

Melvin Kenyon and Associates

**South Derbyshire District Council (Willington Parish Council)**  
**Complaints against Willington Parish Councillor, Paul Cullen, arising out**  
**of the Extraordinary Parish Meeting held on 24<sup>th</sup> September 2019**

## **Report prepared for Ardip Kaur, Monitoring Officer, South Derbyshire District Council – 12<sup>th</sup> 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.

In the days following the Extraordinary Parish Council Meeting, which took place at the Old School, the Castleway, Willington at 7pm on Tuesday 24<sup>th</sup> September 2019, Ardip Kaur received four 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 four complaints (“the Complaints”) which are presented very largely, but not entirely, verbatim (in an effort to preserve the confidentiality requested by Complainants) in Section 5 below.

The Complaints alleged that, following the reading of a statement by a parishioner, Mrs Nicola Phillips, Cllr Cullen left the table where Council members were sitting, declared himself to be speaking as a parishioner, and made a forceful, verbal attack on Mrs Phillips in response to her statement before returning to his seat. By doing this, the Complaints alleged, he breached the Willington Parish Council Code of Conduct.

##### **1.3 CONCLUSIONS AND RECOMMENDATIONS**

I conclude from the evidence available to me and on the balance of probability that **Cllr Paul Cullen was acting in official capacity when he spoke “as a parishioner” at the Extraordinary Parish Council Meeting on 24<sup>th</sup> September 2019.**

I further 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 Mrs Phillips, his fellow councillors, the Clerk and members of the public who were there that day 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.

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 the Extraordinary Parish Council Meeting of 24<sup>th</sup> September 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 the Chairman ensures (as he said he would at the 24<sup>th</sup> September meeting) that “public participation” is not used as a vehicle for making personal attacks on individuals and that all future contributions from members of the public (as well as councillors) genuinely treat people with courtesy and respect.
4. That Willington Parish Council agrees to a programme of reconciliation and a review of its working arrangements 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.

## **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. 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 12<sup>th</sup> May 2020 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 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 LETTER DATED 25<sup>th</sup> September 2019**

A letter of complaint dated 25<sup>th</sup> September was sent to Ardip Kaur, in line with the requirement that "complaints must be submitted in writing". The Complainant had requested confidentiality in the earlier complaint to which this letter was later appended for fear, they said, of victimisation and intimidation. The salient parts of the letter read as follows:

"In the Extraordinary Parish Council Meeting last night on 24<sup>th</sup> September [a parishioner, Mrs Nicola Phillips,] spoke in the public speaking, addressing the council about some points made in the clerk's report. .... [She] made no personal references to anyone and wanted to urge the council to take on board the comments made from the clerk's report for the good of the village. Following [her] address to the council, Councillor Paul Cullen stood up and moved his position amongst the councillors into the audience close to where [Mrs Phillips] was sitting and proceeded to make a personal attack on [her]. Again, saying "I'm speaking as a parishioner". [Mrs Phillips] felt threatened and intimidated when Councillor Paul Cullen spoke again in a public forum about [her] in such a derogatory way. At the onset of the attack on [her] .... the Clerk and the Chairman attempted, without success, to stop [Cllr Cullen] carrying on with the attack and he was allowed to carry on unabated. This feeling of being targeted was heightened as other councillors .... also made comments, stood up and clapped. How does this encourage any resident to engage with the council if they are attacked in this way?"

The letter went on to allege that, in behaving in this way, Paul Cullen had breached the Code of Conduct.

## 5.2 COMPLAINT LAC/94 DATED 4th October 2019

A formal complaint raised on 4<sup>th</sup> October 2019, was received by Legal and Democratic Services on 7<sup>th</sup> October and was assigned reference LAC/94. The Complainant asked for their identity to be kept confidential saying that the environment was “very intimidating and threatening” and they had “genuine fears for any retribution that may take place”. The Complaint had initially suggested that Cllrs Casey, Blanksby and Joe Cullen had also breached the Code. However, I was asked by the Monitoring Officer to investigate the allegations against Cllr Paul Cullen alone because, following consultation with one of SDDC’s Independent Persons, the conduct of the other Councillors was not considered to be serious enough to warrant an investigation. The salient parts of the complaint read as follows:

“The following took place at an Extraordinary Meeting of Willington Parish Council on 24<sup>th</sup> September 2019. In addition to Cllrs P Cullen, Casey, Blanksby and J Cullen the following Councillors were present and witnessed the event: Cllrs Allsopp, M Bartram, T Bartram, Carter, Macpherson and Walters. In addition, there were a number of members of the public present whose names I do not know, plus Sue Carter and another lady I now know as Nicky Phillips – the wife of an ex Councillor (but I didn’t know this at the time). The Meeting was recorded, and all those present were advised of this.

“The incident commenced after Mrs Phillips had asked in Public Speaking, how the Council were going to address concerns that had been raised in the Locum Clerk’s report at a previous Meeting. Following this, Cllr Paul Cullen immediately jumped up from his chair, and said he wanted to speak as a Parishioner. He asked if it was OK but did not wait for a response. He went and sat adjacent to Mrs Phillips and Sue Carter on the front row of the area set aside for members of the public. He appeared very intimidating and was pointing his finger at Mrs Phillips.

“He said very forcefully that he was forced to listen to one-sided bias views from the wife of a former Parish Councillor who consistently asked what was the agenda of Councillors. He stated that she needed to go home and ask her husband and also a current Parish Councillor what *their* agenda was. Cllr P Cullen reported that he was 100% for the village and refused to have his good name tarnished. At this point, Cllrs Ros Casey and Caroline Blanksby stood up and applauded Cllr P Cullen’s actions.

“The Chair repeatedly asked for Cllr P Cullen to stop as it was not the forum to bring individual personal issues up, as he had previously been advised. An argument between the Resident and Cllr P Cullen ensued, and Cllr J Cullen joined in, although I am unsure what he added to the discussion, as it had become very difficult to hear as they were all speaking.

“The Chair asked all parties to stop and asked for calm, and for the Meeting to continue. He added that Councillors were there to do a job. Cllr P Cullen returned to his seat, repeating, I am sick of it, to which the Chair asked him to be calm and reminded him he was there to do a job.

“Following this incident, another member of the public stood up and described the Meeting as a “car crash”, that it was embarrassing, and that statements that he had heard would be considered unacceptable in a place of work”

The Complainant went on to allege that Cllr Paul Cullen:

1. Behaved in an intimidating manner towards a member of the public by approaching her during a Council Meeting, pointing his finger and generally behaving in an aggressive manner.
2. Acted inappropriately by leaving his seat at the Council Meeting and stating he was going to speak as a “parishioner”.
3. Responded by being very personal to the resident, which, again was inappropriate.
4. Did not stop when asked by the Chair which gave the impression of a complete lack of respect.
5. Entered into an argument showing total contempt for the Council Meeting.

### **5.3 COMPLAINT LAC/95 DATED 3<sup>rd</sup> October 2019**

A formal complaint raised on 3<sup>rd</sup> October 2019 was received by Legal and Democratic Services on 7<sup>th</sup> October and was assigned reference LAC/95. The Complainant asked for their identity to be kept confidential saying “I know these people can be very nasty and vindictive. They can be very threatening”. The Complainant referred too to the safety of themselves and their family. The Complaint had initially suggested that Cllr Blanksby had also breached the Code. However, I was asked by the Monitoring Officer to investigate the allegations against Cllr Paul Cullen alone because, following consultation with one of SDDC’s Independent Persons, the conduct of Cllr Blanksby was not considered to be serious enough to warrant an investigation. The salient parts of the complaint read as follows:

“The meeting was absolutely unbelievable behaviour and one I believe should be acted upon. A lady parishioner (in the public speaking section) was very nicely making a statement about how well the clerk had done in her report on the current state of Willington’s parish council which was read out in [the] previous September 9<sup>th</sup> meeting. This has all been recorded by the clerk which was openly stated at the beginning of the meeting.

“The lady parishioner said nothing at all about Councillor Paul Cullen, yet he got up and said he was going to become a member of the public and walked over to the public area and sat down near this lady parishioner who had spoke before him and verbally attacked her in a very angry manner. After the clerk and the chairman realised what he was doing they told him to sit down repeatedly but he continued to verbally attack!! It was astonishing! His four fellow council friends then clapped him! It was a complete circus! In my opinion, they are in a gang together. Councillor Caroline Blanksby then shouted out that this lady parishioner has abused councillor Paul Cullen numerous times, all untrue. This is slander. The clerk said to councillor Cullen to show some respect. He replied, I’ll give you respect if you give it to me!! It’s outrageous, it’s childish, it’s wasting your time .... [the] council time .... I believe he was definitely breaching the code of conduct?!”

### **5.4 COMPLAINT LAC/96 DATED 4<sup>th</sup> October**

A formal complaint raised on 4<sup>th</sup> October 2019 was received by Legal and Democratic Services on 7<sup>th</sup> October and was assigned reference LAC/96. The Complainant asked for their identity to be kept confidential saying “I have fears for my safety and my family’s safety with regards to Paul Cullen”. The Complaint had initially suggested that Cllr Blanksby and Cllr Casey had also breached the Code. However, I was asked by the Monitoring Officer to investigate the allegations against

Cllr Paul Cullen alone because, following consultation with one of SDDC's Independent Persons, the conduct of the other Councillors was not considered to be serious enough to warrant an investigation. The salient parts of the complaint are as follows:

"The Chairman opened the Extraordinary Meeting of Willington Parish Council on 24th September 2019 at 7pm at the Old School, Willington. He then closed the meeting to allow public speaking.

"A Mrs S Carter made a statement that she was disappointed with the Parish Council with regards to in her opinion that the Council weren't working together and other minor comments which I can't remember. Mrs Nicky Phillips was the next to speak and also commented about the performance of the council as a whole, before she had finished Councillor Paul Cullen leapt to his feet saying that he wanted to reply not as a councillor but a member of the public and proceeded to walk to where the two ladies were sat. He sat down on the front row two chairs from them and proceeded to criticise Mrs Phillips about her comments about himself. At no time did she mention his name, she was talking about the whole council not one individual".

"The Chairman tried to stop him but unfortunately he continued in spite of that for a short period of time.

"I believe this action taken by Paul Cullen breaks Code of Conduct rules. Whilst this appalling behaviour was taking place Councillors Ros Casey and Caroline Blanksby stood up and applauded his action .... The Clerk has a voice recording of the meeting as evidence.

"Witnesses at the meeting were: Councillors; Ian Walters, Claire Carter, Mark Bartram, Andy Macpherson, Joe Cullen, Tim Bartram. Parishioners who attended the meeting: Mrs Nicky Phillips, Mrs Sue Carter [and others]."

## **6 APPROACH**

### **6.1 DOCUMENTS AND OTHER SOURCES**

The source materials I reviewed during the Investigation are listed at **Annex 1** below. I relied heavily, in particular, on an audio recording of the Extraordinary Parish Council Meeting of 24<sup>th</sup> September 2019. A transcript of the audio recording of the part of the meeting during which the alleged incident took place is included at **Annex 2** below.

My colleague, Karen Potts, attended the 14<sup>th</sup> 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 13<sup>th</sup> November and 4<sup>th</sup> December 2019 with a single interview (delayed by the General Election and Christmas) taking place on 10<sup>th</sup> 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 22<sup>nd</sup> January 2020. We finally found a mutually acceptable date and time to speak some six and a half weeks later on 8<sup>th</sup> 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 8<sup>th</sup> April and 20<sup>th</sup> 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 4<sup>th</sup> May, had not signed off the second version of the note. I told him by email on 13<sup>th</sup> May that I would regard his summary as signed off if I had heard nothing by 18<sup>th</sup> 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 5<sup>th</sup> April – it ran to more than 60 pages. He was invited to acknowledge receipt and make comments. He acknowledged receipt on 16<sup>th</sup> April.

