

## WEST HILL PARISH COUNCIL (WHPC) COMPLAINTS POLICY

**ADOPTED at WHPC Meeting 23<sup>rd</sup> May 2023 23/163**

Previously ADOPTED at WHPC Meeting 10<sup>th</sup> May 2022 Min 22/118

### **1. Purpose**

West Hill Parish Council values feedback from residents and views this as an opportunity to improve our services and focus better on the needs of our community. We try to deal fairly and promptly with enquiries, but recognise that sometimes residents may feel dissatisfied with our decisions or actions. If you are dissatisfied with the standard of service you have received from this Council, or are unhappy about an action or lack of action by this Council, this complaints policy sets out how you may complain to the Parish Council and how we shall try to resolve your complaint.

This policy also sets out the Council's policy with regards to unreasonable complainant behaviour ie persistent or vexatious complaints/complainants.

### **2. What is a complaint?**

The Local Government Ombudsman defines a complaint as "An expression of dissatisfaction ...about the Council's action or lack of action or about the standard of a service, whether the action was taken or the service provided by the Council itself or a person or body acting on behalf of the Council."

A complaint may also arise from an allegation of administrative fault such as not following procedures or standing orders, inadequate service, no service, delay or making a mistake.

Complaints can only be with regard matters arising in the previous three months. Matters prior to that can only be considered in exceptional circumstances. It is a WHPC decision whether or not to investigate a complaint.

### **3. Types of complaint not covered by this Policy**

Certain types of complaint are the responsibility of external bodies or are dealt with by other policies and therefore are not covered by this complaints policy.

These are:

- a) Alleged financial irregularity This is dealt with by the Parish Council's auditors;
- b) Alleged criminal activity. This is a matter for the police;
- c) Members' conduct alleged to breach the Code of Conduct adopted by the Parish Council (Further information on the process of dealing with complaints against Councillors may be obtained from The Monitoring Officer, Legal and Democratic Services, East Devon District Council, Blackdown House, Border Road, Heathpark Industrial Estate, Honiton EX14 1EJ);
- d) Complaints by one Council employee against another Council employee, or between a Council employee and the Council as employer. These matters are dealt with under the Council's disciplinary and grievance procedures;
- e) Complaints by an employee about the workplace. These should be raised in accordance with the internal grievance procedure;
- f) Complaints regarding the Clerk or other employee. These should be addressed to the Chairman to be considered under the Council's disciplinary procedures.

- g) Complaints about services provided by Devon County Council or East Devon District Council. These should be raised with the respective bodies in accordance with their complaints procedures;
- h) Complaints about democratic decisions taken by the Parish Council decided by a vote. Please note that our Standing Orders prevent the Parish Council from re-opening issues for six months from the date of the decision, unless there are exceptional grounds to consider this necessary and the process set out in the Standing Orders is followed.

#### **4. Who is this Complaints Policy for?**

Residents who live in or near the Parish Council's area and who are affected by our decisions, whether as individuals or organisations.

#### **5. What to do - First Stages – Informal Procedures**

The Parish Council's aim is to engage in discussion regarding the concerns, provide additional information and explanations, and have a clearer understanding of each party's viewpoint hopefully to resolve matters. Your concerns at this stage can be raised either orally or in writing.

##### **5.1 Talk to us.**

It is generally in the interests of the complainant and the Parish Council to try to resolve the matter informally through the normal channels of communication, rather than deferring to the formal complaints procedure. This is likely to be faster and less likely to tie up resources better spent on looking after the parish. If you have a complaint, please contact the Clerk who will log it and assess what needs to be done. Whether your complaint is resolved informally or formally, we will endeavour to put right whatever has gone wrong and try to learn from the experience so that our service improves. We will investigate what additional remedies, if any, may be appropriate.

The Clerk can be reached by phone, mail or email:

Landline: 01404 232100 Mobile: 07413 932406

Email: [clerk@westhillparishcouncil.gov.uk](mailto:clerk@westhillparishcouncil.gov.uk)

Address: Clerk to the Council, Gorsecroft, West Hill Road, West Hill EX11 1TU

**And/Or**

##### **5.2 Attend a Parish Council meeting**

You could attend a Parish Council meeting at the Village Hall, Beech Park, where you can use the public session at the beginning to speak to Councillors about your concerns, whether related to the agenda or not. Meetings are usually held on the first Tuesday of each month and the agenda is published on our website and noticeboards.

Concerns raised at the public sessions for issues not on the current agenda will be put on the agenda for consideration at the next meeting, but at the Chairman's discretion may be discussed/answered at the meeting where possible.

#### **6. Formal Complaints Procedure**

If your complaint has not been resolved to your satisfaction using an informal approach, our formal complaints procedure is set out below.

