

West Cliff House Owners' Association

West Cliff Estate

Rule Book and Owners' Handbook

Issued October 2024

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1. History

The West Cliff Estate consists of approximately 130 privately owned properties. The majority of houses on the lower estate were built between the years of 1921 and 1960. The roads involved are Hill Rise, Hill Close, Meadway, West Cliff Road, First Cliff Walk, Second Cliff Walk, Third Cliff Walk and Fourth Cliff Walk. The middle estate was built around 1961 and consists of the lower section of West Walk up to the junction of Brit View Road. The upper estate was built around 1972 and consists of Brit View Road and the top section of West Walk .

2. Ownership of and responsibility for land

2a Ownership

The West Cliff Estate is private, so maintenance is the responsibility of the house owners, pertinent to covenants contained within their property deeds. Council tax payments do not contribute towards road or drainage upkeep on the estate, so the importance of maintaining high standards rests entirely with the house owners, with goodwill and cooperation across all three sections of the estate. The West Cliff House Owners' Association (WCHOA) was formed to support the trustees who maintain the common land on the estate on behalf of the house owners. Run by a committee of volunteers, the association's remit is to maintain all services, facilities and land beyond that of the responsibility of individual house owners and relevant utility organisations.

The middle estate has been treated differently to the remainder of the estate in that each house owns the land to the centre of the road. However, the majority of owners have subscribed to the association and maintenance of the road and surface water drains¹ is conducted on their behalf via the committee of the association.

All other common parts (roads, pavements, walkways and verges) in the remainder of the estate, is held in trust by trustees as 'tenants in common' .

2b Trustees

It is a legal requirement for the association to have trustees as it is not possible for all houseowners to legally hold the common parts of the estate and the four Trustees therefore do this on their behalf. Trustees are registered at the Land Registry. Trustees must live on the estate and remain as Trustees until they retire, resign or are no longer resident on the Estate and ideally should be active members of the committee. Trustees will identify replacement Trustees when necessary. The role, responsibilities and power of Trustees and the process for their retirement or removal are governed by the Trustees Act 2000

Trustees delegate day to day management of the Estate (as outlined above) to the WCHOA Committee. However the Trustees have ultimate responsibility for the Estate and can therefore, by majority, over rule decisions made by the Committee.

¹ If you have any queries about ownership and / or responsibility for sewers and drains please contact Wessex Water in the first instance

3. Easements and Way leaves

An easement is a right granted, usually in perpetuity, benefiting a piece of land that is enjoyed by someone else. Usually such a right allows someone other than the owner to use a part of their property or run services through it. Where rights of access already exist then homeowners should advise the WCHOA of the intended work and agree the standard of reinstatement.

Owners may need to apply for an Easement if they are seeking access across or under land that they do not own. Guidance on how to apply and an application form can be obtained from the Secretary of the WCHOA.

A wayleave is a right of way granted by the landowner in exchange for payment for purposes such as the erection of telephone wires or the laying of pipes.

4. Association Name

The name of the Association is the "West Cliff House Owners' Association" (hereinafter referred to as "the Association").

5. Objectives of the Association

- a) To preserve and maintain in the interests of safety and amenity:

All roads, surface water sewers and road gullies on the estate.

Surface water drains and sewers, in accordance with water company guidelines. (foul sewers became the responsibility of Wessex Water on 1st October 2011) and excluding lateral drains from any properties feeding common sewers where all costs will be borne by the property owner.

Any other property owned by or the responsibility of the Association.

- b) To resist infringement and the acquisition by use of public and private rights over all common parts including but not limited to surface water drains, roads and verges.
- c) To oversee way leaves, easements and rights of way where appropriate on behalf of the Trustees of the estate and to ensure that Trustees sign/maintain appropriate legal documentation.
- d) To deal with the local authority and any other person or body with an interest in the roads and verges.
- e) To ensure that adequate Public Liability Insurance is in place in relation to the Association's activities.
- f) To respond to reasonable requests, about the management of the estate, from conveyancing solicitors and others during the sale and purchase of members' properties at the cost of the sellers.
- g) To act as the street authority in accordance with the New Roads and Street Works Act 1991 or subsequent legislation.
- h) The Association will not become involved in matters relating to boundary or other disputes between property owners or residents on the estate.

- i) To endeavour to recover maintenance costs where owners have not paid subscription fees and will record monies owed as a debt to the association using the formula as annotated in section 10.

