

Melvin Kenyon and Associates

South Derbyshire District Council (Willington Parish Council)
Complaint LAC/86 against Willington Parish Councillor, Paul Cullen

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

Investigation Report – South Derbyshire District Council (Willington Parish Council) Complaint 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.

On 19th August 2019, a complaint was prepared for Ardip Kaur’s attention alleging that Cllr Paul Cullen (i) had breached the Data Protection Act and (ii) sent disrespectful, abusive, and vexatious emails to the Chairman of Willington Parish Council. This report (“the Report”) and the related investigation (“the Investigation”) focus on that complaint (“the Complaint”). The text of the Complaint is set out largely, but not entirely, verbatim below.

1.3 CONCLUSIONS AND RECOMMENDATIONS

I conclude from the evidence available to me that **Paul Cullen was acting in official capacity when he sent the emails that are the subject of the Complaint.**

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 the Chair, the Clerk, 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 and the office of Councillor into disrepute” even though I do not doubt that Cllr Cullen’s behaviour did exactly that.**
- **The emails that he sent that are covered by this Complaint do not go so far as to be considered bullying or intimidatory.**
- **If Paul Cullen did share Phill Allsopp’s “personal information” in the form of a personal email address with Billy Randles, he did that unthinkingly, accidentally and without malice. There was no harm done. By using a “personal” email address instead of the**

Parish Council alternative to conduct Parish Council business, Phill should not, perhaps, be surprised when that email address sometimes gets shared with members of the public. To pursue this any further might be said by some to be somewhat peevish.

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 in sending the emails be referred to the South Derbyshire District Council Standards Committee for further action.
2. That no further action should be taken in respect of Paul's alleged breach of the Data Protection Act 2018.
3. 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".
4. That Willington Parish Council agrees to an early 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. In doing this all councillors should set aside the need to score points and stop raising complaints against one another and wasting time and money. They should instead focus on finding common ground and doing what is best for 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.
- He/she shall not disclose information which is confidential or where disclosure is prohibited by law.

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 COMPLAINT

5.1 COMPLAINT LAC/86 DATED 19th August 2019

A formal complaint (“the Complaint”) was raised about the alleged conduct of Cllr Paul Cullen on 19th August 2019. It is unclear to me when it was actually received by Legal and Democratic Services at SDDC though, once received, it was assigned reference LAC/86. The Complainant asked that their name be kept confidential because they wanted to try to work with Cllr Cullen going forward and because they were fearful of “retribution from him or his family not only towards [themselves] but [also] their family that live in the village”.

The text of the Complaint, presented largely (but not entirely) verbatim reads as follows:

“Councillor Paul Cullen; I’ve already sent this complaint to SDDC but asked for it to be withheld because after an extraordinary meeting that was held he appeared to want to put things behind him and move on. However, that doesn’t seem to be the case. At the moment I’m not being targeted but I believe he’s targeting other people in the village.

“I’m making this complaint in regards him contravening data protection by copying Phill Allsopp’s email address to someone outside the Parish Council on two occasions without his permission. I also believe he’s deliberately sent him disrespectful, abusive and vexatious emails over a period of time to try to force him to resign. I enclose the emails as evidence.”

The emails that were appended to the Complaint, often as part of an email chain, are listed in Section 7.1 below and are included in Annex 2 to the Report.

In the period between when the Complaint was first submitted and when I interviewed the Complainant, they identified two further examples of what they alleged to be disrespectful, abusive and vexatious emails sent by Paul to Phill Allsopp and asked that those be included in the Complaint. This was done with the agreement of the Monitoring Officer. I explained this to Paul Cullen when we spoke about the Complaint on 8th March and we discussed those emails.

6 APPROACH

6.1 DOCUMENTS AND OTHER SOURCES

The source materials used during the Investigation are listed at **Annex 1** below. I obviously relied heavily, in particular, on the emails that were sent by Paul Cullen to Phill Allsopp and those are included separately in **Annex 2** 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 Etwall 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 7 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 Complainant and the Subject Member. I received a response to the draft Report from the Complainant.

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 FINDINGS

7.1 EMAILS FROM PAUL CULLEN

The emails and related chains that are included in the Complaint are included in full in Annex 2 so that they can "speak for themselves" but have been listed below with reference numbers. The reference numbers have been included in brackets in 7.2 and 7.3 below and elsewhere so that

readers can be clear which email is being discussed and thus facilitate understanding. All emails were sent by Paul Cullen.

[Email 1] To John Houghton, 5th June at 15.58

[Email 2] To Phill Allsopp, 6th June at 16.06

[Email 3] To John Houghton, 11th June at 17.09

[Email 4] To Billy Randles, 12th June at 20.48

[Email 5] To Phill Allsopp, 14th June at 22:00

[Email 6] To Parish Clerk, 18th June at 21:14

[Email 7] To Parish Clerk, 19th June at 19.45

[Email 8] To Parish Clerk, 20th June at 12.14

[Email 9] To Phill Allsopp, 9th October at 23.19

[Email 10] To Phill Allsopp, 7th November at 20.19

7.2 WITNESS A

Witness A's statement about the Complaint reads as follows:

"This complaint had originally been put in about Paul Cullen and emails of this kind [disrespectful, abusive and vexatious]. However, at the 24th July Extraordinary Meeting Paul had shown some vulnerability, sent an email saying that the meeting had been very positive, and things appeared to be blowing over. By 19th August, that no longer seemed to be the case and things were getting worse.

"Melvin Kenyon said that he would look separately at the question of confidentiality and the email address (see emails of 12th and 13th June involving Billy Randles) and asked Witness A to concentrate on the emails.

"Witness A then shared a number of emails (though there were others) that contained the kind of vexatious and abusive language that they were objecting to. Witness A said that they were intimidating and contained personal attacks on Phill Allsopp. Witness A said that these emails and others should be read by Melvin in detail to get a proper flavour of the kind of emails that were being sent by Paul. Melvin agreed that he would do that after the conversation".

5th June, 15:58 [Email 1] – This referred to the Chair and Vice-Chair "freelancing and failing to communicate with the wider Parish Council" and the need for the Chair to work "diligently all day to see what action the Parish Council could take against Councillor Johnny S Phillips for his vile racist, discriminatory comments". This should apparently have taken precedence over the financial audit which was taking place. See the email from John Houghton to councillors at 12.41 that same afternoon.

6th June, 16.06 [Email 2] – This referred to the role of the Chair and Vice Chair and Paul "absolutely not "wanting to understand the role of the Chairman" because I am actually "knowing the role of the Chairman". It refers too to the "maverick manner in which you have acted in your first month in post". This occurred at a time that Paul was trying to get Phill Allsopp to resign.

11th June 17:09 [Email 3] – “Chair and Vice Chair freelancing at will, both clearly have an inability to communicate with the wider council”. Sent in response to a statement that Phill Allsopp met the auditor. Any councillor has the right to meet with DALC without anyone’s permission. Full Parish Council approval was not required.

12th June 20:48 [Email 4] – The “Billy Randles” email which contains the phrase “Again all Councillors copied in, in the interest of transparency, (something that Councillors Allsopp and Houghton would do well to remember). These emails also breached confidentiality.

14th June 22:00 [Email 5] – An email requesting an Extraordinary Meeting, which included an attachment suggesting that “the Chair has refused to answer very open, honest and straight forward questions. Councillors Allsopp and Houghton appear to have a misconception that their role brings with it superior executive powers, which of course clearly is not the case. In order for the Council to move forward in a more harmonious manner it is of paramount importance that Council[lor]s Allsopp and Houghton have a full understanding of their roles and responsibilities”.

18th June 21:14 [Email 6] – This email was sent to Debra [Townsend] on day three of the seven days available to the Chair to consider the request for an Extraordinary Meeting. Paul had taken it upon himself to prepare his own agenda and set up his own meeting. He also wrote, “I would just add that the behaviour of some Councillors and their inability to communicate is really very disappointing”.

