

Melvin Kenyon and Associates

South Derbyshire District Council (Willington Parish Council)

**Complaints against Willington Parish Councillor, Paul Cullen, arising out
of the abortive meeting of the Recreation and Amenities Committee on
4th November 2019**

Report prepared for Ardip Kaur, Monitoring Officer, South Derbyshire District Council – 12 July 2020

Investigation Report – South Derbyshire District Council (Willington Parish Council) Complaints against Councillor Paul Cullen (Subject Member)

1. EXECUTIVE SUMMARY

1.1 BACKGROUND

In late October 2019, Ardip Kaur, Monitoring Officer at South Derbyshire District Council (“SDDC”), appointed Melvin Kenyon to investigate certain complaints about the alleged conduct of Paul Cullen, a Parish Councillor serving as a member of Willington Parish Council (“the Council”).

1.2 FOCUS OF THE INVESTIGATION

There were several complaints requiring investigation and Complainants had, in general, asked for their confidentiality to be preserved (as provided for under the SDDC Complaints Procedure). To reduce the complexity inherent in preserving confidentiality and help improve understanding, the complaints have been separated into coherent, manageable groups for reporting purposes.

Following the abortive meeting of the Recreation and Amenities Committee which had been scheduled to take place at the Old School, the Castleway, Willington at 7pm on Monday 4th November 2019, Ardip Kaur received two complaints about the alleged conduct of Cllr Paul Cullen at that meeting.

This report (“the Report”) and the related investigation (“the Investigation”) focus on those two complaints (“the Complaints”). The text of one of the Complaints is set out verbatim in Section 5 below. The text of the second Complaint is presented very largely, but not entirely, verbatim (in an effort to preserve the confidentiality requested by the Complainant) in Section 5.

The Complaints alleged that, after the closure of the meeting, Cllr Cullen lost his temper and verbally abused a resident, Mrs Sue Carter with the result that she broke down in tears. By doing this, the Complaints alleged, Cllr Cullen breached the Willington Parish Council Code of Conduct.

1.3 CONCLUSIONS AND RECOMMENDATIONS

I conclude from the evidence available to me and based on the balance of probability that **Cllr Paul Cullen was acting in official capacity when he attended the abortive meeting of the Recreation and Amenities Committee on 4th November.**

I further conclude, based on the balance of probabilities and the evidence that I have available to me, that:

- **Paul Cullen breached the Willington Parish Council Code of Conduct in that he did not treat Sue Carter and his fellow councillors with courtesy and respect and thus did not “behave in such a way that a reasonable person would regard as respectful”. In reaching**

this conclusion I note that the Code makes no reference to “bringing the Council or the office of Councillor into disrepute” even though I do not doubt that Cllr Cullen’s behaviour did exactly that.

- **Paul Cullen did not behave in a way that a reasonable person would regard as bullying or intimidatory.**

On the basis of the conclusions above I make the following recommendations:

- 1. That the breach of the Code of Conduct by Cllr Paul Cullen in regard to his behaviour after the Recreation and Amenities Committee had closed on 4th November be referred to the South Derbyshire District Council Standards Committee for further action.**
- 2. That Willington Parish Council reviews its Code of Conduct and upgrades the Code to include, as a minimum, a clause that councillors should not exhibit behaviour which “brings the Council or the office of Councillor into disrepute”.**
- 3. That Willington Parish Council agrees to a programme of reconciliation and a review of its working arrangements (including its committee structure) to try to restore relations within the Council and, further, that any councillor who is unwilling to take part in a programme of reconciliation should consider their position as a councillor.**
- 4. That, as part of that programme of reconciliation, the Council draws on Cllr Paul Cullen’s undoubted skills in areas such as footpaths and open spaces for the benefit of the village of Willington.**

2 OFFICIAL DETAILS OF SUBJECT MEMBER

Cllr Paul Cullen told me that he was initially co-opted onto the Willington Parish Council in December 2014. Following that he was elected twice – in May 2015 he was elected unopposed and in May 2019 he was elected in a ballot.

He told me he had probably served on almost all of the Committees during his time as a councillor in Willington. These included the Neighbourhood Development Planning Group, Recreation and Amenities Committee, Footpaths and Open Spaces Group, Planning Committee, Staffing Committee, and the Car Park Advisory Group. To date he had not served on the Finance Committee nor had he served on the Burial Committee, which was a relatively new Committee.

Cllr Cullen told me that Committee representation was adjourned at the Annual Meeting on 12th May due to there being more nominees than positions available. However, he hoped to serve on the Recreation and Amenities Committee, the Neighbourhood Development Planning Group, and the Finance Committee.

On a personal level, Cllr Cullen told me that he was originally from Liverpool and had lived in Willington for most of his adult life.

3 RELEVANT LEGISLATION AND PROTOCOLS

3.1 LOCALISM ACT 2011

Under section 27(1) of the Localism Act 2011 (“the Act”) a “relevant authority” (which includes a local council) is placed under a statutory duty to “promote and maintain high standards of conduct by members and co-opted members of the authority”.

Under section 27(2) of the Act a relevant authority “must in particular, adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity” (see 3.3 below).

Under section 28(1) of the Act a relevant authority must secure that a code adopted by it is, when viewed as a whole, consistent with prescribed principles of standards in public life – the so-called “Nolan principles”.

The intention of the legislation is to ensure that the conduct of public life in local government does not fall below a minimum level which endangers public confidence in democracy.

Under section 28(6) of the Act, principal authorities must have in place (a) arrangements under which allegations can be investigated and (b) arrangements under which decisions on allegations can be made. By section 27(7), arrangements put in place under subsection (6)(b) must include provision for the appointment by the principal authority of at least one “independent person” whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate.

Section 28(11) of the Act provides that if a member or co-opted member of the authority has failed to comply with its code of conduct it may have regard to the failure in deciding (a) whether to take action in relation to the member or co-opted member and (b) what action to take.

3.2 WILLINGTON PARISH COUNCIL’S CODE OF CONDUCT

Under Section 27(2) of the Localism Act, the Council adopted the “WPC Code of Conduct” (“the Code”) which can be found on the Parish Council website. It was adopted by Willington Parish Council on 10th July 2012 (minute 1389 refers). It was described by Paul Cullen when we spoke as a “précis” of the South Derbyshire District Council equivalent (though, in fact, there are some differences).

The Code aims “to promote and maintain high standards of behaviour by its members and coopted members whenever they conduct the business of the Council, including the business of the office to which they were elected or appointed, or when they claim to act or give the impression of acting as a representative of the Council”.

The Code is based on the seven principles of public life – the Nolan principles – and these are referred to in the “Introduction” to the Code. The Code, in particular, includes the following “member obligations”:

- He/she shall behave in such a way that a reasonable person would regard as respectful.
- He/she shall not act in a way which a reasonable person would regard as bullying or intimidatory.

3.3 WHEN DOES THE CODE OF CONDUCT APPLY?

Under section 27(2) of the Act a relevant authority “must in particular, adopt a code dealing with the conduct that is expected of members and co-opted members of the authority *when they are acting in that capacity*”. This section of the Act narrowed the remit of the previous national Code of Conduct with the result that the Council (as with other councils) can only investigate matters where a member was acting as a councillor or as a representative of the Council at the time of the alleged incident.

Conduct that might be regarded as reprehensible and even unlawful is not necessarily covered by the code; a link to that person’s membership of their authority and specifically their role as a councillor is needed.

Some activities clearly have no link with the Council such as a purely domestic matter or something that a member may do while employed in work completely unrelated to the Council. Councillors must actually be engaged on Council business or commenting on Council business or acting as a representative of the Authority to be deemed “within capacity”.

4 CONTEXT

Willington is an attractive village, with just under 3000 residents, located on the River Trent around six miles south west of Derby and five miles north east of Burton upon Trent. Its Parish Council has eleven councillors. One of those, Cllr Andrew MacPherson is also a Conservative District Councillor for the Willington and Findern Ward. The District Council is South Derbyshire District Council, based in Swadlincote and its County Council is Derbyshire County Council.

5 THE COMPLAINTS

5.1 COMPLAINT LAC/105 DATED 4th November 2019

A formal complaint raised on 4th November 2019 was received by Legal and Democratic Services on 8th November and assigned reference LAC/105. The Complainant, Mrs Sue Carter, did not ask for her identity to be kept confidential. The text of her Complaint, presented verbatim, reads as follows:

“I attend practically all Willington Parish Council meetings including the sub-group meetings. On 4th November 2019 I went to the Old School for the 7pm meeting of the Recreation and Amenities Committee (RAC). There were two male councillors, one invited male member of the public who is on the committee and two female councillors of whom I wasn’t sure if they were on the committee or not. Cllr Paul Cullen (who isn’t on this committee) set up a camera on a tripod to film the meeting. Once the meeting started Cllr Cullen challenged the Chair as to why the meeting was taking place because the agenda had not been on the noticeboards for 3 days, as stated in the guidance.

