

Eden District Council
Accounts and Governance Committee

7 July 2021

Alston Moor Parish Council

Portfolio:	N/A
Report from:	Assistant Director Legal and Democratic Services
Wards:	Alston Moor
OPEN PUBLIC ITEM	

1 Purpose

- 1.1 To consider the findings of an independent assessment of various complaints and associated correspondence concerning members of Alston Moor Parish Council.

2 Recommendation

It is recommended that:

- 2.1 The Monitoring Officer recommend that the Parish Council implement the Action Plan set out at 3.13 of Appendix 1; and
- 2.2 The Monitoring Officer requests an update in relation to the Action Plan from the Parish Clerk after three and six months.

3 Report Details

- 3.1 At its meeting on 13 January 2021 this Committee considered report G4/21 from the Assistant Director Governance which provided information on the procedure for assessment and investigation of a number of complaints about the conduct of various Members of Alston Moor Parish Council, which had been received by the Monitoring Officer.
- 3.2.1 At that meeting, upon considering a summary of the complaints, Members were satisfied that the complaints met the criteria of the initial tests for local assessment and could therefore be investigated.
- 3.3 Members instructed the Monitoring Officer to appoint an Investigating Officer to investigate the complaints; and bring a report back to Committee in order to hear and determine the matter.
- 3.4 Members acknowledged the difficulties in estimating a timescale for the investigation, given the number of complaints and the significant amount of information about them.
- 3.5 An independent investigator was appointed to undertake an assessment of the complaints and associated correspondence. That assessment is attached at Appendix 1 to this report.

3.6 The recommendations and action plan set out within the assessment seek to prioritise the overriding need to improve the functioning of the Parish Council and resolve the difficulties the Parish Council are currently faced with in a constructive manner for the benefit of the local community.

3.6 Members are asked to consider the findings of the independent investigator and endorse the action plan set out within his report.

4 Policy Framework

4.1 The Council has four corporate priorities which are:

- Sustainable;
- Healthy, safe and secure;
- Connected; and
- Creative

4.2 This report meets the corporate priorities.

5 Consultation

5.1 The Council's Independent Person and the Chair of the Accounts and Governance Committee has been consulted in relation to the number of complaints and the process for dealing with those complaints.

6 Implications

6.1 Financial and Resources

6.1.1 Any decision to reduce or increase resources or alternatively increase income must be made within the context of the Council's stated priorities, as set out in its Council Plan 2019-2023 as agreed at Council on 7 November 2019.

6.1.2 The costs of appointing an external body to implement the action plan set out with the assessment report will be in the region of £10,000. This amount could be covered by existing budgets.

6.2 Legal

6.2.1 Under Section 28(6) of the Localism Act 2011 the Council is required to have in place arrangements under which allegations can be investigated and arrangements under which decisions on allegations can be made.

6.3 Human Resources

6.3.1 There are no human resources implications arising from the consideration of this matter.

6.4 Environmental

6.4.1 There are no environmental implications arising from the consideration of this matter.

6.5 Statutory Considerations

Consideration:	Details of any implications and proposed measures to address:
Equality and Diversity	None
Health, Social Environmental and Economic Impact	None
Crime and Disorder	None
Children and Safeguarding	None

6.6 Risk Management

Risk	Consequence	Controls Required
Complaints are not properly addressed and the Code of Conduct regime is undermined.	Confidence in the Council is undermined and Members and the public become disaffected.	A thorough and proper consideration of complaints.

7 Other Options Considered

- 7.1 The option of hearing each complaint separately has been considered and dismissed as inappropriate in these circumstances.

8 Reasons for the Decision/Recommendation

- 8.1 It is considered that this is the most appropriate course of action given the complexity of the situation and the public interest in this matter.