On 4<sup>th</sup> 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 6<sup>th</sup> 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 four 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 3<sup>rd</sup> 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 31<sup>st</sup> July. The Monitoring Officer offered a further extension of five working days to 10<sup>th</sup> 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 31<sup>st</sup> 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 10<sup>th</sup> 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 4<sup>th</sup> May (two days after the Parish Council elections), in an exchange of emails using Willington Parish Council email addresses as follows:

#### **4<sup>th</sup> 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”

#### **4<sup>th</sup> 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"

#### **4<sup>th</sup> 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 10<sup>th</sup> 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 11<sup>th</sup> 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 had 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 2<sup>nd</sup> June Joe Cullen appears to have sent an email to John Phillips's work email address.

On 3<sup>rd</sup> 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 at **Annex 3** the first newspaper article from the Liverpool Echo on 3<sup>rd</sup> 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, apparently 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 3<sup>rd</sup> 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 4<sup>th</sup> 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 4<sup>th</sup> June. I understand that the Derbyshire Telegraph and the Liverpool Echo are part of the same media family. Further abusive emails followed.

Also on 4<sup>th</sup> June Joe Cullen is alleged to have posted a message on the “Spotted Willington” Facebook page (which is curated by Mrs Sue Carter) 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 though I have seen a photograph of it which remains as evidence.

#### **7.4 JOHN PHILLIPS RESIGNS**

On 6<sup>th</sup> 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 5<sup>th</sup> 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 10<sup>th</sup> June which reuses much of the copy from previous articles. A further article in the Liverpool Echo on 11<sup>th</sup> 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 11<sup>th</sup> June.

**Minute 346/19 Public Speaking including County, District and Police Representation** of the Parish Council Meeting of 11<sup>th</sup> 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 25<sup>th</sup> 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 opinions of what Cllrs Casey, Blanksby and Bartram and Paul Cullen himself thought about the meeting of 25<sup>th</sup> June are set out in Section 8.2 below.

## 8 FINDINGS – 24<sup>th</sup> SEPTEMBER MEETING

### 8.1 MINUTES OF MEETINGS

The Minutes of the 24<sup>th</sup> September Extraordinary Parish Council Meeting are available on the Willington Parish Council website. “Minute 458/19 Public Speaking, including County, District and Police Representation” reads as follows:

*“A Resident asked why there was another Extraordinary Meeting – she understood that they should be for matters which could not wait for the next Ordinary Meeting on grounds of urgency. She pointed out that Councillors were there for the local community, and it was obvious that there was a great divide within the Council. The Clerk responded that normally an Extraordinary Meeting would be called to discuss urgent matters. However, if the Chairman agreed to a request to call a Meeting, with his agreement, any item could be added to the Agenda. The Chair added that it was important that the Council worked as a team, and all Councillors needed to work together.*

*“A Resident quoted from the Locum Clerks Report submitted to the Council 10.09.19, and said they were concerned over the high turn-over of Clerks, and if Councillors weren’t working for the benefit of the Parish, what was their agenda. She asked how the Meeting was going to take on points from the report to improve matters, and carry out their responsibilities as Councillors.*

*“Cllr P. Cullen moved to a position within the area reserved for the Public, and stated that he was speaking as a Parishioner. He said that he was forced to listen to one-sided bias views from the wife of a former Parish Councillor who consistently asked what was the agenda of Councillors. He stated that she needed to go home and ask her husband and also a current Parish Councillor what their agenda was. Cllr P. Cullen reported that he was 100% for the village and refused to have his good name tarnished.*

*“The Chair repeatedly asked for Cllr P. Cullen to stop as it was not the forum to bring individual personal issues up, as had previously been advised. ~~An argument between the Resident and Cllr P. Cullen ensued, joined by Cllr J. Cullen~~ [sic]. The Chair asked all parties to stop and asked for calm, and for the Meeting to continue. He added that Councillors were there to do a job.*

*“A Resident advised the Council that he was new to the area, and his opinion, the Meetings were a “car crash”, and embarrassing. He added that the behavio[u]r and some of the statements he had observed would be unacceptable in the work place. The Parish Council need to work together”.*

Minute 476/19 of the 8th October 2019 Ordinary Parish Meeting reads, “To confirm and agree as a true record the non-confidential Minutes of Willington Parish Council Extraordinary Meeting held on Tuesday 24th September 2019. RESOLVED to agree and sign the Minutes as a true and accurate record, subject to an amendment to Minute Number 458/19 (para. four), to take out the sentence “...An argument between the resident and Cllr P. Cullen ensued, joined by Cllr J. Cullen”.

Witness B said that at the 8th October meeting, “when it came to the time to sign off the minutes of the 24th September meeting Paul Cullen had said that he disagreed with the minutes. He had demanded verbatim minutes. [The Clerk] had replied that they were almost verbatim. He wanted the word “argument” taken out (even though it was clear that there had been an argument). Witness B did not believe that the minutes had actually been signed off. The discussion about the

minutes had gone on for an hour and Witness B had seen members of the public shaking their heads. This kind of behaviour had turned the Parish Council meetings into a “circus”. It should be like “the Vicar of Dibley”. In fact, it was “outrageous”.

## 8.2 WITNESS A

Witness A said that the meeting was “one of three or four Extraordinary Meetings that had been called by Paul Cullen in recent months”.

Witness A’s statement then reads: “Nicky Phillips and her mother, Sue Carter, were amongst around 20 parishioners who were in the public area of the meeting. After a contribution from another parishioner Sue Carter said that it was about time that the Council started to act for the benefit of the village. Nicky Phillips was sitting next to her mother at the front of the public area on the end of a row and there were three vacant seats next to Sue Carter. Nicky Phillips then read a prepared statement which was similarly critical of the Council but did not name particular councillors. [Witness A] did not believe that either Nicky Phillips or Sue Carter were trying to wind the situation up.

“At this point Paul Cullen indicated that he was going to speak as a parishioner, stood up and started to speak. [The Chair] asked him to sit down but he continued speaking as he walked to the public area. He sat at the end of the row where Nicky Phillips and Sue Carter were sitting and berated Nicky Phillips and suggested that she needed to have a hard look at her husband.

“([Witness A] did not recall what was said.... Paul Cullen’s proximity, attitude, tone, body language and words were intimidating. Nicky Phillips replied to him and there was an exchange of words. [The Chair] then spent a few minutes trying to get the situation under control and asking both Nicky Phillips and Paul Cullen to stop. [Witness A] felt that Paul Cullen was abusive towards Nicky Phillips – he called her and her husband out and thus breached the Code of Conduct. [Witness A] thought that Joe Cullen joined in too, but the recording would confirm what was actually said and by whom. Caroline Blanskby and Ros Casey stood up and applauded which did not help the situation. The audio did not really capture the tension in the room which was electric.

“After that, a third parishioner, new to the village, then also said that the meetings were a “car crash” and “embarrassing” .... Witness A agreed with that sentiment”.

## 8.3 WITNESS B

Witness B’s statement notes that there were three people recording the meeting. Nicky Phillips and Sue Carter, were sitting in the public area and there were several empty seats to their left.

It goes on: “The Chair opened the meeting up to public speaking. Sue Carter stood up and asked why there was a need for an Extraordinary Meeting and who had called for it. The person who had called the meeting declined to let it be known they had called it. The Chair gave an explanation of why Extraordinary Meetings took place.

“Nicky Phillips then spoke about the Clerk’s report which had come out a couple of months previously and which had set out what [the Clerk] thought was wrong with Willington Parish Council. Witness B thought that the report was a good one and had been exactly right about the



problems within the Council. It opened up to the public what [the Clerk] thought was going wrong as a professional clerk”.

Witness B’s statement then reads: “Nicky Phillips read her statement out. In summary, and without mentioning any names, she said that she found it upsetting that “certain councillors” were not working with the Clerk. The Chair then thanked her for her contribution and invited further contributions. After a short gap Paul Cullen stood up and said that he would like to say something but that he would like to say it as a member of the public”. Witness B [wondered] “how can you do that?”. He was a Parish Councillor at a Parish Council Meeting. He could not suddenly decide he was not a Parish Councillor and go and say something as a member of the public without breaching the Code of Conduct. Witness B had [personally] been subjected to criticism from the public but had had to bite [their] tongue and allowed them to get on with it without replying.

“Paul Cullen then walked out into the public section and sat down with one vacant seat between himself and Sue Carter and turned towards them. He said that once again he had had to listen to biased remarks about himself (Witness B thought [at the time] that Nicky Phillips had not mentioned him at all). “I am not having it. I am being attacked by the wife of a former councillor. She needs to go home and speak to her husband and forget about it”. It was obvious in the way that he turned towards Nicky Phillips that he was attacking her.

“The Chair (and Clerk) then said “Paul, you can’t do this, you need to sit down”. Paul Cullen carried on “yawping” .... [He] then stood up and returned to his seat and as he was doing so [the Clerk] said “Paul, have some respect” and he replied to her, “I’ll have some respect if you show me some respect”.

“Caroline Blanksby then stood up and “clapped like an obsessed seal” .... Joe Cullen then referred to having been verbally attacked by a mob at the previous meeting that had been present to support Nicky Phillips and her husband.

“That night at that meeting Paul Cullen had gone out into the public area and turned his body towards Nicky Phillips and an argument between them had ensued. Nicky Phillips had been quite strong in coming to the Council after what had happened between her husband and Paul Cullen. The Cullens had persisted in trying to get the Parish Council to apologise for her husband’s actions even though it was a private matter at the time”.

#### **8.4 WITNESS C**

Witness C said in their statement: “The Council was seated in the normal horseshoe. Nicky Phillips .... made a statement ... Nicky’s husband, John Phillips, [had served on the Council] for a couple of months before he resigned”.

Witness C recalled that ““Paul was losing it” as a result of Nicky Phillips’s statement during public participation. She had said something “quite generic” about the need for the Council to get on for the benefit of the village and for “more harmony within the Parish Council” though Witness C did not recall exactly what she had said. Witness C did not feel that Nicky’s comments were aimed at anyone in particular, in fact Witness C agreed with them!

“The next moment Paul Cullen got up and went and sat next to her to intimidate her. He started shouting and making it very personal against Nicky. Witness C would have been “petrified” by his behaviour. Nicky stayed very calm and calmly answered him whilst the Chair tried to get Paul Cullen to come back and sit down”.

#### **8.5 WITNESS D**

In their statement Witness D recalled that “the Clerk had produced her three-monthly report. It was a good report that outlined problems that the Council had but certain members had “taken umbrage at it”. When she spoke, [Nicky Phillips] referred to the report saying that it was not doing the village any good, the councillors needed to start working together. What she read out was not defamatory or abusive at all. Then, all of a sudden, Paul Cullen wanted to respond and he got up and said that he wanted to speak as a parishioner rather than as a councillor. He then moved to where parishioners sit on the front row, where [Nicky Phillips] was sitting and sat one or two chairs away from her.

“Then, “in what felt like an aggressive and confrontational manner”, [he] responded to what [she] said, though Witness D could not recall his exact words .... It was “completely unnecessary, very confrontational” and there was “a degree of an aggressive look to it”. It was “not physically aggressive” but he did not have a “relaxed demeanour”. During part of what he said he addressed her directly but the whole thing was “not directed completely at her”.

“Nicky tried to defend herself, though Witness D could not recall exactly what she said. She “looked a little bit distressed and a bit upset and tried to counteract some of the things he was trying to say”. From Witness D’s perspective .... “It was completely and utterly out-of-order and the wrong thing to do”. It appeared to Witness D to be “a complete breach of the Code of Conduct for a Parish Councillor”.

“Paul Cullen was eventually persuaded by the Chair and the Clerk to return to his seat, but Witness D could not recall any details about that”.

#### **8.6 COUNCILLOR ROS CASEY**

Ros Casey’s statement includes the following: “there were raised voices, Paul Cullen had raised his voice. This went back to the previous meeting when Nicola Phillips, her mother and sister and other parishioners had “pulled Paul apart” in the public speaking section of the meeting and had been “disgustingly rude and nasty about him” and said “vile things about him” in front of the public.