“The Chair decided after discussion, that the meeting shouldn’t take place. Once it was closed Cllr Cullen started to pack up his gear. I asked if I could speak. I said that I was disappointed that the meeting didn’t take place as the council were getting behind in so many areas. I also said that all noticeboards should show practically the same notices and that people putting up notices should ensure that they are allowed and that agendas posted should be on time.

“As I was speaking Cllr Paul Cullen started to leave the room but when I’d finished speaking he stormed back and went to Cllr Ros Casey and told her and Cllr Caroline Blanksby to stay put to listen to what “SHE” said and to let him know what “SHE” said. He then started to make his way into the corridor. I shouted, “Who do you think you’re calling “SHE”?”. He turned round in a menacing way and pointed his finger in a stabbing movement mouthing “You! You! You!”

“His look made me feel distraught, distressed and close to tears. As I wasn’t near the meeting table I felt very much on my own. I don’t feel that a councillor should speak to me (and about me), an older parishioner, in such a nasty menacing way”.

5.2 COMPLAINT LAC/103 DATED 11th November 2019

A formal complaint raised on 11th November 2019 was received by Legal and Democratic Services on 13th November and assigned reference LAC/103. The Complainant asked for their identity to be kept confidential because, they said, they had “fears for their safety and their family’s safety with regards to Cllr Paul Cullen”. They believed that “he could resort to physical violence”. The text of the Complaint, presented more or less verbatim, reads as follows:

“[There was] a Wellington RAC committee meeting on Monday 4th November. Committee members present were Cllrs R Casey, C Blanksby and Mr B Davis. [The Chair] was just about to start the meeting when Cllr Paul Cullen (who isn’t a member of this committee) turned up. He proceeded to set up a camera on a tripod and recorded the meeting. [The Chair] opened the meeting, asked for apologies and any declarations of interest and closed the meeting for public speaking. There was one member of the public, Mrs S Carter, plus Cllr P Cullen. P Cullen then stated that the notice for the meeting had been posted on the noticeboard Thursday 31st October and the required 3 full days’ notice hadn’t been given. [The Chair] wasn’t sure because he thought at the time that it included the date posted. At this moment Cllr John Houghton arrived who is on the committee.

“[The Chair] discussed this with the committee and because no one was sure [the Chair] cancelled the meeting but asked if the committee was happy to continue informally to try to advance items on the agenda but not make any decisions. Cllr Blanksby stated that she didn’t want to continue so [the Chair] closed the meeting. At this point Mrs S Carter stated how disappointed she was and that we weren’t achieving anything, she then went onto asking a question about the Parish Council noticeboards. Cllr P Cullen proceeded to leave but tapped Cllr R Casey on the shoulder and said to her and maybe Cllr C Blanksby, “**Stay here until she leaves then report back to me on what she said**”. Mrs S Carter then said to him as he was entering the corridor “**Do not refer to me as she.**” This resulted in Cllr P Cullen losing his temper and verbally abusing Mrs S Carter, it was difficult to hear or step in as he was in the corridor and only Mrs S Carter could see him. Cllr P Cullen then left the building and Mrs S Carter broke down in tears complaining of how upset she was about how she had been spoken to by Cllr P Cullen. I believe that Cllr P Cullen broke the code of conduct verbally abusing a parishioner, Mrs S Carter.”

6 APPROACH

6.1 DOCUMENTS AND OTHER SOURCES

The source materials I reviewed during the Investigation are listed at **Annex 1** below.

My colleague, Karen Potts, attended the 14th January 2020 Parish Council meeting unannounced - and “incognito” with her daughter-in-law - at my request (and cost). Her visit added nothing to the evidence base and I mention it solely for the purpose of completeness, openness, and transparency.

6.2 EVIDENCE GATHERING

6.2.1 Interview details

In respect of the investigations into complaints I carried out at the request of the Monitoring Officer I gathered evidence at interview from seventeen people. I spoke formally to all members of Willington Parish Council, with the exception of Cllr Joe Cullen, who declined to be interviewed:

- Cllr P Allsopp (Chairman)
- Cllr M Bartram

- Cllr T Bartram
- Cllr C Blanksby
- Cllr C Carter
- Cllr R Casey
- Cllr P Cullen
- Cllr J Houghton
- Cllr A MacPherson
- Cllr I Walters

I interviewed Mrs D Townsend, the Locum Parish Clerk. I also gathered evidence from six members of the public. Whilst it is my normal practice to list interviewees by name, in this case, because many interviewees asked for confidentiality, I have not done that in respect of members of the public.

I invited Cllr Martyn Ford who, I was told, is often present at Willington Parish Council Meetings (presumably in his capacity as a District Councillor representing Willington and Findern and Derbyshire County Councillor representing Etwell and Repton) to talk to me. I did not receive a reply to my email and did not pursue it further.

With the exception of Cllr Paul Cullen, I carried out my interviews in two groups. The first group of interviews took place between 13th November and 4th December 2019 with a single interview (delayed by the General Election and Christmas) taking place on 10th January 2020. This group of interviewees was made up of the Chairman, two other Parish Councillors, the Locum Parish Clerk and six members of the public.

I began trying to arrange to speak to Paul Cullen on 22nd January 2020. We finally found a mutually acceptable date and time to speak some six and a half weeks later on 8th March 2020, a Sunday. This delay meant that the interviews that were still outstanding were themselves delayed. The second group of interviews took place between 8th April and 20th April 2020 and was made up of six Parish Councillors.

6.2.2 Interview methodology

The first group of interviews was carried out face-to-face with my colleague, Karen Potts, observing and taking notes. Those interviews all took place either in the homes of the interviewees or those of family members or friends. Where interviews are face-to-face it is my normal practice to talk to interviewees in “neutral” surroundings, such as council offices or meeting rooms, but in this case several interviewees told me they preferred not to be interviewed in locations where they felt they might be seen talking to me. Because of the COVID-19 pandemic I carried out the second group of interviews by telephone, and without Karen’s support.

With the exception of Paul Cullen, a note was produced as a summary of each of the interviews and all those interviewed were given the opportunity to comment on the note whilst it was still in draft. Several interviewees made comments and those comments were reflected in the final versions of the notes, which were then formally agreed by interviewees and shared with them. Section 8 of the Report contains details drawn mainly from the interviews.

At time of writing, Cllr Andy MacPherson, who was sent the first version of his summary note on 4th May, had not signed off the second version of the note. I told him by email on 13th May that I would regard his summary as signed off if I had heard nothing by 18th May and, although I spoke to him before that date and prepared a second version to reflect his comments during that conversation, I had no response to the second version and heard nothing more. I did not pursue him further and have used the draft second draft as evidence.

My discussions with the first group of interviewees were recorded. Once summary notes had been signed-off by interviewees those became the formal record of each interview and the audio recordings and any written notes taken at interview were destroyed in accordance with (i) best data protection practice, (ii) what was agreed with the Monitoring Officer before my work began and (iii) what was agreed with interviewees. When I spoke to Cllr Tim Bartram for a second time I recorded that conversation at his suggestion. That audio recording has now also been destroyed.

My discussion with Paul Cullen took place at the Donington Manor Hotel in Castle Donington and I was accompanied by Karen Potts as notetaker and observer. It was recorded, with Cllr Cullen’s acquiescence, and I believe that he himself recorded the conversation. A verbatim transcript was then produced and shared with him on 5th April – it ran to more than 60 pages. He was invited to acknowledge receipt and make comments. He acknowledged receipt on 16th April.

On 4th May I asked Cllr Cullen by email if he had any comments on the transcript and said that I would assume he was content with the document but would prefer him to confirm that. I said, “It’s a long document, written at least in part for your benefit, and errors of transcription may have crept in because of that. If as I complete my investigation I do find what I consider to be material inaccuracies I will let you know and reissue the document. Should you yourself identify or become aware of any material inaccuracies in the document please let me know as soon as they emerge”. On 6th May Cllr Cullen replied to say, “I do believe there are inaccuracies in the transcript, but they are as much about process as they are about content”.

At time of writing, Cllr Cullen has not made me aware of any errors and, in general terms, I am proceeding on the basis that the transcript is an accurate record as I said I would. Should any question or difference of opinion arise, the audio record will remain until my investigations are complete as the ultimate record. This was made clear to Cllr Cullen when we spoke. Written

notes taken at the interview were destroyed in accordance with best data protection practice once the transcript had been produced.

6.3 THE REPORT

After I had completed the preliminary draft of the Report it was twice peer-reviewed – for quality and to ensure consistency of approach with similar cases across the country. Following those reviews, I shared the draft Report with the Monitoring Officer, who commissioned the Report, so that she could ensure that, on its face, it was indicative of a satisfactory investigation and was of the required standard.

I then shared the draft Report and its preliminary conclusions, in confidence, with the Complainants and the Subject Member. I received a response to the draft Report from each of the Complainants.

The Subject Member acknowledged receipt of the draft Report but declined to comment on it. He was initially asked to comment on the Final Report within eight working days (by 3rd July) – the SDDC “Procedure for considering a complaint that a member has breached the Code of Conduct” stipulates a minimum of five working days – and insisted on an extension to 31st July. The Monitoring Officer offered a further extension of five working days to 10th July (making 13 working days in total). However, the Subject Member said that he would be providing his observations to the Monitoring Officer by close of play on 31st July but would not be communicating with me any further. He subsequently blocked me from sending him emails.