Background Papers:

Appendices: Appendix 1 - Independent assessment into various complaints concerning members of Alston Moor Parish Council

Contact Officer: Assistant Director Legal and Democratic Services
(Monitoring Officer)

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**Independent assessment into various
complaints concerning Members
of
Alston Moor Parish Council**

**Prepared for the Monitoring Officer
of
Eden District Council**

15 June 2020

Contents

1: Executive Summary	3
2: Relevant legislation and protocols	3
3: Assessment and recommendation	5

1: Executive Summary

- 1.1 Over the course of the last year, Eden District Council's Monitoring Officer has received more than twenty complaints about the conduct of Members of Alston Moor Parish Council. While some of these complaints have been considered by the District Council's Assessment Panel, many have not yet been assessed. Additionally those that were assessed left some of those involved dissatisfied. I have been asked to review all the complaints made and offer advice to the Committee as to what the best course of action might be.
- 1.2 Under the District Council Code of Conduct Complaint's Procedure ,when assessing a complaint there are three options open to the Assessment Panel:
- to investigate the complaint; or
 - to take other specified action; or
 - that no action should be taken.
- 1.3 Based on the evidence I have seen; it is my view that the Assessment Panel should resolve to take 'other specified action'. The rationale for this is set out in the report below.

2: Relevant legislation and protocols

The Localism Act 2011

- 2.1 Section 27 of the Localism Act 2011 (the Act) provides that a relevant Authority must promote and maintain high standards of conduct by Members and co-opted Members of the Authority. In discharging this duty, the Authority must adopt a code dealing with the conduct that is expected of Members when they are acting in that capacity.
- 2.2 Section 28 of the Act provides that the Councils must ensure that its Code of Conduct is, when viewed as a whole, consistent with the following principles: - Selflessness; Integrity; Objectivity; Accountability; Openness; Honesty; Leadership.
- 2.3 Under Section 28(6) of the Act, Local 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 of the 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. For the purposes of this investigation, the relevant Authority is Eden District Council (the District Council).
- 2.4 Section 28(11) of the Act provides that if a relevant Authority finds that a Member or a 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.

Alston Moor Parish Council's Code of Conduct

- 2.5 Under Section 27(2) of the Localism Act, the Parish Council established a Code of Conduct for members (the Code). It includes the following provisions:
2. The Council has a statutory duty under the Act to promote and maintain high standards of conduct by Members and the Code sets out the standards that the Council expects Members to observe
 4. The code is intended to be consistent with the seven principles as attached to this code and applies whenever a person is acting in his/her capacity as a Member of the Council or co-opted member in the conduct of the Council's business or acting as a representative of the Council.
 5. When acting in your capacity as a Member:
 - (3) You must not disclose any information given to you as a Member in breach of any confidence
 - (4) You must not bring your office or your Council into disrepute.
 - (5) You must treat others with respect and promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their sex, race, age, religion, gender, sexual orientation or disability. You should respect the impartiality and integrity of the Council's statutory officers and its other employees.
 - (11) You must promote and support high standards of conduct when serving in your office.

Eden District Council's Code of Conduct Complaint Initial Assessment Procedure

- 2.6 The initial assessment of allegations about the conduct of a Councillor is governed by this procedure, operating through the Monitoring Officer.
- 2.7 Before an assessment of a complaint begins, the assessment panel and the Monitoring Officer should be satisfied that the complaint meets the following tests:
- It is a complaint against one or more named members of the authority or an authority for which the committee is responsible.
 - The named member was in office at the time of the alleged conduct and the Code of Conduct was in force at the time.
 - The complaint, if proven, would be a breach of the Code under which the member was operating at the time of the alleged misconduct.

If the complaint fails one or more of these tests it cannot be investigated as a breach of the Code and the complainant must be informed that no further action will be taken in respect of the complaint.

- 2.8 If the Monitoring Officer and the Assessment Panel are satisfied that the complaint meets the test and assessment criteria set out above, the Assessment Panel may assess the complaint and then advise the Monitoring Officer:
- a. to investigate the complaint; or
 - b. to take other specified action; or
 - c. that no action should be taken.

If no action should be taken in respect of the allegation, notice must be given in writing to the complainant of the decision and the reasons for that decision.

- 2.9 If the Assessment Panel advises on the referral of an allegation to the Council's Monitoring Officer, a request may be given to take steps other than the carrying out of an investigation or to carry out an investigation. Those other steps are:
- a. arranging for the Member to attend a training course; or
 - b. arranging that the Member and Complainant engage in a process of conciliation; or
 - c. such other steps not including an investigation as appear appropriate.