6. Membership of the Association

Membership of the Association is open to any person owning any property on the West Cliff Estate, West Bay on payment of an annual subscription. If a property is owned by more than one person, the joint owners shall be covered by a single membership. Membership is not transferable

A member is defined as having fully paid their subscriptions and having no arrears.

Every member shall be entitled to one vote on any subject at any general meeting of the Association. If a property is owned by more than one person, the joint owners shall be entitled to one vote only. If a member owns more than one property on the Estate, he or she will be entitled to one vote for each property owned.

When the ownership of a property changes, the vendor(s) are deemed to have resigned from the Association with immediate effect, and the purchaser(s) shall become members as soon as they have notified the Secretary of the Association of their acquisition. Where the vendor has paid the full annual contribution for the current year, the new owner will not become liable to contribute until the 1st May the financial year following their admission to membership.

A person's membership terminates

- i) If their subscription is unpaid four weeks after the final due date, and in that event they shall not be entitled to re-join until the arrears are paid.
- ii) When a member gives seven days written notice to the Secretary that he / she wishes to withdraw their membership. Members may withdraw from membership of the Association by giving 7 days' notice to the secretary in writing.
- iii) If a member ceases to be resident of the estate.

Where a member withdraws their membership or ceases to be a member, no refunds of subscriptions will be given.

Liabilities of members are as stated in their property deeds.

7. Officers and Committee

The Officers of the Association shall consist of the Chair, Secretary and Treasurer. Any person filling these roles must be a member of the Association. Officers shall be designated by the committee from within the members elected at the AGM.

The Committee of the Association shall consist of the Officers and a maximum of seven other members comprising Road Representatives and Ordinary Members. Members shall be elected at the AGM for a period of up to three years. Two such members shall retire each year by rotation and shall be eligible for reselection.

A Committee Member may resign by giving notice to the Secretary. Such a resignation can be dated or take immediate effect.

Casual vacancies shall be filled by the Committee by co-option until the AGM following the vacancy. The vacancy will then be filled by election in the normal way at the next AGM.

7.1 General Authority

Subject to the Rules, the Committee are responsible for the management of the estates business.

Any decision made by the Committee must be either a majority decision or by the casting vote of the meeting chairman should the votes be equal.

Any Committee member can call a Committee meeting by giving seven days' notice of the meeting to the other Committee members or by instructing the Secretary to do so. It must state the time and place of the meeting and how to join the meeting remotely. This does not need to be in writing.

7.2 Delegation of Committee Authority

Subject to the rules, the Committee may delegate their authority to any sub-committee as they see fit. The sub-committee must follow procedures, as far as they are applicable, which govern the main Committee. The Committee may also make additional rules which prevail over rules derived from The Rules if they are not consistent with them.

7.3 Indemnifying Committee Members

The Committee will arrange liability insurance to indemnify Trustees, Committee Members and sub-committee members against any liability incurred by that Trustee/Committee/sub-committee Member in connection with negligence, default, breach of duty or breach of trust in relation to the association.

This article does not authorise any indemnity which would be prohibited or rendered void by provision of law.

8. Proceedings of the Committee

The Committee shall meet as necessary, and in any case not less than four times in any 12-month period. The Quorum for the Committee shall be five, of whom at least one must be an Officer of the Association. Each Committee member shall be entitled to one vote. If the Association Chair is not present, then those Committee members present must agree a Chair from amongst themselves. If equal numbers of votes are cast on any issue, the Chair of the meeting shall have a second (or casting) vote.

The management and affairs of the Association shall be controlled by the Committee. The Committee shall notify members as soon as possible of any decision taken that might affect them or their property.

8.1 Conflicts of interest

If a proposed decision of the Committee is concerned with an actual or proposed transaction or arrangement in which the committee member has an interest, then that Committee member cannot participate in the decision making process for both quorum and voting purposes. The committee member(s) may, however, take part in the discussion prior to a decision being made.

8.2 Records of decisions

Written records of decisions made shall be made and stored (in hard copy or on Dropbox or similar platform) for a minimum of 10 years.

9. Communication with members

The Committee is keen to update members on its activities and general developments on a regular basis. Currently this is via a newsletter or notice emailed to members who have granted permission for the use of their email address (for specific purposes only in compliance with the 2018 Data Protection Act) or hard copy hand delivered to members who have not given permission to use, or who do not have an email address.