## **6.1 Make your complaint in writing to the Clerk**

Email is acceptable and speedy. If you do not have access to email you are welcome to write. Correspondence should be sent to the Clerk, Anne Oliver [clerk@westhillparishcouncil.gov.uk](mailto:clerk@westhillparishcouncil.gov.uk), or Gorsecroft, West Hill Road, West Hill EX11 1TU.

## **6.2 What information to include**

- Complainant's name, address and contact details including telephone number and email address
- Details of the complaint about the Council's procedures or administration to include the relevant events with dates/times, making it clear you are making a formal complaint
- How the issue has affected the Complainant
- Details of third parties and their involvement
- Copies of any relevant documents or other evidence upon which the Complainant relies
- What action the Complainant believes will resolve the complaint.
- State whether you waive your right to confidentiality.
- NB. If the complainant does not wish to put the complaint to the Clerk, he/she should be advised to address the complaint to the Chairman of the Council

## **6.3 Timescales**

- The complaint can only relate to matters occurring in the previous three months, except in exceptional circumstances.
- The Council will acknowledge receipt of the complaint within 7 working days and explain the next steps of the investigation process. Where possible we will use email as the fastest method, unless you state an alternative postal preferences. We may write or phone you if we need clarification on any points.
- The Council will deal with the complaint as soon as possible, but aims to finalise matters within 25 working days.
- If timescales are to be exceeded the Council will advise the Complainant.

## **6.4 What will the Parish Council do?**

- The Chairman will handle the complaint with one other Councillor, supported by the Clerk, and will investigate the complaint. They will then report their findings to you in writing.
- The outcome of the investigation will be reported at the first opportunity to a Parish Council meeting.
- The decision of the investigation is considered final.
- If your complaint is upheld, the Council will endeavour to put right whatever has gone wrong and try to learn from the experience so that our service improves. The Council will investigate what additional remedies, if any, may be appropriate.
- The Council will decide how long it will spend on any one complaint and whether it feels the complaint has been sufficiently dealt with. The complainant may challenge the Council's decision, although proof that the complaint has not been sufficiently dealt with will be required. However, if deemed to be a fair challenge the Parish Council will conduct a review of the complaint and reconsider its response.
- If a complainant persists in pursuing the same, or closely related, complaint with the Parish Council once their case has been closed, the Council reserves the right to terminate all further communication. The case will only be re-visited if the complainant can provide fresh evidence that may affect the Council's previous decision concerning the original complaint. If the Council feels that re-opening the complaint cannot be justified the complainant will be notified in writing that the case has been closed and there will be no further communication.
- The complaint will be kept on file for 5 years.

## **7. Data protection issues**

Data Protection regulations, your complaint is confidential unless you have told us you are waiving your right to confidentiality. We will not reveal your personal details regarding the complaint to anyone outside the Parish Council without your permission and/or you make it known publicly you are the complainant. We are permitted to share the information among Councillors to enable us to process the complaint.

## **8. End Note**

It is hoped that concerns and complaints can be fully resolved and expedited within a reasonable timeframe. Whilst the Council endeavours to respond with patience and sympathy to the needs of all complainants there are times when there is nothing further which can reasonably be done to assist or to rectify a real or perceived problem.

## **9. Unreasonable and persistent complainants and vexatious complainants**

This section of the policy is intended to assist in identifying and managing persons who seek to be disruptive to the Council through pursuing an unreasonable course of conduct. The difficulty in handling such complainants can be a problem for Council staff, Councillors and the reputation of the Council. The difficulty in handling such complainants is that they are time consuming and wasteful of resources in terms of the Parish Clerk, Councillors and the local Council tax payers.

### **9.1 What is a 'persistent' or 'vexatious' complainant?**

A persistent or vexatious complainant is a person who complains about issues, either formally or informally, on a frequent basis or frequently raises issues which the complainant considers to be within the remit of the Parish Council, and whose behaviour is unreasonable.