19th June 19:45 [Email 7] – This email had been sent to Debra [Townsend] further to the 18th June email. Witness A saw its tone as threatening, particularly the second paragraph. This was an example of Paul trying to take charge without following due process (to do otherwise does not suit him). Paul was not happy that the Extraordinary Meeting would discuss other urgent matters (an item about burials, for example), which is permitted. “If you or the Chair fail to answer my perfectly reasonable questions in the email I sent out earlier today, the posted agenda ... will be taken down and replaced with the attached agenda which is specifically ... what [was] actually asked for. You will also note that the Extraordinary Meeting will now take place on Thursday 27th June”.

The meeting took place as scheduled by the Chair on Tuesday 25th June. Minute 369/19 records the Chair’s statement at the meeting that he would not be replying to harassing and vexatious emails.

20th June 12:14 [Email 8] – This email was one of a number of emails about litter near to two entrances of the old Willington Power Station. When Phill Allsopp joined the Council he and the then Chair, Cliff Warner, had organised a litter pick which was done under the aegis of the RAC Committee. The then clerk Jacqui Storer had sourced the necessary bags and equipment for the pick. The collected litter was picked up by SDDC the following day.

Just before the election Phill did another “private” litter pick with his son. His son posted some photos of them doing the litter pick on the Spotted Willington Facebook Group (which Phill was not happy about). Paul responded to this on 28th May by asking for copies of risk assessments and for the exact dates of the litter picking events. Phill had not done a risk assessment (which is actually the right thing to do) and Paul probably knew that. He was trying to “belittle” Phill for not having done any risk assessment and not actually having carried out the litter picks.

Paul wrote (copying in all councillors), “Now, I suspect that you haven’t forwarded the items I’ve requested as the truth is the RAC carried out no such events and your [sic] probably feeling a little embarrassed that you mislead [sic] both Councillors and members of the public at the May meeting, (of course no suggestion on my part that you do this deliberately)”. Paul then continued in a similar vein. Paul was accusing Phill of lying. Witness A had found this intimidating and Phill had actually found some emails from Jacqui Storer which proved that the events had taken place.

There had been other emails subsequent to Witness A’s complaint that they wanted to be considered as part of the complaint by Melvin and Witness A said that he would send other similar emails to Melvin as they arose for inclusion in his complaint, possibly via the Monitoring Officer. Witness A then shared two such emails.

9th October 23:19 [Email 9] – This email to Phill was about the proposed Ivy Close development discussed at the Parish Council Meeting on 8th October and Paul’s disappointment at the outcome following a close vote.

Paul had requested an Extraordinary Meeting (questioning the locum clerk’s ability and her advice that such meetings were not exclusively for urgent business and saying that the clerk had misled the public). Requests for Extraordinary Meetings tended to happen when Paul did not get his own way. The email ended with the statement, “I would also note the extreme hostility directed towards me by yourself [Phill Allsopp], Cllr Houghton, Cllr Carter and the Locum Clerk which I do hope will not become the norm. As I’ve said in the past, I will not tolerate bullying and will have no hesitation in taking those members who think this kind of behaviour is acceptable to task”. Witness A took this statement as “a very, very clear threat” and found it “quite chilling and sinister”. There had been no hostility and Witness A suggested that Melvin should listen to the audio to verify this.

7th November 20.19 [Email 10] – This email was a follow up (though emails were actually still continuing) to a series of emails about the raising of a complaint about the Locum Clerk, Debra Townsend, for holding an inquorate meeting. It showed (i) Paul’s unwillingness to accept the advice that the Council’s complaints process was actually fit for purpose. This advice had been given to the Chair by DALC whose recent advice Paul said had been “questionable”. This advice did not fit his version of events; (ii) Paul’s desire to create the impression that he was the subject of “brutal hostility”; and (iii) his threats (solicitors etc.) and antagonism towards the Chair, the Vice Chair and the Clerk. Phill Allsopp had not replied to the email of 10th October because he had received confirmation from DALC that the approach taken by the Locum Clerk was legitimate so there was no complaints process to be followed because a complaint was invalid”.

7.3 COUNCILLOR PAUL CULLEN

That part of the conversation that I had with Paul Cullen when I spoke to him about the Complaint 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:

[2:56:00]

“Melvin Kenyon [MK] – OK. Let’s move onto the very last one, which is a bit more complicated in that it’s about emails that were directed at the Chair. I didn’t want to give you a list of emails Paul

Paul Cullen [PC] ... sure

MK - but I have got [paper] text of them.

PC – I’m just going to log into the email account now so I can

MK – Yes, please do.

Pause whilst Paul logs on

[2:56:49] PC

– OK.

PC –

MK Are you OK? Right, I'm looking at a First of all, the complaint refers and I've referred to this in the text it referred to you twice copying Phil Allsopp's personal email address to people outside the Parish Council without his permission.

PC – But you're not investigating that.

MK – I let's just say we have investigated it because there is *prima facie* evidence that that actually happened. However, and it will go into the report that it happened, but we don't believe..... we just think you just did it, there was no malice behind it. You just did it, and there was no harm done, it was pretty trivial. End of.

PC – Could I just [make] one comment on that?

MK – Sure.

PC – So, all Parish Councillors have the facility to have a @willingtonpc.org email account and Phill Allsopp, not on his own, but chooses not to have that account. So, in the event that he chooses not to have that account, I suspect that myself *and others*, on occasions, whilst there's been email circulations going on have done that. But he chooses not to have

MK – Yes, I think we accept that. So, I will have to refer to it 'cos it's part of the complaint but I will simply say, for want of a better phrase, I think the word I've used in there is one of our favourite words, which is nugatory. It is really just

PC – I didn't know what that meant.

MK – No, we play about with it actually sometimes. It just means, kind of of no real consequence. So, I mentioned that for the sake of completeness because I believe it's in that complaint. Right, so, the first email I've got, Paul, is dated 5th June 2019 at 15.58 **Email 1** and I've got text, I've actually got the text here.

MK shares paper copy of what he sent PC; brief exchange whilst PC looks at it.

PC – This complaint number is?

MK – 86. Have you got that?

PC takes a few minutes to find the complaint

PC – No, not to worry

PC continues to look

MK - Dated 19th

PC – Of?

MK - August.

PC – I'm sure I've seen it. Dated 19th

–

MK – It basically says ... what have I said here? The complaint is that you sent a series – this is my summary – you sent a series of abusive and vexatious emails to the Chair over a number of months in an effort to force him to resign.

OK

MK – So whilst it's dated 19th August, further emails came to me and said that's still what's happening.

PC – Right, but no further complaints came to me.

MK – Errr he was adding to the earlier complaint.

PC – OK.

MK – So, I know what's going through your mind Paul.

[3:01:24]

PC – I mean ... yeah I mean I should have received another complaint; you can't just keep bolting things onto a complaint, surely? Even *you* can see that.

MK – I just have to deal with what's in front of me.

PC – OK, so. OK, I mean, I'm not happy. I'm not happy anyway but I'm really not happy if you want to discuss anything after 19th August.

MK – OK, let's have a look. There are two after that date.

PC – Do we know when?

MK – Yeah, yeah, I'll come to them. We can come to them. The ones that I'm talking about are largely in June.

PC – OK.

MK – Right so if you don't want to discuss the ones that were later

PC – You won't be able to conclude your investigation for the sake of discussing two emails, would you, if I choose not to discuss anything I haven't been notified about?

MK – If you don't want to talk about the two emails that postdate 19th August, that's up to you.

PC – But you won't be able to conclude your investigation.

MK – I can There is nothing to stop me referring to them as, if you like, background information, the same as I can refer to anything at all as background information because to be clear, this isn't as it were a criminal trial it's not beyond reasonable doubt, it is on the balance of probability

PC – Sure, sure

MK - It's a civil effectively it's not a civil, it's the same burden of proof that you have on a civil matter. So, it's entirely up to you whether you talk about them, Paul. I can't make you I can't make you talk about any of it. 5th June at 15.58.