“Paul had received no support from the Chair at that meeting at the way he had been pulled apart when they ought not to have been allowed to make those statements. It was a “personal vendetta” that the Phillips family had against Paul and they had used the entire 15 minutes of public speaking to pull him to pieces. It was embarrassing. Ros had felt physically sick and had wanted to walk out. He had sat down and taken it.

“So, Paul was upset, he was angry at what had happened at that meeting. Melvin Kenyon asked why Ros thought that Paul had decided to speak as “a parishioner. Ros replied that she thought that was because he was not allowed to speak during the public speaking part of the meeting as

a councillor and “he wanted to put his side across”. He wanted to be afforded the same opportunity to speak as they were.

“Melvin asked whether what Paul had said and done could be interpreted as a “personal attack” on Nicola Phillips. Ros replied that “he had not used her words or pointed his finger at her .... Obviously, he knew who he was talking to”. Melvin said that he recalled (though he had not listened to the audio recently) that Paul had said something such as “she needed to go home and talk to her husband” though he could not recall the exact words. Ros replied that she did recall that, “he definitely did raise his voice, but I wouldn’t say he was intimidating or aggressive”. Ros could understand why he might say he “was sick of it”. Ros said that she had found Paul to be a reasonable person with a responsible job. She did not know why there was a vendetta against him and how people could dislike someone so much. It was “awful”.

“Melvin suggested that the Phillips family might have felt threatened as a result of the “Megabus incident” – he had himself seen material out of Liverpool (emails etc.) that had made threats against them and made them feel intimidated. Ros replied that John Phillips had “brought it on himself” though it ought not to have gone as far as the newspapers. However, she thought that what had happened would still have happened because “these people were so intent on nailing [Paul] to the cross”.

#### **8.7 COUNCILLOR CAROLINE BLANKSBY**

Caroline Blanksby told me in her statement that she “remembered the incident very well. At the previous meeting Nicola Phillips and her mother “read out a statement that was appalling and shocking, it was disgusting, she tried to make out that she and John Phillips were the victims”. The statement had come about because Nicola’s husband had called Paul a scumbag and a drug dealer in an email. “I was shocked that she had the audacity to stand up and read out a statement painting herself and John to be victims. I was horrified. She said that he had had to step down and it was in the best interests of their family. There was no remorse, no shame”.

“At the 24<sup>th</sup> September meeting Paul had then got up and walked to the public area. He read out a statement he had prepared. He said he was going to speak as a member of the public. His statement was “very good, very accurate and very reasonable”. Nicola constantly tried to speak and interrupt him, but he ignored her and carried on speaking. “When he had finished I stood up and clapped because of all the abuse he had had. Because of that, I received a complaint about my inappropriate behaviour”.

“Melvin Kenyon said that he had listened to the audio of the incident. There had been (his words) “a bit of a kerfuffle” and the Chair and Clerk had gently invited PC to come back to the Council table and sit down. Caroline replied that the Clerk had “shouted at him – “shut up, shut up” I think she said (it was Deb’s favourite word)”.

“Melvin asked Caroline to confirm that she was talking about the meeting of 24th September and [she] confirmed that it was”.

#### **8.8 COUNCILLOR TIM BARTRAM**

“Tim Bartram remembered the incident. At an earlier meeting there had been members of Mark Bartram’s family and of the Phillips family present. They “basically ripped into Joe and Paul” and

“dragged them through the mud”. A member of the public, whom Tim did not know, had had a right go at Paul and questioned his involvement with the Fire Service. None of this had been on the agenda. A member of the public is only supposed to speak or make comments about items which are on the agenda. The Chair had done “absolutely nothing to protect Joe and Paul” who “had to sit there and take it; it was disgusting”. Tim would have himself left the meeting if it had been directed at him.

“With this in mind Paul had done exactly what he was entitled to do at the 24th September meeting and stood up for himself. He had not been aggressive; they were shouting over him. As councillors you are not there to be abused as he had been at previous meetings – “you can only take so much before you say something back”. The Chair was “rubbish” and had not protected Paul.

“This was not the first time that Paul had spoken as a parishioner. He had sometimes done this because it had proved impossible to get items onto the agenda, so he had asked a question as a parishioner. This was what he had done on this occasion. He spoke because he had had enough of taking abuse and not being protected by the Chair. He was there to control the meeting and should stop this kind of abuse.

“Melvin Kenyon said that he had listened to the audio recording of the 24th September meeting and there had undoubtedly been raised voices. What Nicola Phillips said did not appear to him to be abusive or intimidating. Some might even say it was flat, even, conciliatory. Why then did Paul go into the public area? Why did he need to be “coaxed back” (as the audio seemed to suggest).

“Tim said Paul was not coaxed back, “he just walked back”. He said what he had to say, then got up and walked back. The Chair and Clerk had said, “don’t, don’t, don’t” but they “did not offer him any protection at all”. At previous meetings, when “they all had a go at him, if Paul hadn’t got up, with other members of their family there, you don’t know what’s going to come next, so he’s quite entitled to say what he said”. Tim did not think that Paul had used inflammatory language. Melvin said that [Paul] appeared to have said he was “sick of it”. Tim replied that he too would be sick of it in the face of abuse that was not stopped by the Chair.

“Tim said that Melvin should not see what had happened simply in the context of that meeting. The abuse used against Paul at the previous meeting was “horrendous”, it had been “embarrassing” to listen to it. Tim did not know how he sat through the previous meeting “without flipping”.

“Melvin said that, as Devil’s Advocate, they would say that they had had threats out of Liverpool as a result of the subsequent newspaper article. He had seen some of that material and it was not very nice. Tim said that he did not think that that had been Paul’s fault, “John Phillips brought that on himself” and had then played the victim.

“Tim said that John Phillips could have defused the situation immediately after sending the Megabus email by apologising to the Cullens. That would have ended the matter. But he did not, he carried on. He admitted trying to “wind the Cullens up”. “Why would anyone join the Parish Council to wind someone up?”. From the start he and Ian Walters had wanted to get the Cullens off the Council. John Phillips had not apologised for what he said in the email to this day.

“This went back further than the “Megabus email” to a then councillor .... who had breached confidentiality about a permissive right of way by the river”.

### **8.9 COUNCILLOR ANDREW MACPHERSON**

Andy MacPherson recalled the alleged incident. His statement reads as follows:

“It had stemmed, Andy said, from a statement which the Clerk had presented at a previous meeting as a professional as to how she saw the Parish Council and what her frustrations were. Some of the councillors had ignored what she had said or challenged it as unacceptable.

“The report should just have been read and absorbed and possibly acted on. Nicola Phillips had seen that this was not happening. She was speaking from a pre-prepared statement in an attempt to support the clerk and bring the Parish Council back in order.

“Paul Cullen did not think the statement was acceptable and that it was directed at him. However, the content was not inflammatory or derogatory and it was not pointed at anybody, “it was general as to the way we ought to perform”. Melvin Kenyon pointed out that Nicola was speaking against the backdrop of the “Megabus email” which her husband, John Phillips, had sent which Andy acknowledged.

“Paul reacted by getting up from his chair and going into the public area to put the counter argument. However, “he wanted to say it as a parishioner and not as a restricted Parish Councillor”. Paul had the opinion that, by doing that, he could then speak totally openly because he was speaking as a parishioner. He could then say and do what he wanted. Andy recalled that Paul “sat fairly close to Nicola Phillips and looked across at her”.

“Melvin asked Andy if he agreed or disagreed with the statement in the complaint that Paul “made a personal attack and did it in a threatening and intimidating manner”. Andy confirmed that he concurred with that interpretation. Andy said that, as a councillor, you could not change your head and suddenly become a private individual. Simply moving from one position to another made no difference. This was something Paul had done on previous occasions though he had not always physically moved himself to the public area to do it and had instead said that he was “now speaking as a parishioner”.

“What [Paul] did had made “a farce of it”. Those who had been around for some time knew that you could not “swap your head” and “come out of protocol”. By physically repositioning himself he felt that Paul was saying, “I will say what I want when I want to say it”. In Andy’s view councillors had a reputation to uphold and needed to behave appropriately even when they were not in a council setting”.

### **8.10 WITNESS E**

Witness E made the following statement about the alleged incident: “On 10th September the Clerk presented her report about the way in which the Parish Council functioned and made a number of observations and recommendations. It was clear, straightforward, and fair and described the difficulties the Clerk was having being bombarded with emails. Joe Cullen challenged the Clerk on the contents of the report. It was decided that this was not the time to discuss it.

“At the 24th September Parish Council Meeting Nicky Phillips made a statement about the report. Sue Carter was sitting beside her and there were two empty chairs next to Sue on the other side. Paul Cullen, who was sitting at the table at the end of the room where the councillors were sitting, “stormed up” saying he was no longer a councillor but was now a member of the public. He stood at the end of the row of chairs with two chairs between him and where Sue was sitting. He did not look at Nicky or Sue though his body was angled towards them. He did not name Nicky but talked about the wife of a councillor who had resigned. Everyone knew who he was talking about. It was “totally, totally inappropriate”. Paul “got so close [to Nicky and Sue] .... [h]e was “angry”, and his body language showed that.

“Nicky said little in response except to state how she felt. It was reported in the minutes that there had been “an argument” but there had been no argument. Witness E felt that Paul had chosen to present himself as a parishioner to give himself the freedom to behave like that. He had done it once before though Witness E could not recall when”.

#### **8.11 WITNESS F**

Witness F made the following statement: “The Clerk had made a report at the previous Council Meeting and Nicky Phillips spoke in support of that report. She made no personal comments about anyone. She felt .... the need to support the clerk because she had stood up publicly “to tell it like it is” .... Paul Cullen had never reacted like that [as he did at the 24th September meeting] previously.

“After Nicky spoke the Chair asked if anyone else had anything to say before he closed the publicspeaking section of the agenda. Paul Cullen then jumped up from where he was sitting and said that he was going to be speaking as a parishioner, a member of the public. He then came down to where Nicky and her mother were sitting on the front row of the public area. He sat (or possibly stood?) very close but a couple of seats away from Nicky. He then verbally “went on about [her]”. [Nicky later said] she felt intimidated because he was physically close to her and was talking about her though he did not mention her by name and did not really look at her.

“He said something like “She needs to go back home and speak to her husband” and she was “consistently speaking about him”. She challenged Paul and asked him what he meant by “consistently”.

“Paul then carried on talking about Nicky. The Chair and the Clerk tried to stop him, and Nicky appealed to them and said it was a personal attack on her and that public speaking was supposed to be linked to the agenda. What he was saying was unfair in a public meeting. However, Paul carried on talking even though he had been asked to stop.

“Melvin Kenyon asked Witness F what Paul Cullen’s demeanour and gestures were like when he spoke. Witness F replied that he was “angry”. He had drawn on what he said at the July 24th Meeting and appeared to be speaking unplanned. Maybe three other councillors, including Cllr Caroline Blanksby, stood up and clapped Paul .... It felt like they were “ganging up” on Nicky.

“Nicky [later said] she felt upset by what Paul had said in such a public way. She had not deserved it. [She said that] his use of the word “consistently” had also upset [her] because he was giving the impression that she had done wrong on several previous occasions when she had not.

“It felt .... as if Paul could do whatever he wanted to do. Witness F could not understand how Paul could suddenly jump into the role of a parishioner and say whatever he wanted to say. It did not feel fair that [Nicky] was being talked about in such a public way and in breach of the code of conduct.

“[Nicky] had spoken about Paul at an earlier meeting on 25th June when [her husband John was to be] the subject of an agenda item – a complaint about a member of the public. She had said the following:

*“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”?*

“Witness F did not recall Paul reacting to that statement though Witness F believed that he had spoken about Nicky in her absence at a subsequent meeting.

“In summary this had been very upsetting for the [Phillips] family. The Cullens’ behaviour went wider than [the Phillips] family and had gone on for several years”.