Accordingly, and having received no comments by 10th July, I now submit my Final Report, containing my final conclusions and recommendations, to the Monitoring Officer.

7 CONTEXT OF THE COMPLAINTS

7.1 THE “MEGABUS EMAIL”

What follows in Section 7 below describes a series of events that help the reader to better understand the context in which the Complaints (listed in Section 5 above) sit. It also provides context for other complaints that have been made against Cllr Paul Cullen. I make no comment on these events because they are outside the immediate scope of the Investigation. I leave the reader to draw their own conclusions on the rights and wrongs of what happened.

In late April and early May there was an increasingly tense exchange of emails between Cllr Paul Cullen and then Cllr John Phillips about a proposed car boot sale and the activities of the Dragon pub in Willington. It appeared to me from this exchange that there may have been some “history” between them.

This culminated, on the evening of 4th May (two days after the Parish Council elections), in an exchange of emails using Willington Parish Council email addresses as follows:

4th May – 6.50 pm John Phillips to Paul Cullen (copying other councillors)

“And to be clear Paul WE all look forward to you and your Dad playing an active roll [sic] in the council as you’ve done nothing for months! There is a photo of you and 3 new candidates taken

in the pub but it could be coincidence ... thanks for being as helpful as ever. All the best and welcome back”

4th May – 8.01pm Paul Cullen to John Phillips (copying other councillors)

“I haven’t even started yet Johnny boy.

But for the sake of clarity let me be very clear. I won’t tolerate your bully boy tactics like I have done in the past, if you want to go head to head with me at every opportunity and act like a baby, then so be it, but from now on you and anyone else who insists on trying to intimidate me will get it straight back. When you or your daft mates put as much time and effort in as I do then and only then can you criticise, no serving Councillor has been more active than me and no serving Councillor has been more useless than you, you bring absolutely nothing to the table and you are really are [sic] a waste of space, a more worthless Councillor I have never had the misfortune of meeting. I would urge you Johnny boy to do the honourable thing and step down as a Councillor because your [sic] really not very good at it, in fact you’re beyond useless.

Don’t reply, you’re blocked”

4th May – 9.20pm John Phillips to Paul Cullen (copying other councillors)

“Hi Paul, I’ve had a call from the Mega Bus They’re happy to take all sorts of scum bags and drug dealers back to Liverpool tomorrow ... if you know any please let them know I’ll pay... This is a public service broadcast”

Soon after this exchange of emails it appears that Cllr Joe Cullen (Paul’s father) shared Cllr Phillips’s 9.20pm email more widely in Willington saying that he took “great offence” and suggesting it was a slight on all Liverpool people that Cllr Phillips had suggested that “all people from Liverpool are scum bags and drug dealers”. Joe appears to have invited those to whom he sent it to share it more widely. It appears that Joe also posted to similar effect on the Spotted in Liverpool and the Liverpool Echo Facebook groups and shared John Phillips’s parish council email address on those fora.

In this way there began a series of events which have severely soured relationships in Willington since then. Please note that I have not attempted to list the emails referred to in this section of the Report in Annex 1.

7.2 WHAT HAPPENED NEXT?

Events escalated rapidly after this.

On 10th May Paul Cullen appears to have sent a lengthy email to John Phillips copying in parish councillors suggesting that John Phillips had been guilty of “racist bigotry” and had “racist views”. In that email he criticises other councillors for “remain[ing] silent” and suggesting that he “just leave it”. He also confirms that he has shared John Phillips’s email with Derbyshire Police, Merseyside Police, the press including the Liverpool Echo, the Mega Bus Company and friends and family from Liverpool. He suggests that John’s comments were directed at “an entire City” and that they “have had an adverse impact on my wife and my sons”. On 11th May, Joe Cullen appears to have sent a very lengthy email to John Phillips, copying in fellow councillors and the Clerk, referring to John’s employer and its human rights policy, repeating the allegation that he has

made a racist remark and stating his intention to share the details of what had happened with the Daily Mail, the Daily Mirror, the Liverpool Echo and the Derby Telegraph. On 2nd June Joe Cullen appears to have sent an email to John Phillips's work email address.

On 3rd June Paul Cullen states, in an email message to the Clerk, that he "won't allow the vile discriminatory comments to simply drift in to obscurity". It is clear from this email and others that he is trying, at this time, to get the matter discussed at the Parish Council, something that appears to have continued for several months afterwards. On the same day, the Clerk rejects this after taking advice from DALC (Derbyshire Association of Local Councils).

7.3 THE PRESS

There then follows a period of press involvement. I have attached the first newspaper article from the Liverpool Echo on 3rd June to provide a flavour of the press coverage of the matter. In that article, where Paul and Joe are pictured wearing Everton FC football shirts, Paul declares his allegiance to and love for Liverpool and is quoted as saying that he "was stunned and outraged by the slurs against his home city". He is quoted as saying that he had written to Derbyshire Police arguing that it should be "classed as a hate crime". In the same article there is a photograph of John Phillips, taken from a "council leaflet". The police response that "the statement, while unpleasant, is not classed as a hate crime under current legal definitions" is also quoted and gives the definitive legal position.

As a result of this article John Phillips receives a number of unsolicited emails to his parish council email address, presumably from citizens of Liverpool. The text below gives a flavour of some of them:

"Fuck you ya little baldy rat cunt wouldn't last 2 seconds in this city, derbys full of inbreds with 3 arms anyway Peace out CUNT"

"You are a blatant nonce. From a Liverpool resident"

"How dare you!!! Is Derbyshire a crime and drug free zone???? How dare you!!! You piece of shit peado nonce".

"You shitbag. Come to Liverpool and shout your mouth off, you shithouse"

On 3rd June the then Clerk immediately resigned having received an email containing the following:

".... sack him or face what this city can do when you piss us off xx"

On 4th June the Liverpool Echo followed up the first article with another with the headline "Derbyshire Cllr John Phillips can expect some fresh faces at his next parish council meeting". Paul Cullen is quoted as saying, "It looks like there will be some people from Liverpool coming to the next meeting, on June 11, who will want to very clearly ask some questions of Cllr Phillips – some of my friends and family definitely want to challenge him." The article goes on "But he said those in attendance will be well-mannered and will behave correctly. He added, "Cllr Phillips clearly already has his own prejudiced ideas about Liverpool so we don't want to feed into that and anyone who comes along will act in an appropriate manner". A similar article, with the same photograph of Joe and Paul, appears in the Derbyshire Telegraph on 4th June. I understand that

the Derbyshire Telegraph and the Liverpool Echo are part of the same media family. Further abusive emails followed.

Also on 4th June Joe Cullen is alleged to have posted a message on the “Spotted Willington” Facebook page (which is curated by Mrs Sue Carter, John Phillips’s mother in law) saying “If you keep removing my post then you leave me with no choice but to send the article to [John Phillips’s employer]. I have been told that this post was removed very quickly by Joe Cullen.

7.4 JOHN PHILLIPS RESIGNS

On 6th June John Phillips resigns as a Willington Parish Councillor. His email of resignation, sent to the Chairman, reads, “Due to safety concerns for my family following recent newspaper articles I resign from WPC effective immediately”.

When the Chairman shares the news with other councillors Paul Cullen replies, “Fantastic news, Johnny S Phillips and his vile discriminatory views have no place in today’s society and absolutely not on Willington Parish Councillor [sic]. I am however very disappointed by the wording of his resignation, acting like he is the victim and the lack of an apology. Maybe something like “Due to the unfortunate choice of words I used in my email dated 5th May, in which I made some unforgivable comments about the people of the great city of Liverpool, where I referred to them as scum bags and drug dealers, I feel the appropriate course of action would be to tender my resignation with immediate affect [sic]. I would like to apologise unreservedly to the people of Liverpool for my choice of words and to the people of Willington for the embarrassment and shame I have brought on the village”. Now that would have been much nearer the mark”.

The resignation is reported in a third article in the Liverpool Echo on 10th June which reuses much of the copy in previous articles. A further article in the Liverpool Echo on 11th June again reuses copy and photographs and reports that John Phillips has “quit his position but is refusing to apologise”. It repeats the earlier suggestion that Liverpool-based friends and family of Paul Cullen had been invited by him “to this week’s meeting of Willington Parish Council as they intended to ask Cllr Phillips about his comments. Cllr Cullen said this would have been done peacefully, adding: “Cllr Phillips clearly already has his own prejudiced ideas about Liverpool so we don’t want to feed into that and anyone who comes along will act in an appropriate manner” The resignation is then reported (similar copy, same photograph) in Derbyshire Live on 11th June.

Minute 346/19 Public Speaking including County, District and Police Representation of the Parish Council Meeting of 11th June reads, “A Resident raised the issue of an email sent from a Parish Councillor and reported in the Liverpool Echo, and asked how this could be dealt with. A Councillor responded that this should be dealt with in an open Meeting. The Chair responded that as the Councillor had now resigned, this matter was private, and could not be discussed in an open meeting due to breaching privacy laws”.