PC –

PC – I sent?

MK – Yes, you sent it to the whole Council

PC - I haven't got that one.

MK You haven't?

PC – Well I'm only referring to the ones that I've sent to Phill Allsopp.

MK – Oh right, OK well he was copied. Well you can look at it. [MK passes PC the email] You can't take it away, but you can look at it.

Pause whilst PC reads email

PC – Is this the whole email trail where you read back to front?

MK – I believe, that's what I have got as evidence, I don't know what the rest of it's about.

PC takes a couple of minutes to read the email

[3:06:00]

PC – OK

MK – You got that? OK, so, the complaint and there'll be others so keep your glasses to hand So this refers to Chair and Vice-Chair "freelancing and failing to communicate with the wider Parish Council" and the need for the Chair to work "diligently all day to see what action the Parish Council could take against Councillor Johnny S Phillips for his vile racist, discriminatory comments". This should apparently have taken precedence over the financial audit which was taking place. And then it says see the email

PC – Financial audit?

MK – I don't know anything about that ... that's There was a financial audit taking place

PC – No reference to a financial audit in the email

MK – No, no

PC - Sorry.

MK – So, this is about About, I think, the tone of the email and suggestion that he's freelancing and failing to communicate, and he should be working diligently all day for the Parish Council to take action against Johnny Phillips, so that's the first one.

PC – OK. Can I just have one more *[looks at papers]*?

MK – I suggest you make a note of these of what they are Paul, there's paper here.

PC – So, this is 5th June.

MK – Yes, 15.58. And it's you to, I suppose, the wider Council.

[3:07:44]

–
PC – Oh right yeah, yeah, so it's the whole Council, yeah.

MK – Yeah.

PC – OK so It's just the last bit of your

MK – So he considers that to be abusive.

OK, right, do you just want me to? I don't consider it to be abusive. I do recall sending it. And as I sit here today, I think that that is a perfectly legitimate, reasonable email for me to have sent. So, I don't feel that I need to justify anything in there.

MK – Fine.

PC – I think again, it's this perception of what other people find. He is the Chairman of the Parish Council; he has a duty to consult. He failed to consult. Not for the first time. I have challenged him on this on a number of occasions *and* will continue to challenge him as long as he holds the Chairman's position and I will challenge *subsequent* Chairs on this. They are not there to make decisions in isolation. They don't have any executive powers unless we give them them powers by a special motion which we have done in the past, but Phill Allsopp does not have them. He had no rights to have acted in the way that he did on that day. I understand I understand he was trying to aid and assist the Parish Council, but he doesn't have the powers to do An Extraordinary Meeting, sit down, discuss it, we'll have a plan, a strategy, we'll move forward. He wants to do what he wants to do. For me, I think that is a perfectly reasonable and rational email to send and to challenge him on them.

[3:09:43]

MK – That's fine. Let's move onto the next one. This is dated, this is headed, "Role of the Chairman" and it's dated 6th June at 16.06 and there is a trail that goes with.

PC – From me to the Chair?

MK – To Phil Allsopp, Caroline Blanksby and Claire Carter and then copied to what looks like the rest of the Council.

PC – OK.

MK – Again, you can look at this Paul to save faffing around on that *[mobile phone]* if you want. *[MK hands PC the email text]*. So this refers to the role of the Chair and the Vice Chair and you, quote "absolutely not wanting to understand the role of the Chairman because I'm actually knowing the role of the Chairman". It refers too to the "maverick manner in which you have acted he the Chair has acted in his first month in post". And the view is that you were trying to get him to step down.

PC takes a couple of minutes to read the email

[3:12:04]

PC – Yes, this is fine. So, the role of the Chairman is pretty much exactly what we've just been discussing which is desire to freelance and not consult Council. What he did was send out an

PC –

outdated document of the role of the Chair and I actually copied in one of my responses (I'm not sure if it was that one) I actually sent him an attachment of the up to date legislation, not so much legislation but it's guidance, I think it was from "The Good Councillors Guide" about the role of the Chair. So, yeah as I've said to you, I don't I try not to I try to go armed with I understand people might find it not palatable and don't like me, don't like me as a person, don't like the way I come across, I get that. But that doesn't give you carte blanche reason to act as you see fit. You still have to consult with Parish Council. I can absolutely guarantee you if I went off and did something, I can give you an example of that in a minute, but they'd be all over me

like a rash. I don't I'm slightly embarrassed with the fact that Ardip Kaur has seen fit to put these through to further investigation.

MK – Ardip hasn't I don't know to what extent Ardip has seen these, I am assuming they have been attached - I think they probably were attached - but I can't comment on what Ardip has done or not done. I don't know.

PC – If she did I would be embarrassedOK, let's not personalise it ... I would be embarrassed that a Monitoring Officer would – if she has indeed - see fit to put them forward to further investigation because, I think that, although some people might not like them, I don't think there's anything derogatory, I don't think there's anything in there I couldn't back up. I think he has acted in a maverick manner and I think he continues to this day to do so. I'm more than happy to sit down and discuss them issues with him. Perhaps during the mediation, that you referred to earlier, but yes, he sent through an outdated document. I know what the role of the Chairman is, and it doesn't include Phillip Allsopp going off freelancing at will. That's the point that I'm trying to make.

MK – What do you think the role of the Chair is Paul? I mean, I'm a Chair, Karen's a Chair.

PC – I'm a Chair, I chair many meetings at work. In the Local Authority, it's slightly different because you are very specifically, and he understands what I'm getting at, is he is there to control the meeting to make sure of the ebb and flow of the meeting, you know, to make sure that everyone gets listened to, to make sure everybody gets the right air time, he stops people when he needs to move on. Some of the things that I don't think he has the responsibility to do are, consulting with the police, bringing police to the meetings. I don't think that's his responsibility. I have actually wrote emails, probably last week so about this very same issue. I don't think it's his responsibility to go and speak to the Compliance/Monitoring officer at South Derbyshire District Council in order to obtain the services of a new Clerk. Which that's about. The Parish Council, what I was trying to explain to him, can function perfectly legally with a Parish Councillor undertaking the role of the Clerk as an emergency measure. He didn't want that, he wanted to go off and he wanted to speak to the Monitoring Officer, to the Compliance Officer, to the police, who else? To DALC, DALC is probably useful. And I don't have an objection to them *per se* as long as he brings back some Well, actually, I do because I'd be saying I'd be contradicting what I'm saying. What I would prefer to happen is that we have the debate and then he goes away with a little package of proposals that we've all put forward. Surely that's how it should work. In terms of that email, again, I stand by it.

MK – OK

PC – I don't think there's anything wrong with what I've said there *[PC hands MK the email back]*

[3:16:27]

MK – Right let's move on. This is 11th June, again if you want to make a note of it, it's 11th June, 17.09 **[Email 03]** And whilst this is to John Houghton, it copies Phill and the rest of the Council in.

MK hands PC copy of email

PC

– You know, he’s actually said at the Parish Council, he’s actually said this is the Chairman he said that he did respond to one email once about something because he’d said at Council, “I don’t respond to emails”, which I thought was a bit strange statement for a Chair to make.

MK – I think I think he would argue that he doesn’t like the tone of some of the emails and therefore he doesn’t reply to them. I’ll say no more about that.

PC – OK, right, no I understand that yeah.

MK – And I think he’s probably said that.

PC – Right. I think I would argue that.

MK – You’d have to look at the audio and things.

PC – The audio of the.....?

MK – No, I’m just saying as to whether he’d said such thing.

PC – Oh, right, ok yeah.