In these circumstances the Monitoring Officer shall deal with the matter in accordance with the request and shall give notice that the matter has been so referred to the Member, the Complainant; and any Parish Council concerned. And will within three months of the request, or as soon as reasonably practicable thereafter, submit a written report giving details of the action taken or proposed to comply with the direction.

- 2.10 If the Panel is not satisfied with the action specified in the report, it shall give a further request to the Monitoring Officer. If the Panel is satisfied with the action specified, the Monitoring Officer shall give written notice to that effect to all relevant parties.

3: Assessment and recommendation

Our appointment

- 3.1 This assessment was conducted by Alex Oram. Alex has been carrying out Member conduct investigations since 2003. He was previously employed by Standards for England as its principal investigator, where he was responsible for conducting many of their most complex, politically sensitive and high-profile investigations. Since 2012, Alex has acted as the Independent Person for five local authorities, conducted independent investigations into complaints made against councillors of over eighty local authorities¹ and, since 2019, has been an

¹ Alex is not a lawyer and noting in this report should be misconstrued as legal advice; rather it is his view based on his extensive experience in investigating complaints against local councillors.

independent investigator for the House of Commons Independent Complaints and Grievance Scheme.

Alston Parish Council

3.2 Alston Moor Parish Council is comprised of fifteen Councillors representing three wards: Alston (8), Nenthead (4) and Garrigill (3). The Parish Council is the sole trustee of Alston Town Hall and Councillors are all trustees to the Fairhill Estate Charity. Traditionally all Parish Councillors have been independents. The Parish Council describes itself as acting as a spokesperson and torchbearer for the people of Alston Moor.

The complaints

3.3 The District Council provided me with a substantial number of documents to assist my considerations. These included copies of numerous complaints against members of the Parish Council and associated correspondence.

3.4 A summary of the various individual complaints can be found at Annex 1 of this report². The concerns raised include but are not limited to:

- The behaviour of numerous Councillors at the meeting of 7 September 2020, including allegations of bullying the Clerk. This led directly to the resignation of the Chair to the Parish Council.
- Councillors using Facebook in a manner that is wholly inconsistent with the Parish Council's Social Media Policy.
- Members of the public not being allowed to have their say during the public participation part of the meeting.
- Councillors being employed / contracted by the Council without declaring the necessary interests.
- Widespread bullying, harassment, and disrespectful behaviour by certain Councillors toward other Councillors, the Clerk and members of the public - both at meetings and in between. This includes Councillors making dishonest and misleading comments and accusations against each other.
- Councillors disclosing confidential information.

3.5 It should be noted that none of the allegations detailed in the various complaints have been investigated / proven. Indeed in my view some of the allegations included in the document pack would clearly not warrant further action and demonstrate either a misunderstanding of the complaints process / the Code of Conduct, or its deliberate abuse for political ends. That said, I have little doubt that the documents also included evidence that certain Councillors have likely

² Provided to us by the District Council.

acted in a manner that is not congruent with their responsibilities under the Code and that other allegations, if proven, would also result in members of the Parish Council being found in breach. As such, a recommendation of no further action in relation to these complaints would not be appropriate.