The main items discussed at Committee meetings will be summarised in the next newsletter. Draft AGM/EGM minutes will be uploaded to the website as soon as possible after the meeting.

10. Annual Estate Maintenance and use of Subscriptions

All property owners on the West Cliff Estate are invited to become registered members of the Association on payment of an annual subscription. This annual subscription is managed by the Association on behalf of members and is used to further the objectives of the Association.

The amount of the subscription shall be fixed each year by the Committee and shall be subject to approval at the AGM. In fixing the subscription, the Committee must have regard to the need to accumulate funds for major work such as resurfacing roads and repairing aging sewers and drains.

The contributions are due on 1st May each year following the AGM at which the rate for the year is voted upon and agreed by members. The Association's financial year runs from the 1st April to the 31st March.

Members who are not fully up to date with their annual subscription(s) are required to contribute to the costs of estate maintenance and repair in accordance with their property title deeds or they will be invoiced for their share of the maintenance costs in accordance with the following formula:

Property owners share of maintenance =

Cost of maintenance ÷ Total number of properties benefiting from maintenance

Subscription funds are used for estate maintenance and thereby to the common benefit of all estate properties. Non-payment of subscription property owners' share of maintenance (if applicable) will be accrued and recorded as a debt owing against the property.

Subscriptions will not be used to pay for third party damage caused by landowners who have refused the association access to inspect communal property located on their land. Costs associated with damage must be recovered by the party suffering the damage from the party causing the damage.

11. General Meetings

The Association shall hold an AGM each year. Where possible the AGM shall be no later than 18 months following the previous AGM.

An Extraordinary General Meeting (EGM) may be convened at any time by the Committee or within 28 days of the receipt by the Secretary of a request signed by not less than five members stating that:

- An EGM should be held and
- Specifying the business that it is desired to be transacted at the meeting

11.1 Notice of General Meetings

The Secretary shall give to each member not less than 28 days' notice, except in the case of an emergency, of any General Meeting of the Association, and such notice shall state:

- The business to be transacted at the meeting and
- The form of any resolution which it is desired to submit to the meeting

11.2 Attending General Meetings

Fully paid up members of the association will have the opportunity to attend in person or where communication allows via an online platform, speak at and vote at general meetings. Non-members may be invited by the Committee to attend and speak where appropriate.

11.3 Chairing General Meetings

The Chair of any General Meeting shall be the Chair of the Association, or if he/she is not present or is not able or willing to chair a general meeting, a member of the Committee shall be nominated to chair the general meeting, alternatively an Association Member may be nominated by the Committee. If no Committee member is present, then the Association Members present shall elect one from their number to take the Chair.

If an equal number of votes are cast on any issue at any meeting, the Chair of the meeting shall have a second (or casting) vote.

At any General Meeting the Quorum shall be 25 Association Members.

11.4 Adjournment of meetings

- If the number of persons attending the meeting within a quarter of an hour of the time the meeting was due to start does not constitute a quorum, or if during a meeting a quorum ceases to be present, the Chair of the meeting must adjourn it.

- The Chair of the meeting may adjourn a general meeting if -
 The members consent or direct to do so
 It appears to the Chair that an adjournment is necessary for safety reasons or to ensure that the meeting is conducted in an orderly manner.
- If a meeting is adjourned, the Secretary will call another meeting as soon as possible after the original date. If this subsequent meeting is also inquorate, those present at the meeting shall be able to vote on and pass resolutions.

11.5 Resolutions

Ordinary resolutions to be presented at general meetings need to be both proposed and seconded by fully paid up members, to the Secretary of the Association at least 14 days prior to the meeting so that the information can be passed to the members. The Secretary will send details of the resolution to the members at least 7 days prior to the meeting

11.6 Reserved Matters

A decision on a reserved matter can be taken only by members, by special resolution at either the AGM or an EGM, unless the members direct the committee to take it. Reserved matters are:

- a) Starting, taking part in, defending or settling proceedings before any court.
- b) Granting or amending rights of way or other legal rights over the roads
- c) Selling or otherwise disposing of any part of the land owned
- d) Increasing the subscription rate by more than 10%
- e) Winding up the Association

12. Conduct at meetings

Meetings should be conducted so that they are productive with actions coming from them.