At the Extraordinary Parish Council Meeting on 25th June Mrs Nicola Phillips made the following statement (set out below but repeated here for the sake of completeness):

“As a result of the decision by Paul Cullen and Joe Cullen to publicise a wholly one sided version of what was quoted as a “tense exchange”, including posting false, defamatory statements in

regional media and sending vexatious emails to people in our village, my family has faced six weeks of abuse and threats of violence against us and our home.

“Paul Cullen has shown no remorse that following his decision to create these articles that threats had been made not only to my family’s safety and our property, but also the personal safety of the previous clerk who was forced to resign. His final reported comments following my husband’s resignation from this council were “It is somewhat disappointing that the reason he states for his resignation was safety concerns for his family”.

I would like to ask Paul Cullen what sort of serious an incident [sic] would he have liked to have seen where he would not have been (again in his words) “somewhat disappointed”?

The events at the Extraordinary Parish Council Meeting of 24th September are the subject of a separate complaint against Cllr Paul Cullen.

8 FINDINGS – ABORTIVE 4th NOVEMBER MEETING

8.1 MRS SUE CARTER

Sue Carter’s witness statement did not add to the details of the Complaint, which are set out in Section 5.1 above. She told me that she “actually no longer cared about her anonymity. She had submitted [the] complaint and it would be obvious that she had submitted it”.

8.2 WITNESS A

Witness A’s statement reads, “There was to be an RAC Committee on 4th November at 7pm. The Chair had posted the agenda on the morning of Thursday 31st October. There should have been three full days between the posting and the meeting (excluding Sunday and the day of the meeting itself). Joe Cullen (without apology) and Tim Bartram (who apologised) did not turn up though others (Councillors Blanksby, Casey, Houghton (who was late) did as did a non-councillor Brian Davis who is also a member of the committee). A parishioner Sue Carter (mother-in-law of John Phillips) who attends almost all Parish Council and other meetings was also present. She had been attending meetings since she first arrived in the village a few years ago. She runs the Spotted Willington Facebook Group.

“At 6.59pm Paul Cullen arrived with a camera on a tripod and pointed it directly at the Chair from maybe ten or twelve feet away. The Chair opened the meeting for public participation. Paul Cullen was allowed to participate as a parishioner, Witness A said, and at that point he intervened and said that the meeting had to stop immediately because the statutory notice had not been given. Paul was correct though he could, of course, have given advance notice of his objection. Mindful of this the Chair closed the meeting and suggested an informal discussion should take place to progress matters without making any decisions. Councillors Blanksby and Casey refused to do that.

“Paul then turned his camera off and, with a sneer on his face, started to leave the room. As he was doing that he walked past Sue Carter who had asked a question about noticeboards. He said, “you don’t have to take any questions from her” and walked down the corridor. Sue Carter said, “I beg your pardon, who are you talking about when you say “her”?”. Paul returned to the room, tapped Ros Casey on the shoulder and said, “you stay here ‘til she leaves the meeting and then

report back to me what she's said". Sue, a tough lady, then shouted down the corridor "Who are you calling she?" there was then an exchange in the corridor, though Witness A did not know what was said. Paul Cullen reduced Sue to tears, and she asked the Chair, Brian Davis and John Houghton why they had not protected her. It happened in a flash.

Having been calm and quiet at meetings when Witness A had attended as a parishioner, Paul Cullen was no longer like that. "The red mist seems to come up". He had gone to that meeting with the intention of stopping the meeting and make the Chair look like a fool. Why would he point a camera at the Chair, a fellow councillor?"

8.3 WITNESS B

Witness B's statement simply said that, "Paul Cullen had ruined a recent RAC meeting because he had pointed out that the agenda had been posted a day late and the Chair had closed the meeting. Witness B thought that Paul was trying to get the Chair to make a mistake by continuing with the meeting, but he had not. After the meeting closed Paul had then had an argument with Sue Carter and called her "she" and she had replied "Who are you calling she?""

8.4 COUNCILLOR JOHN HOUGHTON

John Houghton shared with me an email which was timed/dated 10.10pm on 4th November 2019 and sent by John to himself. It was headed "Events at the RAC Meeting". The text is set out below [items in brackets are additional commentary provided by John as he reviewed the email with me]:

"I turned up a few minutes late and the meeting seemed to have started. In the corner was Cllr Paul Cullen with a DSL camera on a tripod recording video. Cllr Caroline B[lanksby] and Cllr Ross C[asey] had their backs to the camera. Brian (RAC member) was present [Brian Davis an engaged member of the public who assists with the business of the RAC].

Cllr Phill Allsopp appeared to be answering a procedural query to Cllr [Paul] Cullen. It became clear that Phill and Paul were debating whether the RAC meeting could continue as it was claimed the agenda had not been published on notice boards with[in] the required time frame.

Phill explained he did it Thursday morning for a Monday meeting and was counting, Thursday, Friday, Saturday as the 3-days. Paul stated that this was not our standing orders and it needed 3clear days. I stated that I also thought it was done in time but that I would try and locate the standing orders to verify.

I did not have my laptop with me and therefore it was difficult to search for the information.

Caroline, Ross and Brian didn't contribute to the discussion at this point. Phill and myself stated that we were happy for the meeting to proceed, even if no decisions were made. Caroline and Ross were asked and they stated that they couldn't see how it could if it was not compliant with standing orders.

I asked Cllr Cullen was there a reason why he didn't want the RAC Meeting to proceed as many other meetings, including the Footpaths Group (which he previously chaired) have conducted meetings without objection when they had not been published with sufficient time. He stated that it didn't comply with regulations or standing orders.

I said that is a real shame as this is not helping us to achieve anything for the benefit of the village, which he agreed to. [What is not stated here is the anger – he went red in the face – throughout all of this]. It was at this point that Cllr Allsopp declared that the meeting couldn't proceed. Sue Carter [who was a member of the public] made a statement about how disappointed she was that we are not achieving anything. Cllr Cullen switched his camera off and got up to leave.

The following events happened so quickly that it was difficult to react to stop them. Cllr Cullen stopped on the way out and said to Cllr Ros Casey something like "You don't have to answer questions from the public. Make sure you stay and listen to what "she" has to say" (referring to Parishioner Sue Carter) [Paul emphasised the word "she" and spoke with a tone of anger in his voice]. He then walked out into the corridor.

Sue Carter then stated something along the lines of "do not refer to me as "she". This resulted in Cllr Cullen losing his temper and verbally abusing Sue Carter from the corridor. It was difficult to step in as Cllr Cullen was not in the room whilst he was insulting Sue Carter. Cllr Cullen left and Sue Carter broke down in tears about how upset she was about how she was spoken to. Cllr Ros Casey and Cllr Caroline [Blanksby] said nothing throughout.

I stated that their behaviour is getting worse. Phill stated "I don't know how you can support that behaviour" which was directed at Ros and Caroline. I said, "it is even spilling over to external groups with lies and incorrect information been spread by the other Cllr Cullen". The meeting disbanded and we all left."

8.5 COUNCILLOR TIM BARTRAM

Tim Bartram was not present at the RAC meeting but "observed though, that Paul Cullen could not have been present as a councillor but as a member of the Parish. He was not a member of the RAC he was there as Paul Cullen parishioner. Tim had been told by Ros Casey and Caroline Blanksby afterwards that Paul's behaviour had been fairly low key".

8.6 COUNCILLOR ROS CASEY

Ros Casey said in her statement "that Paul definitely raised his voice and he did lose his temper but did not verbally abuse [Sue Carter]. Sue, who attends many meetings of the Council and its committees, was raising her voice at him. However, Paul was not there in his capacity as a Parish Councillor because he is not a member of the RAC so the complaint should not stand. It was the same as her own complaint against Ian Walters who had not been there as a Parish Councillor when he threatened her.

"[I] said that it was further alleged that Paul Cullen had left the hall before coming back in and telling Ros and Caroline Blanksby to stay and listen to what "she" had said. Sue had something like, "Who do you think you are calling "she"? Don't you speak to me like that". Ros confirmed that Paul had replied and pointed (rather than jabbed) his finger at her and said, "You" (rather than "You, you, you"). He was not in direct physical proximity to her at the time. He was standing at the door and she was sitting at the table behind Caroline [Blanksby]. Sue had become upset because she asked why no-one gave her any support. Ros thought she had burst into tears in frustration and anger at this. Neither she, Caroline, John or Phill said anything.

“[I] asked if Paul had behaved appropriately in saying what he said. Ros said that it was all to do with what was going on. “He must live and breathe this, it must never be off his mind, it must be sending him insane. I believe that he is ill”. Caroline and Ros are worried about him. He is easily wound up but did not used to be. He let things wash over him and was laid back. Now he was “like a coiled spring”. However, he won’t step down because that is what “they” want him to do.

““They have done this to him”. [I] asked who “they” were. Ros said the Phillips family and John Houghton, definitely. John winds him up all the time and pushes his buttons at every meeting. For example, Paul is passionate about the Footpaths Group and John had tried to get it disbanded. That was why Paul had stepped down so Tim Bartram could chair the group. Parishioners want the group we all want the village to look nice and the Footpaths Group contributed to that.”