Witness F then went on to give examples of the alleged behaviour of the Cullens.

### **8.12 WITNESS G**

Witness G said in their statement that: “Nicky Phillips had thanked the Clerk for her report and expressed the opinion that she would like to see the Council work together for the benefit of the village. There was no personal comment at all.

“Paul Cullen had then jumped up and had gone to the front of the meeting and said that he wanted to respond to what Nicky had said “as a member of the public”. Witness G was not sure why he had said that – he had simply moved seats. He then spoke “forcefully” and appeared “very intimidating”. He sat adjacent to Nicky and Sue Carter. Nicky was on one side, Sue was in the middle and Paul was right next to Sue. Witness G would personally have found that intimidating because he was “a big, tall bloke”. He was obviously “really angry” and was pointing his finger towards Nicky.

“Nicky is the wife of former Councillor John Phillips who had resigned subsequent to the “Megabus” email and the article in the Liverpool Echo. Witness G knew little about that and what had happened between them .... Witness G had heard Paul say that Nicky had been to see his boss at the Fire Service and complained about his behaviour. This was now a “massive thing” which neither party would let drop.

“Nicky did react to Paul in the meeting and there was a heated discussion between them which the Chair tried to get both of them to stop. At the end Joe Cullen had joined in too. Paul then finished what he was saying. Councillors Ros Casey and Caroline Blanksby stood up and applauded.

“The Clerk had said that Paul needed to show a bit of respect for the Chair .... Paul then returned to the table and said something like “You show me some respect, Deb, and I will show you some respect”. The Chair was trying to deal with things calmly and Paul resumed his seat and was saying, all the time, “I’m sick of it, I’m absolutely sick of it” intimating perhaps that everyone was getting at him all the time.

“At this point another member of the public stood up and described the meeting as “a car crash” and that people needed to buck their ideas up. Witness G did not know who that person was. This was minuted .... Witness G had been astonished at the behaviour and [was concerned that] something more serious happened.

“Melvin Kenyon asked what adjectives Witness G would use to describe Nicky and Paul before, during and after their exchange. Witness G said that Nicky had spoken very well and simply said what she said in a calm and collected way. Nothing she said had revealed that she was former Councillor Phillips’s wife. By contrast Paul was “livid”, “walked very forcefully to the front” and sat in his chair and said what he said in a “very intimidating” manner.

“His comment seemed to Witness G not to be relevant to what Nicky had said. Witness G asked [themselves], “What’s going on? She hasn’t said anything”. Witness G did not understand why he was getting “worked up” and “angry about what she had said” – “he was very, very angry”. This was typical behaviour for him. He would appear to be calm and then it was as if it was the straw that broke the camel’s back, and he would get very angry and have to respond”.

### **8.13 COUNCILLOR PAUL CULLEN**

When I spoke to Paul Cullen I described the complaints that had been made about his alleged behaviour at the 24<sup>th</sup> September meeting and told him that I had listened to the audio recording of that part of the meeting. I asked him if he recalled the meeting. His reply was captured in the (as yet unconfirmed) transcript of our conversation (see 6.2.2 above) and is set out 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:

“PC – I remember it very well. The issue here, the particular Parishioner, this is John Phillips’ wife, her name is Nicky Phillips. At the meeting, to give it a bit of background, in the Extraordinary Meeting in June, this was after her husband resigned from the Parish Council following the “scumbag and drug dealer” email. After he resigned, his wife and mother in law, who comes to a lot of meetings, I believe she is a Parish Councillor in another Parish. At the Extraordinary Meeting in June, they stood up. Mark Bartram who wasn’t a Councillor at the time but he’s a very good friend of John Phillips. John Phillips’ cousin, a lady called Alice Wilmott who is Pat Jenkinson’s next-door neighbour. Pat Jenkinson, although you may not have heard her name, is very pivotal in all of this, she is Ian Walters’s and Mark Bartram’s mother in law. It was her daughter who reported me to the Fire Service. So, there were a number of people at that meeting, Nicky Phillips



included who stood up and it was an Extraordinary Meeting, I can't remember what the agenda was.

*[In commenting on the Report whilst it was in draft one of the Complainants stated that Paul Cullen's assertion that Pat Jenkinson's daughter reported him to the Fire Service was "a complete lie and if anyone were to try and find any kind of evidence they would not succeed because it didn't happen. Surely you need some kind of evidence to prove this accusation?"]*

MK – Was this in June?

PC - Yes, they stood up and they joined public participation and they made a verbal attack on both myself and Councillor Joe Cullen about conduct, about behaviour, there was some general comment about the conduct of the Council but I think it would be fair to say, the main thrust of it was surrounding me and my dad. I sat there and listened to it and I never uttered a word. There was no acknowledgement from any of them of any wrongdoing by their loved one, John Phillips. It was really everybody else's fault except his. That did cause me some frustration. So, that was in June. July, I can't remember if there was a meeting or not but in September, I said to Deb Townsend, I want to speak in public participation, I'm not speaking as a Councillor, I want to make some observations of my own. I said, "Can I do it?" She said that I could. This is Deb Townsend the Locum Clerk.

MK – She said you could?

PC – She said I could. She absolutely said that I could. In fact, if I remember, although at that point in time I was neither audio nor video recording meetings. I spoke to her prior to the meeting and then she spoke to the Chair who was Phillip Allsopp and then when we got to public participation there was a couple of members of the public who made comments about various things and then Phillip Allsopp said to me, I believe Paul wants to say something.

MK – I'll revisit the audio.

PC – I don't think you will find any audio from the June meeting.

MK – Oh, we are talking June, are we? I was in September.

PC – What I'm trying to do is, I'm trying to paint you a picture of why I believe what I did on that evening wasn't extraordinary, I'd done it before and with approval. That is the actual transcript [Paul produced a document] of what I said at the June meeting with approval from the Clerk and the Chair and that is actually captured in the minutes of the June meeting.

MK – All of that?

PC – Well no, the transcript isn't captured, it just says that Councillor P Cullen spoke as a member of the public during public participation. I have got minutes somewhere. So that is the transcript that I actually said at the meeting in June and what I did, was make reference to all of the allegations. No, I didn't say it in June, it was said about me in June and in September, so in September, it will be captured in September's minutes, I actually read this out with approval.

MK – So that, that piece of paper, is what you said when you spoke as a parishioner on the 24th September.

PC – 24th of September is not when the allegation is made against me is it?

MK – Yes.

PC – Then no. In answer to your question, this is at a prior meeting.

MK – This is at the Extraordinary Parish Council meeting on 24th September a Parishioner made a statement, pretty sure it is, about the need of the Council to ..... I've got the text what was said, Paul.

PC – I understand that one, they're not the same meetings. If the dates are important then I'll find that out.

MK – What is important actually is this meeting, the 24th of September.

PC – At a previous meeting, with approval of the Clerk and the Chair, I stood up and spoke about comments that had been made about me during public participation at a previous meeting, OK? So that was that. The important thing in all of this is that I get no support from the Chair. I actually said to the Chair after that meeting where I did this. I said every time they were very personal attacks, Paul Cullen, Paul Cullen, Paul Cullen and the Chair never intervened once. In public participation, you can only discuss and comment on items on the agenda. Paul Cullen wasn't an agenda item at that meeting but the Chair, because of his dislike for me, I suspect, allowed them all to make those comments about me. At the meeting in September when Nicky Phillips started to make her comments about an item on the agenda and it was very clear who she was talking about. I'd done it in the past, I'd spoken as a Parishioner during public participation with the approval of the Clerk, Deb Townsend at the time and it is now, and the Chair, Phillip Allsopp. I sat as the public, I never once directed any of my comments to Nicky Phillips. I addressed only Council in response to the comments that had been made. Nicky Phillips wants to go around the village whether it be me as a Parish Councillor or me Paul Cullen parishioner of the village and make allegations about my conduct and behaviour and accept no accountability for what her husband did in that email. Likewise, her mother and his mother in law, Sue Carter, so it appears that there is now a family vendetta against me by that particular family. I was very clear what I was saying to Council that I did nothing, I wasn't the orchestrator of that email for him to refer to me as a scumbag and a drug dealer and if she wants a resolution on this, you've got the transcript there, then the place to come wasn't the Parish Council asking those questions, it was to ask her own husband, because that's the place where she would find it, not me, I don't know why he did it. If the Parish Council was to move on, it wasn't by allowing Nicky Phillips to come during public participation and discuss things that were not on the agenda. I actually said that to Phillip Allsopp after the previous meeting. You can't allow people to continuously come and there are occasions when he's said to people, "That is not on the agenda", and he will not allow them to speak on it but it seems when the topic is directed at me, he's quite happy to waive that.

MK – What was actually said, was "I was at the last Parish Council..... And you shouldn't conclude Paul that Nicky has herself complained about this. There are four complaints about it.

PC – But you're not investigating all of them?

MK – Yes, because they are all about the same issue. LAC/94, 95, 96 and the letter.

PC – But the letter is for 77.

MK – It was a device; it was written by the person who raised 77. OK? And they wrote further to that complaint. I can't show you the letter, obviously. I wouldn't worry too much about the letter, the point is that 94, 95 and 96 and the letter appended to 77, all address this issue, this incident.

PC – If one of the complaints are from, and I know you can't do anything about this personally, but if one of these complaints is from the Parish Clerk then we shouldn't be discussing it because she's the very same person who has prevented me from obtaining professional legal advice by denying me the opportunity for me to have it as an agenda item. So I wanted it including as an agenda item and I've got the actual wording I keep sending through to her and she's saying I'm not putting it on the agenda which is perverse if she's the person who has put a complaint in about me has prevented me from seeking professional legal advice to defend myself.

MK – Well if it came to it Paul and it were relevant, you'd have to raise that at a Standards Committee - if it came to that.

PC – I wanted to put a complaint in about Debs Townsend and Willington Parish Council's complaints procedure said that complaints about the Clerk because in essence she is our only employee. Well not in essence, she is. Because there was a meeting that they held which wasn't quorate and there was two Councillors and more so the Clerk because she should have known that she's there to advise Council and I was told that the other two Councillors were John Houghton Vice Chair and Phillip Allsopp, Chair. The three of them had a meeting where they conducted business and made recommendations to full Council. I wanted to put a complaint in about Deb Townsend's conduct and what does our complaints procedure say? It says I have to submit it to the Chairman, well the Chairman's complicit in the complaint I want to make about the Clerk. So then what does it say? The Vice Chair well actually it's the three of them and they wouldn't allow me to make a complaint to another body. I can't complain to Ardip Kaur because she doesn't receive complaints about employees. I'm just trying to give you a flavour of where I am. To this day, I just haven't been able to resolve that. I'm not asking you for an answer Melvin, I'm trying to give you a flavour of what's happening.

MK – Yes, I understand. I understand what you're saying.

PC – The person who is making a complaint against me is the person who actually she should declare it to full Council, she shouldn't really be having any dealings with me per se because she should declare it to the Chairman who should then remove her. I shouldn't even be communicating with this woman and now she's saying, "You're not having professional legal advice" well actually, that's not for you to determine, that's for full Council to determine because it says 14.1.c in Standing Orders that I can.

MK – May I read out what was said?

PC – Yes, sure

MK – It says, "I was at the last Parish Council meeting and heard first-hand the Clerk's report. Following valid points were put forward by the Clerk. The Clerk is there to assist the Council to move forward in a positive way. I can only see this as a good thing. Worryingly, there has been a

high turnover of Clerks, I think this needs examining as to why. The Council is not functioning effectively, positive outcomes are difficult to achieve.....”

PC – Sorry Melvin, it’s at that point, I’m just playing devil’s advocate but it’s at that point that Phillip Allsopp should have said, “Sorry, public participation should only feature items which are in the agenda.” He didn’t. He told me he was going to. He didn’t.

MK – OK.