- 3.6 From the information before me it is quite clear that there have been some longstanding difficulties within the Parish Council, including a relatively high number of Councillor resignations, which must have had a detrimental impact on its ability to carry out its functions effectively. There is a clear divide and a history of animosity between certain Councillors and former Councillors which has resulted in complaint and counter complaint being made and a climate of disharmony prevailing.
- 3.7 It is also apparent from the history of the allegations made that there is a great deal of local concern from parishioners about the conduct of their Councillors. This is understandable. From the information that I have received from the District Council, I have detected a less than full understanding on all sides of the norms for Officer/Member relations and their respective powers and responsibilities; and a lack of understanding of the Council's procedures, the Code of Conduct and local government practice generally. The Parish Council's Code requires its Members to value all colleagues, staff and members of the public; ensuring that they engage with them in a manner that underpins the mutual respect that is essential to good local government.
- 3.8 Some of the concerns raised were either submitted by the Parish Clerk or from others who expressed serious concerns about the way in which she has been treated. The Parish Council has a collective duty of care to its employees and the allegations suggest that conduct of certain Councillors is creating a risk to the Parish Council in relation to employment law.
- 3.9 It is against this background that I am required to make a recommendation to the District Council on how best to proceed with those complaints that have not yet been assessed. In reaching a view on these matters, I am conscious of the need to seek to resolve the difficulties the Parish Council are currently faced with in a constructive manner for the benefit of the local community, which it serves. I also believe that unless constructive action is taken, allegations are likely to continue to be made against members of the Parish Council from a variety of individuals, including former Councillors. Whilst making no comment on the veracity of the various individual complaints, the Parish Council emerges from this review looking like both a poor employer and an unattractive prospect for anyone considering becoming involved as a Councillor. This presents a very real risk for future recruitment and retention at officer and councillor level.
- 3.10 With this in mind, I do not consider that pursuing these complaints to full determination stage would resolve the underlying issues, assist the smooth running of the Council or represent a meaningful use of public resources. The concerns detailed above are wide ranging and I am not sure that the implementation of any of the limited sanctions on offer will particularly assist the Parish Council in resolving them. I do not therefore think that they should be referred for investigation.

3.11 Appendix 2 of the District Council's "Code of Conduct – Initial Assessment Procedure" sets out the circumstances where an allegation may be referred to the Monitoring Officer for training, conciliation, or other steps as appropriate. It includes where the complaint suggests that there is a wider problem throughout the authority, and it is appropriate to extend the action to other members who are not the subject of the complaint. It is noted that this approach may be appropriate where it is believed that the conduct, if proven, may amount to a failure to comply with the Code, and that some action should be taken in response to the complaint. If this approach is taken, the purpose of the action is not to find out whether the member breached the Code, and no conclusion will have been reached on whether the member failed to comply with the Code.

3.12 It is my view that the resolution of these complaints should involve the Monitoring Officer recommending that the Parish Council implement an action plan to address the concerns identified. This should involve making any necessary training, conciliation and mentoring available to all Parish Council members and officers. These problems are affecting the Parish Council as a whole and therefore it appears most appropriate that all members and officers are involved in their resolution. I note at there are some relatively new councillors, who I am sure would appreciate and benefit from the following proposals.

3.13 In my view the process should include the following:

- The appointment of an external person / consultancy with the relevant professional skills and credibility to review the Parish Council's processes and procedures. This should include a review of the relationship between the Parish Council, Alston Town Hall and the Fairhill Estate Charity; balancing their responsibilities to different organisations without creating a conflict is often a problem for councillors at all tiers of local government.
- The implementation of an explicit, pragmatic, and rational Scheme of Delegation that also sets out how any breaches of this should be dealt with appropriately and expeditiously. A good Scheme of Delegation will facilitate more efficient processes for conducting council business, will improve openness and accountability and will streamline decision-making and action for the benefit of residents.
- The training / mentoring of officers and councillors to identify and rectify any weakness in their understanding of the Parish Council's procedures and the Code of Conduct. This should ensure that all councillors fully understand their responsibilities under the Social Media Policy and how the Parish Council should be communicating with its parishioners. It should involve mandatory training on their individual and collective responsibilities as an employer. And it should include the ethical and practical issues around confidentiality in relation to council business.

- Training and guidance on conflict resolution with a view to improving working relations between elected members and Town Council officers through more effective communication and improved conduct. As part of this process, I would recommend that all parties work together on reviewing their Member / Officer protocol to ensure that it is fully understood, and ingrains agreed parameters.

3.14 The purpose of the action plan is three-fold. Firstly, a review of the Parish Council's governance should give all councillors and officers confidence that the right tools are in place to allow the Council to operate effectively. Secondly, the training and guidance provided should seek to address any weaknesses in an individual's understanding of the Council's procedures; its administrative requirements; its standing orders, the Code of Conduct and local government practice more generally. It should also seek to improve the skills of members in understanding the extent and limits of their respective roles, and in working together with officers for the benefit of the community. Thirdly, the training on conflict resolution should seek to improve the skills of members and the clerk in more effectively dealing with and resolving conflict. It is hoped that this will avoid the Council's time and resources being wasted on personal conflicts and arguments.