Sue Carter observed, when commenting on the Report whilst it was still in draft, that it was difficult for her to understand how Ros could see what was happening as she had her back to herself and Paul and would have been unable to see Paul.

8.7 COUNCILLOR CAROLINE BLANKSBY

Caroline Blanksby said in her statement that Paul was present as a member of the audience and a member of the public. He was very knowledgeable and knew “all that stuff [standing orders etc.] upside down, standing on his head”. He was a stickler for such things being done correctly and John and Phill were seething. It was right to stop the meeting because procedure had not been followed.

“Caroline did recall Sue Carter bursting into tears. Paul went out of the meeting. Sue Carter continued to talk to John Houghton and Phill Allsopp. Paul came back in. Caroline was with Ros Casey. He was “wagging his finger” at all of us, not just Sue. He said, “Careful, make sure you listen to what she says because she always talks about me behind my back” and then he left.

“[I] said that it had been suggested that Sue had said, “Who do you think you are calling she?” before Paul turned round, jabbed his finger and said, “You, you”. Caroline did not recall him jabbing his finger, but he did say, “You, I’m talking about you”. In Caroline’s view his behaviour was appropriate “because she was talking about him and he had perhaps caught her out”. He did not trust Sue Carter because Nicola Phillips was her daughter. He had not been aggressive towards Sue.

“Caroline had no idea why Sue had burst into tears, nothing happened to warrant her doing that. She did not give her any sympathy, nor did Ros Casey, “she probably did it for effect”. They made no comment and simply sat there as this happened”.

Sue Carter observed, when commenting on the Report whilst it was still in draft, that it was difficult for her to understand how Caroline could see what was happening as she had her back to herself and Paul and would have been unable to see Paul.

8.8 COUNCILLOR PAUL CULLEN

That part of the conversation that I had with Paul Cullen when I spoke to him about his alleged behaviour on the evening of 4th November is transcribed below. Please note that this differs in

some small details from the transcript already shared with Paul (which he had not signed off at time of writing) because I felt that absolute accuracy was important here:

“MK – I’m conscious of time, it’s half eleven, we’ve been going quite a long time. I’m going to move onto [Complaints LAC] 103 and 105 which are both about the same alleged incident after the RAC meeting on 4th November, this is the one, I think, where you are said to have gone along and to have started filming and, because the amount of time, sorry Because the agenda hadn’t been posted according to the Standing Orders, so it hadn’t gone up in time, the meeting should not have taken place. Ergo, the meeting shouldn’t take place and I think you said that and Phill took a bit of consultation

PC - Phill’s incompetent ..

MK - and then stopped ... then the meeting was brought to an end.

PC – Yes, I mean it was embarrassing but, again it’s important for me to give you a bit of background on the lead up to the meeting. So, as I’ve already said, I was the I think there had been a Footpaths Group in Willington - I don’t think it was attached to the Parish Council many, many years ago - but I sort of reinvigorated that a few years ago, it has becomeIt’s very well attended, it’s got lots of non-Parish Councillors who are members of the Committee, so nonCouncillors with voting rights. I think there are five of them. It’s a very, very successful group and it will only get stronger. All meetings, whether full Parish Council or sub-committees or committee meetings, have to give the statutory three days’ notice and the rules around that don’t include weekends and day of posting and day of meeting and so on.

“I posted Footpaths meetings There’s a notice board probably the nearest notice board to both myself and Phill Allsopp’s house and to comply there are occasions when it’s last minute. It’s like “Oh I haven’t posted the agenda for the Footpaths meeting. If I don’t get it up tonight before midnight, I can’t have the meeting”. So, it will be like the night before it goes up. It only has to go up in one place. I then go walking the dog at night-time only to find my “my agendas” [correcting himself] ... the agenda that I have posted has been removed from the notice board of which he’s admitted doing. No, he didn’t actually admit it. He didn’t say “I’ve done it”, but he didn’t deny it. So, I can’t prove that he did it, which was petty and again he was saying by removing it it has to be displayed in a public, conspicuous place in public three days before, so by him removing it, it wasn’t displayed in a conspicuous place. So, to this day, every time I post a notice, I take a photograph of it straight away, so if he removes it it’s his choice and there have been some removed subsequently. So that was on the lead up to the meeting.

“On his particular meeting on that day he posted the ... it was ... I think it was a Monday meeting which means you have to post on Wednesday? Thursday, Friday, SaturdayYes that’s right. He posted on Thursday which meant he hadn’t given the statutory three days’ notice. So, I went to the meeting and yes, you’re absolutely right, I challenged him on his statutory notice. He didn’t clearly hadn’t got a clue what it was. He said, “Yes, that’s right, it’s three days” and I’ve given it three days. I think you know everything else. The only other thing I’d say on that really is that it’s embarrassing. He is such a poor Chairman to the point where he was going to carry on with the meeting. Which clearly, under the legislation he can’t do but the important thing for me is I wasn’t The meeting started, he did his introductions, he went through declaration of members’ interests and he got to public participation. I don’t sit on that committee and it was at the point

where we got to public participation that I raised my concerns. So, again, I don't believe that I was, you know, I don't sit on that committee, I was sat it wasn't ambiguous, I didn't sit around the table with them I sat with the public. There was only one member of the public which happened to be Sue Carter, so I don't believe that I was in capacity.

MK – So, it is alleged that after all that had happened and the meeting had been closed down, you lost your temper with an older female parishioner.

PC – She's actually given her name on that complaint.

MK – Did she?

PC – She did, yes.

MK - You attended the meeting, pointed your finger at her in a menacing way, verbally abused her before leaving the building. Your behaviour it is alleged was, quote, "nasty and menacing" and the parishioner was distraught and distressed and burst into tears as a result. It is further alleged that after she spoke about notice boards or something.... After she'd finished speaking, having left, or at least partly left, you stormed back and went to Councillors Ros Casey and Caroline Blanksby, told them to, "Stay put and listen to what "she", the parishioner, said and to let you know what she said." The parishioner "she" being the operative word The parishioner is alleged errr ... to shouted out to you, "Who do you think you are calling "she"?" You, it is alleged, turned round in a menacing way, pointed your finger at her in a stabbing movement saying "You, you, you."

PC – That's not completely There are a few inaccuracies in there but generally speaking, I mean, I didn't leave and come back it was all in one But, yes, I absolutely said to Caroline Blanksby and Ros Casey but I didn't ask them to stop I just said because I know she's bad mouthed me in the past and I know that she will bad mouth me in the future.

MK – She, Sue Carter?

PC – Sue Carter, yes, the mother in law of John Phillips.

MK – So did you do that?

PC – I mean, it's all about perception isn't it?

MK – It is, yes.

PC – Her perception is that I acted in a menacing manner and pointed my finger, her complaint surrounds my for me, it would have to be, I would have to be in capacity for it to be a Code of Conduct complaint. I never gave anybody the impression, including Sue Carter that I was there in anything, I've got the audio recording of the entire

MK – Can you share that with us? I don't think I've got it.

PC – No, nobody would have unless Phill Allsopp or John Houghtonbecause they were both there.

MK – It would be good if you shared that with me.

PC – I think for me, before I would do that, I'd just need to understand that I just need to understand that I think I've said to you via email and I think I've said it here today, I'm kind of comfortable in my own mind now where I'm going in the future, I don't know when that will be, I'd like to think it's after you've concluded your investigation and the Monitoring Officer has made her decision on how she wants to proceed with it because if it does go to Standards Committee, then I would want to attend and defend myself there as well. So, I suppose what I'm saying is that [brief pause] for me to share the audio recording with you now, if I was sat on that committee and I was acting as a Parish Councillor, I would have no objection to sharing it with you quite freely now but I don't feel that I have to.

MK – You don't.

PC – No, no, no – and this is no slight on you - I don't feel that I should have to justify my actions when I'm acting as Paul Cullen, number 12 Tailby Drive, Willington, Derby. Otherwise it just becomes an open duck shoot. Every time I do Do you know what? In fact, that's a really good point because I do when I go out now after.... I've got like a body harness and this goes out with me [Paul picks up a small Dictaphone] under my coat and if I see John Houghton walking across the fields with his dogs, it comes down and it's turned on. So, I was very clear, at that meeting that I was acting as a member of the public.

MK – OK, all right.

PC – I don't sit on that Committee.

MK – No, I understand.

PC – I don't sit on RAC, I sat in the public, with Sue Carter. So, I fail to see how I could have been acting as anything that I wasn't

MK – So, if you had been in capacity. If you had sat on that Committee are you saying that there would be a legitimate case to question your behaviour towards her?

PC – No, no.

MK – You're not saying that?

PC – No, I'm not saying that. I'm saying I'd share the video ... I'd share the audio recording with you because it would, you would then be able to conclude your Code of Conduct complaint. For me, I'd take it one step further back I don't think it is a Code of Conduct complaint because I wasn't

MK – Ok, but did you do what was said? Was there a shouting match? Did you point your finger at her?