MK – [continued] “Positive outcomes are difficult to achieve not always working for the benefit of the residents. If Councillors aren’t working for the benefit of the Parish, who are working against the Clerk and other Councillors, I’d like to know what their agenda is. I was saddened to hear the Clerk has not been treated in the best way by some Councillors. I think we owe the Clerk a debt of gratitude for the work she has put into the report and how she wants to assist the Council to move forward for the ultimate benefit of all Parishioners. I’d now would like to say how this meeting proposes to take on board what the Clerk in good faith has said and carry out their responsibility as Councillors, so they are all working for the good of Willington.” I think that was when you made your public statement.

PC – Public statement. Acting as a Parishioner, in fact I actually said this as I stood up when Phillip Allsopp said, “Does anybody else want to make comment?” I was waiting for anyone else from the public to stand up which they didn’t. So, I said “I do but I want to speak as a Parishioner”.

MK – Why did you want to speak as a Parishioner? Why didn’t you speak as a Councillor?

PC – Because, firstly Councillors can’t respond to public participation. So as a Councillor, we have to discuss it as a corporate body before we give a response. If I responded to her as a Councillor, I would only be giving her my view and my opinion which is unfair, which Phillip Allsopp does all the time because I told him that you can’t do that. Deb Townsend does it all the time. Can’t do it. She was asked about an Extraordinary Meeting one time and Deb Townsend said “Absolutely, one hundred percent, Extraordinary Meetings are only for urgent business.” I said to her “They’re not”, well I said after the meeting they’re not. I didn’t say anything to her at the time. I said “First of all you shouldn’t be responding to the public, you might want to put it on the agenda for next meeting or give them a written response or put something on the website but you can’t give....and you’re not there to respond anyway. You’re there to advise Council. So, in answer to your question, that’s why I didn’t. My assumption was, I’ve already done it in the past with approval from Council and actually you will probably know more about these things than I do. I have to look and study and look for these pieces of legislation but for me to speak, if I declared an interest in an item, I’d be declaring an interest on an item of the agenda. Then I can speak on it, in certain cases only with approval where I have to write for dispensation. In that particular instance where a member of the public says something which a Councillor doesn’t necessarily agree with there is no other way for them to respond to it other than to speak as a Parishioner. Quite simply, it’s not Willington Parish Council Standing Orders it’s the Local Government Act, it doesn’t allow anything else.

MK – Why then did you respond at all?

PC – It was borne out of frustration. Nicky Phillips isn’t remotely interested in what’s good for the village moving forward in terms of the best eleven people round the table and the best Clerk. I

knew what Nicky Phillips was doing, she was seizing an opportunity supported by Phillip Allsopp, not necessarily supported by him but not addressed by how it should be chaired. It would be fair for me to say, if you watched and I don't want you to pass judgement, but it would be fair for me to say as a Councillor, that he's a very weak Chair to the point where he's incompetent. Now also we don't have a very good working relationship which is John Houghton, who is the Vice Chair who I actually would say is an excellent Chair. OK? So, this is not about whether I think Phillip Allsopp is a great person or not, because I don't. I think he's a pathetic, incompetent Chair. I actually don't like John Houghton and he doesn't like me but he's an excellent Chair, I concede that. I would much rather, come the May election that John Houghton is voted in as Chair and not Phillip Allsopp. Phillip Allsopp had the opportunity to stop all of that prior to it happening and you would argue that Paul Cullen had the opportunity to.

MK – I might ask you that question rather than argue it.

PC – Look there are things that have happened we spoke earlier on. If that had been anybody else other than the wife of the person who had referred to me as a scumbag and a drug dealer and to this day has made no apology for those comments, then I expect my reaction would have been different. But I still don't think it was inappropriate.

MK – Certainly when I listened to it, it sounds heated.

PC – OK, first of all then I never once, I didn't even turn to look, both Sue Carter and Nicky Phillips were there. I didn't address them, I didn't look at them, I addressed Council, so that everything I said was to the ten people sitting in front of me and the Clerk. At that point, the Clerk and I have no idea why, I get why Phillip Allsopp would do it I don't understand the Clerk would do it decides that she is going to start shouting at the top of her voice, "No Paul, no". I don't understand why a Clerk would do that. It's not within her role. The Chairman by definition is there to chair the meeting. She may well have wanted to say to Phillip Allsopp, "I think you should stop this".

MK – He did try to; I've heard him trying to.

PC – What he didn't do and what you will notice, I actually stopped. I actually stopped and what I did was pull it back, in fact there's a couple of things I want to pick up on there, I actually tried to be a bit more objective because you know, we've got Councillors around that table who you know, it was fresh in my memory who had referred to me as being a "wanker". He's sitting there smiling at me while I'm trying to defend myself against his best mate's wife and decides to seize an opportunity to have a go at me in public, that's all it was about. At no point and she's screaming at me, she's screaming at me and at no point nobody tried to address her behaviour. I suppose another point for me is when we talk about "capacity" as well. I would argue given the fact that - and the minutes will reflect this - what I said at a previous meeting with the permission, they knew what I was going to do. They knew I wasn't acting in my capacity of a Parish Councillor, I was acting in my capacity as a Parishioner and the reason I was doing that is because of the way Parish Council meetings are allowed to be conducted in line with the Local Government Act doesn't allow me to respond to, doesn't allow any Councillor to respond to members of the public during public participation and the only way you can do that is by declaring an interest, well I can't declare an interest because I have no idea what members of the public are going to say, so I can only speak then as a Parishioner.

MK – Can I ask then Paul, if you believe that you weren't in capacity are you satisfied that what you said would still have been appropriate if you were in capacity? Does that make sense? So, let's assume you were in capacity, were you still speaking appropriately in your view? Do you understand what I'm saying?

PC – I do but I'm trying to shoehorn it into this particular scenario, and I don't think I can have acted in capacity in that particular scenario without being in breach of the Code of Conduct.

MK – Say a bit more

PC – If I was Councillor Paul Cullen, no I was very clear that I was speaking as a Parishioner, if I sat there and responded to her and said the things that I said to a Parishioner and it wasn't meant to be nasty it was meant to be matter of fact. You've clearly got an issue with me, your husband's clearly got an issue with me and I have to respond to that. If I'd have done it as a Parish Councillor, I think I would probably.....I don't know it would be for people like you to determine, I would probably think there would have been more of an argument that I would have been in breach of the Code of Conduct. I don't think I was in capacity. I honestly don't.

MK – And I'll ask the same "if it were your wife" question if you may ....forgetting Johnny Phillips.

PC – I can't, I can't, even before you ask the question. I know that I wouldn't even be able to give you an answer.

MK – OK that's fair enough. OK, anything you want to say about that Karen? Before we move on?

KP – Was the Clerk's report on the agenda?

PC – Yes, I think it may well have been. However, I'd asked for that to go on because I don't know, have you seen the Clerk's report? The Clerk's report is maybe just an agenda item.

#### **8.14 PAUL CULLEN EMAIL TO MELVIN KENYON**

As the Investigation proceeded I received several emails from Paul Cullen. Part of one of those, received on 6<sup>th</sup> May 2020, referred to the complaints covered by this Investigation as follows: *"Reference LAC/94, LAC/95 and LAC/96. Nicky Phillips and the entire Phillips/Carter family are also 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". If she or any member of her family believe they can attend Willington Parish Council Meetings with the sole intention of degrading me with their inappropriate comments during public participation then I absolutely reserve the right to defend myself in the exact same manner in which I did on September 24th 2019. In fact I reserve the right to speak as a parishioner during public participation as I see fit. This clearly cannot constitute a code of conduct complaint having made a conscious decision not to be acting in capacity.*

*Again to reinforce this; when physical Parish Council meetings resume, I will be making a statement during public participation to confirm this.*

*The only people that started to shout and bawl at this meeting were Deb Townsend and Nicky Phillips with this in mind I made a complaint to the Monitoring Officer surrounding the conduct of Nicky Phillips and received the following response;*

**Dear Cllr Cullen**

***I am unable to consider complaints against members of the public.***

***To my knowledge Nicky Philips is not a Parish Councillor.***

**Regards**

**Ardip Kaur (Solicitor)**

*As I wasn't acting in my capacity as a Parish Councillor, clearly I can be heard saying that I was speaking as a member of the public; I expect to be afforded the same protection as Nicky Phillips"*

## **9 EVALUATION OF EVIDENCE**

### **9.1 AUDIO RECORDING**

The audio recording provides by far the best available evidence of what happened at the Extraordinary Meeting of Willington Parish Council on the evening of 24th September 2019. The recording is for the most part a matter of fact (inaudible pieces aside) and a transcript is attached for readers' benefit at **Annex 2**. Individuals with sharper hearing may be able to glean more from the recording than I could.

### **9.2 SUE CARTER AND NICKY PHILLIPS**

Several witnesses commented on what Nicky said when she spoke. She had not been defamatory, abusive, inflammatory, or derogatory. Nicky had spoken quite generically. She had not made any personal statements about anyone. Witness A said that neither Nicky nor her mother had been "trying to wind the situation up".

Nicky had been talking, they said, in support of the Clerk's Three-Monthly Report which had been presented at the Parish Council meeting on 10<sup>th</sup> September. She had thanked the Clerk for her report and expressed the opinion that she would like to see the Council work together for the benefit of the village. Nicky had spoken very well and simply said what she said in a calm and collected way.

Witnesses said that the Clerk's report had been a reasonable, good one and exactly right. It had been clear, straightforward, and fair. It was about the Clerk's frustrations with the way the Council was functioning and the need for "more harmony" and had made various observations and recommendations. The report should just have been read, absorbed, and acted upon. However, certain councillors had "taken umbrage" at it, ignored it or challenged its contents as unacceptable so it had not been discussed at the 10<sup>th</sup> September meeting.

By contrast, Ros Casey, Caroline Blanksby and Tim Bartram made little comment on what Nicky and Sue had said on 24<sup>th</sup> September. They focused instead in some detail on what Nicky, Sue and others had allegedly said at a *previous* meeting (which I believe to be the Extraordinary Parish Council Meeting of 25<sup>th</sup> June).

They said that Paul had been “pulled apart” by Nicky, her mother Sue, and her sister. [I understand that the reference to Nicky’s sister is incorrect. I have been assured that she lives abroad and has never been to a Council meeting. I have also been told that Nicky’s mother did not actually speak at the 25<sup>th</sup> June meeting.] They had been “disgustingly rude and nasty about him” and said “vile things about him” in front of the public. The Chair had not supported Paul at that meeting. The Phillips family had a “personal vendetta” against Paul. It was embarrassing. Ros Casey had felt physically sick and had wanted to walk out. Paul had sat down and taken it. Caroline Blanksby said that Nicky and Sue had “read out a statement that was appalling and shocking, it was disgusting, she tried to make out that she and John Phillips were the victims”.

Tim Bartram spoke in similar vein. They “basically ripped into Joe and Paul” and “dragged them through the mud”. The Chair had done “absolutely nothing to protect Joe and Paul” who “had to sit there and take it; it was disgusting”. Tim said that I should not see what had happened simply in the context of that meeting. The abuse used against Paul at the previous meeting was “horrendous”, it had been “embarrassing” to listen to it. Tim did not know how he sat through the previous meeting “without flipping”.

Paul himself also chose to talk about the same meeting in some detail and in similar vein referring to a “verbal attack” on himself and Cllr Joe Cullen. He had sat and not uttered a word and it had caused him some frustration. He made the point that “in public participation, you can only discuss and comment on items on the agenda” but that the Chair had been happy to waive that in his case. Paul referred to a “family vendetta” against him and made similar allegations in his email to me dated 6<sup>th</sup> May.

Witness F said that Nicky Phillips had said the following at the 25<sup>th</sup> June meeting. This is also available on an audio recording of that meeting which I have located.

