

STRICTLY PRIVATE & CONFIDENTIAL

REPORT ON A GRIEVANCE HEARING INTO A COMPLAINT LODGED BY Mrs M. COOPER (BOOKKEEPER) AGAINST Cllr TULLOCH (CHAIRMAN, MELBOURN PARISH COUNCIL).

1: BACKGROUND

The following report is based on the evidence heard by the Grievance Panel set up by Melbourn Parish Council into the nine enumerated complaints lodged against Cllr Tulloch. In reaching their decision the panel had before them about 150 pages of evidence including written statements, copies of e-mails, testimonials, council documents and other written material. Following the Hearing, the Panel decided they needed further information and requested interviews (in confidence) with other parties.

In addition to the above the Panel heard live evidence from the following people:

1. Cllr K Crosby
2. XXXXXX
3. Mrs S Adam (Parish Clerk)
4. Mrs M Cooper
5. Mr R Tulloch.

There were two witnesses who were unable to attend in person but who said that they would be available by telephone during the day should the Panel feel the need to contact them. The Panel would like to express their thanks to these individuals although on the day their services were not required.

The Grievance Panel consisted of three parish councillors suggested by XXXXXX CEO of CAPALC. The composition of the Panel was as follows:

1. The Chairman, Dr D de Lacey (Parish Councillor for 12 years at Girton Parish Council and District Councillor for Girton)
2. Panel Member, Mrs A Dodson (Parish Councillor for 30 years at Wilburton Parish Council)
3. Panel Member, Mr J Gorton (Parish Councillor for 32 years at Great Gransden Parish Council).

The above are all experienced Councillors who used their collective knowledge to arrive at the findings contained in this adjudication and to inform their recommendations which form an integral part of this report.

XXXXXX, an HR Advisor appointed by CAPALC, was also present throughout the proceedings to guide the Panel on procedural issues, to act as secretary to the Panel and to draft a report of their findings for their consideration. It was emphasised from the outset that his role was purely advisory and that the determination of the facts and the decision making was the responsibility of the Panel alone. He advised the Panel that this was not a court of law and that any decision should be made on the 'Balance of Probability' and not on the higher legal test, 'Beyond All Reasonable Doubt'.

The Panel met at 10.00am on Friday 22nd April 2016 in the Hub and introduced themselves to each other. XXXXXX asked them to provide brief details of their previous experience after which it was unanimously decided to appoint Dr D de Lacey as the Chairman of the Panel. They also confirmed that they would like the HR Advisor to draft the report of their findings. Dr de Lacey informed both the Panel members and the two parties to the dispute that as a South Cambridgeshire

District Councillor he knew Cllr Hales but had not spoken to him for several months.

Prior to the commencement of the proceedings the Panel also made a short conference telephone call to XXXXXX of CAPALC to clarify his involvement with the Parish Council.

In a report of this nature it would be normal practice to provide both page and paragraph numbers to identify specific documents on which the Panel relied to inform their judgements. Despite requesting both parties to paginate their documents neither party did so which made it difficult for the Panel to navigate their way round the 'Bundle' of documents before them. It should be acknowledged however that the time scale given to the parties to submit their documentation was limited and the Panel would like to thank both of them for their co-operation in this respect. It should be noted that the reason for adhering to such a tight timescale was based on the following factors:

1. Finding a day when the three panel members, the HR Advisor, Cllr Tulloch, Mrs Cooper, the Clerk and the witnesses could all attend.
2. The perceived need to complete this exercise before the May elections.
3. The recognition of the legal maxim 'Justice delayed is justice denied'.
4. The stipulation in the Council's Grievance Policy for the hearing to be conducted within 25 working days of the complaint being lodged. Notice of the complaint by Mrs Cooper was lodged on Feb 25th 2016 which meant that according to the Council's policy the hearing should have been heard no later March 31st 2016. In the event the hearing was conducted on Friday 23rd April 2016.
5. The need for the Panel members to consult over the drafting and content of their report, its conclusions and suggested remedies.

Because of the geographic distances between the Panel members, coupled with their other commitments, such deliberations are of necessity likely to be convoluted. Given these constraints both parties were advised that the Panel would be unable to comply with the Council's Grievance Procedure which stipulates that the decision of the Panel should be communicated to both parties within 5 working days.

Despite this apparent departure from procedure it should be recognised the Council's policy was based on the premise that such complaints would be dealt with internally and therefore there is no allowance for the added complications of outsourcing this work to an independent Panel.

In order to comply with bullet point 10 on page 1 of the Grievance Procedure XXXXXX met with Mrs Cooper at the Hub on April 6th 2016 followed by a meeting with Cllr Tulloch on the same day, to see if this matter could be resolved by way of a 'Dispute Resolution Process' (mediation). This was also to comply with the section headed 'Informal Grievance Procedure' at the top of page 2 of the Council's Procedure. Both parties agreed to reflect on this possibility but in the event Mrs Cooper decided that she did not want to pursue this option. Despite this it provided an opportunity for both parties to ask questions about the procedure and it was during these meetings that they agreed to co-operate with a truncated time scale for the production of documents.