- Members should treat everyone with respect regardless of whether they agree with their viewpoint or not. They should be willing to accept and tolerate tough conversations and conflicting views in the kindest way possible. If someone oversteps these boundaries the Chair of the meeting can ask that person to leave the meeting or adjourn the meeting so that the meeting can be conducted effectively.
- Members should hold themselves and each other accountable and should not hold side conversations. They should avoid using laptops or tablets, unless part of a presentation, and mobile phones should be switched off or muted.
- Problems should be challenged rather than the speaker. Viewpoints should be reframed so that they are focused on finding a resolution to the problem rather than being antagonistic.

- Conversations should stay focussed on the topic in hand to ensure the best use of everyone's time.
- Follow up actions should be agreed with time scales and responsibilities and these should be recorded in the minutes.

13. Voting at meetings

A resolution put to the vote of any meeting must be decided on a show of hands unless a poll (written ballot by those present) is demanded in accordance with the rules

13.1 Written votes

Written voting shall be allowed at General Meetings. Written votes must be signed and dated by the member, showing the member's address, the motion and any option being voted on, and a YES or NO indicated. Written votes must be delivered to a member of the Committee before the meeting starts. The Chair or Secretary will be responsible for ensuring that written votes are added to the total votes cast by those members who are present. Prior to a vote being taken a member can retract a written vote by writing to a member of the Committee, or by attending the meeting and withdrawing it in person.

13.2 Proxy votes

Proxies may only validly be appointed by a signed notice in writing which states the name and address of the member appointing the proxy and identifies the person appointed to be that member's proxy. It may specify how the proxy is to vote for them or state that the proxy may vote as the delegate determines. Proxy appointments must be delivered to a member of the Committee before the meeting starts. Prior to a vote being taken, a member can retract a proxy appointment by writing to a member of the Committee, or by attending the meeting and withdrawing it in person.

13.3 Poll votes

A poll on a resolution may be demanded:-

- in advance of the general meeting where it is put to a vote or
- at a general meeting, either before a show of hands on that resolution or immediately after the result of a show of hands

A poll at a meeting may be demanded by :-

- The Chair of the meeting
- The Committee members
- 5 or more members who have a right to vote on the resolution.

The poll must be taken immediately in such manner that the Chair of the meeting directs.

13.4 Errors and disputes -

No objection may be raised to the qualification of any person voting at a general meeting except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting is valid.

Any such objection must be referred to the chairman of the meeting whose decision is final.

Draft AGM Minutes will be made available to members at the subsequent AGM and will be agreed at that meeting. The AGM minutes will then be loaded onto the website within 28 days of the meeting. A member may request a copy of the draft minutes before they have been approved by the following AGM on the understanding that the content could be subject to amendment.

14. Finance and Accounts

The Treasurer shall prepare accounts for the preceding year plus a budget for the following year for submission to the AGM. Details of the Association account(s) reported against budget shall also be given by the Treasurer at all Committee meetings.

The drawing of monies shall be subject to the following approval

- I. Amounts under £1,000 approval by Treasurer or Chair
- II. Amounts between £1,001 and £3,000 approval by two of Treasurer, Chair and Secretary
- III. Amounts over £3000 approval by Treasurer or Chair and a majority of committee members

An Association Auditor shall be appointed at the AGM for the ensuing year, or co-opted later if necessary.

The Officers and Committee Members shall be entitled to the reimbursement of expenses incurred on Association business, subject to the production of supporting receipts.

The Committee is responsible for the funds of the Association, but is not authorised to allow funds to run into deficit, unless approved by a General Meeting of the Association. In the event that funds are insufficient to cover the costs of maintaining the items listed in Section 2, each house owner shall pay an equal proportion of any shortfall to the Association.

15. Amendment to Rules

The contents of these Rules may be only altered or added to by a special resolution of any General Meeting of the Association that is carried by a majority of not less than 51% of members.

Any proposed change to the legal status of the West Cliff Estate or the Association, excepting the identity of the Trustees, may only be agreed by a special resolution of any General Meeting of the Association that is carried by a majority of not less than 51% of members.

16. Roles and responsibilities of committee members

The following provides an overview of the roles of committee members and specific post holders. It is not exhaustive.