PC takes a few minutes to read the emails

PC – OK, so, yeah. The pissing competition is a specifically relates to a phrase that John Houghton uses a lot and he’s put in emails a lot as well. This isn’t a pissing competition, we all know what that means, so that’s what I’m trying to say to him there. But again, the main body, the content of what I’m saying, I absolutely agree with. You can’t unless you have delegated powers is the word I was looking for earlier, that’s what we’ve given the Finance Committee. The Finance Committee should have discussed that we shouldn’t be waiting until the eleventh hour to start discussing the £14,000 discrepancy. It should have gone to Finance, it should have come back to full Council, that’s how these things work. It’s not for John to meet. In fact, John is actually compromising his *own* integrity by meeting the independent auditor on his own.

MK – I don’t know.

PC – Well they’re my observations, Melvin, so again, yes it simply isn’t good enough, the Chair and the Vice Chair are both freelancing.

MK – Well this is about whether it’s abusive and vexatious.

PC – It’s a matter of fact. They did it.

MK – OK, let’s move on to.

PC – Sorry, I would just say for the recording, there’s nothing abusive in there at all.

MK – This is the 11th June at 17.09.

PC – Yes, nothing abusive in there. I just want to be very clear that the “pissing competition” - and I haven’t written the word “pissing” - relates to coin a phrase that John Houghton uses on a regular basis and actually has put it in emails. If you’d like a copy of that email, I’m more than happy to forward it to you.

[3:21:11]

MK – OK. This one is dated 12th June 2019 12th June 2019 at 20.48 **[Email 4]** and this is to Billy Randles. I don't know who Billy Randles is, I know he's bound up with Liverpool but that's all I know. Who is he?

PC – I have no idea; I genuinely have no idea.

MK – I'd like to know why you're writing to him if you don't know who he is *[laughing]*

PC – Well I'm writing to him in response to the email trail I would imagine, I'm probably responding to an email that he sent. Billy Randles is clearly to do with the scumbag, scumbag and drug dealer

MK – Yes, it is but again we've seen his name, but we don't know who he is.

PC – No, I don't know who he is. I'm assuming that he's read the Liverpool Echo.

MK – Right, so he's not somebody you know?

PC – No, I don't.

MK – I think the sentence that may have caused offence is that one.

PC – So this is being treated under 86 and not under the scumbags and drug dealers one which you're not investigating.

MK – I'm not investigating scumbags and drug dealers.

PC – OK and I know we've done that one, we've discussed it, but to this day I've never had an apology from full Council for that but that's an observation.

PC looks at papers

MK – I guess, though I don't know, that the argument would be that it's a private matter.

PC – I do want to touch on that as directly related to this because this particular complaint because.....do you want me to do it in a minute? Do you want me to hold that thought and just rattle through these?

MK – Let's rattle through them, I mean if you want to say something generally about scumbags, drug dealers, Megabus blah blah blah, happy to hear it.

PC – No, it wasn't that It wasn't so much that, it was the fact that, and it's quite ironic, so I know that conversations are being had that I've not been involved in but the fact that it's not being investigated because it's being deemed to be a private matter between two individuals is exactly the same reason that the Parish Clerk gives me for not including it as a Parish as an agenda item. I've been asking for that as long as I've been asking for the other issues and that's exactly what she says to me.

MK – It's about in capacity really.

PC

PC – And that’s the point I want to make because the scumbag and drug dealer issue, Megabus, I’ll book you a seat and pay for it is ... I know, I couldn’t believe it ... was sent from john.phillips@willingtonpc.org.uk to paul.cullen@willingtonpc.org.uk whilst we were discussing, if you look at the subject matter, was about a car boot sale. So, two Parish Councillors on a Parish

Council website email address discussing a Parish Council issue is deemed to be a private matter between two Parish Councillors.

MK – Well, that’s my understanding. The fact that if I might say The fact that you are using a Parish Council email address doesn’t necessarily mean that you are in capacity.

PC – Right, OK.

MK – Sometimes it gets very difficult around social media for instance where people It’s very tricky.

PC – That surprises me.

MK – Anyway, the point is, that John Phillips is no longer a Councillor.

PC – Yes, I suppose where I was going with it was that, for me and you’ve told me something I don’t know there, I would have thought that if you were using a willingtonpc.org.uk email account then you are acting in capacity but you’ve cleared that up for me.

MK – I do note bel Others might have a different view, but my view is it’s not *de facto* that that’s how it is.

PC – Because I’m giving my view and opinion to Phill Allsopp and John Houghton from my Willington PC account.

MK – What matters is, the content and what you’re talking about.

PC – And do you know, that’s why what really concerns me about the fact that the other allegation has been dropped against me because I would have welcomed the opportunity to have cleared my name of any wrong doing in that one and that’s the one that there’s no desire to pursue an allegation against me for and I suspect I know why because clearly it wouldn’t be good.

MK – Well we’ve not been asked to look at that.

PC – OK.

MK – I’m not the font of all knowledge on this, by the way, you know *[laughing]* there are people who It’s like any It’s probably the same in your job, Paul, there are differing opinions about things but there has to be more than a kind of It depends what you’re talking about and what you say, what position you take in relation to a given issue. It’s complicated.

PC – No, I understand that, and you have to be the arb.. you have to be the

MK – Well I have to make my judgements and I do consult with others who know about these things as well as myself and Karen and others.

Pause whilst PC reviews the email.

MK – I think the offending paragraph is the one that is sort of highlighted on there. That first sentence that ends “would do well to remember”.

PC - If the need arose, tomorrow and clearly, I’ve copied everybody in, I’m not trying to hide anything. If you look at the Nolan Principles, I could have not copied anybody in, and I could have emailed him back and said yeah what an absolute idiot he is. I haven’t, I’ve copied everyone in

and the three that you've shown me up to now, if the need arose and I felt it necessary to do so, I would have no I'm not being abusive, I've not used any....I don't think I have.

[3:29:13]

MK – All right. There are one, two, three, there are four more if we exclude the two that you don't want to talk about. This one is about this is 14th June at 22.00 **[Email 5]**, I believe, let me just check this *[Mutters]*. No, there's one here, I'd forgotten this one, this is 13th June, 13th June early in the morning. It's a Billy Randles one, I think.

MK hands PC the email

PC takes a few minutes to read it

MK – No this is simply a follow up to the one we just discussed, so that's not really relevant, so I'm back to 14th June, Paul, 14th June at 22.00 and it has an attachment to it and I think it's the attachment that is of relevance. But obviously there's that.

MK hands over the documents

MK – So this is an email requesting an Extraordinary Meeting which included an attachment suggesting, quote "that the Chair has refused to answer very open, honest, and straight forward questions. Councillors Allsopp and Houghton appear to have a misconception that their role brings with it superior executive powers, which of course is clearly not the case. In order for the Council to move forward in a more harmonious manner, it is of paramount importance that Councillors Allsopp and Houghton have a full understanding of their roles and responsibilities." That's it.

PC – I stand by I would be happy to ask for that to be included as an agenda item at next week's Parish Council meeting and I would probably not alter the wording much.

[3:32:01]

MK – Next one, 18th June 21.14 **[Email 6]**.

PC – Sorry, Melvin, can I just ask? The complaint 86 which we're discussing now has come across to you from the Monitoring Officer, so you've received a block number of complaints and 86 has come across with all of them other complaints. So, the Monitoring Officer has deemed that this these emails require further investigation along with the other 103s and whatever.

MK – As I said Paul, I don't know to what extent she had pored through the individual emails, you would have to ask her. But I have been passed complaint number 86.

PC – Right, OK.

MK – This is 18th June at 21.14.

MK passes the email to PC

MK – If I find any more emails, Paul, I will ping them across to you. There are a couple more.

PC takes a few moments to read the email.

PC – Is there a particular? This bit.... ?

MK – It's the bit that *[Paul somewhat puzzled]* I'm reading "I would just add that the behaviour of some Councillors and their inability to communicate is really very disappointing."