Page 2 of the Council's Grievance Procedure under the section headed 'Investigation' requires the Panel to conduct their own investigation. How an external Panel could conduct this exercise is unclear as they have no power to require people to attend. Despite this it was decided to invite both parties to nominate witnesses who would give evidence to the Panel prior to receiving evidence from the two 'principals' to this dispute.

At 10.30am the Panel had a short conference telephone call with XXXXXX which is referred to above (page 2, paragraph 1). Discussions then took place over a number of procedural issues while copies of Cllr Tulloch's packs were circulated. It should be noted that the contents of this pack had already been circulated to the Panel electronically so that the Panel were already familiar with the contents.

At 11.05am the Panel invited Cllr Crosby (Chair of Planning) to give evidence. She informed the Panel that she was a friend of Cllr Tulloch and that she was his business partner. She was asked questions relating to Cllr Tulloch's relations with other Councillors and staff in the Hub. She denied any knowledge of staff being upset by his behaviour but said that she was aware that he had bought flowers for a member of staff who was upset.

At the end of the evidence she asked if it was permitted to make a verbal or written response to a document that she had received from Cllr Tulloch which was attributed to the Clerk. XXXXXX was given the document outlining her response to this document and advised the Panel that as they had not seen the contents of the statement to which it referred they should be cautious about admitting it as evidence. After reading the documentation XXXXXX confirmed that it did not directly address any of the nine grievances under consideration.

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While this provided useful contextual information it did not address the issues relating to the 9 substantive complaints lodged by Mrs Cooper.

He did confirm however that he had never seen Cllr Tulloch behaving in an aggressive or bullying manner. He also described Mrs Cooper's timekeeping as very unreliable.

The Panel were aware that, because of their close relationship with Councillor Tulloch, the evidence of both of these witnesses should be treated with caution.

At 12.15pm the Panel invited the Clerk to give evidence.

In answer to a series of questions she gave the following answers:

1. She currently has no contract of employment with regard to her job as Parish Clerk, Responsible Financial Officer and 'Principal Officer'.
2. She has never been appraised in respect of either her current or past role.
3. She has no designated 'Line Manager'.
4. She feels that she has been dragged into disputes emanating from the tensions arising between Mrs Cooper and Cllr Tulloch.
5. She has been under a lot of pressure in relation to the following:

- a) Keeping up with her job as Parish Clerk without the benefit of an Assistant Clerk.
- b) Pressures of family life with three children.
- c) Completing her CILCA modules.
- d) Trying to move the Parish Council's accounts onto a new accounting system (from receipts and payments to accruals).
- e) Undertaking training regarding this system of accounting.
- f) Correcting errors made by the previous Parish Clerk.
- g) Working into the early hours of the morning to keep her workload under control.
- h) Having to cope with issues arising from the car park.
- i) Losing the day-to-day support and training that had previously been supplied by Mrs Cooper.
- j) Her current need of support and training in relation to bookkeeping matters.
- k) The requirement to complete the end of year accounts while at the same time transferring all of last year's entries onto the new accounting system.
- l) A demand by the Chair of the Car Park Committee to provide copies of any car park related minutes during the last 2 years (Full Parish, F&G and Planning Minutes) and to provide copies of all car park related emails from September 2015 (Start date of refurbishment) through to April 2016.

The Clerk explained that there had been an understanding at her appointment that she was unqualified, and that there should be a three-month hand-over period from the previous Clerk with what help she needed from Mrs Cooper, though little of this appears to have been formally recorded. Then for reasons beyond the control of the Council the former Clerk's support had not happened; and she found herself fulfilling both the Clerk's role and her own former role, without the support she had previously enjoyed from Mrs Cooper.

In her verbal evidence she expressed her concern that Parish Councillors were not generally aware of the difficulties surrounding the past accounting procedures and that consequently they were insufficiently aware of the need for Mrs Cooper to play a more active role in preparing the accounts and providing her with support and training. She stated that at the time of her appointment she was promised this support in the presence of XXXXXX the XXXXX. (The Clerk's Appendix B refers). Unfortunately this agreement does not appear to have been documented in any format such as a 'Contract of Service' which subsequently led to tensions between Cllr Tulloch and Mrs Cooper. Appendix B also mentions the fact that Cllr Tulloch expressed his displeasure with the Clerk as Assistant Clerk when she sought advice from Cllr Hales over car parking issues when she was completing her CILCA submission.