All committee members must

- Exercise the skill, care, due diligence and independent judgement expected of a person operating in a representative capacity and act in the interests of the association as a whole.
- Treat all association members equally and with respect.
- Act in the best interests of the whole estate
- Avoid conflicts of interest where possible and declare any conflicts of interest as soon as they arise.
- Not make personal profits at the association's expense.
- Not accept benefits from third parties.
- Obey the law in particular as it relates to estate management, health and safety, employment law, tax, data protection etc.
- Behave ethically, follow relevant WCHOA policies and respect matters requiring confidentiality.

Each committee member shall have the following responsibilities:

- To make sure the association adheres wherever possible to current association rules as laid down in the rule book (revised 2024).
- To make decisions / recommendations to association members.
- To advise the Treasurer on the 'Annual Estate Maintenance Contribution' fees payable by home owners.
- To undertake specific duties as agreed with the committee in relation to the management of West Cliff for which the Association has responsibility. This could include for example, overseeing works or liaising with contractors, utility companies, the local council etc.
- To attend, participate in and vote at committee meetings.
- To sign cheques on behalf of the association if made an authorised signatory.
- To develop and oversee a planned maintenance programme & to review the budget
- To share knowledge about the estate with owners.
- As agreed by committee members, to represent WCHOA on local bodies and forums.

Specific additional responsibilities of the Chair:

- To chair general meetings of association members and committee meetings, ensuring they are conducted efficiently.
- To ensure the committee receives professional advice when it is needed.
- With the support of the secretary, to ensure minutes accurately reflect the content of the meeting and to sign these minutes.
- To have the casting vote at any association meeting where there is an equal number of votes cast.
- To oversee WCHOA content including on the website, in the newsletter, on the noticeboard etc.

Specific additional responsibilities of the Treasurer:

- To manage the Association bank account.
- To maintain a record of association income and expenditure.
- To obtain receipts for agreed expenditure and arrange reimbursement.
- To liaise with owners as required in order to collect membership fees.
- To maintain an up to date list of members (name, address and contact details, GDPR authority given) and fees paid.
- With the agreement of the committee, to ensure payments are made in respect of
 - Work undertaken by contractors on behalf of WCHOA.
 - Printing of Association documentation.
 - Membership of relevant trade bodies.
 - Public liability and professional indemnity insurance.
 - Venue hire for meetings.
 - Other expenses agreed by the committee.
- To ensure copies of bank correspondence and bank statements are securely filed.
- To ensure the accounts are audited in line with the WCHOA rule book.
- To prepare an annual budget
- To provide a financial report (income and expenditure against budget) for each committee meeting and for the AGM.

Specific additional responsibilities of the Secretary:

- To service committee meetings:
 - Agree the agenda with the Chair and other Committee Members.
 - Convene meetings and communicate date, time and location of meetings.
 - Take notes at meetings and circulate draft minutes within two weeks of the meeting.
- To prepare and circulate papers (including but not limited to the agenda, draft minutes and discussion papers) for the association AGM and extraordinary general meetings (if required), ensuring members are given sufficient advance notice of meetings (as set out in the rules / constitution).
 - Book the venue (ensure keys are collected and the venue is set out and ready at least 30 minutes before the start of the meeting); ensure keys are returned after the meeting.
 - Prepare voting papers if required.
 - Receive details of attendance / apologies for absence / issues to be raised by owners.
 - Arrange for tea, coffee and light refreshments to be made available at the meeting.
 - Take notes at the meeting and produce minutes within two weeks of the meeting for uploading onto the website and distribution by Road Reps.
- On behalf of the Association, to notify owners as soon as possible of any decision taken by the committee that might affect them or their property.
- To deal with correspondence with home owners, members and other organisations and agencies as agreed by the members or the committee.
- To ensure association documentation and correspondence are up to date and appropriately stored and to respond to members' requests to view these documents.
- To support the Chair to manage content on the website and in the newsletter.

- To support the Committee in the production of an Association newsletter – at least twice a year.

Specific additional responsibilities of Road Reps / committee members (maximum of seven):

- To act as a communication conduit between owners of properties for which the Road Reps are responsible and the committee.
- To seek and present the views and opinions of house owners on the road(s) they represent
- To deal with correspondence with home owners, members and other organisations and agencies as agreed by the members or the committee.
- To take on specific tasks as agreed by the committee (for example maintaining the website, producing a newsletter, managing drainage issues, maintaining association document files etc)
- To distribute hard copies of association paperwork including but not limited to newsletters, AGM invitations and subsequent minutes.

Members of the committee will not be paid for their time but may be remunerated for expenses.