PC – No, no, I said to Ros and Caroline can you just make sure that you stay, in fact I didn't say make sure you stay, I said, just tell me if she says anything about me because as I walked out of the door she stood up, in fact, before, while Phill Allsopp and John Houghton were having their deliberations about surrounding whether there should or shouldn't be a meeting and they were going to continue and they weren't going to continue "well it's 3 days' notice, well I think Thursdays are counted, what do you think? Well I think it is, well shall we carry on? Well I'm not sure". Sue Carter then goes, "You know, I think we should continue, I think it would be a great

shame for the meeting to not go ahead, there are important things to discuss". Absolutely, I couldn't disagree with anything she said. I never said anything, I never spoke to her at all. Phill Allsopp said "Well, ok, that's it then, I'm shutting the meeting" and he said "Thank you Paul" to me. I said "I'm going now, so Caroline can you just make sure they don't say anything about me" to Caroline and Ros and as I'm walking out the door, Sue Carter stood up and doing the exact thing that I thought that she would do which was started to say something about "He's got his own way again" of "See what he's managed to do now" or something. So that's when I turned

MK – All I would say Paul is, if you could see your way to share that audio with us, then I would know that wouldn't I? I'll say no more but I would know that, and I would know what had been said, end of.

PC – Yes, no but then.....it's just honestly, it is purely about if I was sat on that Committee as a Parish Councillor, I would let you listen to it. I don't see why I should have to

MK – You don't have to. I'm just saying that we're here to investigate it. If you are able to demonstrate that that is indeed what was said and that it was very low key and there was no jabbing of fingers and so on and so forth then it helps doesn't it? Because like I've said to you, my interest is in getting a balanced ... we want to get a balanced view of it. We don't want I want to get to the right result as it were and if you've got an audio of it then that helps me get to the right result. There may be one but I'm not aware of it.

PC – There might be one, I don't know. I know I've got mine and I remember we spoke earlier about protection, I mean that's what that's there for but I just, I genuinely don't understand why I should have to justify my actions when I'm being investigated under a member Code of Conduct Complaint when I wasn't acting as a and was very clearly not acting in my capacity as a Parish Councillor.

MK – OK. I can't say any more, and I've asked you and you don't want to share it so let's move on.

PC – If I was, I would share it but if I wasn't, so I absolutely wasn't. The only other point I'd mention on the ... when, I think, the complaint came through about the November, I've got it here what number is it 1...? I've got it here.

MK – 103 and 105, is that what we are talking about? Sorry, are we talking about this one or is there something else?

PC – No, 103. 105?

MK – 103 and 105 are about the same incident. There are two complaints about this incident.

[Long pause whilst PC looked through papers]

PC – OK. So, 103.... complaint, this is going to sound like I'm being pedantic but I'm trying to defend myself.

MK – Be pedantic, be pedantic

PC - It says "I have a right to inform you that I've received a complaint about your conduct. The complaint was received on 13th November. The allegations relate to your conduct at Willington RAC Committee meeting held on 4th November. I have asked, and I have searched the website, I

searched it this morning before I came, and I've asked at numerous Parish Council meetings for the minutes of the RAC meeting from 4th November and there isn't any.

MK – I presume there wouldn't be if there wasn't a meeting.

PC – But the charge lodged against me is my conduct at the RAC meeting on 4th November and again as I say, you understand why I feel I'm being pedantic because there was no meeting on 4th November.

MK – OK.

PC – And if there was, I wasn't acting in my capacity.

MK – OK, so you're saying that even if you had been acting in capacity your behaviour was appropriate.

PC – Absolutely."

9 EVALUATION OF EVIDENCE

9.1 AUDIO RECORDING

Paul Cullen told me when we spoke on 8th March that he had an audio recording of what took place at the Old School on the evening 4th November. I asked him for a copy of that recording four times during our conversation, but he declined to share it. I have not repeated that request since. His argument appeared to be that, if he had been acting "in capacity" as a Parish Councillor at the meeting of the RAC, then he would have been willing to share it. But because he was not "in capacity" then he would not share it. The reader should note that I can only reach my conclusions based upon the evidence available to me.

9.2 EXCHANGE BETWEEN PAUL CULLEN AND SUE CARTER

I now intend to focus on the exchange of words that took place that evening between Paul Cullen and Sue Carter.

Mrs Carter's version of events was that after the meeting closed, whilst she was speaking, Cllr Paul Cullen started to leave the room but as she finished speaking he stormed back in and told Cllrs Casey and Blanksby to stay put and listen to what "SHE" said and let him know what "SHE" said. He then started to make his way into the corridor. Mrs Carter shouted, "Who do you think you're calling "SHE"?" Cllr Cullen turned round in a menacing way and pointed his finger in a stabbing movement mouthing "You! You! You!" As a result, she felt distraught, distressed, and close to tears. She felt very alone. She had been spoken to as a parishioner in a "nasty, menacing way".

By contrast, in discussion, Cllr Cullen focused heavily on the actions and competence of the Chair, the reasons why he had been at the meeting and why it had been correct to cancel the meeting. He made much of the fact that, in his opinion, he had not been "in capacity" (see Section 10.1 below). He did not say a great deal about the exchange between him and Sue Carter and simply said that he had not left the room and come back – "it was all in one". As he was leaving the room

he had said to Cllr Blanksby "I'm going now, so Caroline can you just make sure they don't say anything about me?". Mrs Carter had said something like, "He's got his own way again" or "See what he's managed to do now" which was when he turned. [In commenting on the Report whilst it was still in draft Sue Carter said that she knew that had not made this remark].

Whatever did happen, John Houghton certainly thought that it was serious enough to send a near contemporaneous record of it to himself (the email has been shared with me and appears to be genuine). As he went through the email with me, Cllr Houghton referred to Cllr Cullen's anger – he went "red in the face". He had stopped on the way out and said to Cllr Casey that she did not have to answer questions from members of the public and something like, "Make sure you stay and listen to what "she" has to say". He had emphasised the word "she" and had a tone of anger in his voice. He had then walked into the corridor. Mrs Carter then said something like "do not refer to me as "she"" before Cllr Cullen lost his temper and started abusing Mrs Carter from the corridor. After Cllr Cullen left Mrs Carter broke down in tears about how upset she was about how Cllr Cullen had spoken to her. Cllrs Casey and Blanksby had said nothing during the exchange. Whilst differing slightly in the sequence of events and some small details, Witness A's statement reflects Cllr Houghton's email and, like the email, ends with Mrs Carter being reduced to tears. Witness B, who was not present, alleges that Cllr Cullen had had an argument with Mrs Carter and called her "she" whereupon she replied, "Who are you calling "she"?"

When I spoke to Cllr Casey about what had happened she said in her statement that Cllr Cullen had "definitely raised his voice and did lose his temper but did not verbally abuse" Mrs Carter. Cllr Casey appeared to agree with the substance of the verbal exchange. She agreed that Cllr Cullen had replied to Mrs Carter and said he had pointed (rather than jabbed) his finger. He had said "You" rather than "You, you, you". He was not close to Mrs Carter – he was standing by the door and Mrs Carter was sitting at the table behind Cllr Blanksby. No-one had given her any support and Cllr Casey thought she had burst into tears in frustration and anger. Neither she nor Cllrs Blanksby, Allsopp or Houghton had said anything.

Cllr Blanksby's account confirms that Mrs Carter had burst into tears, that Paul had been "wagging his finger" at everyone in the room and said "careful, make sure you listen to what she says because she always talks about me behind my back" before leaving. Cllr Blanksby thought Cllr Cullen's behaviour had been appropriate; he had not been aggressive towards Mrs Carter. She had no idea why Mrs Carter had burst into tears because nothing had happened to warrant it; she had probably done it "for effect". "They" (Cllrs Allsopp and Houghton?) made no comment and simply sat there as it happened"

10 CONCLUSIONS - WAS THERE A BREACH OF THE CODE OF CONDUCT?

10.1 WAS THE SUBJECT MEMBER ACTING IN AN OFFICIAL CAPACITY?

Before reaching a conclusion on whether a breach or breaches of the Code took place, I must first establish whether Cllr Cullen was "in capacity" when he attended the Recreation and Amenities Committee Meeting at the Old School on 4th November.

When we spoke, Cllr Cullen was very clear that he did not believe that he was "in capacity" when he attended the meeting and could not, therefore, have breached the Code. Indeed, he used that as his justification for not sharing with me the audio recording that he said he has in his

possession. He was not, he said, a member of the RAC and could not, therefore, have been in capacity. Like Mrs Carter, he had sat in the public area with his camera and, like her, was there as a parishioner and not a Parish Councillor. Cllrs Tim Bartram, Casey and Blanksby expressed the same view.

By contrast, the Complainants clearly thought he *was* in capacity. To be clear, it is *not* the case that, because Cllr Cullen was not a member of the RAC he was *by definition* not in capacity. It is certainly possible for a councillor to be in capacity in informal settings let alone the more formal setting of a meeting of the RAC, member or not.

In order to establish whether, based on the evidence and the balance of probability, Cllr Cullen was in official capacity, I must consider Cllr Cullen's *motives* for attending and *what he did* when he attended that meeting.

