

**WINKLEIGH PARISH COUNCIL  
COUNCILLOR DISCIPLINARY POLICY**

AS OF 27/09/2023

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**REVISIONS & REVIEWS**

<b>POINT</b>	<b>RE/RW NOTES</b>	<b>DATE</b>

**This procedure is a document that sets out Winkleigh Parish Council’s approved and agreed practices concerning its internal disciplinary procedure.**

THIS IS A CONTROLLED DOCUMENT

Whilst this document may be printed, the electronic version maintained on the Winkleigh Parish Council website is the controlled copy. Any printed copies of this document are not controlled.

This policy is subject to annual review.

**THE LEGAL FRAMEWORK**

The law governing punitive measures taken against Councillors can be found in the Local Government Acts 1972, and 1988. The underwritten is a set of internal procedures NOT intended to replace current legislative requirements but rather to place them contextually in our Council.

*Members of the public who wish to make a complaint against a member of the Parish Council are encouraged to consider whether they would rather exercise their legal right to make said complaint straight to the Monitoring Officer at Torridge District Council. However, they are also reminded that doing so does not necessarily preclude the Parish Council from taking internal measures aswell, nor does it preclude the sharing of legitimate information internally where legally possible.*

Winkleigh Parish Council reserves the right to seek legal advice concerning complaints made against councillors, including where complaints have been deemed to be malicious or dishonest in nature (see 2.II for further information).

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### **INTRODUCTION**

It is the intention of this policy to ensure that proper care and attention is given to each and every complaint made against a Parish Councillor by a member of the parish, and to provide guidelines on how this can be achieved – hopefully to the satisfaction of the complainant and the other parties involved. The Parish Council aims to promote transparency in its procedures where possible, especially when the practice of one of its Councillors comes under scrutiny; however, when at times certain discussions or resolutions must be made in closed session (as legally provided by the Public Bodies [Admission to Meetings] Act 1960 s1 {2}) the parish will be asked to remember that it is our legal obligation to handle sensitive information with due respect to the law – especially GDPR and the Data Protection Act. When this decision is taken, the Council will endeavour to provide, when asked, a valid reason for such an undertaking, although the Council reserves the right to differ with inquirers on what constitutes a ‘valid reason’.

It should be noted that the underwritten can be amended in exceptional circumstances by a motion of the full council, or when under review, like all Council documents.

#### **Points of Order & Clarification:**

- Each of these sections will be split into points using the standard Roman Numeral system: i.e. 1.IV will be a different point to 2.IV; should further sub-classification be required the system will return to Arabic Numerals: i.e. 1.IV.2 and 2.IV.2 etc.
- Winkleigh Parish Council shall hereafter be called WPC, the Council, or the Parish Council.
- The terms ‘Full Council’ and ‘Quorate Council’ are used interchangeably; a quorate Council is any WPC meeting sitting in session made up of four Councillors or more.

## **SECTION 1- COMPLAINT RECEPTION AND PROCEDURE IN SESSION**

### **1.I – Upon Receipt of Complaint**

**1.I.1** – All formal complaints against a Councillor should be made in writing, giving as much detail as possible, to the employee managed email address at [clerk@winkleighpc.org.uk](mailto:clerk@winkleighpc.org.uk). If any formal complaint is sent to a different member of the Council, the following time constraints will not apply –it shall not be the duty of the member of the Council that has been approached to forward this complaint to the above email address or otherwise make it available to the Clerk, however they may wish to do so.

**1.I.2** – The complainant should understand that by undertaking a complaint against a Councillor they have informally permitted this information to be shared amongst the Council, this information may include their personal contact information. However, where possible formal consent shall be requested in the following manner.

**1.I.3** – The Clerk will undertake to respond to any complaint received against a Councillor acknowledging receipt of said complaint within three working days, unless the Clerk is ill, on holiday, or on leave, in which case the following will not apply.

**1.I.4** – The Clerk will then undertake to consult the Council and establish a date for this complaint to be heard in public or private session depending on the contents of the complaint and relay this date to the complainant within ten working days. The date on which this complaint shall be heard will be the next meeting of the full council, or the meeting immediately proceeding that, or in certain circumstances the council may decide to call an extraordinary meeting before the next meeting to hear said complaint.

**1.I.5** - Should a complaint be received when no Clerk is in the employ of the Council, WPC reserves the right to enact extraordinary measures and circumvent these self-imposed time constraints.