The Clerk also indicated that in her view the relationship between Mrs Cooper and Cllr Tulloch started to deteriorate when Mrs Cooper brought the following issues to his attention:

- a) Misappropriation of money/goods from the Hub.
- b) Errors in the Council's past and current accounts.
- c) Concerns about the inadequate level of the Council's reserves
- d) Use/virement of Section 106 money
- e) Issues surrounding HMRC forms P11D.

Following Mrs Cooper's resignation the Council has now engaged the support of Edge, the supplier of the software now used by the Council to operate its accounting system. This is far more expensive than the support previously provided by Mrs Cooper and therefore more limited due to financial constraints.

The Clerk also expressed her concern that on February 16th Cllr Tulloch had forcibly told her that 'the reserves are not going on the Agenda'. She also gave three

other examples of behaviours exhibited by Cllr Tulloch which she felt unacceptable and which made her uncomfortable.

The Panel wish it to be noted that while the Clerk was visibly upset during the presentation of her evidence it was delivered in an objective and nonpartisan manner. It was clear throughout that she is desperately trying to do the best job that she can in very difficult circumstances by working excessive and unsocial hours. Despite this she feels that she is being frustrated by the internal politics of the council and unreasonable expectations. Although she challenged some of the claims made by Mrs Cooper she felt that Cllr Tulloch's attitude towards both her and Mrs Cooper exacerbated what was a difficult situation.

It should also be noted that the Clerk's evidence was adjourned at 1.00pm to allow that Panel to take a break and have some refreshments. She resumed her evidence at 4.30pm after the Panel had heard from Cllr Tulloch and Mrs Cooper. For the sake of convenience all of the notes relating to her evidence have been included in this section.

At 1.30pm Mrs Cooper was invited to give her evidence. It should be noted that she had submitted her original written complaint dated April 11th 2016 which was duly forwarded to Cllr Tulloch. On receiving his response, to which were attached 23 separate 'Testimonials', she complained that his response was in part factually incorrect and that she had documentary evidence to rebut many of his claims. She was also concerned that she believed she had been discouraged from providing testimonials of the kind submitted by Cllr Tulloch. Subsequently she submitted approximately 70 additional pages of documentation subdivided into 18 sections. In summary this contained the following:

1. A succession of e-mails covering an assorted number of issues.
2. Two testimonials.
3. A statement from the Previous Parish Clerk, XXXXXX, in which he outlines his understanding of the agreement regarding the use Mrs Cooper's services to support and train the Clerk.
4. A photocopy of a transcript of a series of messages between her and XXXXXX.
5. Her letter of resignation from the Council.
6. A six page point-by-point rebuttal of Cllr Tulloch's response.
7. Her comments and response to the 23 testimonials produced on behalf of Cllr Tulloch.
8. A paragraph-by-paragraph rebuttal of the report presented to the Parish Council by XXXXXX
9. Her full resignation letter to MCHMG.
10. Evidence from Cllr J Regan of reporting the bullying of XXXXXX by Cllr Tulloch.
11. A letter from ex-Cllr XXXXXX.
12. The resignation letter to Melbourne Parish Council from Cllr XXXXXX.
13. Evidence of Mrs Cooper reporting Cllr Tulloch's bad behaviour to the attention of the MCHMG.
14. A copy of her original resignation letter.
15. An e-mail from Edge stating that for at least the last three years the Parish Council's gross income exceeded £200,000.

The Panel noted that much of the evidence submitted by both Cllr Tulloch and Mrs Cooper referred to financial matters and issues relating to the competency of a variety of individuals with regard to the Parish Council's accounts. While this provided a useful context these were not matters on which the Panel had been

asked to investigate or on which to make an adjudication. However these provided an explanation for the events which culminated in the 'Grievance' as well as providing evidence of behaviours which were directly relevant to the specific allegations made by Mrs Cooper and as such they were helpful.

While it could be argued that issues arising from incidents involving Hub employees fell outside the jurisdiction of the Panel, the fact that Cllr Tulloch, Mrs Cooper and XXXXXX were all involved in professional issues involving both the Hub and Melbourne PC made it difficult to disentangle some of these issues. Insofar as the conduct of the parties to this dispute were involved in both of these activities the Panel felt justified in drawing on all of the evidence before them to determine whose evidence they felt was the most compelling. Witnesses commented on the fact that animosities which developed over the running of the Hub (one used the word 'warfare') had spilled over into the management of the Council.

While Mrs Cooper initially indicated that she did not wish to make a verbal presentation to add to the documentation before the Panel she did clarify a number of issues and answered those questions put to her.

She drew the Panel's attention to the following points:

1. An e-mail from Cllr Tulloch to herself dated July 29th 2015 apologising for 'any hurt my ill-tempered words caused after Monday Night's meeting.'
2. An e-mail from herself to members of the Parish Council dated February 22nd 2016 requiring them to 'Cease and Desist' from making slanderous or libellous accusations against her.