First, Cllr Cullen told me, with obvious pride, how he had founded, or at least "reinvigorated", the Footpaths and Open Spaces Group. He described it as "a very, very successful group and it will only get stronger". He said, though, that "the Gang of Six" (Cllrs Allsopp, MacPherson, Houghton, Mark Bartram, Carter, and Walters) had closed it down. And they had done that, he said, because it was successful and was closely linked to him. For example, he said, the Group was introducing beavers in conjunction with the Derbyshire Wildlife Trust and had a regular programme of work associated with litter picking and maintenance of footpaths and open spaces. Towards the end of our conversation Cllr Cullen told me "we have two groups who want the same outcome for the village fighting against each other here, it's ludicrous". That second group is the Recreation and Amenities Committee. The two groups appeared to me during my Investigation to have some overlap in their terms of reference. The strains between the two groups are evident in an email sent by Cllr Cullen to Phill Allsopp on 20th June, an email which is included in another complaint. The subject of that email was litter picking, one of the apparent areas of overlap. Tim Bartram confirmed the antipathy between the two groups when he said that he himself "was now Chair of the Footpaths and Open Spaces Group Paul had decided to step down as Chairto ensure that the good work that it had done continued By contrast the RAC achieved little."

Next, it seemed clear when we spoke that Cllr Cullen dislikes the Chair of the Parish Council, Phill Allsopp and has little or no respect for him. Phill was also Chair of the RAC on 4th November. When we spoke, Cllr Cullen used words such as "poor", "very weak", "pathetic", and "incompetent" to describe him. He said that he "failed to consult", accused him of "failure to communicate" and said that he was guilty of "freelancing at will". In an email to Cllr Allsopp on 6th June, Cllr Cullen referred to "the maverick manner in which you have acted in your first month in post". He was critical when we spoke of what he sees as Cllr Allsopp's lack of relevant procedural and legal knowledge. A specific example was his failure to post the RAC agenda in time for the 4th November meeting. Cllr Cullen spoke somewhat pejoratively of the discussion between Phill Allsopp and John Houghton at the RAC about whether the meeting could still go ahead.

Finally, it was clear too to me when we spoke that Cllr Cullen "knows his stuff" - some might say to the point of unhelpful pedantry. He has knowledge, to choose some examples that he and I spoke about, of the Public Bodies Admission to Meetings Act 1960, the Openness of Local Government Regulations 2014, the Local Government Act 1972, and the Willington Parish Council

Standing Orders. Tim Bartram told me that “they did not like Paul perhaps because he was knowledgeable about Parish Council procedure” and also “because he could “pull them up” when they were trying to get their own way”. Caroline Blanksby said in her statement that Paul “was very knowledgeable and knew “all that stuff [standing orders etc.] upside down, standing on his head”. He was a stickler for such things being done correctly.”

Based on the evidence above it appears to me that Cllr Cullen did not attend the meeting in order to contribute and learn as a parishioner, as maybe Mrs Carter did. Instead his decision to attend the RAC meeting (with camera) on 4th November was closely related to his desire to cast the RAC in a poor light and expose what he saw as the Chairman’s perceived weakness as a Chair and his perceived legal and procedural incompetence as compared to his own (undoubted) knowledge. This is certainly the view of Witness A who suggested that Cllr Cullen “had gone to that meeting with the intention of stopping the meeting and make the Chair look like a fool”.

In doing that Cllr Cullen was commenting on Council business in the formal setting of a committee meeting and drawing on his own procedural knowledge *as a councillor* rather than a parishioner when he raised his objection about the posting of the agenda. As a fellow councillor, the courteous thing to have done if he had spotted a procedural irregularity such as that would have been to tell the Chair *before* the meeting and thus avoid wasting the time of others. Instead Cllr Cullen appears to have chosen a public forum to expose what he saw as the Chairs’ incompetence, which he hoped to capture on video, and to denigrate the RAC. In doing this the strains within the Council were once again laid bare for the public’s attention when the issue ought, I suggest, to have been dealt with privately.

The issue of where the boundaries lie between a councillor acting as a councillor and a councillor acting as a private citizen has been explored in a number of cases.

In *Livingstone v Adjudication Panel for England* [2006] Mr Justice Collins considered the scope of the Code in relation to when a councillor is acting in their official capacity. Mr Justice Collins stated at paragraphs 27 to 29:

“Conduct which is regarded as improper and meriting some possible sanction will often be constituted by misuse of a councillor’s position. He may be purporting to perform his functions if, for example, he seeks to obtain an advantage by misusing his position as a councillor. Such misuse may not amount to corruption; it may nonetheless be seen not only to be improper but to reflect badly on the office itself. If the words “in performing his functions” are applied literally, it may be said that such misuse, and other misconduct which is closely linked to his position as such may not be covered.

... Thus where a member is not acting in his official capacity (and official capacity will include anything done in dealing with staff, when representing the council, in dealing with constituents’ problems and so on), he will still be covered by the Code if he misuses his position as a member. That link with his membership of the authority in question is in my view needed. This approach is very similar to that adopted in Scotland and in my judgment accords with the purpose of the Act and the limitations that are appropriate. It is important to bear in mind that the electorate will exercise its judgment in considering whether what might be regarded as reprehensible conduct in a member’s private life should bring his membership to an end in due course...

The Livingstone judgment was considered in detail in “Bartlett v Milton Keynes Council [2008] APE 0401” in an appeal from the local standards committee. In the Tribunal’s view, the Livingstone judgment established that for a councillor to be acting in an official capacity: -

- the councillor should be engaged in business directly related to the Council or constituents;
- the link between the councillor’s office and the conduct should have a degree of formality.

Following Bartlett, Cllr Cullen was clearly engaged in business related to the council as he was present at a meeting of the Council and had raised points of order relating to the Council’s procedural rules. Furthermore, unlike the Livingstone case where the conversation was with a journalist in the street on matters unrelated to the Council, the discussion took place in and around the Council chamber and arose from matters discussed at the meeting.

Cllr Cullen says that, as he is not on the committee he was not there in his official capacity but was merely attending the meeting as any member of the public was entitled to do. It has been specifically considered by the courts whether a councillor can at any stage during a council meeting divest themselves of the councillor role and speak instead as a member of the public. In 2003, following detailed consideration of paragraph 12 of the then Members’ Code of Conduct in the case of **Paul Richardson and another vs North Yorkshire County Council and the First Secretary of State** the Court of Appeal made an important judgement. The effect of it was that a member of an authority attending a council meeting could not divest himself of his official role as a councillor in a representative capacity, simply by declaring his attendance in a private capacity. He is still regarded as conducting the business of his office and, in line with Bartlett, engaged in business directly related to the Council. Only by resigning can he shed that role.

I therefore conclude from the evidence available to me and based on the balance of probability that Cllr Paul Cullen was acting in official capacity when he attended the abortive meeting of the Recreation and Amenities Committee on 4th November.

10.2 WAS THERE A BREACH OF THE CODE?

The last step, therefore, is to consider whether, ***based on the balance of probabilities and the evidence that I have available to me***, there was a breach of the Willington Parish Council Code of Conduct by Councillor Paul Cullen on the evening of 4th November 2019.

In the absence of the audio recording, which Cllr Cullen told me he had in his possession but declined to make available to me, I can only draw upon the statements of those who were present to try to understand what was said and what actually happened.

In drawing on that evidence, whilst there are some minor differences of detail, I believe that a reasonably consistent picture of the chain of events emerges:

- (i) After the Chair closes the meeting, Cllr Cullen switches his camera off and starts to leave the room as Mrs Carter begins to speak about her disappointment that the meeting has not taken place and says that the Council is not making progress.

- (ii) Cllr Cullen probably says to Cllr Casey, as he is walking past Mrs Carter, that councillors do not have to take questions from her (Mrs Carter).
- (iii) Whilst he is leaving (or, less likely, as an afterthought having started to walk down the corridor and then returned to the room) Cllr Cullen tells, or perhaps asks, one or both of Cllr Casey and Cllr Blanksby to remain and report to him what Mrs Carter has said about him.
- (iv) In doing that Cllr Cullen appears to refer angrily to Mrs Carter as “she” saying “make sure you listen to what “she” has to say”.
- (v) Mrs Carter, probably angrily, shouts to Cllr Cullen who by this time is in, or approaching, the corridor and asks, “Who are you calling she?” or something similar.
- (vi) Cllr Cullen raises his voice and replies angrily to Mrs Carter either from the corridor or, more likely, from the doorway. He appears to have jabbed or wagged or, less likely, pointed his finger at her and said “You”, probably two or three times. It is possible that further angry words are exchanged between them.
- (vii) Cllr Cullen is not physically close to Mrs Carter and is not physically threatening or aggressive towards her.
- (viii) This happens quickly and no-one else says anything before Cllr Cullen leaves the building.
- (ix) Mrs Carter is distressed and is close to tears as a result of what Cllr Cullen has said.