*“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”?*

### **9.3 PAUL CULLEN AS PARISHIONER**

The audio confirms (as do witnesses and Paul Cullen himself) that Paul said that he wished to speak as a parishioner after Nicky Phillips and Sue Carter had spoken. Paul told me that he had spoken as a parishioner before and what he did that evening was not extraordinary – he had done it before and with approval. Witness E and Tim Bartram also confirmed that he had spoken as a parishioner before, and Andy MacPherson said the same, though Andy suggested that he had not always left his seat to do so. The Parish Council Minutes of 24<sup>th</sup> July confirm that Paul spoke as a



parishioner at that meeting: **407/19 Public Speaking including County, District and Police Representation** Cllr P. Cullen spoke as a member of the public, and responded to comments made at a previous Council Meeting in regard to personal behavio[u]r.

When we spoke, Paul explained that he had spoken as a parishioner previously because councillors cannot respond to public participation and there was no other way under the Local Government Act to reply to a member of the public other than by speaking as a parishioner. He remarked that the Chair allowed personal attacks against councillors to happen during public participation and also allowed members of the public to speak about items that were not on the agenda.

In his email to me on 6<sup>th</sup> May Paul also said: "If she [Nicky Phillips] or any member of her family believe they can attend Willington Parish Council Meetings with the sole intention of degrading me with their inappropriate comments during public participation then I absolutely reserve the right to defend myself in the exact same manner in which I did on September 24<sup>th</sup> 2019. In fact I reserve the right to speak as a parishioner during public participation as I see fit. This clearly cannot constitute a code of conduct complaint having made a conscious decision not to be acting in capacity."

Tim Bartram also told me that this was not the first time that Paul had spoken as a parishioner. He had sometimes done this because it had proved impossible to get items onto the agenda, so he had asked a question as a parishioner. This was what he had done on this occasion. He spoke because he had had enough of taking abuse and not being protected by the Chair. Ros Casey also said that Paul had been angry at what had happened at the earlier meeting and "he wanted to put his side across" at the 24<sup>th</sup> September meeting and be afforded the same opportunity to speak as Nicky and Sue were.

Witnesses told me (and Paul himself implied) that he got up from his chair and went into the area reserved for the public. This was confirmed too by the minutes of the meeting which say that "Cllr P. Cullen moved to a position within the area reserved for the Public and stated that he was speaking as a Parishioner". Witness A said that the Chair asked Paul to sit down but he continued speaking as he walked to the public area.

Witness E told me that he had "stormed up" and Witness F that he had "jumped up". Most witnesses suggested that he then sat on (rather than stood next to) the front row (perhaps at the end of the row), two seats away from Sue Carter who was herself sitting next to Nicky Phillips. Witness C said his positioning was intended to intimidate. Witness E said he was "so close" to Sue and Nicky. Witness G said that Paul was "livid", "walked very forcefully to the front" and sat in his chair and said what he said in a "very intimidating" manner. Witness E felt that Paul had chosen to present himself as a parishioner to give himself the freedom to behave like that.

#### **9.4 EXCHANGE BETWEEN PAUL CULLEN AND NICKY PHILLIPS**

Paul then started to speak "as a parishioner". Paul himself told me that he did not look at Nicky and Sue as he spoke, instead he addressed the Council and the Clerk. Witness E said that "he did not look at Nicky or Sue though his body was angled towards them". By contrast, Andy MacPherson told me that "he looked across at her" and Witness B said that Paul turned towards Nicky. Witness D said that during part of what he said Paul addressed Nicky directly but the whole

thing was “not directed completely at her”. Witness F said that Nicky had felt intimidated because he was physically close to her and was talking about her though he did not mention her by name and did not really look at her.

Witness A said that Paul “berated” Nicky, his proximity, attitude, tone, body language and words were intimidating. The atmosphere in the room was electric. Witness B said that it was obvious that Paul was “attacking” Nicky and an argument had ensued and that he carried on “yawping” as the Chair and Clerk tried to restore order. Witness C said that “Paul was losing it” and that he started shouting and making it very personal against Nicky. They would have been “petrified” by his behaviour.

Witness D commented that Paul had responded to Nicky in a “completely unnecessary, very confrontational” way and that there was “a degree of an aggressive look to it”. It was “not physically aggressive” but he did not have a “relaxed demeanour”. Witness C said that Nicky had stayed very calm and calmly answered Paul whilst the Chair tried to get Paul to come back and sit down. Witness D said that Nicky “looked a little bit distressed and a bit upset and tried to counteract some of the things he was trying to say”. “It was completely and utterly out-of-order and the wrong thing to do”.

Witness E said Paul’s behaviour was “totally, totally inappropriate”, he was angry, and his body language showed it. Andy MacPherson commented that Paul made a personal attack and did it in a threatening and intimidating manner. Paul did not name Nicky, but everyone knew who he was talking about. Witness F agreed that Paul was “angry”, that he verbally “went on about Nicky”. Witness F also said that Nicky had felt intimidated and felt upset by what Paul had said in such a public way.

Witness G referred to a “heated discussion” and said that Paul spoke “forcefully” and appeared “very intimidating”. Witness G said they would personally have found that intimidating because he was “a big, tall bloke”. He was obviously “really angry” and was pointing his finger towards Nicky. He was getting “worked up” and “angry about what she had said” – “he was very, very angry”. This was typical behaviour for him. He would appear to be calm and then it was if it was the straw that broke the camel’s back, and he would get very angry and have to respond”.

By contrast Caroline Blanksby said that Paul had read out a statement that was “very good, very accurate and very reasonable”. Tim Bartram said Paul had stood up for himself. He had not been aggressive - they were shouting over him. He had not used inflammatory language. Ros Casey said that there were raised voices and Paul Cullen had raised his voice though she would not have described him as “intimidating or aggressive”. Paul had not made a “personal attack” on Nicola Phillips, “he had not used her words or pointed his finger at her [though] obviously, he knew who he was talking to”.

Caroline Blanksby said that Nicky constantly tried to speak and interrupt him, but Paul ignored her and carried on speaking. Witness G said, “Nicky did react to Paul in the meeting and there was a heated discussion between them which the Chair tried to get both of them to stop”.

Paul himself told me that it had been very clear who Nicky Phillips was talking about in the meeting. He went on to say that she had screamed at him in the meeting but at no point had anybody tried to address her behaviour. He said that what he said was not meant to be nasty it

was meant as a matter of fact. I asked Paul whether what he said would have been appropriate if he *had* been “in capacity” and speaking as a councillor. Paul replied that he probably thought that then “there would have been more of an argument that [he] would have been in breach of the Code of Conduct” though he did not believe that he had been “in capacity”.

The minutes of the 24<sup>th</sup> September meeting say that “an argument between the Resident and Cllr P. Cullen ensued” but this has a line drawn through it suggesting that councillors were unable to agree that an argument had actually taken place. Witness B told me that, when the minutes were discussed at the 8<sup>th</sup> October meeting, the discussion went on for an hour about inclusion of the word “argument” with Paul making the case that there had been no argument. Witness B later corrected themselves and said only that “it had seemed like an hour” – it was a figure of speech.

I have listened to the audio recording of the relevant part of that meeting. The discussion lasted 18 minutes. The minutes of the 8<sup>th</sup> October meeting state that it was RESOLVED to agree and sign the Minutes [of the 24<sup>th</sup> September meeting] as a true and accurate record, subject to an amendment to Minute Number 458/19 (para. four), to take out the sentence “...An argument between the resident and Cllr P. Cullen ensued, joined by Cllr J. Cullen”.

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

### **10.1 WAS THE SUBJECT MEMBER ACTING IN AN OFFICIAL CAPACITY?**

#### **10.1.1 The basic legal position**

Before reaching a conclusion on whether a breach or breaches of the Willington Parish Council Code took place, I must first establish whether the Subject Member, Cllr Paul Cullen, was acting in an official capacity. The legal position has been discussed briefly at 3.3 above and is explored in greater detail below.

Cllr Cullen clearly believes that he has the freedom to speak as a parishioner during public participation as he sees fit and he made that clear with some emphasis in his email to me on 6<sup>th</sup> May. He has done the same on occasions prior to 24<sup>th</sup> September.

On the other hand, the Complaints about Cllr Cullen are clearly about a serving councillor and the actions took place at a Council meeting during his term of office. The complainants therefore assume that their concerns fall within the scope of the Code.

In defining the scope of its operation, the Code uses ordinary descriptive English words. Their application is inevitably fact sensitive and so whether or not a member is acting in their official capacity calls for informed judgement with reference to the facts of a given case.

As mentioned in 3.3 above it is clear that the Code does not seek to regulate what members do in their purely private and personal lives. The Code only applies to members when conducting Council business, acting as a representative of their authority or when carrying out their constituency work. A distinction must be drawn between the individual as a councillor and the individual as a member of the public; a councillor is not a councillor twenty-four hours a day. Conduct that might be regarded as reprehensible and even unlawful is not necessarily covered by the Code.

Cllr Cullen has been clear that the Code should not be applied to any allegations of misconduct that relate to his exchange with Mrs Phillips because he stated explicitly that he was now speaking “as a parishioner” rather than a councillor. On the other hand, there can be no doubt that the incident took place in the Council during an Extraordinary Parish Council Meeting and that it was related to matters that had been raised during the meeting and previous meetings; he was speaking to a parishioner during the course of a Council meeting.

In offering my own views on this I recognise that the Localism Act is vague on the key point of what acting “in official capacity” involves. Nor do we have any case law arising from the Localism Act to assist us on this. What we *do* have, however, is well established case law from earlier hearings. Whilst the wording in the current Code varies slightly from the former national model codes of conduct, cases concerning the former model codes remain of relevance to how councils must interpret what “official capacity” means.

Based upon the evidence available to me, I believe that Cllr Cullen *was* acting in capacity at the meeting on 24<sup>th</sup> September. He was a Willington Parish Councillor attending an Extraordinary Parish Council Meeting that evening and was therefore very much “in capacity”. Taken at its most absurd if councillors were, to take a hypothetical example, able simply to declare themselves parishioners in a parish council meeting, insult other councillors or disclose confidential information (thus breaching the code of conduct) and then revert back to being councillors simply by saying so, then codes of conduct would have no validity in those circumstances. Yet they clearly do.

I am, however, able to rely on more than that simple logic when reaching this conclusion.

#### **10.1.2 Precedent cases**

In *Livingstone v Adjudication Panel for England* [2006] Mr Justice Collins considered the scope of the then 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...

It seems to me that unlawful conduct is not necessarily covered. Thus a councillor who shoplifts or is guilty of drunken driving will not if my construction be followed be caught by the Code if the offending had nothing to do with his position as a councillor. Section 80 of the Local Government Act 1972 provides for disqualification for election to a local authority of those who have within 5 years before the date of election been convicted of any offence which has resulted in a sentence of 3 months imprisonment (whether or not suspended) or more. Parliament could for example have provided that conviction of any offence carrying imprisonment whatever the sentence should lead to consideration of some punitive action by the Standards Board. It seems to me that if it is thought appropriate to subject a member of a local authority to a code which extends to conduct in his private life, Parliament should spell out what is to be covered.”

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; and
- 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 and/or a constituent and it was during the course of a Council meeting thus adding that degree of formality. Unlike the Livingstone case (where the conversation was with a journalist in the street on matters unrelated to the council), the discussion took place during a Council meeting and related to matters under discussion at the Council.

Further 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 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 capacity 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. Only by resigning can he shed that role.

In other words, for as long as he remains a Willington Parish Councillor, if Paul Cullen chooses – and is permitted – to speak during public participation “as a parishioner” as he suggests he will in his email to me of 6<sup>th</sup> May, he will nevertheless remain “in capacity”.

**I therefore conclude from the evidence available to me that Cllr Paul Cullen was acting in official capacity when he spoke “as a parishioner” at the Extraordinary Parish Council Meeting on 24<sup>th</sup> September 2019.**

## **10.2 WAS THERE A BREACH OF THE CODE?**

The final 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.