At 2.45pm (approximately) Cllr Tulloch was invited to present his case to the Panel. As previously indicated he had circulated his written response in a folder comprising approximately 45 pages dated April 15th 2016. This included the following documentation:

- 1) Background information.
- 2) A copy of Mrs Cooper's submission.
- 3) A detailed response/rebuttal of the allegations paragraph by paragraph.
- 4) Analysis of the Grievance.
- 5) 23 testimonials.
- 6) The resignation letter from Mrs Cooper.
- 7) An extract of the e-mail sent by Mrs Cooper concerning her resignation from MCHMG.

Cllr Tulloch expressed his concern that following his submission of documents Mrs Cooper had been given permission to add to her original 'Bundle' of documents. This was acknowledged by the Panel but XXXXXX pointed out that that Cllr Tulloch had had the benefit of seeing Mrs Cooper's submission before framing his point by point rebuttal. Consequently it was only fair that she should have been given an equal opportunity to provide additional rebuttal evidence or documentary information that could challenge the reliability or accuracy of his submission. Despite the late date of this new evidence (Wednesday 20th April 2016) it was immediately sent to Cllr Tulloch electronically who acknowledged the fact that he had both received it and read it prior to the date of the Hearing.

The Panel posed a number of questions to Cllr Tulloch which elicited the following information.

- a) There is no designated 'Line Manager' for the Parish Clerk.
- b) The Parish Clerk has never been the subject of an appraisal either in her current or previous post.

Cllr Tulloch also confirmed that to the best of his knowledge no other employee of the Council had been subject to an appraisal and that he was not aware of the Council having an appraisal policy.

c) The previous Parish Clerk had been contracted to work 24 hours per week and the Assistant Clerk for a similar period. When asked what support had been given to the new Clerk in undertaking these combined roles he simply stated that Mrs Cooper had been employed to help train her on the new accounting system.

d) Cllr Tulloch stated that on several occasions that he told the Clerk that she should not be working until midnight but acknowledged that this was not helpful as the outstanding work would still have to be done at some later stage.

e) He agreed that the Council had failed in its 'Duty of Care' towards this employee.

f) He denied telling the Clerk not to put the issue of the Council's reserves on the PC Agenda but said that he had informed her that in the current circumstances it would be prudent for this not to be included.

g) He confirmed that he had questioned the Parish Clerk about a statement that had been attributed to her but had failed to see how inappropriate this action was.

h) He asserted that all the testimonials were freely given and that they had been requested on his behalf by Cllr Crosby.

i) When his attention was drawn to the fact that two statements specifically stated that they had been supplied at his request his response was evasive but he later admitted speaking directly with XXXXXX, Cllr Bloomfield and Cllr Stead.

j) He acknowledged that he did question the Clerk about approaching Cllr Hales for information about the Car Park when compiling her submission of evidence for her CILCA qualification.

k) Cllr Tulloch confirmed that Mrs Cooper had never to his knowledge had a contract outlining either her hours of work or the duties she was required to perform.

l) When asked why he went into the Clerk's office accompanied by Cllr Parton on two occasions he said that it was because he wanted a witness to what transpired.

m) Cllr Tulloch acknowledged in his written response (point 21) that 'he may have had hard words to say' but that he had subsequently apologised.

n) He also conceded that he said, 'What the hell are you doing talking to the staff?' when talking to Mrs Cooper in her car but denied that this was said in a loud voice or in an intimidating way.

The Panel then turned their attention to the 23 testimonials. During his meeting with XXXXXX on April 6th Cllr Tulloch had asked if it would be helpful to provide character statements/testimonials. XXXXXX confirmed that these were often useful in helping the Panel form an assessment of the individual.

Despite this general advice the Panel were advised that such information should be subject to the following caveats:

1. Such statements are only likely to be solicited from people who are sympathetic to the person requesting them.
2. Any refusal or critical statements are unlikely to be submitted to the Panel for obvious reasons.
3. The circumstances in which these statements were obtained would be unknown

to the Panel.

4. On occasion statements can be obtained under duress or coercion.
5. The authenticity of any document has to be taken at face value unless the author is present to confirm that it is genuine.
6. The reasons for which the document is designed may not be revealed to the person writing the statement and may be used out of context.
7. The relationship of the author to the 'Respondent' is also a material consideration. This includes factors such as whether the person producing the statement has a business relationship or special friendship with the 'Respondent'. Other factors such as family relationships etc. may also cloud the objectivity of the person writing the document.
8. The ability or knowledge of the author to comment on the matters under consideration.
9. None of the testimonials could be challenged or subject to questioning.

Despite the above caveats the panel acknowledged that there were an impressive number of statements in support of Cllr Tulloch.