PC – Yes, so it's just the last Yes, we have a Chairman who won't respond. I ask for a read receipt, he wouldn't, I mean this is really important because what I'm asking for is an Extraordinary Meeting, which I'm entitled to do. And he's failed to he's failed to even acknowledge that. Again, if the need arose I don't think I would alter much about that, if I had to send that again tomorrow.

MK – Alright. I'm swamped in paper

PC – I think I'm reasonably confident that the content of my emails is always appropriate, so and I thought that you might be pulling - not deliberately or intentionally - something out of the hat with the two emails post MK – No, no, I wouldn't do that.

PC - So I would actually like to see those ones as well, although I'm conscious of time.

[3:35:56]

MK – This is 19th June at 19.45 **[Email 7]**

MK hands PC the email and PC takes a couple of minutes to read it

MK - and the second paragraph is what seems to have

PC – Yeah, so, I think the only thing that I would concede on this one, although, although I have to say I don't find the content of the email abusive, or I don't know, what's the allegation? Abusive?

MK – I think it's vexatious.

PC – Vexatious. There's nothing vexatious in there, there's nothing abusive in there. What I if I was writing this email tomorrow, I now know that because I'd asked, we'd asked for an Extraordinary Meeting and I'd sent some agenda items across. If the Chair fails to call that meeting within seven days, then you can proceed, the Councillors who have asked for the meeting can proceed and they can actually construct the agenda because we were getting no support from Deb Townsend on this. When the actual agenda came out, as I put in my email, there's noth.... it doesn't, basically it had been which she actually has the right to do but she must consult with you she's got to ask for clarification on points that you're making. She can't just make wholesale changes to it. If she's got a legitimate concern, it's her responsibility to raise them with you. The only thing that she *can* do is she can correct grammatical errors without consulting you but the content of it if she wants to change it, she has to discuss it with you. If you don't agree that, she actually has the power not to include it in the agenda which doesn't sit comfortably with me, but I accept that's what the law says. But she didn't do that in this instance. She just constructed an agenda of all the things that she wanted well, I'm not sure if she wanted them but certainly not what was asked for. That's what I was challenging her on. I now know that the bits surrounding the failure to Yeah, if nobody's answering me what am I to do? Do you know, I don't know, I say about taking the agenda down, I think perhaps what I would have done was put an agenda next to it. Or, perhaps what I would have done is just raise it in public participation in other meetings. But, again, I don't think there's anything abusive in there, I don't think there's

anything vexatious, I don't think there's anything that I probably wouldn't put in another email tomorrow.

[3:40:15]

MK – OK this last one before we talk about

PC – What was the date of that one?

MK - 19th June at 19.45. This last one is 20th June at 12.14 **[Email 8]**.

MK passes email to PC who spends a little time looking at it

MK – And this is about litter picking.

PC – Do I have to read it ?

MK - I think the germane piece is that front page. Feel free to

PC – Oh, OK. I can get by this. Phill Phill Allsopp had made reference to.....I haven't read it I will, in fact let me read it first.

MK – Yes, read it.

PC continues to read the email chain for a minute or so

[3:41:51]

PC – OK, so, I mean I haven't read the whole thing, but I've asked him on numerous occasions for err.... I just didn't want to re-invent the wheel. He's told me at a Parish Council meeting that the RAC have conducted litter picks for which they haven't got a risk assessment.

MK – yeah, his concern is that you have said in a public forum there that the litter picks ... you've basically accused him of dishonesty in that the litter picks did not take place.

PC – Well if they did take place then all I want to see is the risk assessment for it to save me having to construct another one. I'm asking for the method statement and the risk assessment from the litter picks that the RAC have carried out in order that I can merely use them for the Footpaths Group.

MK – What he's saying is he doesn't like this which is, "Now, I suspect that you haven't forwarded the items I've requested as the truth is the RAC carried out no such events and you're probably feeling a little embarrassed that you misled both Councillors and members of the public at the May meeting, (of course no suggestion on my part that you did this deliberately). So, could you either send me the information I've requested or retract your statement in which you said the RAC have carried out the litter picking events?" He is adamant that the litter picking events took place and that there is evidence that they did take place. That's it's not about the risk assessment, it's about your suggestion that they didn't take place.

PC – Why hasn't he just....? Why hasn't this come back to full Council to be discussed?

MK – I don't You would have to ask him

[3:43:46]

PC – Right, first of all, OK, so he did say, I don't think he's denying, at full Council that this was all surrounding a decision made by six Parish Councillors to disband the Footpaths and Open Spaces Group. And one of the things that the Footpaths and Open Spaces Group have, including this morning, is a schedule of activities throughout the year. So, it's all programmed in throughout the year. And we'll do footpath 7, footpath 8, we'll go and do the public open space on the Willington Marina; so we know what we're doing. Six members of the Parish Council chose to disband that group, so none of that was going to be taking place, so I said "Well we'll be losing the litter pick" and he said, "well the RAC do it". I said, "Well I don't recall the RAC ever doing a litter pick", he went, "yeah they have". So, I said, "Can I see your risk assessments then?", you know, because we could have used them. In fact, we actually used the South Derbyshire District Council risk assessment in the end. I want to be clear that, if the bit that's upsetting him is my suggestion that they never took place and he's saying they did and he's got evidence to support that, I would have thought that a better way to have addressed this would have been for him to have We could have discussed it at Parish Council, and he could have told me, and he could have showed me. But I want I can't say I want to be clear on this, but I've been a Parish Councillor now since 2014. I was co-opted on the December before that, so it was the back end of 2013 which was before Phillip Allsopp became a Parish Councillor. And the RAC to my knowledge have *never* conducted a litter pick or any kind of community event whatsoever. Phillip Allsopp went out and did some litter picking prior to being prior to the 2019 elections with his son, which was posted on social media and simply asked for some help. "Me and my dad [I think it was a post from Darren Allsopp], me and my dad, Phill Allsopp, who's standing for election at the forthcoming Parish Council election, standing for office, will be carrying out a litter pick on this day, at this time", and that was it. The RAC Committee of Willington Parish Council, categorically, I can assure you, as I sit here now have never they may have ... they've never done a *bona fide*, authorised, litter pick. We have to have a schedule of events to do ours, they've been very clear about that to comply with Health and Safety, insurance purposes. They actively go out their way to try and stop us doing it. They actively go out their way to try and put obstacles in our way to stop us doing our events. So, for us to have jumped through the hoops, for the Footpaths Group to have jumped through the hoops to get to carry out a litter pick, I would have known at Full Council, that RAC would have had to have done the same and they haven't. So, if the suggestion is that he's not telling the truth then that is an accurate judgement on his behalf. Because he's not.

[3:47:19]

MK – Right, because what he's said is after he joined the Council, he and the then Chair Cliff Warner?

PC – Yes.

MK – had organised the litter pick which was done under the aegis of the RAC Committee.

PC – Absolutely not.

MK – The then Clerk, Jacqui Storer sourced the necessary bags and equipment for the pick and the litter they collected was picked up by SDDC the following day.

PC – OK. I'm not saying that didn't happen, but it didn't happen as a function of the RAC

Committee. For all of the activities that we've carried out, including today, I can give you evidence and the risk assessment. We save everything for this exact reason, we save everything electronically, so if you were to ask what did the Footpaths and Open Spaces.....do you know, the unfortunate thing is we've got two groups who want the same outcome for the village fighting against each other here, it's ludicrous. Because, you know, he wants to.....I know what they want and he'll ultimately get what he wants because I will be resigning. But the suggestion that they have done it under the umbrella of Willington Parish Council, I would know about it 'cos we'd have discussed it at Full Council and we'd have to have seen his risk assessment, we'd have had to ask our insurance providers 'cos we have people joining in the litter picks who are not Parish Councillors who are not. So, we have to make sure everything is crossed and if you want evidence from Footpaths that that's happened, I can give it to you. I'm guessing, second guessing that Phillip Allsopp won't be able to provide you that same information. He's carried out the event – absolutely - but not as part of the RAC.