**1.I.6** – For a complaint to be considered a ‘formal complaint’ and thus subject to the review of the full council the following criteria must all, or mostly, be met:

- The complaint must name both the complainant(s) and the councillor(s) concerned.
- The complaint must not use vulgar, inflammatory, or offensive language of any kind.
- The complaint must not concern or refer to behaviour that the Councillor concerned has engaged in as a private citizen, or contain any malicious material (however, actions that Councillors engage in as private citizens may still be cause for legitimate complaint if this behaviour pertains to Council activity or is deemed otherwise relevant by the Council).

- The complaint must include copies of any relevant documentation intended to support the complaint, including but not limited to: witness statements, email trains, letters etc.
- Where external supporting documentation is not provided the complaint must include enough information for the Council to make an informed decision, including but not limited to: dates and times, information from witnesses, any and all evidence pertaining to the complaint.

**Failure to meet these legitimate requirements may result in the complaint not being heard in any session before the council and instead referred to the Monitoring Officer. WPC reserves the right to do so by resolution of the Council.**

### **1.II – Procedure of Complaint within Public Session**

*NB: WPC reserves the right at any point to decide to defer the deliberation of a complaint to closed session where it deems necessary by resolution of the full council. WPC further reserves the right to at any time refer any complaint to the Monitoring Officer.*

**1.II.1** – The complainant may, if they wish, decide to restate their complaint in public in the period of public participation that forms part of every ordinary meeting of the Council. The complainant must also be aware that the Council may make special requests for more information concerning the complaint in person should the complainant(s) choose to attend the public session. However, where possible these questions should be made available to the complainant before their attendance, and of course it is the complainant’s legal right to refuse to comment further when requested, although they are encouraged to understand that this may impede or otherwise affect the Council’s ability to make a decision satisfactory to them.

**1.II.2** – If the complaint has been deemed to meet to the above requirements and is considered a formal complaint, which can be dealt with in open session, then the following will occur:

1. The Councillor(s) concerned will excuse themselves from the room;
2. The Clerk or nominated Councillor will read out the full complaint, or a redacted/reduced copy of the complaint, to the Council;
3. The Council will then, using this policy as a guide, deliberate and discuss whether the complaint requires internal disciplinary procedure or not;
4. If internal procedure is deemed necessary then these measures must be agreed and written into the resolution that must then take place, if it is deemed **not** necessary then no resolution should take place - the reasons for either decision should be recorded in the minutes, whatever the outcome, in as full detail as possible;

5. The Councillor(s) who previously excused themselves from the room will then be called back, and the resolution, or decision, will be read out a second time.

### **1.III -Procedure of Complaint in Closed Session:**

The procedure in closed session shall be the same as in open session, except that any resolution or decision arising from discussion may omit certain information if it is deemed to be protected by GDPR or the Data Protection Act, or some other such relevant legislation.

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## **SECTION 2 – MEASURES THAT MAY BE INTERNALLY IMPOSED BY RESOLUTION OF THE FULL COUNCIL**

### **2.I. – A List of Internal Disciplinary Measures**

*NB: This list is not exhaustive, merely advisory; however, it should be noted that these are not legally binding and are meant rather to promote good faith and working practice within the relationship between Parish and Council.*

- Councillors may be required to formally apologise for the reception of their actions, or for their behaviour in general to parties privately or publicly – to whom this apology is to be directed towards is at the discretion of the Council.
- Councillors may be referred to the Monitoring Officer – or in extreme circumstances, the police – for their behaviour.
- Councillors may be required to cease all communications with a person or persons in their role as Councillor.
- Councillors may be required to cease all comment on a particular event/subject/person in their role as Councillor (which may include but is not limited to social media posts, emails, and other forms of digital or written communication).
- If occupying a position of note within the Council, such as, but not exclusively, Chair, Vice-Chair, or Proper Officer, then the Council may resolve to require the Councillor(s) to step down from said role effect of immediately.
- Councillors may be formally removed from working groups both internal and external to the Council if their behaviour has been proven to negatively affect the efficiency of said group.
- If Councillors refuse to excuse themselves from the following, then Councillors may be required to refrain from comment in public session of WPC on certain matters, if their

behaviour regarding that subject has been proven to be obstructive to the efficiency of WPC on said matter.

**The above measures when imposed are subject to at least quarterly review and must be renewed by resolution on the date of their review if deemed still necessary.**

## **2.II – Further Measures**

Legal council may be sought by WPC concerning any and all complaints made against its Councillors or against WPC as a legal entity, this legal council may be employed by resolution of the full council up to and including an agreed amount - subject to further additional agreed costs. Regardless of if legal advice is sought, internal measures may still be imposed.

(The above is subject to annual review)