Further analysis revealed the following:

- a) Five of the contributors were Hub employees.
- b) Two were his employees.
- c) One describes herself as his friend.
- d) Five were business associates/shareholders.
- e) At least three had been approached directly by Cllr Tulloch direct despite his earlier denials.

In addition one of the people approached direct by Cllr Tulloch had previously been involved in an exchange of messages on Facebook with Mrs Cooper in which she made it clear that she did not want to be involved. A snapshot of this page was included in the 'Bundle' which makes direct reference her threatened resignation and her intention to leave in the context of Cllr Tulloch's behaviour. On at least one occasion Cllr Tulloch had apologised and given her a bunch of flowers to demonstrate his regret and yet her statement makes no reference to her threat to resign. For someone who clearly expressed a desire not to be involved this represents a disturbing change of attitude and also calls into question why Cllr Tulloch ever thought it appropriate to ask her for this letter of support given the sensitivity of the situation.

It is also worth recording the fact that XXXXXX in her statement says, 'His reaction to being contradicted was to then ignore me for the rest of the time, sitting silently and then looking away when I spoke – something I recognised as a passive aggressive act. XXXXX Cllr J Hales this statement also had to be treated with caution given the apparent conflict between these two parties. Despite this there were two occasions when asked a difficult question by the Chairman of the Panel Cllr Tulloch failed to respond and looked away until he was spoken to for a second time. Although insignificant on its own, this coupled with his earlier denial about having made direct approaches to people to solicit testimonials made the Panel cautious in relation to his other evidence.

In conclusion Cllr Tulloch reminded the Panel of the achievements which had occurred during his three year tenure as Parish Council Chairman. These included the following:

1. The construction of the Community Hub.
2. The fact that this year the Hub was likely to achieve financial independence from the Council.

3. The creation of the Parish Car Park.
4. Obtaining a £100,000 grant for the Pavilion.

At this point the Panel would like to place on record their view that all three of the main contributors to this dispute (Mrs Cooper, Cllr Tulloch and the Clerk) gave their evidence in an articulate and persuasive manner.

For the record both Mrs Cooper and Cllr Tulloch were given as much time as they needed to present their evidence.

At 4.15pm the Panel had a short break for refreshments.

At 4.20pm the Panel reconvened to hear the rest of the evidence from the Clerk which has been included with her earlier evidence.

At 5.00pm the Panel went into private session to review all the evidence and to make their determination in respect of the nine allegations.

2: ADJUDICATION OF COMPLAINTS

1. 29th May 2015 Cllr Tulloch got into my car whilst I was alone one evening and intimidated, shouted, frightened and make accusations towards me. I was extremely upset and very scared by his behaviour.

Both parties agreed that Cllr Tulloch asked if he could sit in the car and that Mrs Cooper acquiesced to this request. While Cllr Tulloch denies that he shouted and frightened Mrs Cooper he admitted that he did use the words, 'What the hell are you doing talking to the staff?'. It is unlikely that the words referred to above could have been uttered in anything other than an aggressive manner. It was noted that an apology was subsequently sent by e-mail to Mrs Cooper following this incident which implies that something had happened which warranted such an action. The fact that he should have even considered sitting in a car with a female on her own shows a worrying lack of judgement, especially for someone holding such a responsible position.

The Panel unanimously agreed that the evidence they heard indicates that this is just one of a series of incidents in which he has been guilty of unacceptable behaviour and in doing so caused the complainant to be intimidated and frightened.

This complaint was unanimously upheld.

2. 29th May 2015 Cllr Tulloch forced me to breach [the] confidence of an ex-employee.

Cllr Tulloch did not deny this allegation but simply claimed that he could not recall the incident.

In the light of the previous finding the Panel unanimously decided on the 'Balance of Probability' that this took place as described. Despite this the Panel felt that the word 'forced' could not be substantiated but felt that if this was substituted for the word 'pressurised' then this would be a more accurate reflection of what occurred.

Subject to the modified wording this complaint was unanimously upheld.

3. 27th July 2015 Cllr Tulloch publicly offended me after a Council meeting (appendix 2).

This was admitted by Cllr Tulloch who sent an apology by way of an e-mail and consequently the Panel were not required to adjudicate in relation to this specific complaint. The Panel felt that there was a worrying pattern of behaviour in that whenever Cllr Tulloch overstepped the boundary of what could be regarded as acceptable behaviour he subsequently apologised for his actions. While this is admirable in itself he does not appear to learn from such incidents and appears to regard such matters as being resolved and therefore any subsequent complaint is somehow unwarranted and unreasonable. There appears to be no recognition or comprehension of the cumulative effect that such actions can have on the individual or those in the vicinity who might be affected by behaviour of this sort.

This complaint was unanimously upheld.