MK – Right, I think his concern is that you are accusing him of dishonesty, now in the fine detail of it I don't know, but it seems to me he *did* carry out two litter picks. One perhaps in a private capacity but the other in some other capacity.

PC – I would argue he didn't. And if the suggestion, his suggestion, that I'm accusing him of being dishonest in his role as the Chairman of the Parish Council, then he's accurate. I *am* accusing him of being dishonest.

MK – Right, on the grounds that... ?

PC – That the litter picks that he was involved in were *not* carried out under the auspices of the Recreation and Amenities Committee. Absolutely I *know* that he absolutely carried out litter picks, because I seen the pictures that he posted on Facebook. But he didn't do it because I would know. I fail to see why I wouldn't know; I don't miss very many Parish Council meetings and I don't recall it being discussed. Anything that's discussed at RAC *has* to be ratified at Full Council and I don't recall - I'll go through the minutes when I get home tonight - I'm absolutely confident that it's never been discussed.

[3:50:15]

MK – All right. There are two more which you, I think you're saying are outside the scope.

PC – I'm happy to....

MK – We can look at them. This one is 9th October at 23.19 **[Email 9]**

PC – At what time?

MK – 23.19.

MK hands the email to PC

MK – And that final sentence is what he found threatening.

PC - No, I stand by that. I stand by that paragraph. If he finds it threatening, if he finds it threatening, again, that's his perception and that's unfortunate. But my perception, because actually, you know, with the wind in a different direction, you could be sat here interviewing

Phillip Allsopp about his hostility towards me, if I'd have made that complaint, which I didn't. At that meeting, yes, this was very much about supporting the community, about a planning development which he voted against; he voted against supporting getting independent professional advice *against* the planning application. *[Commenting on email]* I would have referred to the urgent business, yes. Claire Carter, John Houghton and absolutely, absolutely the locum Clerk were all hostile towards me. And I hope it doesn't continue or become the norm because I *won't* accept it.

MK – What did you mean by “taking him to task”, or “them to task”?

Brief pause whilst PC reads email

PC – Right, so

MK – What does *that* mean?

[3:52:40]

PC – I suspect, probably, as I've just alluded to him sitting here in front of you. Look there is no suggestion, look, look absolutely.....I would have no hesitation in reporting any of them to the Monitoring Officer or the Police if I felt threatened or intimidated by their behaviour. Monitoring Officer if it was a Code of Conduct complaint and the Police. Which I have done, John Houghton and Phill Allsopp for what I believe is a criminal act, which I have done. I would take them to task for it, absolutely. **[3:53:16]**

MK – OK, and this very last one, you'll be pleased to hear, is 7th November at 20.19 **[Email 10]**.

MK passes PC the email and he takes a couple of minutes to read it through

[3:55:56]

PC – Is there a specific bit that he.....?

MK – I think I think it's about the sort of tone of it.

PC – I think we may have touched on this.

MK – We've touched on the subject matter.

PC – Yeah, which was the meeting we held and I wanted to make a complaint about the Clerk of which he was involved in and the Vice Chair was involved in, so DALC were saying I should put the complaint to the Chair and I said, “How can I because you are involved in the complaint, so there must be another option”. He clearly wasn't prepared to look at that so, I'm saying to him if you're *not* prepared to look at it, can I? So, I'm asking permission from him, whether we take that back to Full Council. If I can go and seek some guidance about it. And he never got back to me, so I asked him for an update, in fact, I think I asked him for more than one update which he never got back to me, so it's pretty much just died a well the Clerk resigned but she's back now again. So, again, I think it's reasI think it's reasonable, I don't think I'm.... Does he think I'm being abusive?

MK – Well these may be my words, but it is abusive and vexatious I think.

PC – Vexatious? Vexatious would mean that it's false.

MK – *[reads from the complaint]* “Disrespectful, abusive and vexatious”.

PC – Well disrespectful, I mean, it's not disrespectful, although no it's not. I suppose again, the measuring stick for me is, if I was in the same situation, would I send that again? Well this actual issue hasn't been resolved because Deb Townsend has now been, I voted against it you won't be surprised to know, but she's been reemployed by us as of next week, so for me, I will now be asking I'll be asking Phill about this again.

MK – OK, but please don't do it in the context of today. If you see what I mean.

PC – No, so, just “following my previous concerns around the Clerk's conduct, did we manage to move forward on an outcome for me to be able to progress this?”

MK – OK.

PC – No, I think I would probably send that tomorrow yeah.”

[3:58:29]

7.4 PAUL CULLEN EMAIL TO MELVIN KENYON

As the Investigation proceeded I received several emails from Paul Cullen. Part of one of those, received on 6th May 2020, referred to the Complaint covered by this Investigation and said the following:

“You then, at our meeting, proceeded to quiz me on complaint LAC/86, regarding several emails I sent to the Chair, Phillip Allsopp. I was absolutely dumbfounded and even more so when you informed me that additional emails sent in October and November some 2 months after the initial complaint dated 11th September were now being investigated, did someone at SDDC forget to tell me this?”

“Investigations into complaints about me had been dropped because of interference from the most senior officers of SDDC and judgements made by yourself and yet here I was sitting in front of you and your associate being quizzed surrounding the wholly appropriate and relevant content of emails sent to Phillip Allsopp in my capacity as a Parish Councillor. Why on earth didn't anyone see fit to dismiss Phillip Allsopp's childish complaints? Because I suspect my fate is already sealed. Phillip Allsopp should have been sitting in front of you charged with wasting public funds by acting like a spoiled, petulant child”.

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

8.1 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 Paul Cullen was “in capacity” when he sent the emails that are the subject of the Complaint. The legal position has been discussed in some detail in Section 3.3 above. Given that, in sending the emails, the Subject Member was discussing Willington Parish Council business with Parish Councillors and others whilst serving as a member of the Parish Council **I conclude from the evidence available to me that Paul Cullen was acting in official capacity when he sent the emails that are the subject of the Complaint.**

8.2 EVALUATION AND CONCLUSION – THE EMAILS

The last step, therefore, is to consider whether, *based on the balance of probabilities and the evidence that I have available to me*, there were any breaches of the Willington Parish Council Code of Conduct by Councillor Paul Cullen in respect of Complaint LAC/86.

8.2.1 Evaluation of the emails

When I spoke to Paul Cullen and Witness A about the emails they each, and especially Paul, spent considerable time telling me what lay behind each email in an effort to establish the facts of the situation.

It appears to me that, in considering the Complaint, there is limited value in reflecting upon the subject matter of the emails. I consider it a distraction, for example, to weigh the conflicting interpretations of whether the RAC did or did not carry out the litter-picking that Witness A said it did and therefore whether, in Paul's eyes, Phill was being dishonest, or whether the Chair and Vice-Chair's actions were in some way *ultra vires* as Paul Cullen said they were.

The allegation is that the emails were "disrespectful, abusive and vexatious" and that, rather than the subject matter of the emails, must be my focus. In answering that I must reflect on whether the tone and style adopted by Paul when he sent those emails was appropriate for a Willington Parish Councillor when corresponding with the Chair of the Parish Council or, indeed, with any fellow Parish Councillor. Was it appropriate, too, to copy the emails into all other members of the Parish Council?

Email 1 was sent by Paul on 5th June in the midst of the "Megabus email" affair (detailed in two other investigations but not in this report). Phill Allsopp had been elected Chair of the Parish Council on 14th May – around three weeks before – in (as became usual) a six-five vote. Paul was apparently wanting to make clear the role of the Chair and Vice-Chair. In doing that he referred to two individuals "freelancing and failing to communicate with the wider Parish Council" and the need for Phill to be "working diligently all day" to consider the action that might be taken against then councillor, John Phillips. All Parish Councillors are copied in.