**Annex 2** of the Report contains a detailed transcript of the audio recording of the relevant section of the meeting, which I have listened to several times. As a result of listening to that and reading witness statements and other documents, I am left in no doubt that:

- (i) After the meeting opens for Public Participation, Mrs Sue Carter makes a statement and is then followed by Mrs Nicola Phillips who reads a statement from a prepared script.
- (ii) Cllr Cullen then says that he wants to speak “as a parishioner”, leaves his seat at the Council table and goes to the area reserved for members of the public.
- (iii) He sits down close to Mrs Sue Carter who is herself sitting next to Mrs Nicola Phillips.
- (iv) Cllr Cullen begins to speak and makes personal references to Mrs Phillips.
- (v) The Chair and the Clerk intervene in an effort to stop Cllr Cullen from speaking on personal matters, whilst Cllr Cullen continues to speak.
- (vi) Cllr Cullen continues to speak amidst some loud clapping.
- (vii) There is an exchange between Cllr Cullen and the Clerk.
- (viii) Voices are raised as the Chair and Clerk continue to try to restore order, amidst shouting, this time urging Mrs Phillips to stop.
- (ix) Cllr Cullen returns to his seat and order is finally restored.
- (x) A member of the public gives his impressions of the meeting before public speaking closes.

This takes place over a period of around seven minutes with steps (ii) – (ix) lasting around two and a half minutes.

From the audio recording the statements made by Sue Carter and Nicky Phillips would appear, to the reasonable listener, to be fair in content and considered in tone. To me at least and, as my understanding of the situation has grown during the Investigation, they appear very pertinent to the situation that the Parish Council finds itself in and totally relevant to the business of the Council. The subject matter is Council business and the need for the Council to work together for the benefit of the village. No individuals are named.

It seems to me that Cllr Cullen’s response to the statements would, to the same reasonable listener, appear surprising. He opens by speaking quietly and calmly but his immediate reference to “bias”, his emphasis on the word “consistently” (which is almost spat out the first time it is used) and his suggestion that Mrs Phillips should go home and talk to her husband are inappropriate and have no obvious relevance to the subject matter of Mrs Phillips’s statement. His apparent, brief reluctance to return to his seat at the Council table and lack of calm (see the Chair’s comment), his exchange with the Clerk about respect and his final comments “I’m sick of it .... absolutely sick of it” are similarly inappropriate and unbecoming of a parish councillor in any parish meeting, let alone a meeting with around 20 members of the public present.

When I asked Cllr Cullen at interview whether his behaviour would have been inappropriate had he been speaking as a parish councillor rather than a parishioner, he replied insightfully, “If I’d have done it as a Parish Councillor, I think I would probably.....I don’t know it would be for people like you to determine, I would probably think there would have been more of an argument that I

would have been in breach of the Code of Conduct". In saying that he appears to have been recognising that his behaviour that evening *had* been inappropriate.

I note Cllr Cullen's insistence that he had spoken at previous meetings as a parishioner with, he said, the agreement of the Chairman and/or the Clerk. If it is true that he in some way had "permission" to speak as a parishioner (which, as set out in 10.1 above, is not permitted), it still cannot excuse or in some way mitigate his behaviour towards a member of the public, whoever that is, nor the very poor impression he appears to have given to at least some other members of the public who were present. It is hard to disagree with the opinion of the member of the public who said that the meeting had been a "car crash" or with another member of the public who described the Council as a "circus" at the 25<sup>th</sup> June meeting.

I note too the focus that Cllrs Tim Bartram, Blanksby and Casey and Cllr Cullen himself gave to the behaviour of Mrs Phillips and others at the meeting on 25<sup>th</sup> June. For me, the fact that they chose that as their focus when asked about the meeting on 24<sup>th</sup> September told its own story. Once again there is an implication that the alleged behaviour by Mrs Phillips and others at that meeting somehow excuses or mitigates Cllr Cullen's own behaviour at the 24<sup>th</sup> September meeting. In my opinion it does not. That said, I consider the Chairman's willingness to allow Mrs Phillips and others to speak in the way that they did at the 25<sup>th</sup> June meeting to have been ill-advised. Some of what they said whilst heartfelt, and some might say justified, was in my opinion inappropriate to the business of the Parish Council. By then the matter had been ruled to be a private matter.

Neither does the suggestion I heard several times from witnesses that the public can only speak about items that are on the agenda excuse or mitigate Cllr Cullen's behaviour. As I understand it there is no statutory right for the public to speak at parish council meetings and the position locally is set out in the standing orders. The minutes of the Annual Meeting on 12<sup>th</sup> May 2020 suggest that Willington's Standing Order 3g allows members of the public to comment only on any matter already on the agenda.

That said, "Local Councils Explained, Meera Tharmarajah, NALC, 2013" (described to me by one of its main contributors as "the layman's bible to parish council working") has a useful section in its chapter on working with others: "The questions and representations of the public should ideally be confined, by the use of standing orders, to the matters that are on the agenda for the meeting. However, it can be difficult to police this, and there is some merit in permitting questions that are about matters that are not on the agenda. Limiting members of the public to speak at a meeting only about the items on the agenda may be perceived as pedantic and obstructive".

Equally useful is the text in the same section which reads: "Members of the public and councillors are expected to treat people with courtesy and respect, not interrupt another speaker, nor use improper behaviour or language".

**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 Mrs Phillips, his fellow councillors, the Clerk and members of the public who were there that day 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.**

I now move onto whether Cllr Cullen, as some witnesses suggested, “acted in a way which a reasonable person would regard as bullying or intimidatory” at the meeting on 24<sup>th</sup> September.

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 by some 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 be capable of such behaviour. The same reasonable person might not, therefore, have been surprised when Mrs Phillips and others spoke as they did at the Extraordinary Parish Council Meeting on 25<sup>th</sup> June 2019, notwithstanding the supportive comments of Cllrs Tim Bartram, Blanksby and Casey.

Turning to the Complaints and the meeting on 24<sup>th</sup> September, it seemed to me that what Mrs Carter said was said in a heartfelt and conciliatory way - albeit that Cllr Paul Cullen *had* apparently prompted several Extraordinary Meetings recently – and she certainly ended on a positive note. Had what Mrs Phillips said been directed at the whole Council then it could also have been construed as heartfelt and conciliatory - and to some extent perhaps it was? So, I share Witness A’s opinion that Mrs Carter and Mrs Phillips were not “trying to wind the situation up”.

However, to anyone who was familiar with what had been happening in Willington over the past few months, it must have been clear to whom Mrs Phillips was referring when she talked about councillors who were not “working for the benefit of the Parish and working against the Clerk and other councillors”. Right or wrong, it would have been especially irksome and frustrating to Cllr Cullen who would maintain (as he did at the 24<sup>th</sup> September meeting itself) that he *was* there “for the good of the village. One hundred percent”. So, to that extent, Mrs Phillips cannot have been entirely surprised that what she said provoked a reaction at the meeting even though what she and others had said on 25<sup>th</sup> June had not.

When I listened to the audio recording of the 24<sup>th</sup> September meeting (which I did several times) I was left in no doubt that Cllr Cullen was angry, infuriated even, at what he *perceived* to have been said, rather than what was *actually* said, about him at the meeting on 24<sup>th</sup> September. I concluded that he saw it in some way as a “repeat performance” of what was said on 25<sup>th</sup> June



even though, by any reasonable interpretation, it was not (I have also listened to the audio recording of the relevant part of the June meeting).

Cllr Cullen's decision to sit close to Mrs Carter and Mrs Phillips is not, I feel, a *conclusive* indicator of intimidatory intentions. It *may* have been a calculated decision, or by moving to the public area, he may have simply been emphasising that he was participating as a parishioner and in doing that may have chosen to sit on the nearest available seat on the front row. I tend to this view since I believe that he chose to speak as a parishioner on the spur of the moment in response to Mrs Phillips rather than with premeditation. However, when reviewing the Report whilst it was in draft, one of the Complainants remarked that, in their opinion, "it was a calculated decision to sit closely to her" and "he made a deliberate decision to walk towards her and sit as I recall one seat from her". In saying this they said that they felt that Paul *had* behaved in an intimidating and bullying manner towards Mrs Phillips. When reviewing the Report whilst it was in draft a second Complainant also made it clear that they felt that Paul's behaviour towards Nicky Phillips *had* been intimidatory.

I cannot be sure what his body language was when he sat on the front row – he said that he simply addressed the Council whilst others said that he turned his body towards or even pointed at Mrs Phillips. None of the witnesses I spoke to could be said to be unbiased and, even though the behaviours and actions set out in Section 7 apparently suggested to some witnesses that he can, on occasion, behave in an intimidating way, on this occasion I feel I must give Cllr Cullen the benefit of the doubt.

Mrs Phillips made her initial statement calmly. But, when Cllr Cullen spoke, Mrs Phillips appeared to me to be quite willing to argue back against him "Consistently? Why are you saying that Paul?" and "Can you explain "consistently" to me, Paul?". She did not appear, as Witness C suggested, to "stay very calm" or "calmly answer him". Paul was angry yet Mrs Phillips does not appear to have been "cowed" or "intimidated" by him. Instead she appears to have shouted back. Moreover, the (albeit unknown) shrieking female voices shortly before calm was restored and the fact that the Chair felt the need to say "Nicky, Nicky. Please. Please" do not suggest to me that she was intimidated, as several witnesses suggested. Rather they suggest that there was an "angry row". I say this notwithstanding the fact that Cllr Cullen was keen not to have the exchange recorded as an "argument" in the minutes and the Council supported the excision of that description which was contained in the draft when they considered the minutes at their 8<sup>th</sup> October meeting.

**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 the Extraordinary Parish Council Meeting of 24<sup>th</sup> September 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 the Chairman ensures (as he said he would at the 24<sup>th</sup> September meeting) that “public participation” is not used as a vehicle for making personal attacks on individuals and that all future contributions from members of the public (as well as councillors) genuinely treat people with courtesy and respect.
4. That Willington Parish Council agrees to a programme of reconciliation and a review of its working arrangements 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.

## 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) Willington Parish Council Minutes - 10th July 2012; 11<sup>th</sup> June 2019; 25<sup>th</sup> June 2019 (Extraordinary Meeting); 24<sup>th</sup> July 2019; 24<sup>th</sup> September 2019 (Extraordinary Meeting); 8<sup>th</sup> October 2019;
- (4) Audio recording of the Extraordinary Parish Council Meeting of 25<sup>th</sup> June 2019
- (5) Audio recording of the Extraordinary Parish Council Meeting of 24<sup>th</sup> September 2019
- (6) Audio recording of the Parish Council Meeting of 8<sup>th</sup> October 2019
- (7) Transcript of relevant parts of the audio recording of 24<sup>th</sup> September presented as **Annex 2**.
- (8) Email exchange between Melvin Kenyon and Paul Cullen 4<sup>th</sup> – 6<sup>th</sup> May 2020
- (9) Summary of Court of Appeal judgement - Richardson vs North Yorkshire CC and Secretary of State [2003]  
[https://moderngov.dover.gov.uk/Data/Standards%20Committee/20040316/Agenda/\\$Agenda05.doc.pdf](https://moderngov.dover.gov.uk/Data/Standards%20Committee/20040316/Agenda/$Agenda05.doc.pdf)
- (10) Local Councils Explained – Meera Tharmarajah, NALC, 2013
- (11) Cambridge English Dictionary <https://dictionary.cambridge.org/dictionary/english/>

**ANNEX 2 – TRANSCRIPT OF PART OF EXTRAORDINARY PARISH COUNCIL MEETING TUESDAY 24<sup>th</sup> SEPTEMBER 2019, 7pm Venue: The Old School, The Castleway, Willington Present: Cllrs P Allsopp (Chair); M Bartram, T Bartram, C Blanksby, C Carter, R Casey, J Cullen, P Cullen, A MacPherson and I Walters Also present: Members of the public, D Townsend (Locum Clerk)**

**[1 minute 47 seconds]**

Meeting opened for public speaking

**Phill Allsopp (Chair)** – Would anybody like to say anything? Yes, Sue.

**Sue Carter (Member of Public and Mother of Nicola Phillips)** – I notice there’s another Extraordinary Meeting, which surprises me, because I’ve always thought that Extraordinary Meetings were supposed to perhaps be about urgent matters which couldn’t wait any longer until the next meeting. The other thing that I wanted to say was that having an Extraordinary Meeting is using up time again and people who work or give up their own time, it is difficult to fit it all in. So, I do sympathise on that. After the last meeting – I’m reading this so I can remember - I reflected on what Caroline said in the July meeting which was a wish for the Councillors to work together. I’m still waiting to see that happen and that’s from both sides. It is for the benefit of Willington residents that you are all here and I would like to see that there was a difference in how some of the meetings take place. Somebody put on social media this evening “there’s a great divide” and I think that’s what it is, which is a great shame. We’ve got a great village and with Axis 50 it shows how we can all work together to actually achieve something, and I really, really wish [*said in a heartfelt way*] that this Council would do just that. Thank you.