4. I was forced to resign from the Hub due to Cllr Tulloch's behaviour, therefore losing my job.

In her letter of resignation addressed to XXXXXX, XXXXXX refers to the Hub Board's '...dismay at my work'. This does not specifically refer to Cllr Tulloch and although he had made criticisms about the amount of time she had spent on supporting the Clerk and other concerns about issues regarding the

accuracy of her advice, that does not relate to her work at the Hub. The Panel are aware that Cllr Tulloch also had concerns about a variety of issues arising from her work at the Hub which may have also been contributory factors but there was also a danger that she was conflating these two distinct areas of employment. The fact that the same personalities were involved may have added some justification to this view but the Panel had to act on the evidence before them. In addition there is no evidence that Mrs Cooper sought to pursue her concerns with either the Parish Council or MCHMG prior to her resignation.

The Panel unanimously reject this complaint.

5. January 2016 Cllr Tulloch on several occasions attempted to override my work and reputation by forcing the Clerk to no[t] interact with me.

The Panel were unhappy with the wording of this complaint which they felt was imprecise. In particular they were unsure of what was meant by the phrase 'override my work'. Accordingly they felt that it was impossible to adjudicate on the first part of the complaint as it stood. Neither did they see the connection between 'overriding her work' and her 'reputation'. In order to consider this part of the complaint the Panel felt that they would have needed more information.

The Panel noted that the previous Parish Clerk had relied on Mrs Cooper's assistance in preparing the Annual Return in previous years and that such assistance must surely have been expected to continue.

The Panel accepted that there were occasions when Cllr Tulloch complained of the cost implications of the amount of hours Mrs Cooper was expending on supporting the Clerk. As the Panel were informed that the bookkeeper was only charging £20.00p per hour they felt that this compared very favourably with the charges levied by Edge which was in the region of £1,000 per day including 10 hours of follow up support. This equates to £55.55p per hour. The responsibility for this conflict lies squarely with the Council for not having a proper contract in place which meant that neither side had a clear understanding of the work which was required of the Bookkeeper. This created unnecessary stress for both the Clerk and Mrs Cooper which was entirely avoidable. By raising these objections it was clear that Cllr Tulloch did indeed inhibit the amount of work and the interaction between her and the Clerk.

In the light of the above comments the Panel unanimously agreed that they would only uphold the second part of this allegation.

This complaint was upheld in part.

6. 18th February 2016 Cllr Tulloch made accusations and was verbally abusive to the Hub café staff causing XXXXXX to cry and almost resign again.

The Panel had to have regard to the statement signed by XXXXXX as well as five Hub employees and one ex-employee none of whom expressed any complaint about the behaviour of Cllr Tulloch. Despite this they were very concerned that some if not all of these statements were obtained in a manner in which it would have been very difficult for the employees to have refused. They were satisfied from the Facebook transcript that XXXXXX had considered resigning on at least one occasion.

An additional factor for the Panel to consider was that none of these individuals were employees of the Parish Council and while incidents occurring in the Hub provided useful background information, no direct complaint had been made by

any of these employees. Even if complaints had been received the Panel had no brief to deal with such matters.

The Panel were also concerned that on two occasions Mrs Cooper had involved other staff in this dispute (XXXXXX and the Clerk) without seeking their prior consent. While it is right that serious matters should be reported to the relevant authority it should have been done in confidence so that someone could be appointed to make further investigations.

For the reasons outlined this complaint was unanimously rejected.

7. 19th February 2016 Cllr Tulloch made slanderous comments to Sarah Adam regarding my personal and professional status, and my private business. Cllr Tulloch made both me and Sarah Adam cry with his comments. I was forced to send a Cease and Desist letter on the advice of my regulators.

Once again the Panel had concerns over the wording of this complaint. These concerns can be summarised as follows:

- a) The question of whether the comments made by Cllr Tulloch were slanderous or not is a legal matter and not one on which the Panel felt able to adjudicate. In particular they were unclear as to what evidence they could adduce about the 'slanderous' personal comments made about Mrs Cooper and her private business.
- b) The use of the word 'force' was deemed inappropriate as no compulsion was used. Despite this the Panel accepted that she may have felt that she was left with no alternative given the advice that she had received from her regulators.

The panel did accept the evidence given by both the Clerk and Mrs Cooper that the conduct of Cllr Tulloch had made them cry. Such conduct by any Councillor let alone the Chairman is clearly totally unacceptable and should be a matter of grave concern. There was also evidence that he had made criticism of Mrs Cooper's work although whether he is competent to make such judgements is highly questionable. It is true that XXXXXX did make some criticisms of the bookkeeper's work, but since he is less qualified than she this must be treated with caution. Most of these accusations were answered in detail by Mrs Cooper.

The Panel unanimously upheld part of this complaint but not the sections referred to as sections a) and b).

The complaint was upheld in part.