Based on the evidence and the balance of probability I conclude from this that there was some kind of brief, angry exchange of words between Paul Cullen and Sue Carter that evening. I further conclude that Cllr Cullen’s behaviour towards Mrs Carter, a parishioner, at the abortive RAC Meeting was inappropriate behaviour for a parish councillor attending a meeting of a committee of the Parish Council. Indeed, it would also have been inappropriate if Cllr Cullen had attended, as he insisted, as a parishioner.

It may be that, in Cllr Cullen’s eyes, his behaviour was justified. As he said to me in his email of 6th May, “Nicky Phillips and the entire Phillips/Carter family are ... fully paid up members of the Paul Cullen hate society. I’m sure you are fully aware that Nicky Phillips and Sue Carter are the wife and mother-in-law of the infamous former Willington Parish Councillor John Phillips who is responsible for the “Drug Dealer and Scum Bag” email. They both clearly have an axe to grind with me and it has been put to me recently by a friend who knows Nicky Phillips, “she has a score to settle with you”. The events to which Cllr Cullen is referring here are discussed in some detail in Section 7 above.

In reaching my conclusion about what happened I note, in particular, that Cllr Cullen kept insisting that he was not “in capacity”. Cllrs Tim Bartram (who was apparently not present when the incident took place), Casey and Blanksby also mentioned that Cllr Cullen was there as a member of the public so could not, therefore, have been “in capacity” and could not have breached the Code.

This focus on “capacity” in itself suggests to me that Cllr Cullen *did* behave inappropriately at the meeting even though Cllr Blanksby justified his behaviour because he had caught Mrs Carter talking about him. That said, when I asked Cllr Cullen whether his behaviour had been appropriate he replied that his behaviour had been appropriate whether or not he was in capacity.

In light of the above I conclude, based on the balance of probabilities and the evidence that I have available to me, that Cllr Paul Cullen breached the Willington Parish Council Code of Conduct in that he did not treat Sue Carter and his fellow councillors with courtesy and respect and thus did not “behave in such a way that a reasonable person would regard as respectful”. In reaching this conclusion I note that the Code makes no reference to “bringing the Council or the office of Councillor into disrepute” even though I do not doubt that Cllr Cullen’s behaviour did exactly that.

I now move finally onto whether Cllr Cullen was “nasty and menacing” as Sue Carter alleged and therefore “acted in a way which a reasonable person would regard as bullying or intimidatory” at the meeting on 4th November.

I begin by asking “What do “bullying” and “intimidatory” mean?” The Cambridge English Dictionary defines “intimidate” as “to frighten or threaten someone, usually in order to persuade them to do something that you want them to do”. It defines “bullying” as the behaviour of a person who hurts or frightens someone smaller or less powerful, often forcing that person to do something they do not want to do”.

The Government definition of bullying in the workplace includes the following examples of bullying and harassing behaviour – spreading malicious rumours, unfair treatment, and picking on or regularly undermining someone. The definition tells us that bullying and harassment can happen face-to-face, by letter, by email and by phone.

I choose these “reasonable” definitions by design instead of those of organisations that might be said to be part of the “bullying industry”.

It seems to me, based on the facts and the balance of probability, that some of the actions and behaviours exhibited by Cllr Cullen as the events described in Section 7 above unfolded might be construed by a reasonable person as intimidatory and that he could therefore be capable of such behaviour.

Turning to the Complaints and the meeting on 4th November, it seems to me that Cllr Cullen was angry and that his behaviour was not dissimilar to (but not as forceful as) his behaviour at the Extraordinary Parish Council Meeting on 24th September, some six weeks previously. On that occasion his anger appears to have been directed at Nicola Phillips whilst on this occasion it was directed at Sue Carter who had also been present on 24th September. It seems to me that on both occasions the “red mist” referred to by Witness A might have come up and that the “coiled spring” referred to by Ros Casey may have uncoiled.

In commenting on the Report whilst it was in draft form Witness A asserted that there was “plenty of evidence that shows a pattern of how Paul Cullen behaves to certain individuals, he’s extremely unpredictable and this is another occasion where his behaviour is totally unacceptable. He clearly bullied and intimidate Sue Carter”. Sue Carter did not herself make this allegation when commenting on the Report whilst it was in draft form.

In considering whether Cllr Cullen was nasty or menacing towards Mrs Carter it appears to me that there were some indicators of that – he appears to have jabbed or pointed his finger at Mrs Carter and to have shouted at her. She seems to have been close to or even to have burst into tears (which Sue Carter denies) though it is unclear whether that was from shock, distress, anger

or some other emotion or mix of emotions. It is possible that frustration may have played a part in Sue Carter’s reaction. However, this seems to have been a brief episode, Cllr Cullen was not physically close to Mrs Carter and Mrs Carter does appear to have shouted back at him. Whilst Cllr Cullen’s behaviours and actions set out in Section 7 suggest that he can, on occasion behave in an intimidating way, I do not believe that this was one of them.

In light of the above I do not conclude, based on the balance of probabilities and the evidence that I have available to me, that Cllr Cullen behaved in a way that a reasonable person would regard as bullying or intimidatory.

11 RECOMMENDATIONS

On the basis of the conclusions above I make the following recommendations:

- 1. That the breach of the Code of Conduct by Cllr Paul Cullen in regard to his behaviour after the Recreation and Amenities Committee had closed on 4th November be referred to the South Derbyshire District Council Standards Committee for further action.**
- 2. That Willington Parish Council reviews its Code of Conduct and upgrades the Code to include, as a minimum, a clause that councillors should not exhibit behaviour which “brings the Council or the office of Councillor into disrepute”.**
- 3. That Willington Parish Council agrees to a programme of reconciliation and a review of its working arrangements (including its committee structure) to try to restore relations within the Council and, further, that any councillor who is unwilling to take part in a programme of reconciliation should consider their position as a councillor.**
- 4. That, as part of that programme of reconciliation, the Council draws on Cllr Paul Cullen’s undoubted skills in areas such as footpaths and open spaces for the benefit of the village of Willington.**

ANNEX 1 – DOCUMENTS AND SOURCES

In the course of my investigation I reviewed a variety of source materials. These are listed below.

- (1) “Willington Parish Council Code of Conduct” - accessed on the Parish Council website <https://www.willingtonpc.org.uk/>
- (2) South Derbyshire District Council “Complaint Form” and “Procedure for considering a complaint that a member has breached the Code of Conduct” - accessed on the SDDC website <https://www.southderbyshire.gov.uk/>
- (3) Paul Cullen email to Phill Allsopp, 6th June, 4.06pm
- (4) Paul Cullen email to Phill Allsopp, 20th June 12.14pm
- (5) Recreation and Amenities Committee Meeting Agenda 4th November 2019
- (6) Witness C email to self - 4th November 2019 10.10pm
- (7) Paul Cullen email to Melvin Kenyon – 6th May 2020 3.30pm

ANNEX 2 – LIVERPOOL ECHO ARTICLE 3rd JUNE

Annex 2 consists of three pages (numbered 30 - 32) which follow this cover sheet.

REPORT TWO - ANNEX 2

2nd Newspaper report – Liverpool Echo 4th June 2019

Politician who told Everton fan to go back to Liverpool with the 'on the mega bus with all the scum bags and drug dealers' is getting a visit

Derbyshire Cllr John Philips can expect some fresh faces at his next parish council meeting.

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BY

Liam Thorp

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16:00, 4 JUN 2019

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UPDATED 16:01, 4 JUN 2019

NEWS

REPORT TWO - ANNEX 2

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Cllr John Philips (pictured on council leaflet) was behind the anti-Liverpool messages

A Derbyshire-based politician who made vile slurs suggesting people from Liverpool are 'scum bags and drug dealers' could be facing a tricky response - Scouse style.

Yesterday, the ECHO reported how Willington Village Parish Councillor John Philips had made the comments in an email to his fellow councillor, Liverpool-born Paul Cullen.

After a tense exchange between the two, Cllr Philips said: "Hi Paul, I've had a call from the Mega Bus, they're happy to take all sorts of scum bags and drug dealers back to Liverpool tomorrow - if you know any please let them know, I'll pay - this is a public service broadcast."

The email caused great offence to lifelong Everton fan Cllr Cullen - as well as his father Joe, who is also on Willington Council and who also saw the email.

Cllr Cullen Jr, 50, has been trying to raise the issue with the local district council and the police - but has been told the slurs used don't constitute a hate crime.

REPORT TWO - ANNEX 2



Cllr Paul Cullen (right) and his dad, Cllr Joe Cullen, were outraged by the comments from a fellow Parish Councillor

But he revealed that Cllr Philips may be forced to explain his comments when a Scouse contingent arrives at the next meeting of Willington Parish Council.

Cllr Cullen, who has many family members still living in his native Liverpool, explained: "A lot of people I have spoken to - including members of my family - are really upset by what he said and that so far nothing has been done about it.

"It looks like there will be some people from Liverpool coming to the next meeting, on June 11, who will want to very clearly ask some questions of Cllr Philips - some of my friends and family definitely want to challenge him."

But he said those in attendance will be well mannered and will behave correctly.

He added: "Cllr Philips clearly already has his own prejudiced ideas about Liverpool so we don't want to feed into that and anyone who comes along will act in an appropriate manner."