Email 2, sent the day after Email 1 (the day when John Phillips resigned), again talks about the role of the Chair, accuses the Chair of "maverick" behaviour and says, in sarcastic terms, that the Chair does not understand his role and has shared out-of-date material which Paul will rectify at the upcoming Parish Council meeting. All Parish Councillors are copied in.

Email 3, addressed to John Houghton, continues the theme of the Chair and Vice-Chair "freelancing at will" and having an "inability to communicate". All Parish Councillors are copied in.

Email 4, a reply to Billy Randles, an interested resident of Liverpool (my description), discusses the resignation of John Phillips. Paul is copying in all Parish Councillors, he says, "in the interest of transparency (something that Councillors Allsopp and Houghton would do well to remember".

Email 5, sent to Phill on 14th June, tells him that if he does not organise an Extraordinary Meeting within seven days, Paul will organise it himself. It refers once again to the Chair and Vice Chair

exceeding their level of authority. They have a “misconception that their role brings with it superior executive powers” and, if the Council is to move forward “in a harmonious manner it is of paramount importance that they have “a full understanding of their roles and responsibilities”. It goes on, “the Council should consider their actions and determine the appropriate course of action”. The email is shared with all Parish Councillors.

Email 6, sent to the Clerk on 18th June, announces that Paul will now be organising an Extraordinary Meeting. Phill Allsopp has not had the courtesy to reply. The “behaviour of some Councillors in their inability to communicate is really very disappointing”.

Email 7, sent to the Clerk on 19th June (and which appears to me to be disrespectful to her), threatens to take down the Extraordinary Meeting agenda and replace it with Paul’s own. The earlier email to which he refers once again mentions the Chair and Vice-Chair and “the way they have been conducting business”. It is for the Council to decide “the way forward in dealing with their behavio[u]r”. All Parish Councillors are copied in.

Email 8, sent to the Chair on 20th June (copying in all Parish Councillors), says that, once again, the Chair has been discourteous in not acknowledging his email. It says, “I suspect you haven’t forwarded the items I’ve requested as the truth is the RAC carried out no such events and your [sic] probably feeling a little embarrassed that you mislead [sic] both Councillors and members of the public at the May meeting, (of course not suggestion on my part that you did this deliberately). So, could you either send me the information I’ve requested or retract your statement in which you said the RAC have carried out litter picking events”. Paul asks the Clerk (who appears not to be copied in) to put the item on the agenda of the July meeting.

Email 9, Paul’s email to Phill alone sent on 9th October ends “I would note the extreme hostility directed towards me by yourself, Cllr Houghton, Cllr Carter and the Locum Clerk which I do hope will not become the norm. As I’ve said in the past, I will not tolerate bullying and will have no hesitation in taking those members who think this kind of behaviour is acceptable to task”. Witness A described the email as “quite chilling and sinister” and a “very, very clear threat”.

Email 10 is written by Paul, confidentially, to Phill on 7th November. Witness A suggested that it displayed continuing antagonism towards the Chair, with threats of legal action.

8.2.2 Conclusion

Phill Allsopp was elected Chair of Willington Parish Council in a democratic, but close (six – five) vote on 14th May 2019. Paul Cullen voted against his election and that of the Vice-Chair, John Houghton.

The Chair’s first few weeks in his new role were plagued by fallout from the “Megabus email” (covered in other reports but not here), the heightened emotions surrounding that and Paul’s insistence, which seems to continue to this day, that the Parish Council had “agency” to deal with the matter. That insistence continued (and continues) notwithstanding the Clerk’s confirmation that the Parish Council had no agency on 3rd June 2019 and despite John Phillips’s resignation as a councillor on 6th June. On 3rd June, in an email to the Clerk, Paul Cullen questioned whether Chair and Vice-Chair had been involved in the deliberations surrounding the Clerk’s decision.

Very early on in Phill's tenure, the possibility that his second Parish Council meeting as Chair might see members of the public from Liverpool attend the meeting (as reported in the Liverpool Echo) in the wake of the "Megabus email" led him, on 5th June, to contact officials at SDDC requesting a police presence. That seems a not unreasonable step for a Chair to take, if he had concerns, with the meeting looming on 11th June. Paul Cullen was, however, insistent that Phill should have sought the approval of Full Council before doing that.

It appears to me that that action and the decision that the Parish Council had no "agency" in the "Megabus email" affair, which the Chair may or may not have been involved in, may together have been seen by Paul as justification for concluding that Chair and Vice-Chair were acting *ultra vires*.

Within three weeks of the Chair's election Paul's feelings about this were being aired in a series of emails and Paul was questioning the behaviour of Chair and Vice-Chair. Those emails were shared with fellow Parish Councillors (and in one instance with someone outside the Parish Council). By October and November [Email 9 and 10], however, Paul may have recognised that it was more appropriate to direct his concerns to Phill alone rather than share them more widely. That said, the situation cannot have been helped by the Chair's, perhaps understandable, decision not to engage with Paul by email, a decision which Paul himself might himself have seen as disrespectful.

It may well have been true that, at that time, the new Chair *did* need to fully understand his role – he had been elected only three weeks before. Given that, in normal, collegiate circumstances he might have expected to draw on the experience and quiet, personal support of someone like Paul Cullen, who clearly "knows his stuff", to help play himself into his new role. Paul, however, did not see it that way preferring instead to demonstrate his continuing opposition to a Chair who had been properly and democratically elected by sending emails and copying in all members of the Parish Council and, on one occasion, a member of the public. It seems to me that Paul was trying to show what he continues to see as the Chair's incompetence and thus, perhaps, force him to resign. However, his "incompetence" real or imagined is not the issue.

Looking in as a reasonable person and a serving Chair I believe that the language, tone, and style adopted by Paul in demonstrating his opposition was inappropriate. Words that come to mind include unprofessional, hectoring, hostile, rude, discourteous, and sarcastic. In a work context such language would, in my view, be totally unacceptable. When I spoke to Paul about these emails he demonstrated almost no insight into the effect of the words he had chosen and the impression that he was personally creating.

Paul's view was that there was nothing wrong with what he had written and that he would send the same emails again in the same circumstances because he was right, and the Chair was wrong. In his eyes, for example, Phill was *not* telling the truth about the litter-picking therefore it was right to call him out before the whole Council as dishonest. This seems to me to miss the point. To repeat, in my opinion, the way in which Paul showed his opposition to the Chair was inappropriate. It is often the case that it is not what you say, but the way you say it that matters.

In commenting on the Report, the Complainant continued to assert that the emails were bullying and intimidatory and that they were designed to discredit Phill Allsopp and to try to force him to

resign. They urged me to reconsider my conclusions and I am content to note that in my Report. Nevertheless, notwithstanding this and the suggestion that the 9th October email was “chilling and sinister” and a “very, very clear threat” and Paul’s apparent efforts to force the Chair to resign, **I do not believe that the emails covered by this Complaint go so far as to be considered bullying or intimidatory.** However, I do accept that Phill Allsopp has been deeply affected by what is seen by the Complainant as bullying and intimidation by Paul Cullen.

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 the Chair, the Clerk, 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 and the office of Councillor into disrepute” even though I do not doubt that Cllr Cullen’s behaviour did exactly that.

8.2.3 Breach of confidentiality

The Complaint also alleges that Paul Cullen breached the Data Protection Act 2018 (which superseded the Data Protection Act 1998) by twice sharing Phillip Allsopp’s personal email address, which is not on the Parish Council website, with a member of the public, Billy Randles, on 12th and 13th June 2019.

It is a matter of fact that Paul *did* share the email address and it is also my understanding that, under the Data Protection Act, Parish Councillors are Data Controllers. In their GDPR Guidance for Members, the LGA suggest that councillors should not share an individual’s personal data with anyone else without first having obtained the express consent of the individual. Hence there would appear to be a breach of confidentiality and, therefore, a breach of the Code because personal email addresses are “confidential data”.