8. I was forced to resign from Melbourne Parish Council, again therefore losing my job.

The Panel accepts that the concern expressed over Mrs Cooper's working hours and criticism relating to her perceived mistakes had made her working situation problematic. The fact that her work base for the Parish Council was located in the Hub must have made it difficult to separate her work for these two organisations. Moreover the fact that Cllr Tulloch was implicated in the criticism regarding her work for both the Hub and the Parish Council must have heightened her feeling of insecurity.

Despite this, the criticism of her work circulated to all Parish Council members by XXXXXX was put to the vote and rejected by the Council.

While the Panel recognises that her position had become very stressful the question is whether the situation was sufficiently acute to justify an employee resigning her post without giving notice. Once again Mrs Cooper uses the phrase 'I was forced

to resign'. The Panel noted that at no time had Mrs Cooper sought to invoke the Grievance Procedure or to invoke the Dispute Conciliation Procedure at any time throughout the three plus years that she had worked for the Council.

In her evidence Mrs Cooper also adduced the effect her presence was having on the Clerk, but the Panel did not believe that this could be construed as 'forcing' her resignation.

The Panel came to the conclusion that while they had considerable sympathy for Mrs Cooper and understood that she might well have felt that her position was untenable, the fact that she had not first sought redress within the Council's procedures means that she had failed to satisfy the high test required to uphold a complaint of this nature.

The Panel therefore reluctantly, albeit unanimously, rejected this complaint.

9. Cllr Tulloch on several occasions would belittle and make inappropriate comments about other Councillors and the general public in front of me whilst working in the office. This made me feel very uncomfortable.

Several people commented in their written submissions and during their verbal evidence of inappropriate remarks made by Cllr Tulloch. Whether these comments were attempts at humour or deliberately designed to undermine or belittle others is difficult to say but at the best they were inappropriate and at worst a form of bullying. One written submission claimed that Councillor Tulloch had said on more than one occasion, 'Did I just say that or did I think it'. If true this reveals that such remarks were not accidental but designed to offend. The Panel reluctantly concluded that Cllr Tulloch was indifferent to the effect that his comments had on other people and the fact that his attitude was often perceived by others as being intimidating. Unfortunately the butts of many of his comments were employees who were not in a position to respond.

The Panel unanimously concluded on the balance of probability that this complaint was justified and was therefore upheld.

This complaint was unanimously upheld.

3: RECOMMENDATIONS

When considering what recommendations should be made to address the issues raised under this Grievance the Panel were mindful of the fact that Mrs Cooper had made it clear that:

- a) She was not interested in re-instatement in her role as Bookkeeper to the Parish Council.
- b) That as far as an apology was concerned ‘... that ship had already sailed’.

Even if these options were considered by the Panel as worthy of consideration there was no point in discussing them as they had already been discounted by Mrs Cooper. Despite this, the fact that Mrs Cooper had felt compelled to resign her posts at both the Parish Council and with the Hub at considerable financial cost to herself is an indication of the cumulative impact that these events had had on her life. It was noted that Mrs Cooper had no expectation of personal gain from this very stressful experience and that her chief motivation was to achieve the following objectives:

1. That her complaints should be validated and acknowledged.
2. That by taking this action that she could help prevent any other employee having to undergo a similar experience.
3. That by raising the awareness of Councillors and others to this problem any such behaviour in future would be recognised more quickly and dealt with in an appropriate manner.
4. That by challenging Mr Tulloch she might cause him to reflect on how his conduct had impacted on the people around him.

Given their limited powers the Panel felt that the best way to proceed was to make a series of recommendations to the Parish Council in the hope that this would help them to discharge their legal ‘Duty of Care’ under the *Health & Safety at Work etc. Act 1974*. This requires the employer to ensure that there is a safe working environment which includes protection against harassment and unreasonable working conditions.

The Panel were also appalled at evidence received on some aspects of how the Parish Council was run. They have therefore also included some recommendations to the Parish Council in the hope that the Council can in future work effectively together for the benefit of the Village of Melbourn.

RECOMMENDATIONS

1. Councillors should be aware that the Clerk is not a secretary to the Council but is the Chief Executive Officer. They are not empowered to ask the Clerk directly to undertake any duties on their behalf. All such requests should be made via a ‘Line Manager’ who can then have some oversight with regard to the Clerk’s work load by helping her to prioritise what needs to be done. The Panel notes that it remains the Clerk’s responsibility to run the Parish affairs, the role of the ‘Line Manager’ will be advisory only.
2. The Council should immediately appoint such a ‘Line Manger’ for the Parish Clerk. This person should not be the Chairman irrespective of who is elected to that office. This means that in the event of any complaint the Clerk has the ability to refer the matter either to the Chairman or to her ‘Line Manager’ which will better enable the Council to deal with most concerns ‘in house’.
3. The Panel were told by many of the witnesses both verbally and in writing that there are factional groups within the Council, which causes tensions. The Panel

do not feel competent to advise on how this can be addressed because it was not their remit to investigate this issue. It is hoped however that following the May elections the Council will reflect on how they can best address such matters through careful consideration of who they elect to senior positions and whether they need to review the working of the Council to ensure that decisions are taken openly and democratically.

