Chairman apologised for the omission.

23/011b

Cllr PB, speaking as a resident, asked for a copy of the Chairman’s introduction. The Chairman noted that minutes of the meeting would be available to the public as usual.

23/026 Seeking Resolution with a Resident: To consider the outcome of the mediation process.

This item was considered in Part B.

Part B

23/026 Seeking Resolution with a Resident: To consider the outcome of the mediation process.

Cllrs considered the outcome of the mediation session held on 7th December.

Cllrs unanimously resolved: a Confidential Minute

Appendix B

West Hill Parish Council (WHPC) 2nd August 2022 Agenda No 22/ 254 – paper.

Preface added 26th 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 27th July 2022, with the agenda and papers for the 2nd August 2022 WHPC meeting.

However, a letter received by WHPC via email at 18:12 hrs 26th 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.

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 4th November 2021. This was cancelled by the Monitoring Officer on the 2nd November 2021. On the 3rd November 2021, the resident wrote to both

At the outset, in 2020, 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 9th 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 20th 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 23rd 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 24th 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 3rd 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 3rd 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 22nd July, 2022 from the resident – also dated 3rd 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 7th 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 25th 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'.

25th July 2022

Addendum

15. In view of the content of the correspondence from the resident of 18:12 hrs 26th 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.

Appendix C

West Hill Parish Council (WHPC) – September 6th 2022 Agenda 22/284

Seeking resolution with a resident – update for information and decision

Background

A paper was submitted to the August WHPC Council (available on WHPC website) and the four options (provided by the resident) for how the resolution process could be advanced with the resident were considered. (Minutes 22/254 and 22/259 refer).

WHPC decisions:-

Following a lengthy discussion two options were considered in-practical (stet) and one was considered unacceptable.

Cllrs resolved

- a. to re-state their desire for resolution of the resident's issues with the Council.
- b. to explore the remaining option - mediation with the resident. To provide details of mediation services, processes and costs to Council for consideration at a Council meeting.
- c. to write to the resident advising of the Council's decision and to invite the resident to provide details of mediation services.

Letter to the resident dated 3rd August 2022 from WHPC Chairman

This letter was sent to the resident the next day to the WHPC meeting advising the resident of the WHPC willingness to engage in a 'mediation' process. The letter reiterated the WHPC commitment to wanting a resolution to the resident's issues, in order to stop the impact on the Council's ability to serve the Community.

The letter stated, "The Council has agreed to identify potential mediation services to be considered to undertake the contract, but also asks that you have the opportunity to also advise us of any 'mediation services' you wish to be considered. Once mediation services are identified, their approaches and potential costs are known, then a paper can go to a WHPC meeting to make the necessary decisions to take matters forward. "

Letter from the resident (dated 7th August 2022 via email of 16:32 8th August 2022) to all WHPC Councillors.

The resident in reply, "Once again she (Chairman) is acting as the Clerk". The resident acknowledges that the paper to the WHPC for the 2nd August meeting was published on the WHPC website and states, '... and so was not confidential'. That is correct, the paper is available to the public. The paper did not identify the resident.

The resident further states, "I was not advised as a resident". That is also correct. The paper had been made available to the public on the website and all Councillors received a copy.

The resident states, " I was invited to suggest any 'mediation services' for consideration. I made a further suggestion to you prior to the meeting that it seemed more appropriate for formal arbitration given the history. I do not know if that has been considered. I do not wish to offer

suggestions for a particular mediator or arbitrator. That is entirely a matter for the Council. I do wish to be assured of the qualifications and independence of the professional engaged.

Arbitration is of course binding whereas mediation is not but could lead to arbitration or court action. However, given the apparent decision of the Council, I see no reason for further delay or another tortuous paper."

Letter to the resident from the WHPC Chairman dated 9th August 2022.

The Chairman in this letter explained to the resident that the issue of arbitration had been mentioned in one of the four options (numbered 7b in the paper) and then explained why that was considered by WHPC as impractical. The Chairman then stated, " Are you now asking WHPC to additionally consider contracting an arbitration service?".

The Chairman acknowledged the resident did not wish to offer suggestions for any particular mediator.

The letter then stated, "The Council has agreed to identify potential mediation services to be considered to undertake the contract. In order to approach any such services we need to be able to explain to them the nature of what is required in order for them to assess whether they wish to be involved and to be able to quote to undertake the work. Clearly, I wish to be fully transparent in everything that is advised to those services, and so I have drafted a statement for you to consider and suggest amendments before any approach is made to any mediation services." A draft statement was then proposed for the resident to comment upon.

The resident was asked to respond with regards the query about arbitration and to comments on the proposed draft agreed statement for approaching the potential mediation services.

The resident was reminded that any required decisions on selecting a mediation service, the costs etc would have to be made at a WHPC meeting,

Update

The resident has not responded, so matters cannot be taken forward. This is a concern as WHPC wish for the resident's issues to be resolved to remove impact on the WHPCs resource commitments.

Decision:

I. To note update And

II. Consider what further action (if any) required