When I talked to Paul about this he said that, all Parish Councillors have the facility to have a @willingtonpc.org email account and that Phill Allsopp had chosen not to have that account. So, in the event that he chooses not to have that account, Paul and others, had on occasion shared his personal email address.

I tend to sympathise with Paul’s interpretation of this. It is a moot point whether, if Phill chooses to use a personal email address for Parish Council business in preference to a Willington Parish Council email address, that email address can be regarded as personal in the way envisaged by the Data Protection Act 2018 since the work of a Parish Councillor involves interacting with members of the public.

In commenting on this Report, the Complainant continued to assert that Paul had broken the Data Protection Act 2018 in sharing Phill Allsopp’s personal email address without his permission – it had never been shared with anyone outside the Parish Council. They commented that Paul Cullen “does nothing unknowingly”, that it was not an accident and that the fact that no harm came to Phill “was more by luck than judgement”. I acknowledge these points and am content to reflect them in this Report.

I conclude that, if Paul Cullen did share Phill Allsopp's "personal information" in the form of a personal email address with Billy Randles, he did that unthinkingly, accidentally and without malice. There was no harm done. By using a "personal" email address instead of the Parish Council alternative to conduct Parish Council business, Phill should not, perhaps, be surprised when that email address sometimes gets shared with members of the public. To pursue this any further might be said by some to be somewhat peevish.

9 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 in sending the emails be referred to the South Derbyshire District Council Standards Committee for further action.**
- 2. That no further action should be taken in respect of Paul's alleged breach of the Data Protection Act 2018.**
- 3. 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".**
- 4. That Willington Parish Council agrees to an early 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. In doing this all councillors should set aside the need to score points and stop raising complaints against one another and wasting time and money. They should instead focus on finding common ground and doing what is best for 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) Local Government Association – General Data Protection Regulation Guidance for members
<https://www.local.gov.uk/sites/default/files/documents/The%2BGeneral%2BProtection%2BData%2BRegulation%2B%28GDPR%29%2B-%2BGuidance%2Bfor%2BMembers.pdf>
- (4) Various emails from Paul Cullen to Phill Allsopp and others as listed in Annex 2
- (5) Paul Cullen email to Melvin Kenyon – 6th May 2020 3.30pm
- (6) Willington Parish Council Minutes 11th June 2019 accessed on the Parish Council website
- (7) Paul Cullen email in response to Parish Clerk 3rd June
- (8) Paul Cullen emails to Phill Allsopp 7th, 8th, 10th and 11th June

ANNEX 2 – PAUL CULLEN EMAILS

The emails and related chains that are relevant to this Complaint are included in full in the 32 pages that follow this “cover sheet”. **Readers will note that the pages that follow are unnumbered.**

The emails and related chains have been listed below with reference numbers in square brackets e.g. **[Email 1]**. They are referred to in the Report itself using these numbers and are identified in this Annex using the same (handwritten) reference numbers so that readers can be clear which email is being discussed. **When reviewing these emails readers should ignore all handwritten notes and numbers other than the handwritten reference numbers in square brackets.**

All emails were sent by Paul Cullen.

- [Email 1]** To John Houghton, 5th June at 15.58
- [Email 2]** To Phill Allsopp, 6th June at 16.06
- [Email 3]** To John Houghton, 11th June at 17.09
- [Email 4]** To Billy Randles, 12th June at 20.48
- [Email 5]** To Phill Allsopp, 14th June at 22:00
- [Email 6]** To Parish Clerk, 18th June at 21:14
- [Email 7]** To Parish Clerk, 19th June at 19.45
- [Email 8]** To Parish Clerk, 20th June at 12.14
- [Email 9]** To Phill Allsopp, 9th October at 23.19
- [Email 10]** To Phill Allsopp, 7th November at 20.19

REPORT ONE - ANNEX 3

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.

BY

Liam Thorp

- 16:00, 4 JUN 2019
- **UPDATED** 16:01, 4 JUN 2019

NEWS

REPORT ONE - ANNEX 3

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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.

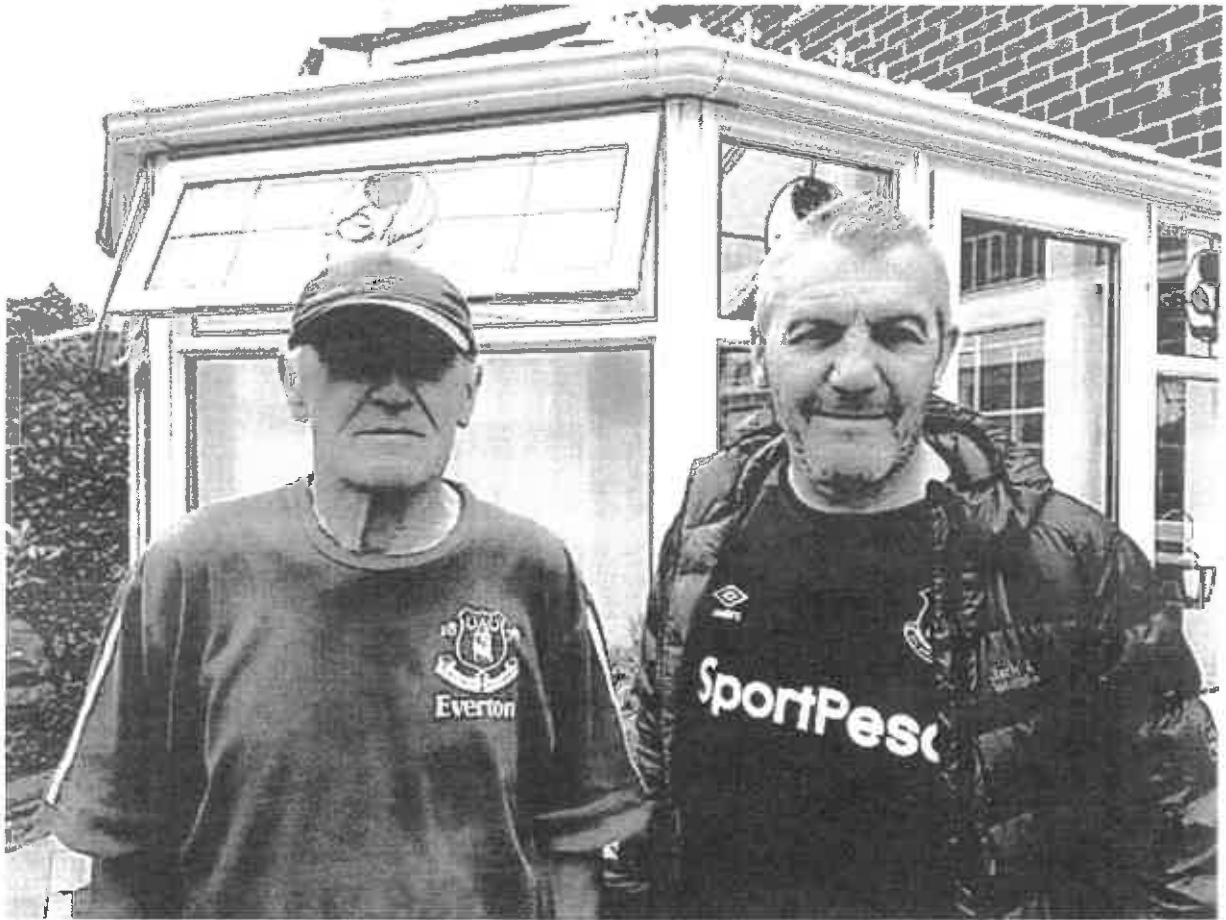
Yesterday, the ECHO reported how Willington Village Parish Councillor John Philips had made the comments in an email to his fellow councillor, Liverpool-born Paul Cullen.

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 ONE - ANNEX 3



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."