4. In the light of the above the Panel suggest that, before appointing a 'Line Manager' for the Clerk, her views should be taken into consideration. This could be done by the Chair of the HR committee.

5. The exception to Recommendation 1 above is the meeting between the Clerk and the Chairman of the Council regarding discussions over the content of items for the agenda of Council meetings. It should be noted that the agenda is the statutory responsibility of the Clerk and no one on the Council has the right to veto items or insist on the inclusion of any particular topic. Should it be felt that the Clerk has acted unreasonably in the exercise of this duty then three Councillors can convene an extra-ordinary meeting to address any perceived irregularity.

6. The positions of Chairman of the Parish Council and the Chairman of the Finance and General Purposes Committee should not be held by the same person as this invests too much authority into the hands of one individual. Unless this policy is implemented any issues relating to accountability will be more difficult to address.

7. At the time of writing this report the Panel were advised that although there had been a meeting to discuss the Clerk's contract this had still not been finalised. It is a statutory duty for an employee to be given a contract of employment within three months of the commencement of employment. The Council is already in breach of this legal requirement and this should be rectified as a matter of urgency.

8. At the time of writing the Clerk has no job description. Without this crucial document neither the Council nor the employee has a clear understanding of what role the Clerk should be expected to fulfil. NALC has both a model Contract and Job Description which could be easily adapted to meet the Council's requirements and XXXXXX of CAPALC would be willing to advise on these issues.

9. Melbourn Parish Council has one of the largest parish precepts in Cambridgeshire. This reflects the number of activities for which it is responsible. Despite this it has only had a part-time Clerk since January 1st 2016. This person is required to undertake the duties of Parish Clerk, Assistant Clerk, Responsible Financial Officer and Proper Officer. In addition she has been tasked with learning how to operate the payroll system and to transfer last year's accounts onto the Edge system while converting them from 'payments and receipts' to 'accruals'. These expectations are clearly unrealistic and need to be addressed urgently. The Panel recognises that the Clerk at the time of her appointment requested that the Council should not take on a new Assistant Clerk while she was learning her new role as she did not want the added burden of training the new incumbent along with her other duties. While this sentiment is understandable this has exacerbated the difficulty she has faced. The Panel recommend that the Parish Council take immediately steps to appoint an experienced assistant clerk on a short term basis to alleviate the Clerk's work load until the appointment of a permanent replacement. This person can then be delegated to undertake specified duties to enable the Clerk to concentrate on her main role. The Panel also recommend that the Clerk be able to buy in all the financial help she needs to complete the requirements for the Year End; and subsequently until she has received the requisite training.

10. After undertaking further investigations to establish the validity or otherwise of the complaints the Panel were disturbed to receive yet more evidence of Cllr Tulloch's mistreatment of staff as well as corroboration of the original complaints. In the circumstances the Panel recommends that the Council instruct Cllr Tulloch to have no further interaction with any of the Council's employees. This is to protect him from further allegations as well as ensuring the safety and welfare of the staff. Should he fail to comply with this decision then the Council should pass a vote of censure on Cllr Tulloch.

11. Given the close relationship between the Council and the Hub, the Panel recommend that the Council should share these concerns with the Chairman of the Hub to enable him to take action to safeguard employees located at the Hub. In particular Staff should be encouraged to report harassment immediately irrespective of the person involved.

12. Both the Hub and the Council should arrange for employees to be given training to identify unacceptable behaviour and to give them confidence to report any matters of concern.

13. The Panel recommend that whoever is appointed Chairman at the Council's Annual Meeting should, as soon as possible after appointment, attend a CAPALC training session for Chairmen.

14. The Panel recommend that all those appointed to chair a committee of the Council should, as soon as possible after appointment, attend a CAPALC training session (either a general session or one specifically for Chairmen).

15. The Panel were disappointed to learn that Cllr Crosby has also been mentioned in the context of inappropriate behaviour towards staff which is a concern that Council members should be made aware of.

16. It appears that the Clerk finds it difficult to close the office in order to concentrate on matters that require her undivided concentration. It is therefore recommended that the Council allocate a set period of time each week at a specified time when the office will be closed and the telephone switched off to give the Clerk quality time to undertake urgent tasks.

17. At present the Clerk finds it difficult to work from home because access to the Council's WiFi is so slow owing to the heavy usage at the Hub. The Panel recommend that the Council explore the possibility of getting another connection exclusively for the Parish Clerk to obviate this problem.

Signed..... Date.....

Signed..... Date.....

Signed..... Date.....