3.15 It is hoped that by implementing this action plan any personal conflicts will be resolved, acceptable standards of behaviour will be established, and the Parish Council will run in a proper manner that will command the respect of the community. In considering whether this decision might result in unfairness either to the complainants (who will not have their grievances investigated) or to the Subject Members (who will not be given the opportunity to clear their names), I have prioritised the overriding need to improve the functioning of the Parish Council. Based on the information provided to me, I firmly believe that this recommendation is necessary to ensure that the Parish Council functions effectively in the future and that this constructive process is in the public interest, and therefore in the interests of the complainants and members themselves.

3.16 Should the Assessment Panel decide to implement this recommendation, I would suggest they also consider assisting with any of the funding requirements involved in implementing the action plan. As part of the recommendation, I suggest that the Monitoring Officer seek an update from the Parish Clerk after three and then six months setting out the steps taken along with an assessment of the success or otherwise of the action plan. To give the Parish Council the opportunity to focus on addressing these concerns in a constructive manner, I finally recommend that any complaints the Assessment Panel receive about members of the Parish Council during this period, unless particularly egregious, be reported to the Parish Council and the appointed external person / consultancy so that they can address the concerns raised as part of this process.

Summary of complaints

Date Received	Complainant	Subject Member	Summary of Allegations
29/05/2020	Councillor A Councillor B	Councillor C	Allegations that the Subject Member created a sub-committee of the Town Hall Trustee without any authorisation through a legitimate vote from councillors; acting outside of remit and without authority in relation to proposed VE Day 75 th anniversary commemorations; and did not respond to email communications.
07/07/2020	XY	Councillor C, Councillor D, Councillor E, Councillor F and Councillor G	Shocked by behaviour and attitude of Subject Members. Upset by comments concerning the use of the Town Hall address and the general unpleasantness displayed towards the community from elected representatives.
11/09/2020	XX	Councillor A	Allegations regarding rude and aggressive behaviour towards Councillor C and the improper use of Town Hall address. The complaint included allegations against the Clerk in relation to withholding information.
12/09/2020	Councillor H	Councillors A and B	Allegations relating to the alleged bullying of Councillors C and F.
12/10/2020	Councillor B	Councillor C	Allegations relating to a '999' call made at a Parish Council meeting on 7 September 2020.
11/11/2020	Councillor A	Councillor C	False allegations made by Councillor C against the complainant – including allegations of bullying and insulting behaviour and accusations of nefarious behaviour.
26/11/2020	Clerk, AMPC	Councillor C	Treatment of fellow councillors; Attempts to discredit local organisations; and repeated questioning funding.
26/11/2020	Clerk, AMPC	Councillor F	Wrongly accusing councillors of racial discrimination; of carrying out a vendetta against former councillors; and of interpreting legislation according to 'Councillor F'.

Date Received	Complainant	Subject Member	Summary of Allegations
26/11/2020	YY	Councillor C	Allegations re threatening and bullying behaviour towards the Clerk.
28/11/2020	ZZ	Councillor C	Allegations of bullying and vindictive behaviour towards the clerk and councillors.
30/11/2020	XY	Councillor C Councillor D	Allegations of bullying behaviour towards the Clerk.
16/12/2020	YZ	Councillor C	Allegations relating to harassment of Clerk; Has not been open and transparent about decisions; Disclosure of information regarding wages, contracts and working hours on Facebook and at a public meeting.
07/12/20	Councillor I	Councillor C Councillor F	Allegations of bullying and threatening behaviour towards the Clerk.
02/11/2020 15/12/2020 18/12/2020	Councillor C	Councillors A, J and B	Allegations of bullying behaviour; and sharing of 'vile' images on social media. Councillor C also raises concerns about the Clerk and issues relating to GDPR, SAR and FoI.
Various	Councillor F	Not clearly set out.	Number of emails received directly from Councillor F and copies of emails between Councillor F, the Clerk and various members of the Parish Council. Emails contain allegations relating to financial matters, irregular payments and Town Hall accounts; posts on Facebook. Not clear which matters Councillor F wishes to refer to the MO under the Code of Conduct.