*[Chair then asks Locum Clerk, in a low voice, to respond to the point about Extraordinary Meetings]* **[3**

**minutes 29 seconds]**

**Deb Townsend (Locum Clerk)** – If that’s ok I will respond about the Extraordinary Meeting. Yes, the way that Extraordinary Meetings work is that they are for urgent matters. However, the way that it works is if a request has gone into the Chairman for an urgent meeting, if the Chairman agrees .... or for an Extraordinary Meeting should I say ...if the Chairman agrees then that Extraordinary Meeting can go ahead under different grounds. However, if the Chairman doesn’t agree to go ahead, Members can call that meeting anyway. So, probably prudent that the Chairman calls it because of the way it is but actually, one hundred percent, it should be for urgent matters.

**Female voice** – Can I ask who called the meeting?

**Deb Townsend** – I’m sure the Members who called the meeting can identify themselves if they wish to.

*[Silence]*

**[4 minutes 31 seconds]**

**Phill Allsopp** – OK. Just replying to Sue, obviously I take your point Sue, from our point of view, and from my personal point of view, nothing would give me greater pleasure if we could carry on and work as a team. Axis 50 has brought the Council together, but we need to enlarge on that and make sure that we do actually do work together to make sure we do actually get things done in the village.

**Sue Carter** – Thank you.

**[5 minutes 2 seconds]**

**Nicola Phillips (Member of Public and daughter of Sue Carter)** – *[Reading from a prepared statement]* I was at the last Parish Council meeting and heard first-hand the Clerk’s report. The following valid points were put forward by the Clerk. The Clerk is there to assist the Council to move forward in a positive way. I can only see this as a good thing. Worryingly, there has been a high turnover of Clerks. I think this needs examining as to why. The Council is not functioning effectively. Positive outcomes are difficult to achieve. Not always working for the benefit of the residents. If councillors aren’t working for the benefit of the Parish and working against the Clerk and other councillors I would like to know what is their agenda?

I was saddened to hear that the Clerk had not been treated in the best way by some councillors. I think we owe the Clerk a debt of gratitude for the work she has put into this report and how she wants to assist the Council to move forward for the ultimate benefit of all parishioners. I would now like to see how this meeting proposes to take on board what the Clerk, in good faith, has said and carry out their responsibilities as councillors so that they are all *[said with emphasis]* working for the good of Willington.

**[6 minutes 7 seconds]**

**Phill Allsopp** – OK. Thank you. Anybody, anybody else like .... to say anything? No?

**Paul Cullen** – Yes, I do, I want to say something (?) - as a Parishioner though.

*[Low voices. Exact words inaudible [to MK] amidst coughing - Paul possibly says, “Is that ok? Yes?” and a male voice appears to say, “Can he do that?”]*

**Paul Cullen** – So, again I’m forced to listen to biased views from one side of the Parish Council. In fact, it’s the wife of a former Parish Councillor who consistently asks for why and what agendas *[inaudible word]* Councillors have....

**Nicola Phillips** – Consistently? Why are you saying that Paul?

**Paul Cullen** - .... so, what I would say to her is, she quite simply needs to go home and ask her husband..... allow me to finish, what.....

**[6 minutes 55 seconds]**

*[At this point voices become louder and more urgent. Deb and Phill talk over one another]*

**Deb Townsend** – Paul ... this is not a personal matter ...

**Phill Allsopp** – *[Talking above others]* No, sorry Paul, sorry Paul, we cannot, sorry Paul, sorry Paul

**Deb Townsend** – ... it’s not a personal matter.

**Deb Townsend (?)/Unknown female voice** – We can’t have that

**Phill Allsopp** - We can’t have this Paul ....

*[Paul Cullen continues to talk inaudibly in background]*

**Phil Allsopp** – We can’t be talking about personal things .... *[Inaudible*

*female voices in background as Paul continues to talk]*

**Nicola Phillips** – I’m saying what I think.

**Paul Cullen** – Also, also, also, we have a current Parish Councillor who had exactly *[said with emphasis]* that same agenda. If you don’t believe me, you don’t have to ask me personally, you can ask the person .... Who .... He .... Told. *[said with emphasis]* Who happens to be in this room today. So, I will not .... I am here for the good of the village. One hundred percent, OK? That is unequivocal and I would be more than happy to discuss [?] how we can move forward for the good of this village [?]. I refuse *[said with emphasis]* to have my good name consistently *[said with greater emphasis]* tarnished by members of this Parish.

**Nicola Phillips** - Can you explain “consistently” to me Paul?

*[Loud clapping for a few seconds – inaudible voices heard under the clapping]*

**[7 minutes 49 seconds]**

**Deb Townsend** – Can you just show a little respect, first of all, Paul? I’m here as an employee. I’m here as an employee.

*[Inaudible raised voices as Chair tries to bring the meeting to order and Deb and Paul talk across one another]*

**Paul Cullen** – Deb, if you show me respect, I’ll extend you the same respect.... If you show me that respect, I’ll extend you that same respect

**Phill Allsopp** – Let’s have some order, let’s have .... Excuse me, excuse me, let’s have ....

*[People talking over one another – Nicky and Paul exchanging words but inaudible]*

**Nicola Phillips** – I stood up at *[Nicky speaks inaudibly as Chair tries to bring meeting to order]* ....

**Phill Allsopp** – Nicky, Nicky. Please. Please. Please.

**Nicola Phillips** - ..... and I'm spoken to like that.

**Unknown female voice** – [?] You've spoken to him worse .... in fact..... [?] *[Inaudible shouting]* **Phill**

**Allsopp** - Enough

**Deb Townsend** – Enough, enough

**Phill Allsopp** – Enough

*[Females apparently arguing and female voice shrieking in background]*

**Joe Cullen** – There was one meeting that we come to and all they done there was sit all night and slag us off.

**[8 minutes 24 seconds]**

**Phill Allsopp** – Look, look, look, I'm asking all people for some calm here. To calm down and let's carry on the meeting. For everybody's information, we will not be discussing individual people in this Council, while I'm Chairman again. Right? We just need to get on. We all need to work together,

**Paul Cullen** – I'm sick of it...

**Phill Allsopp** - ... we need to carry on.

**[8 minutes 40 seconds]**

**Paul Cullen** – ... absolutely sick of it ....

**Phill Allsopp** – Councillor Cullen, please, please, calm yourself. We're here to do a job, let's carry on. OK? Right. Anybody else got any.....yes?

**Male member of public** – I'm pretty new to the area and I just sit and watch, you know, what's happening in these meetings. Every time, it's a car crash, guys. This is getting embarrassing. On a personal view, I work for a very large company. Some of the statements I have heard, in our company you'd be taken to disciplinary (?) for them. This is proving to be another car crash, guys, tonight. You need to work together.

**Phill Allsopp** – Absolutely, ok, thank you for your comments.

*[Loud clapping]*

**Phill Allsopp** – Anybody else? Thank you, we will now close the public speaking. **[9**

**minutes 50 seconds]**

**ANNEX 3 – LIVERPOOL ECHO ARTICLE 3<sup>rd</sup> JUNE**

**Annex 3** consists of three pages (numbered 48 -50) which follow this cover sheet.

# REPORT ONE - ANNEX 3

2<sup>nd</sup> Newspaper report – Liverpool Echo 4<sup>th</sup> 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.

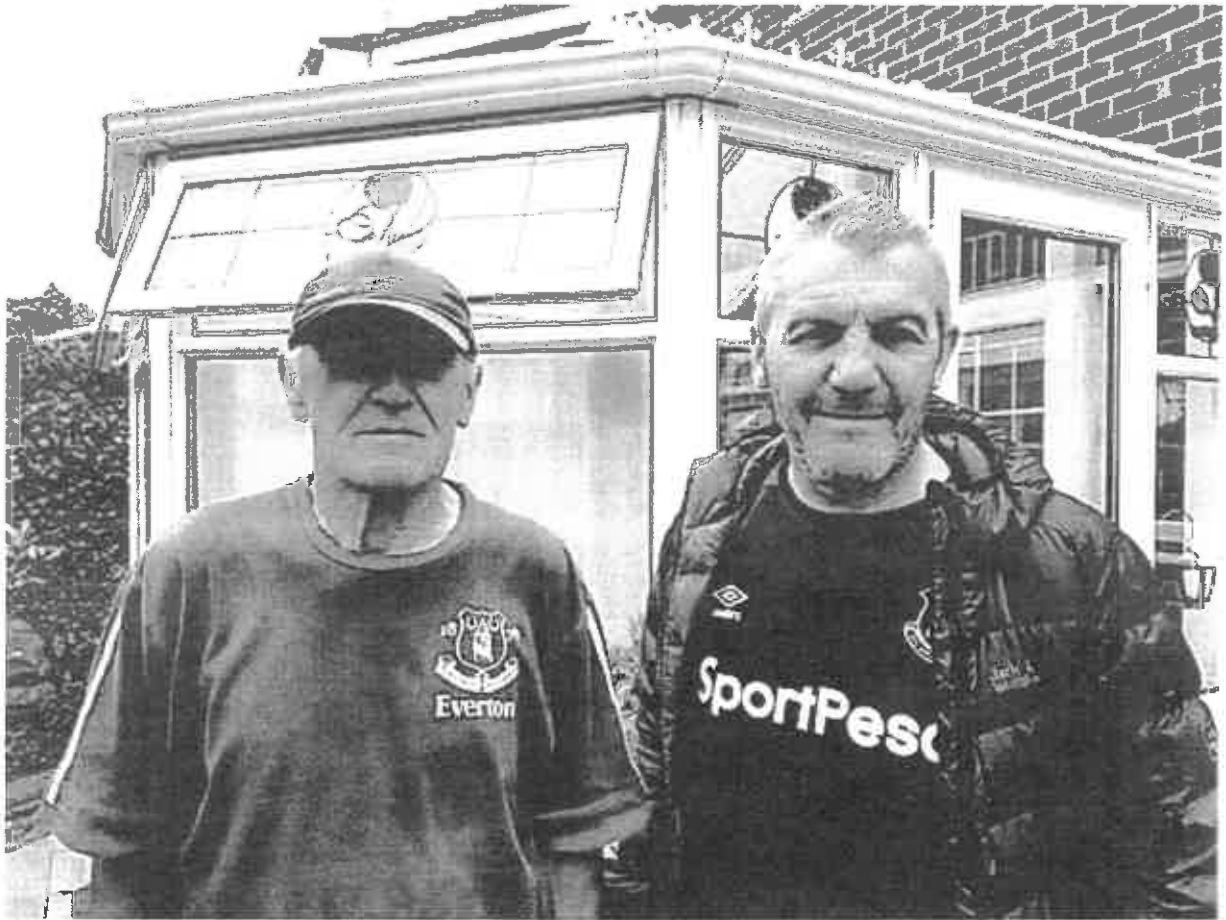
Yesterday, the ECHO reported how Willington Village Parish Councillor John Philips had made the comments in an email to his fellow councillor, Liverpool-born Paul Cullen.

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."