Such behaviour may be characterised by:

- Actions which are obsessive, persistent, harassing, prolific, repetitious;
- Prolific correspondence or excessive e-mail or telephone contact about a concern or complaint;
- Uses Freedom of Information requests and/or Subject Access Requests excessively and unreasonably;
- An insistence upon pursuing unsubstantial complaints and/or unrealistic or unreasonable outcomes;
- An insistence upon pursuing complaints in an unreasonable manner;
- Persistently change the substance of a complaint/enquiry or continually raise new issues or seek to prolong contact by continually raising further concerns;
- Repeatedly does not clearly identify the precise issues which they wish to be investigated, despite reasonable efforts of the Council to help them specify their concerns, and/or where the concerns identified are not within the remit of the Council to investigate;
- Regularly focus on a trivial matter to an extent which is out of proportion to its significance and continue to focus on that point;
- Are known to have recorded meetings or face-to-face/telephone conversations without the prior knowledge and consent of the other parties involved;
- An insistence on only dealing with a particular Councillor or employee on all occasions irrespective of the issue;
- Make unreasonable complaints/enquiries which impose a significant burden on the Council resources and where the complaint/enquiry:
  - Clearly does not have any serious purpose or value;
  - Can otherwise fairly be characterised as obsessive or manifestly unreasonable;
- An insistence upon repeatedly pursuing a complaint when the outcome is not satisfactory to the complainant but cannot be changed, for example, if the desired outcome is beyond the remit of the Parish Council.

This list is indicative but not exhaustive.

## 9.2 Harassment

Harassment is the unreasonable pursuit of such actions above in such a way that they:

- Appear to be targeted over a significant period of time towards one or more Councillor(s) or employee(s);
- Cause ongoing distress/mental anguish to individual Councillor(s) or employee(s);
- Have a significant adverse effect on the whole/parts of the organisation;
- Are pursued in a manner which can be perceived as intimidating and oppressive by the recipient. This could include situations where persistent demands and criticisms, whilst not particularly taxing or serious when viewed in isolation, have a cumulative effect over time of undermining confidence, well-being and health.

The Council will not tolerate racist, sexist, homophobic or other discriminatory language, or offensive, threatening and aggressive or violent behaviour towards Council employees, Councillors or the Council.

## 9.3 Procedure for dealing with persistent or vexatious complaints/complainants or harassment

### a) Warnings

- As soon as a concern is identified the Clerk is authorised to immediately send a copy of this Policy to the individual whose behaviour is causing concern asking them to take heed of the consequences if their behaviour continues. The Clerk should immediately advise the Chairman and report the matter to the next Council meeting for noting; then:
- Should there be a further occurrence(s) of the unacceptable behaviour (as per this Policy) the Council will consider the matter in Confidential session (unless the individual has waived their right to confidentiality) to consider resolving by a simple majority vote to formally write to the individual and request that they desist from the unacceptable behaviour and advising that should such continue, then the Council will need to consider appropriate further actions.

These actions can be undertaken in parallel with reporting matters to other authorities E.g. the police or seeking civil redress if the conduct merits such.

### b) Deeming 'Vexatious Complainant'

It is to be hoped that the individual ceases their unacceptable behaviour, but if not, then the Council can continue to consider seeking legal redress, or reporting to the police or other regulatory authority as appropriate. There is no necessity for the individual to be given prior notice of such action(s) by the Council.

The Council will need to consider the conduct of the individual in confidential session (unless the individual has waived the right to confidentiality) and decide if such is vexatious/harassment or unacceptable behaviour in accordance with this policy by single majority vote to deem the individual a 'vexatious complainant'.

If so, the Council will need to decide then the associated course of action to be taken, dependent on the specific circumstances. A list of potential options available for dealing with a 'vexatious complainant' are below at 9.4.

Once deemed a 'vexatious complainant', their status will be kept under review for a minimum period of one year after which the status can be withdrawn or following a thorough review the designation can be reimposed for a further period of at least one year.

The Council will notify the individual in writing (and verbally where possible/appropriate) they have been deemed a 'vexatious complainant', with the reasons and the actions that will be taken.

#### **9.4 Options for dealing with a 'vexatious complainant'.**

The options below can be used singularly or in combination depending on the circumstances of the case. This list is indicative, not exhaustive.

- i. Decline contact with the 'vexatious complainant', either in person, by telephone, by fax, by letter or any combination of these, provided that one form of contact is maintained. This may also mean that only one named officer/Councillor will be nominated to be a sole point of contact by designated means.
- ii. If any of the terms of the agreed Council actions are contravened by the 'vexatious complainant' then consideration will be given to implementing other actions.
- iii. Notify the individual, in writing, that the Council has responded fully to the points raised and has tried to resolve the complaint/enquiry but there is nothing more to add and continuing contact on the matter will serve no useful purpose.
- iv. Establish a specific procedure for dealing with the individual i.e. only with a delegated person to be identified, who will investigate, determine whether the concern / complaint is reasonable or vexatious and then advise the Parish Council accordingly;
- v. Advise that the Council will not respond to communications from the 'vexatious complainant'.
- vi. Inform the individual that the circumstances warrant the Council seeking legal or police advice and if applicable seek an injunction or prosecution.

#### **9.5 New complaints received from complainants previously deemed to be unreasonable and/or vexatious will be considered on their merits.**

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