

## West Hill Parish Council (WHPC) Extraordinary Meeting 9<sup>th</sup> November 2021

*NOTICE: Cllrs must be mindful in all matters that WHPC is in a pre-election period (previously known as 'purdah') – this paper conforms to the requirements of Section 2 of the Local Government Act 1986, as amended in 1988 and S4 having regard to the recommended Code of Practice.*

### **Briefing Paper for Agenda Item 21/190**

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

### **For Information**

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 19<sup>th</sup> 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 2<sup>nd</sup> 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 4<sup>th</sup> 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 2<sup>nd</sup> November 2021 the MO advised WHPC he had cancelled the mediation appointment.

Following a request for clarity, the MO replied on the 3<sup>rd</sup> November 2021 stating that, "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 this."

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

### **4. WHPC Extraordinary Meeting**

On receipt of The Complainants correspondence WHPC called an Extra-ordinary Council meeting for 9<sup>th</sup> November to enable Cllrs to consider and agree appropriate actions.

WHPC then on 5<sup>th</sup> 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 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 16<sup>th</sup> February 2021 – they refer to her as 'Della Canning'. Cllr Della CANNINGS has been a Councillor since being declared such on 7<sup>th</sup> 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 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.

### **Decisions/Actions**

To enable full decisions of issues to be made in the interests of confidentiality some items may need to be considered in confidential session – to be agreed by WHPC at the meeting.

- A. To agree next steps subject to the EDDC Monitoring Officer's update on progressing the Complainants complaint.**
- B. WHPC has notified its insurers regarding the intimation of litigation.**
- C. WHPC will await contact from the Information Commissioner's Office.**
- D. 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. (To be considered in Confidential Session).**
- E. WHPC will consider whether to invoke the Complaints Policy – unreasonable, persistent or vexatious complainant process with regards this Complainant. (To be considered in Confidential Session).**

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